



**Master Builders' Association**  
Of Western Pennsylvania, Inc.

Sponsor Of Construction Advancement Program

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## The Case Against the Pennsylvania Separations Act

The recent budget hearings before the Pennsylvania State Senate Appropriations Committee have brought the topic of the Pennsylvania Separations Act back into the news. Department of General Services Secretary, Curt Topper expressed his interest in modernizing the Separations Act.

The Master Builders' Association of Western Pennsylvania (MBA) has long opposed the Separations Act. Enacted in 1913, this law requires public entities to solicit separate bids and award separate contracts to at least four (4) prime contractors per construction project. This is referred to as the multiple prime project delivery method.

The multiple prime delivery method requires the public entity to hold and manage multiple prime contracts, making the public entity responsible for coordination of the contracts. Consequently, the public entity increases its contractual liability exposure and is forced to be involved in contractual disputes among the primes. The cumbersome multiple prime requirement sets the stage for adversarial relationships amongst the prime contractors, resulting in a drastic rise in change orders and claims.

The private sector is free to choose any construction delivery method and rarely does this sector select the inefficient and ineffective multiple prime delivery method. Only three other states require multiple prime for public construction: North Dakota, Illinois and New York.

The Separations Act is an antiquated delivery method. In 1913, the Separations Act was created to combat unscrupulous general contractors who did not pay subcontractors for construction services. Since 1913, the State has developed measures to alleviate poor payment practices, which no longer requires the Separations Act. In 1963, the Mechanic's Lien Law was enacted. This law entitles contractors and subcontractors with lien rights to assure payments. In 1994, Pennsylvania enacted the Contractor & Subcontractor Prompt Payment Act. It provides remedies against persons or companies who do not meet their financial obligations for construction services.

Additionally, the construction industry has evolved since 1913, adapting in response to the customer's changing circumstances. The customer's essential priorities – cost, quality, time and safety – vary from project to project and the customer should be afforded the opportunity to select the most appropriate delivery method for a particular project on a case-by-case basis.

A common misconception about the Separations Act is that all organized labor favors the archaic law. NOT all unions support this law. Only a small minority of the building trades unions support the



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Separations Act and their support is mainly out of defense for their single trade specialty contractors. The truth is that the two largest building trades unions in the State made significant financial contributions to allow single prime contracting.

Finally, if we take a common-sense approach to the Separations Act, we see that it just doesn't add up. Supporters of the Separations Act preach that the multiple primes delivery method saves money. If that was true, don't you think the private sector would use multiple primes on a construction project? Also, why does the Federal government and forty-six State governments overwhelmingly choose a form of single prime?

Compliments to Secretary Topper for speaking out against this outdated delivery method. It is time to repeal the Pennsylvania Separations Act, remove these obstacles, and bring our great State into the 21<sup>st</sup> century.

Sincerely,

A handwritten signature in cursive script that reads "Jack Ramage". The signature is written in black ink and is positioned above the typed name.

Jack Ramage  
Executive Director