



March 20, 2020

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
United States House of Representatives  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20510

The Construction Employers of America (CEA) represents seven construction employer associations and the more than 1.4 million employees that work for our member contractors. Like so many other US employers, they have been significantly impacted by the Coronavirus outbreak. Our member firms remain committed to completing essential services, advancing critical infrastructure projects and carrying out vital construction activities that provide work opportunities for skilled craftworkers across the country.

The CEA applauds Congress' quick passage of legislation to address the public health crisis and economic uncertainty caused by the outbreak of the Coronavirus. We do, however, have some serious concerns with aspects of the just enacted second response bill, H.R. 6201, the Families First Coronavirus Response Act (FFCRA). If these issues outlined below are not addressed in subsequent COVID-19 response packages, the requirements of FFCRA will create significant industry-wide challenges and cause significant financial and operational damage to the nation's signatory construction contractors.

As the Federal government weighs additional policy options to address this public health and economic crisis, we urge you to ensure that any actions taken support the skilled building trades segment of the construction industry. Due to our essential role in building, operating and maintain the most critical public and private infrastructure around the nation and our role in training the future workforce required to provide these services, it is vital that our member firms and their workforce be sustained and allowed to perform their important work during this crisis.

Our suggestions are as follows:

## **Tax Credit Provisions Offsetting Employer Costs of Family and Sick Leave Mandate**

- Although the CEA supports the tax credits and emergency nature of the paid sick and family leave proposal that are tied to a declared health emergency and provide short-term paid leave for workers, we object to the provision of the legislation that caps the rate of \$511 per day, and \$5,110 in total for the tax credits at an insufficient level. This would create great financial hardship for our member companies, who compensate their workers above the sub average wage referenced in the legislation.
- Employers covered by this requirement would also be subject to a tax credit cap of \$200 per day for up to 50 days. The CEA urges Congress to remove the caps in subsequent COVID-19 legislation in order to reflect reasonable benefit levels from our contractors.
- We do **not** support the more attenuated sick leave accrual based on hours worked contained in the non-emergency paid leave proposal, due to administrative and payroll challenges that are not appropriate to impose long term on employers during the crisis.

## **Multiemployer Pension Relief for Industry Economic Security**

- We appreciate that Congress continues to work on additional policies to provide economic stabilization during the economic decline. Therefore, we include several important proposals we believe should be included in any comprehensive COVID-19 response package. Paramount in importance involves reforms to the multiemployer pension system, which was in crisis prior to the economic emergency.
- Several systematically significant plans are projected to become insolvent, threatening to bring down the entire system. The overall system is under stress; many plans face substantial unfunded liabilities and are subject to the same long-term risks that have driven other plans to insolvency. We are concerned that the economic fallout from COVID-19 will weaken the financial status of many multiemployer pension plans and urge Congress to take steps to address this looming crisis.
- When responding to the 2008 – 2009 financial crisis, Congress did not include multiemployer pension plans in financial rescue packages passed to stabilize the economy. As a result, plan asset values plummeted, triggering devastating long-term problems in the system that Congress is still struggling to address today. Congress must not make the same mistake in this crisis.
- Immediate action is needed to help mitigate the effect of this new crisis on multiemployer pension plans and the small family-owned construction companies who contribute to them. The relief must **not** go only to plans already failing. Without relief more plans will fall into “critical” or “critical and declining” status, even as more contributing employers go out of business, further destabilizing plans and remaining employers.
- Beyond a direct infusion of cash into the system, permitting targeted actuarial smoothing of investment and contribution losses — that is, allowing sponsors to recognize losses over longer periods of time — would temper the impact of the recent market plunge by reducing required contributions by employers.
- Finally, employers, with many of their labor partners, have urged Congress to authorize a hybrid benefit design called Composite Plans. Construction employers have stressed that

the current defined benefit system basically requires them to insure long-term positive stock market performance, a virtual impossibility in today's financial climate. Employers instead favor a shared-risk plan that would still provide a lifetime benefit for retirees that is better than a 401(k). It should have been done earlier. Now is the time.

### **Joint Labor-Management Health and Welfare Trusts**

- In addition to contributing to underfunded multiemployer pension plans, CEA employers also contribute to joint labor-management Health and Welfare trusts that provide 1.4 million workers and families medical and other health benefits. These plans must be protected during this pandemic.
- CEA would endorse adding a COBRA premium assistance subsidy like the credit that was made available in 2010.
- The pending bills should make sure that the federal government reinsures the cost of COVID-19 testing and treatment to these self-insured plans and for related prescription drug coverage.

### **Comprehensive Infrastructure Investment**

- The COVID-19 virus has created uncertainty throughout the construction industry. CEA is asking for bigger and more innovative initiatives to keep the construction industry working and to keep America safe. In this time of crisis, one of the most important ways to sustain the construction industry is to fund a far larger, long term, comprehensive infrastructure package. This will ensure public buildings, schools, water systems, airports, transit and surface transportation networks can meet the demands of the 21st century.
- This counter recessionary effort will maintain the nation's construction industry, the quality contracting firms that provide stable employment opportunities to building trades workers maintain and strengthen the important joint labor-management pension and health and welfare funds.
- To protect our communities and enhance public safety, any fiscal measure should include assistance for projects that include health care, education, transportation and technology projects which will continue to come under pressure in the coming months. The skilled workers of CEA are prepared to build, repair and retrofit pandemic-resilient infrastructure to preserve both the short-term and long-term safety of the population. Hospitals need to rapidly expand bed capacity, intensive care units, intake centers and temporary/portable facilities or structures to deal with an influx of patients over the coming months.
- The pandemic has clearly shown the extreme danger of off shoring the production of medications vital to the health of American citizens. Any infrastructure bill should be mandated to enhance our country's ability to manufacture our own pharmaceuticals.
- Local schools and universities are still functioning as vital community centers for the distribution of food and other supplies, while our nation's airports need vital support to handle changing transportation demands and all Americans need expanded high-speed broadband networks to facilitate remote work and learning.

### **Designating as Essential Construction, Facility Maintenance and Related Services**

- We urge Congress to include a provision in any COVID-19 response package that aid to states will be conditional upon following DHS/CISA guidance defining an essential worker as construction activities are essential to economic stabilization and public health.
- Recently many local jurisdictions have imposed extensive shutdowns of commercial operations without an exemption for personnel who support vitally important, essential construction activities. The impact of halting construction activities during this crisis will have a severe effect on public safety, national security and our member firms and the union craftworkers they employ. Construction sites are unique workplaces, tightly controlled, feature significant safety protocols, protective of the general public and should not suffer from local shut-downs orders.

### **Payroll Tax Cancellation for Employers During Economic / COVID 19 Emergency**

- The CEA endorses a three-month cancellation of all payroll tax obligations to increase the probability that construction employers meet payroll demands, avoid large scale layoffs, retain highly skilled workers, maintain joint apprenticeship programs and prevent potential bankruptcy conditions for firms of all sizes throughout the economic crisis.

Thank you for consideration of our policy recommendations.

The Construction Employers of America

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International Council of Employers of Bricklayers and Allied Craftworkers

FCA International

Mechanical Contractors Association of America

National Electrical Contractors Association

Sheet Metal & Air Conditioning Contractors' National Association

Signatory Wall and Ceiling Contractors Alliance

The Association of Union Constructors