



August 6, 2018

The Honorable Lorena Gonzalez Fletcher
Chair, Assembly Appropriations Committee
State Capitol Room 2114
Sacramento, CA 95814

Senate Bill 1077 (Wilk)
Position: Oppose Unless Amended

Dear Assembly Member Gonzalez Fletcher:

The following organizations have reviewed Senate Bill 1077 (Wilk) and respectfully must adopt an Oppose Unless Amended position on the legislation as amended June 13, 2018. SB 1077 would extend some subcontractor indemnity provisions from residential construction to public works projects such as construction and major repairs.

We believe that the bill's indemnity exemption provisions in Civil Code new Section 2782.97 paragraphs (e) and (f) could shift first dollar defense liability from the subcontractor to the local agency project owner. We oppose this shift from a potentially liable party to us, the owners. Additionally, we believe it is critical for all parties on a project to participate in the defense of a claim or lawsuit. Allowing subcontractors to sit on the sidelines will preclude their meaningful participation in that defense, at a greater expense to taxpayers.

Public agencies usually use wrap-around insurance on very large, costly projects in order to control costs and ensure that there is insurance to protect parties and the owner. We have been assured that subcontractors can find additional insurance beyond the wrap-up to address any concerns they might have with the wrap-up insurance.

SB 1077 would change the current public work provisions to exempt participants from indemnity or liability obligations if the wrap-around insurance is insufficient or depleted. Local agencies are not professional construction contractors or subcontractors. We rely on Public Contract and Labor Code requirements to ensure the public work is done correctly.

The taxpayers should not be liable for errors made by these professionals when things go wrong with the public works project. That shift of liability is what we believe will be the effect of paragraphs (e)

and (f). That shift will increase taxpayer costs from not being able to collect from a party liable for a claim.

For the reasons listed above, this coalition has adopted an Oppose Unless Amended position on Senate Bill 1077. We would remove opposition if the bill were amended to remove public works from paragraphs (e) and (f) of the bill.

We appreciate your consideration of our concerns when the bill is heard in the Assembly Appropriations Committee on Wednesday, August 8, 2018.

Sincerely,



David L. Walrath
Legislative Advocate
Coalition for Adequate School Housing



Jean Hurst
Legislative Advocate
Association of California Healthcare Districts



Rylan Gervase
Legislative Representative
California Special Districts Association



James D. Herberg
General Manager
Orange County Sanitation District



Richard Hansen
General Manager
Three Valleys Municipal Water District

cc: The Honorable Scott Wilk
Members, Assembly Appropriations Committee
Natasha Collins, Consultant, Assembly Appropriations Committee
Ellen Cesaretti, Consultant, Assembly Republican Caucus