

House Bill 288
Proponent Testimony
National Electrical Contractors Association

Chairman Ghanbari, Vice-Chair Dean, Ranking Member Upchurch and members of the House Small Business Committee:

My name is Tom Shreves and I am Government Affairs Manager of the Greater Cleveland, North Central Ohio and Cincinnati Chapters of the National Electrical Contractors Association (NECA), a former NECA contractor. NECA is an organization that represents union electrical contractors throughout the United States. Many times our members are subcontractors who perform primarily commercial and industrial work. We are small businessmen and women who install electrical systems in everything from schools, to sports stadiums to the Statehouse. We are also industry leaders in the emerging electric vehicle marketplace, having developed the country's most comprehensive safety and training program for EV charging station installation, the Electric Vehicle Industry Training Program (EVITP). My chapters of NECA are proud to support House Bill 288 and thank Representatives Roemer and Sweeney for their introduction of this important legislation.

HB 288 closes a gap in Ohio's prompt pay statutes to require prompt payment between private owners of construction projects and their general contractors. State law already addresses payments between general contractors, their subcontractors and lower tier subcontractors on private work, and already addresses payments at every level of public work. Thus, arguments that this is somehow an intrusion of government into private business ring hollow, as statutes already exist to address prompt pay in other situations.

The need for this legislation is fairly self-evident. Contractors need to be paid for the work they have completed. What might surprise you, however, is to know what a low margin business construction is. NECA performs a financial survey of its over 4,000 members which constantly reveals the average after taxes profit ranges between 2 and 5 percent. Any delay in payment puts most small and even medium sized contractors at significant risk to meet basic business expenses like payroll and materials. Perhaps equally significant is its impact on future jobs. Estimating and bidding construction projects is a time consuming and expensive proposition. With money being withheld for work that has been completed, contractors find themselves with little resources to pursue their next project. In that regard, HB 288 is really about economic development, keeping contractors bidding on new work, and maintaining and growing their workforce.

Everyone in the construction industry is thrilled when new data centers, warehouses, or other large building projects are brought to Ohio. Recently, Ohio has been fortunate to be at the epicenter of significant economic development projects and for that we should all be proud. However, large out of state companies should not be allowed to abuse the contractors they select for these projects by withholding payment for completed work for

90 days, 180 days or even more. It should be noted here that rising interest rates have further exacerbated this problem. Those rising rates incentivize late payments so that owners can squeeze out one more month of “float” on money that rightly belongs to the contractors. At the same time, those rates make it more costly for contractors to borrow money to pay for workers and materials while they await those late payments that, again, are rightfully theirs.

Opponents of HB 288 have said that solutions already exist for late payments in the form of lawsuits. What a cynical and telling position to hold. No one enters a mutually beneficial contract with the desire to sue their partner. And lawsuits lead to blacklists that can jeopardize a contractor’s future work. Let’s be clear, this bill only applies if the owner of a construction project is acting in bad faith and purposefully harming their partner in their project. We simply can’t understand how opponents to this legislation continue to protect and defend their right to withhold timely payments to businesses that they have willingly entered into a relationship with.

It is time for Ohio to join 30 other states, both red and blue, from California to Texas, in enacting prompt pay standards. I urge your support for HB 288, as it is truly a pro-small business, pro economic development bill. Mr. Chairman this concludes my remarks. Thank you for the opportunity to offer testimony. I would be happy to answer any questions the committee may have