



LEGISLATIVE UPDATE APRIL 2018

PASSAGE of 2018 NYS EXECUTIVE BUDGET

Both Houses completed passage of the 2018-19 \$168 billion state budget just prior to the April 1 deadline. The final budget did not include more than \$1 billion in onerous tax-and-fee increases proposed by the Governor and billions more proposed by the Assembly but did include a \$1 billion annual increase in Education Aid (3.9 percent growth) to a record total of \$26.7 billion for the 2018-19 school year.

The most significant result for the industry was the Legislature's rejection of the Governor's untenable major expansion of **MWBE**. Both Houses only agreed to a one year extension of the current law.

The Governor had also proposed major changes dealing with **Design-Build** which would have included all "buildings" and expanded to many state and local entities. Both Houses rejected the Governor's proposals but did agree to authorize design/build legislation in New York City for the construction of new jails to replace the Riker's Island Jail Complex, the reconstruction of the Brooklyn Queens Expressway and NYCHA (New York City Housing Authority) projects. It is interesting to note that the Governor believes that this will avoid significant delays in construction and will realize savings in excess of \$1 billion.

Additional items of interest include:

Investment in Life Sciences: The Budget includes \$600 million to support construction of a state-of-the-art life sciences public health laboratory in the Capital District that will promote collaborative public/private research and development partnerships.

Investment in the Olympic Regional Development Authority: The Budget includes \$62.5 million in new capital funding for ORDA, including \$50 million for a strategic upgrade and modernization plan to support improvements to the Olympic facilities and ski resorts, \$10 million for critical maintenance and energy efficiency upgrades, and \$2.5

million appropriated from the Office of Parks, Recreation and Historic Preservation budget as part of the New York Works initiative.

Establish \$175 Million Workforce Initiative: The FY 2019 Budget establishes a new approach for workforce investments that would support strategic regional efforts to meet businesses' short-term workforce needs, improve regional talent pipelines, expand apprenticeships, and address the long-term needs of expanding industries—with a particular focus on emerging fields with growing demand for jobs like clean energy and technology. Funds will also support efforts to improve the economic security of women, youth, and other populations that face significant barriers to career advancement.

Combat Sexual Harassment: The Budget includes multi-pronged legislation to combat sexual harassment in the workplace:

- Require all state contractors to submit an affirmation that they have a sexual harassment policy and that they have trained all of their employees.
- Prohibit employers from using a mandatory arbitration provision in an employment contract in relation to sexual harassment.
- Ensure that nondisclosure agreements can only be used when the condition of confidentiality is the explicit preference of the victim
- Establish a model sexual harassment policy, in consultation with the Department of Labor and Division of Human Rights, for employers to adopt or use to establish a similar policy that meets or exceeds the minimum standards of the model policy
- Amend the law to protect contractors, subcontractors, vendors, consultants or others providing services in the workplace from sexual harassment in the workplace

Federal Tax Changes In an effort to address the recently enacted federal tax law which has negative fiscal implications for many New Yorkers, the budget:

- **Expands Charitable Contributions to Benefit New Yorkers:** The FY 2019 Budget creates two new state-operated Charitable Contribution Funds to accept donations for the purposes of improving health care and education in New York. Taxpayers who itemize deductions may claim these charitable contributions as deductions on their Federal and State tax returns. Any taxpayer making a donation may also claim a State tax credit equal to 85 percent of the donation amount for the tax year after the donation is made. In addition, the legislation authorizes school districts and other local governments to create charitable funds. Donations to these funds would provide a reduction in local property taxes (via a local credit) equal to a percentage of the donation.

- **Creates Alternative Employer Compensation Expense Program:** While Federal tax reform eliminated full State and local tax deductibility for individuals, businesses were spared from these limitations. Under the FY 2019 Budget employers would be able to opt-in to a new ECEP structure. Employers that opt-in would be subject to a 5 percent tax on all annual payroll expenses in excess of \$40,000 per employee, phased in over three years beginning on January 1, 2019. The progressive personal income tax system would remain in place, and a new tax credit corresponding in value to the ECEP would cut the personal income tax on wages and ensure that State filers subject to the ECEP would not experience a decline in take-home pay.
- **Decouples from Federal Tax Code:** The FY 2019 Budget decouples the state tax code from the federal tax code, where necessary, to avoid more than \$1.5 billion in State tax increases brought solely by increases in federal taxes.

Establish an Opioid Stewardship Fund: The Budget creates an opioid stewardship program with a \$100 million fund to be used for the ongoing and growing costs of prevention, treatment, and recovery services for individuals with a substance abuse disorder. Language in the budget ensures the costs are borne by industry, not by consumers.
