



February 8, 2022

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

The Honorable Nancy Skinner
Chair, Senate Budget and Fiscal Review
1021 O Street, Room 8630
Sacramento, CA 95814

The Honorable Philip Ting
Chair, Assembly Budget Committee
1021 O Street, Room 8230
Sacramento, CA 95814

RE: Concerns with COVID Paid Leave (AB 84/SB 114) – Tax Credit Needed for High Wage Paying Employers

Dear Governor Newsom and Chairs Skinner and Ting:

On behalf of the listed union signatory construction employers, representing thousands of union contractors who employ hundreds of thousands of skilled and trained union construction workers, we write to submit our STRONG CONCERNS regarding AB 84 and SB 114 which reinstate COVID-19 Supplemental Paid Sick Leave (SPSL) on all California businesses with more than 25 employees.

These measures mandate up to 80 hours of employer-paid COVID-19 leave, retroactive to January 1, 2022. Union signatory construction contractors are united in their opposition to this policy, unless additional budget language includes a dollar-for-dollar tax credit to reimburse highroad employers who provide the leave and also pay their employees premium wages (at least 30% more than state minimum wage).

The Families First Coronavirus Response Act (FFCRA), as amended by the COVID-related Tax Relief Act of 2020, provided employers refundable tax credits that reimbursed them, dollar-for-dollar, for the cost of providing paid leave to their employees for leave related to COVID-19. The cost of paid COVID leave was not borne by our contractors or any other employer. Those costs were borne by the federal government. The FFCRA has now expired. To saddle California employers who voluntarily pay high wages with the heavy costs of SPSL and no path for financial relief is a gut punch to union-signatory contractors.

We urge the Administration and legislative leaders to apply a dollar-for-dollar state tax credit to any COVID related SPSL policy that would be accessible by employers who provide premium wages to their employees, such as union-signatory construction firms for the following reasons:

Union-Signatory Contractors Provide Premium Wages in Lieu of Paid Leave

SPSL without a dollar-for-dollar tax credit, makes union construction contractors less competitive than their non-union counterparts. Elected officials routinely praise unionized construction employers as responsible businesses, who provide their workers premium wages in addition to health and pension benefits and work collaboratively with labor representatives to set living wages, benefits, and working conditions. These negotiated wages, which are significantly higher than non-union wages, take into account unpaid time off for illness and other unplanned time away from work. The new SPSL law disregards the fact that union contractors have already negotiated higher wages to supplement unpaid time off or illness. To require union contractors to provide paid leave, effectively requires them to pay their employees twice for the leave.

Providing COVID Paid Leave Forces Construction Contractors to Pay Twice for Work Performed

The SPSL provided for in AB 84 & SB 114 will hit construction contractors harder than nearly any other industry. Most businesses in the state can go without an employee who is out on paid leave with the only effect being a delay in service or goods provided to their customers. Construction firms are affected differently, as they face

significant contractual obligations regarding project completion timelines. Specifically, construction contractors face liquidated damages from project owners if a project goes over the initially scheduled completion date. Contractors who fall behind in the project schedule, also face potential back charges from other trades if the delays cause those other trades to not be able to perform their work. Not properly managing and manning projects is not an option. Thus, providing SPSL requires our contractors to not only provide the paid leave to the employee who is out, but to also pay an additional employee to perform the work of the worker out on paid leave.

Providing a Dollar-for-Dollar Tax Credit Protects Workers & Businesses

We understand the need to protect Californians from lost wages as a result of the pandemic, but if California wants to provide SPSL for workers, the state should utilize funds specifically earmarked for COVID issues or utilize funds from the largest fiscal surpluses in our state's history to pay for it. Just as the federal government previously provided, the state should do so through a dollar-for-dollar state tax credit for businesses to offset the costs of the employee leave. This ensures that workers who are dealing with a COVID-related issue unrelated to the workplace can stay home without unjustly burdening the employer with the significant costs associated with paid leave. At a minimum, we propose that the tax credit be made available to California employers, like union-signatory contractors, who pay their employees premium wages.

The last two years have been incredibly challenging for Californians – families, employees, and businesses alike. We are proud of our members for their extraordinary efforts to keep their workers and communities safe while delivering the essential infrastructure projects that keep our state moving forward. We assisted Cal/OSHA in crafting construction specific COVID-19 protocols ensuring our jobsites operate safely and as an industry we spend millions of dollars on COVID related personal protective equipment and jobsite sterilization protocols. Without reluctance, we continue to comply with the Cal/OSHA Emergency Temporary Standard, including the provision that requires paid leave for COVID-19 exposures at work. It's for these reasons we feel this new mandate to provide SPSL unfairly places financial harm on our members for something which they have no control over – and for many of our small contractor businesses – this is untenable.

We are eager to work with the Administration and Legislature to find a solution that protects workers and union-signatory construction businesses during the final stages of the pandemic. We believe that having the state cover the cost of paid COVID leave by offering a dollar-for-dollar tax credit for highroad employers is the most reasonable and responsible solution. Should you have any questions regarding our concerns and suggestions, please contact Eddie Bernacchi (916) 444-3770, Scott Govenar (916) 448-8240, Chris Walker (916) 363-7460, Todd Bloomstine (916) 444-9453, Emily Cohen (925) 855-7900, and Bret Barrow (916) 444-3770.

Air Conditioning Sheet Metal Association (ACSMA)
California Association of Sheet Metal and Air Conditioning Contractors, National Association (CAL SMACNA)
California Legislative Conference of the Plumbing Heating and Piping Industry (CLC)
Construction Employers Association (CEA)
Finishing Contractors Association of Southern California
National Electrical Contractors Association (NECA)
Northern California Allied Trades
Southern California Contractors Association
Sothern California Glass Management Association (SCGMA)
United Contractors
Wall And Ceiling Alliance (WACA)
Western Line Constructors Chapter (WLCC)
Western Painting & Coating Contractors Association
Western Wall & Ceiling Contractors Association

cc: The Honorable Toni Atkins, President pro Tempore of the California Senate
The Honorable Anthony Rendon, Speaker of the California Assembly
Members of the California State Senate
Members of the California State Assembly