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March 13, 2019

The Honorable Ash Kalra, Chair
Assembly Committee on Labor and Employment
Legislative Office Building, 1020 N Street, Room 155
Sacramento, Ca. 95814

RE: Assembly Bill 520 (Kalra) – OPPOSE

Dear Chairman Kalra,

The California Building Industry Association, representing the state's approximately 3,000 land developers and homebuilders, respectfully oppose Assembly Bill (AB) 520, which would codify in statute a definition of the term "de minimis" to determine what level of public subsidy triggers prevailing wage requirements on an otherwise private project.

AB 520 would overturn the established practice to view the subsidy in the context of the project and use two percent as a general threshold for de minimus determinations. In fact, the two percent threshold was specifically cited by, and understood to be, the benchmark for triggering such during the negotiations that ultimately resulted in the language enacted into law 18 years ago by Senate Bill (SB) 920 (Chapter 938, Statutes of 2001).

As such, while we do not take issue with statutorily memorializing the longstanding two percent threshold, AB 520 takes the unfortunate step of also inserting an arbitrary cap of \$275,000, which --- as we summarize below --- will have significant consequences for many state public policy goals.

I. BUILDERS WILL FOREGO SOLAR, BATTERY, and EFFICIENCY MEASURES

As currently written, AB 520 places at risk the continued viability of a number of state and local energy efficiency, water efficiency, and renewable generation incentive programs – including, for example, California's landmark New Solar Home Partnership (NSHP) program.

Since its creation, the NSHP has provided a critical financing tool for the state's homebuilders to partner with the state and local governments to advance the widespread deployment of residential solar installations --- an increasingly common and in many cases standard --- practice for our members. However, relying on an average rebate dollar figure under NSHP of \$3,000 per home, AB 520's \$275,000 threshold would be met within the first 100 homes of a new community. This circumstance, in turn, would trigger prevailing wage law on the entire housing project, along with additional associated costs far exceeding the NSHP subsidy.

Consequently, under AB 520, the state’s homebuilders would lose an important incentive under NSHP to apply solar to new residential construction, and the state would lose an indispensable tool for helping to move California forward towards its near-term zero net energy and greenhouse gas reduction goals.

In addition to NSHP, many local governments and utilities have also taken steps to encourage energy efficiency in new home construction by taking steps to proactively incentivize homebuilders who incorporate energy efficiency measures into their building practices. Benefits from these additional features include improved energy efficiencies, improved indoor air quality and comfort, and reduced consumer utility bills. Unfortunately, AB 520 will be the death nelly to these local energy and conservation incentive programs, too.

As the state looks to incentive future technologies to reinforce grid resiliency and climate goals such as energy storage systems and electric vehicle charging infrastructure would also be omitted by builders as standard practice if the threat of installation now jeopardized the overall costs to the project.

II. BUILDERS WILL STOP PARTNERING WITH LOCAL GOVERNMENTS ON CRITICAL INFRASTRUCTURE INVESTMENTS FOR FUTURE DEVELOPMENT OPPORTUNITIES

More than ever, California is looking to its diverse cities and counties to develop and prepare appropriate sites for current and prospective housing and development opportunities. For example, local governments frequently partner with builders and developers to prepare anticipated future sites with the necessary infrastructure that will be needed. Earlier investment “upfront” in this critical infrastructure saves time, money, and constituent frustration (i.e., residents facing construction noise, traffic congestion, and torn up streets) when integrated on the front end of the “first-in” project.

It is common practice for a city or county to require the oversizing of a sewer or water trunk line at a particular development site for the benefit of others. In doing so, the city or county reimburses the builder for part of the costs attributable to the other beneficiaries. Additionally, builders will install at the front end of the development project utility infrastructure that is deemed necessary for the public good. Utilities will then reimburse the builder for the portions of work that will be handed over to the utility for ongoing maintenance and inspection.

AB 520’s provisions will thoroughly discourage the continuance of the above working arrangements because of the risk that these partnerships would trigger a determination that the entire project would become subject to prevailing wage law.

Finally, AB 520 comes on the heels of two almost identical bills previously pursued in recent years (AB 251/2015 and AB 302/2013) and subsequently vetoed on both occasions by then-Governor Brown, who stated in both of his veto messages:

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“Longstanding practice has been to view the subsidy in context of the project and use 2% as a general threshold for determinations. There has been no showing that the current practice is unreasonable. While I remain a staunch supporter of prevailing wages, I am concerned that this measure is too restrictive and may have unintended consequences.”

We strongly believe that the assessment and concerns expressed in the Governor’s veto message above for the previous measures continue to remain relevant today with AB 520.

In closing, California’s homebuilders have consistently endeavored to proactively work with the state and its local governments to towards collectively achieving California’s green building and housing goals. Unfortunately, AB 520 will jeopardize those ongoing partnerships in an attempt to solve a purported problem that has not been demonstrated to exist.

For the reasons stated above, we respectfully request a no vote on AB 520 (Kalra).

Sincerely,

A handwritten signature in black ink, appearing to read 'm gunning', with a long horizontal flourish extending to the right.

Michael Gunning
Senior Vice President of Legislative Affairs

cc: Members, Assembly Committee on Labor and Employment
Megan Lane, Chief Consultant, Assembly Labor and Employment Committee
Lauren Prichard, Consultant, Assembly Republican Office of Policy & Budget