



## LEGISLATIVE UPDATE

April 2020

The Legislature passed the final budget bills for fiscal year 2020/2021 on April 3, 2020. The \$177 billion budget, as usual, contained many policy initiatives proposed by the Governor.

Due to the extraordinary challenges from the COVID-19 health crisis, the budget process was curtailed and did not include the traditional one house budgets in which the Senate and Assembly provide their responses to the Governor's budget and outline their respective priorities. Instead the Legislative Leaders and the Governor negotiated the agreement. With Members not being in Albany it was more difficult communicating and since they were avoiding group contact there was very little debate on the floor of each house.

Major areas of interest:

### **Design-build**

The Governor's proposal would have adversely affected the WICKS law, even though he agreed with the legislature in December when he signed the New York City design-build legislation into law, not to undermine it in a state law. The Legislature ultimately agreed to an expansion of design-build authorization in which they claim that WICKS is maintained.

The law expands the state agencies that are authorized to use design-build to include OGS, Dormitory Authority, UDC, SUNY Construction Fund, New York State Olympic Regional Development Authority and the Battery Park City Authority. It also allows for use in the construction of buildings and will sunset on December 31, 2022.

### **MTA Bidding**

The Governor's proposal contained a provision to expand discretionary bidding and reduce MTA bidding requirements. The legislature rejected both proposals.

### **Sexual Harassment Data**

The governor's proposal would have required that bidders on state contracts identify the number of adverse judgments or administrative rulings arising from allegations of sexual harassment during the preceding year; whether any equitable relief was ordered against the bidder in an adverse judgment or administrative ruling; the total number of settlements entered into during the preceding year that relate to any alleged act of sexual harassment that occurred in the workplace of the bidder; and the total number of settlements entered into during the previous year that relate to any alleged act of sexual harassment committed by a corporate executive without regard to whether that behavior occurred in the workplace of the bidder. The legislature rejected this proposal.

### **Prevailing Wage**

The legislature agreed with the Governor to require prevailing wage to be paid on construction projects that receive a substantial public subsidy, to ensure that public dollars going to construction projects support fair wages for workers on those projects. The budget adds a new section of the Labor Law, §224-a, to require prevailing wage to be paid on private projects larger than \$5 million where at least 30 percent of construction expenses are supported by public grants, tax credits, or certain other incentives. This was a major priority of the AFL last year.

### **Paid Time Off to Vote**

The final budget repeals the requirement which was enacted last year giving paid time off to vote for all employees.

### **Paid Sick Leave**

The final budget includes a provision requiring mandatory sick leave for employees. In most cases the employer is required to provide paid sick leave in varying amounts based on the number of employees in a calendar year and the net income of the business entity. There are significant concerns as to how this will be applied with respect to multi-employer employees and how it affects existing collective bargaining agreements. The law takes effect 180 days after April 3, 2020 and allows employees to take sick leave pursuant to this law after January 1, 2021.

### **MWBE**

While there were major changes to the MWBE program last year that will be in effect for four years, the Governor's current proposal would allow the MTA for awards to MWBEs up to \$1 million to use an informal competitive process. This was rejected by the Legislature.

### **Tax on Small Businesses**

The Governor's has proposal to reduce the tax on small businesses from the current levels to 4 percent was rejected by the Legislature.

## **Revenue**

Due to the significant uncertainty with respect to the fiscal impact on state revenue due to the shutdown of the economy, the legislature gave the Governor extraordinary powers. Based on actual revenues, the Governor can propose cuts to the budget after April 30th, June 30th and December 31st. Unless the legislature returns and adopts its own plan within 10 days, the Governor's plan will take effect.

## **\$3 Billion Restore Mother Nature Bond Act**

The Budget authorizes the creation of a Bond Act to fund critical environmental restoration and climate mitigation projects in every corner of the state to ensure New York is able to adapt to the intensifying impacts of climate change, and reduce emissions, while creating jobs and local economic development. As part of the larger Restore Mother Nature Initiative, the Bond Act will be a key source of funding for projects focused on reducing flood risk, investing in resilient infrastructure, restoring freshwater and tidal wetlands, preserving open space, conserving forest areas, and reducing pollution from agricultural and storm water runoff. It will also fund up to \$700 million in projects to fight climate change, including green buildings. It also aims to spend 35 percent of the funds on projects to benefit underserved areas of the state. The Budget Director will assess the state's finances and the economic outlook later this year and make a determination as to whether to move forward with the Bond Act.

## **Green Economy Tax Credit**

The budget creates a new refundable, discretionary Green Jobs Tax Credit totaling up to 7.5 percent of wages for each net new job created fostering the expansion of green economy businesses and position New York State to further capitalize on significant projected green economic growth. The State will also create a refundable, discretionary Green Investment Tax Credit totaling up to 5 percent of qualifying new capital investments in connection with qualifying green economy projects and increasing to up to 8 percent of eligible investment for research and development in qualifying green economy projects.

## **Comprehensive Education and Training Center in Syracuse**

The budget supports the creation of the State's first regional Comprehensive Education and Workforce Training Center in Central New York to provide specialized educational opportunities and state of the art workforce training programs in advanced technologies to students and residents throughout the region. The State will reimburse 98 percent, or \$71.4 million, of the cost to renovate the building that will house the Center.

## **Legislation**

Realizing that the Governor's shutdown and ban on gatherings could be prolonged, the Legislature included in the budget many of the so-called must list items. These are laws that sunset during the year and are usually extended before they adjourn in June- local sales tax and hotel tax authorizations. While they did adopt many of the Governor's priorities, they did not address many legislative priorities.

With the shutdown continuing and primary elections scheduled for the end of June, it is unclear as to whether they will return and take up additional legislation. Before they adjourned the legislative leaders were given the authority to develop remote systems of voting, so there is a likelihood that at some point there will be issues that need to be addressed and they will reconvene either in person or remotely.

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