



March 27, 2023

Subject: H.F. 865 (Article 2) in Omnibus Judiciary Policy Bill

Chair Becker-Finn and members of the Judiciary Finance and Civil Law Committee,

Associated General Contractors of Minnesota opposes Article 2 (Construction Contracts) included in the DE3 amendment of HF447. Project owners require contractors to defend the owner from lawsuits arising out of the contractor's work, and to procure insurance for that obligation. The bill's provisions are overbroad in its exclusion of project-specific insurance (In 23.13) beyond insurance programs such as owner or contractor-controlled insurance policies (In 22.22). This language will effectively squash certain insurance solutions to assist construction contractors of all sizes with appropriately managing their risk.

Duty to defend provisions require downstream subcontractors to obtain insurance to cover the upstream contractor's defense cost when the upstream contractor is sued for the damages arising out of the work of subcontractors. Some general contractors do not self-perform construction work. Subcontractors contract with the general or another upstream subcontractor to perform different scopes of work. Despite no examples being provided in the last decade since this law was rewritten, some groups have claimed a subcontractor must pay the legal costs even when the costs are incurred due to the negligent conduct of the general contractor. AGC is supportive of closing any perceived loophole that a subcontractor would be liable for a general contractor's negligence and has presented language to the stakeholders.

AGC of MN will continue working with the stakeholders and we ask the legislature to keep insurance protections in the market available for contractor use. Thank you for the opportunity to share our concerns regarding Article 2 for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Laura Ziegler". The signature is written in a cursive, flowing style.

Laura Ziegler  
Director of Highway/Heavy & Government Affairs