

March 8, 2023

**Re: SF754**

Senate Judiciary & Public Safety Committee Members:

I am writing on behalf of the Construction Law Section of the Minnesota State Bar Association with respect to SF754. The Section is comprised of experienced construction law attorneys who represent public and private owners, general contractors, subcontractors, design professionals, and material suppliers throughout the State. The Section takes no position regarding the “duty to defend” elements of SF754, but **the Section does oppose the provision at line 3.3 of the bill that removes the “project-specific insurance” language in Minn. Stat. §337.05 subd 1, as we believe this change would have significant unintended consequences for the construction industry.**

The express statutory permission to allow “project-specific insurance” gives the industry the freedom and flexibility it needs to insure all manner of risks associated with construction projects. Eliminating the “project-specific” language would create a significant ambiguity regarding the types of insurance that project owners, general contractors, and upper-tier subcontractors could contractually require, which is likely to increase litigation and other project-related costs.

In addition, omitting the language could mean that common and readily insurable project risks would be uninsured, leaving injured parties with no practical recourse to compensation. Standard Liability and Builders Risk insurance alone do not cover all the usual project risks, and parties must be able to customize insurance coverage to reflect the particular risks of a construction project.

For those reasons the MSBA’s Construction Law Section urges reinstatement of the deleted “project-specific insurance” language at line 3.3 of SF754.

Sincerely,



J. Scott Andresen  
Chair, MSBA Construction Law Section, 2022-23