



AGC MAINE

THE CONSTRUCTION ASSOCIATION

Testimony of Matthew Marks Against LD 949
“An Act to Protect Workers from Employer Surveillance”
Joint Standing Committee on Labor and Housing
April 4, 2023

Senator Tipping, Representative Roeder, and distinguished members of the Joint Standing Committee on Labor and Housing, I am Matt Marks, a Principal at Cornerstone Government Affairs, and here today on behalf of my client the Associated General Contractors of Maine (AGC Maine).

I want to share a few examples of how technology is utilized in the construction industry as it is unclear if these would be justifiable under the proposed law. Employer-owned vehicles can be tracked using GPS tracking assets as they move to and from various job sites. The technology assists with planning and operations as well as assistance for operators if something mechanical should occur. Delivery of construction materials is an essential function for a successful project and mapping routes, discovering delays, and ensuring efficiencies are beneficial considerations.

Where this law becomes very complicated, is the use of software like building information modeling (BIM), 3D/4D design, engineering, and construction solutions. Versions of the software include applications that assign and track progress in both design and the field. Employees are assigned a task and that information stream can be viewed by the company. This has been a tremendous advantage for complicated projects, and we would argue a benefit to the operations. The activity can happen in real-time, with the ability for employees to include photos of work for review. Add-on features have expanded the technology including site cameras for better visualization, and time tracking to determine the allocation of resources including workers on a particular phase of a project. BIM provides real-time structural analysis, material delivery, space allocation, and the inclusion of simulation for scheduling.



BIM is just one of the many software technologies that could be considered tracking whereas the industry sees this as managing workflow between multiple parties including project owners, designers, engineers, suppliers, service providers, and builders. Simply assigning tasks in software and knowing that progress can be viewed across parties with access to a system appears to be a violation of this bill.

The construction industry work is largely remote in the field, and the use of popular software to track employee “timecards” allows for the timely management and deployment of payroll advancements. Today’s software assists with compliance in project-by-project wage adjustments, particularly on sites with Federal or State wage requirements like Davis-Bacon. The use of applications can be applied on phones or tablets. This would be a major setback, as each craft position determines the minimum hourly wage and benefit, and can be extremely complicated to track. Utilizing software ensures correct compensation and reporting required by state and federal agencies.

Advancements in technology for complicated design, ease of reporting, and flow of information have become essential in construction. We urge the Committee to vote against LD 976.