



American Society of Civil Engineers

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January 26, 2009

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Ranking Member Grassley:

On behalf of the over 146,000 members of the American Society of Civil Engineers (ASCE), I am writing to commend the Senate Finance Committee on its draft "American Recovery and Reinvestment Act of 2009" and to express ASCE's support for full repeal of 3% withholding.

The Finance Committee draft includes a one-year moratorium on the implementation of the law, but ASCE is convinced that the nation is best served by full repeal. This tax provision would add millions to the cost of the nation's infrastructure as engineering firms, construction companies, and governments at all levels struggle to absorb the added cost of doing business.

There will be a large number of harmful, unintended consequences if the provision is not repealed. The provision hurts honest taxpaying businesses in an attempt to find tax delinquents by essentially forcing contractors to provide the government an interest-free loan. The 3% withholding significantly alters companies' cash flows. This new requirement is based on a company's revenue with no relationship to its taxable income. Companies operating with tight profit margins will lose vital funds needed to operate day-to-day activities and will be forced to pass along the added costs in their contract bids.

In addition, the costs to Federal, State, and local governments to administer the program will be substantial and the process complicated to implement. The Congressional Budget Office ("CBO") reported that the withholding provision is an unfunded mandate on state and local governments because it exceeds the allowable \$50 million annual threshold.

The efforts of Congress and the Administration to craft an economic stimulus package that will sustain the millions of jobs and begin to repair the nation's neglected infrastructure will be lessened, and even delayed, if the 3% withholding provision is permitted to take effect. It will add a major burden to the nation's corporations, small businesses, and government at all levels, with no real benefit.

ASCE strongly supports full repeal of section 511 of P.L. 109-222 as part of the economic stimulus legislation. If we can be of further assistance, please do not hesitate to contact Martin Hight, ASCE Senior Manager of Government Relations at 202-789-7843 or mhight@asce.org

Sincerely,

A handwritten signature in black ink, appearing to read "D. Wayne Klotz". The signature is fluid and cursive, with the first name "D." and last name "Klotz" clearly visible.

D. Wayne Klotz, P.E., D.WRE
President