



Members of the Legislature  
Minnesota State Capitol Saint Paul, MN 55155

February 16, 2023

***RE: Support & Pass HF865 / SF754***

Honorable Members of the Legislature,

The MN Subcontractors Association asks that you support and pass HF865/SF754. This bill protects small and emerging construction businesses from abuses of bargaining power. The bill is about fairness. It ensures that a negligent party pays for their own legal costs. The bill has bipartisan support in the legislature and the support from a broad cross-section of organizations including labor, management, trial attorneys and the MN Council on Latino Affairs.

When a general contractor is negligent, the general contractor should take responsibility, and when a subcontractor is negligent the subcontractor should take responsibility. **Minnesota's laws should reflect principles of basic fairness and remove barriers for small, emerging, and disadvantaged businesses.**

The current defense requirements in MN construction contracts are fundamentally unfair, often non-negotiable and they hurt small businesses. Harm occurs when subcontractors must choose between agreeing to sign these unfair terms or giving up the work. Harm occurs again when a claim arises and when the unfair duty to defend contract terms are used to negotiate an unfair settlement.

The 2017 MN Joint Disparity Study recommends to *“Jointly pursue action by the State Legislature to reduce barriers to public sector procurement embedded in state law.”* MSA

agrees and we need the legislature to end unfair "duty to defend" contract terms to ensure an equitable allocation of risk in MN construction contracts.

Respectfully,



Jen Wothe  
MSA Executive Director