On behalf of Pennsylvania's local government associations, the Council of General Contractors, and Associated Builders and Contractors, we write to express our **strong opposition to Senate Bill 908** and respectfully urge members of the House to vote against the legislation.

At a time when local governments and the construction industry across the Commonwealth are confronting rising costs, growing service demands, and significant fiscal constraints, SB 908 would further increase the cost and complexity of public construction projects. Rather than addressing the fundamental issue with Pennsylvania's Prevailing Wage Act, the legislation would expand the law's scope to additional activities, increasing costs for local governments, taxpayers, contractors, and businesses.

The Prevailing Wage Act currently requires prevailing wages to be paid on public construction projects exceeding $25,000. That threshold has remained unchanged since the law's enactment more than six decades ago. Adjusted for inflation, the $25,000 threshold would exceed $250,000 today. Because the threshold has never been updated, virtually every public construction project undertaken by counties, municipalities, and other local governments is now subject to prevailing wage requirements, regardless of its size or scope.

SB 908 would compound this problem by expanding the definition of "public work" to include custom fabrication and HVAC duct cleaning. The inclusion of custom fabrication is particularly concerning given the complex supply chains involved in modern construction, which frequently extend across Pennsylvania and beyond. Modern public construction projects routinely rely on materials and components manufactured, assembled, or fabricated outside the Commonwealth and, in some cases, outside the country.

This raises significant practical and legal questions that SB 908 does not adequately address. How would Pennsylvania determine the appropriate prevailing wage classification for work performed at an out-of-state or international facility? How would contractors and public entities obtain, track, and verify wage information for workers who never enter Pennsylvania? What mechanism would the Department of Labor and Industry have to enforce Pennsylvania wage requirements against employers and facilities located outside the Commonwealth?

New Jersey's experience demonstrates the difficulty of applying state wage-and-hour requirements to work performed outside a state's borders. Federal and state courts have addressed the limits of New Jersey's ability to apply its wage laws extraterritorially. In *Ortiz v. Goya Foods, Inc.*, No. CV 19-19003 (SRC), 2020 WL 1650577 (D.N.J. Apr. 3, 2020), the federal district court concluded that New Jersey wage-and-hour laws did not apply to work performed outside New Jersey. Similarly, *Lupian v. Joseph Cory Holdings, L.C.*, 240 F. Supp. 3d 309, 313–14

(D.N.J. 2017), addressed the limits of applying New Jersey's wage law to out-of-state employees. These decisions underscore the legal and practical complications that arise when a state attempts to regulate employment occurring beyond its borders.

Pennsylvania should not create a statutory scheme that raises the same unresolved questions. SB 908 would potentially require Pennsylvania prevailing wage requirements to follow materials and fabrication activities throughout a national, possibly international, supply chain, without establishing how those requirements could realistically be administered or enforced. At a minimum, these questions should be resolved before imposing a new mandate on contractors, manufacturers, and public entities.

The legislation would also create substantial administrative burdens for Pennsylvania contractors. Custom fabrication is not limited to a single, easily identifiable category of work. Depending on the project, it can involve numerous suppliers, manufacturers, subcontractors, facilities, and worker classifications. Requiring contractors to determine whether each component constitutes covered custom fabrication, identify the applicable prevailing wage requirements, and verify compliance throughout the supply chain would add significant complexity and cost to public projects.

These concerns are not theoretical. New Jersey has experienced enforcement challenges involving prevailing wage and custom fabrication, including cases involving Pennsylvania contractors performing fabrication work for public projects. The experience demonstrates the difficulty of determining which workers and activities are covered when fabrication occurs away from the public works site and across jurisdictional boundaries.

For local governments, these changes would have a direct impact on the cost of delivering essential public infrastructure. Prevailing wage requirements can significantly increase the cost of construction projects, with some estimates showing increases of up to 30 percent. Those additional costs affect projects residents rely on every day, including courthouses, correctional facilities, emergency service buildings, roads, bridges, parks, and other essential public facilities.

The impact extends beyond local government budgets. Contractors and construction businesses are already managing higher material costs, labor demands, regulatory requirements, and increasingly complex project timelines. Expanding prevailing wage requirements can make public projects more difficult and costly to bid and administer, potentially limiting competition and making it more challenging to deliver projects efficiently and within budget.

Ultimately, higher construction costs mean taxpayer dollars do not go as far. Every additional dollar required to comply with an expanded prevailing wage mandate is a dollar that cannot be directed toward other critical local priorities. Counties and municipalities are already balancing significant demands for public safety, infrastructure maintenance, human services, and economic development while operating within limited budgets.

There is a better path forward.

Pennsylvania's local governments and construction industry partners support **modernizing the Prevailing Wage Act's $25,000 threshold**, which has remained unchanged for more than 60 years. Updating the threshold would recognize the significant changes in construction costs since the law was enacted and better align the law with its original intent: applying prevailing wage requirements to larger public works projects while allowing smaller projects to be completed at competitive local market rates.

Modernizing the threshold would help local governments stretch limited taxpayer dollars further, support a competitive construction industry, reduce unnecessary administrative burdens, and allow more needed infrastructure improvements to move forward.

If the General Assembly is considering changes to the Prevailing Wage Act, the conversation should begin with **updating the outdated project threshold, not expanding the scope of the law.** This approach would address a longstanding issue while providing meaningful relief to local governments, contractors, and taxpayers across the Commonwealth.

For these reasons, **we respectfully urge the House to oppose Senate Bill 908**. We stand ready to work with the General Assembly on meaningful reforms that modernize Pennsylvania's Prevailing Wage Act, reflect the realities facing local governments and the construction industry today, and ensure taxpayer dollars are used as effectively as possible.