



AMERICAN COUNCIL OF ENGINEERING COMPANIES  
*of Rhode Island*

**DATE:** June 4, 2024

**TO:** Chair Representative Robert E. Craven, 1<sup>st</sup> Vice Chair Representative Carol Hagen McEntee, 2<sup>nd</sup> VP Representative Jason Knight, and Committee Members

**FROM:** American Council of Engineering Companies of Rhode Island (ACEC-RI)

**RE:** Engineering Industry Association Opposes House Bill 8318 – Payment of Wages

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Dear Chair Craven, Vice Chairs McEntee and Knight and Committee members:

ACEC-RI, which represents over fifty (50) engineering firms in Rhode Island employing 800 plus Rhode Island workers who provide engineering services to the State of Rhode Island, respectfully opposes House Bill 8318 – which extends the statute of limitations for all claims regarding the Washington Bridge No. 700 to a period of ten (10) years following discovery of the existence of a claim or December 31, 2033 whichever is later.

This proposed bill extends the current statute of limitations/ repose, in some instances doubling the current ten (10) year window starting at substantial completion to ten (10) years from discovery of a claim or December 31, 2033 whichever is later.

The statute of limitations and statute of repose exist because the law recognizes that with the passage of time, memories fade, documents are destroyed, witnesses are unavailable or die and the reliability of evidence erodes. Over time, causation of a claim becomes difficult to prove given that the structure has been in use over a period of years – in this instance over forty (40) years. Who can say with certainty that any alleged failure occurred because of passage of time and ordinary wear and tear or because of some alleged defect. An average of 96,000 vehicles a day use the Washington Bridge and the bridge has been in service since 1965 with close to 50 years of use. It is because of situations like this, statutes of limitation/ repose require that rights be asserted within a reasonable time frame.

The Rhode Island Supreme Court has upheld and enforced the current RI ten (10) year statute of repose in numerous cases because it has found that it balances the needs of individual rights to seek redress for past grievances versus the needs of society and the judicial system for finality. The court has explicitly held that ten (10) years is a reasonable length of time for an owner to discover latent defects. The court is not alone, as 46 other states have similar statutes though the RI statute has the longest period.

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Retroactive changes to this long-standing law also impact insurance costs and coverage for claims. Insurance coverage and the cost of coverage is tied to exposure based on the statute of limitations/repose. Extending the period of exposure will create significant increases in insurance costs and in some cases may lead insurers to pull out of coverage for the state. Though this bill applies to only one particular project, retroactively changing the law will have a chilling effect on insurers decisions to write policies. This will also impact insurance for future contracts to demolish and rebuild the bridge. In the instance of tail insurance, many firms will not be covered for the extended claims period and will be left to self-insure and pay their own costs of defense.

While ACEC-RI appreciates the general intent of this bill – to explore every avenue to determine when, why and how the Washington Bridge failed, expanding liability and exposure for such a significant length of time is fundamentally unfair, has serious unintended consequences for the industry and the business climate in Rhode Island and is not legally or reasonably supportable.

We appreciate your thoughtful consideration of our concerns, and respectfully urge you not to move forward with House Bill 8318.

Sincerely,

/s/ Dorothy S. Davison

Executive Director  
ACEC-RI