



## **New York State Legislative Summary 2019**

The 2019 New York State legislative session began with dozens of new lawmakers taking office and ushered in a new era of 'progressive' policy making in Albany. Each year, the legislative session also presents an opportunity to educate and engage lawmakers on important construction and business related issues. From January through June, AGC NYS and our legislative partners were able to achieve legislative successes with the passage of a supplemental capital bill, damages for delay on state contracts, and defining substantial completion on public work. We were able to defeat the economically devastating expansion of prevailing wages for any project receiving state funding, and the ill-advised recreational marijuana proposal. Other contentious issues such as the reauthorization of the minority and women-owned business enterprises program, the Climate Leadership and Community Protection Act and the permanent extension of rent control will pose significant challenges for contractors.

Two AGC NYS priority bills were passed by the Senate and Assembly. The first bill (S.5933-A/A.2040-A) sponsored by Senator Leroy Comrie (D-Queens) and Assemblyman Ron Kim (D-Queens) authorizes contractors to recover reasonable damages for delay under limited circumstances. The second bill (S.2394/A.3552) sponsored by Senator Neil Breslin (D-Albany) and Assemblyman Mike Cusick (D-Staten Island) clarifies the meaning of "substantial completion" on public work construction projects. In the next few months, the bills will be delivered to the Governor for his approval or veto. Upon delivery to the Governor, AGC NYS members will be asked to send letters of support for the bill.

Once again, I am grateful for the encouragement and support from the AGC NYS Members and staff to help us achieve our legislative goals. AGC NYS continues to strengthen existing relationships, while developing new legislative and grassroots allies to rebuild New York's infrastructure and build influence at the State Capitol.

Below is a summary of key legislative issues. The list is limited and does not reflect all of the lobby and educational efforts on dozens of bills.

## ***Bills Passed Both Houses***

**S.6616/A.8434** – Supplemental Capital Projects. **AGC NYS priority bill. Status: Passed both houses.**

- \$65M – Extreme Winter Recovery
- \$500M – NY Works: (\$425M Penn Station, \$75M other projects)
- \$385M – State and Municipal Facilities Program
- \$100M – Lake Ontario resiliency and economic development
- \$100M – NYC Housing Authority
- \$30M – Higher Education Capital Matching Grants Program
- \$20M – Library construction
- \$20M – Non-public school safety
- \$20M – Public Housing Preservation Program
- \$20M – Niagara Frontier Transportation Authority

**S.5933-A/A.2040-A** - requires state agency and authority public works contracts to include a clause authorizing contractors to recover reasonable damages for delay under limited circumstances. **AGC NYS priority bill. Status: Passed both houses.**

**S.2394/A.3552** - specifies the meaning of "substantial completion" for the purposes of requisition payments in public construction contracts. **AGC NYS priority bill. Status: Passed both houses.**

**S.6575/A.8414** - extends the effectiveness of provisions of law relating to participation by minority and women-owned business enterprises (MWBE) in state contracts and would expand upon those provisions based upon the findings of the 2016 Disparity Study. Among the provisions of this bill: adopts the deeply flawed 2016 Disparity Study that would allow for goals as high as 53%; imposes a variety of ethnic and gender based workforce goals; creates a 10% bid preference for MWBE firms on contracts under \$1.4 million; requires the public posting of waivers issued; increases the personal net worth threshold to \$15 million; vague language about imposing goals on other entities; and the new law is effective January 1, 2020. AGC NYS will provide a complete analysis of this legislation. **AGC NYS oppose. Status: Passed both houses.**

**S.6418-A/A.8407** – NYC Minority and Women-Owned Business Program. Provisions of this bill include: adds construction procurements and raise the limit to one million dollars; authorizes agencies to use prequalified lists of vendors in accordance with criteria established by the Procurement Policy Board; authorizes DDC to establish a mentoring program for small businesses, MWBEs and EBEs; prohibits the State, public corporations and public authorities from requiring bidders on competitively bid contracts to participate in an Owner Controlled Insurance Program or Contractor Controlled Insurance Program. **AGC NYS oppose. Status: Passed both houses.**

**S.6319/A.7044** - extends the New York City School Construction Authority's exemption from the Wicks Law for five additional years. **AGC NYS support. Status: Passed both houses.**

**S.6372-A/A.8126-A** - creates the gateway development commission, a body corporate and politic established by the states of New Jersey and New York, act to facilitate the gateway program and maintain itself as an applicant eligible to apply for and be awarded financial assistance, loans, grants or other funding as may be available including that awarded by federal state and local governments and agencies. **AGC NYS support. Status: Passed both houses.**

**S.1673/A.4880** - requires the commissioner of transportation to develop and present to the governor and legislature a five-year capital plan, with defined projects, that is subject to public review prior to the passage of the state budget. **AGC NYS did not oppose or support. Status: Passed both houses.**

**S.6410/A.8320** - extends certain statutory authorizations of the New York State Housing Finance Agency (HFA), State of New York Mortgage Agency and the SONYMA Mortgage Insurance Fund. The bill increases the bonding authority of HFA by \$2.5 billion to a maximum aggregate of \$29.280 billion for affordable housing. **AGC NYS did not oppose or support. Status: Passed both houses.**

**S.6354/A.8020** - extends the Metropolitan Transportation Authority small business mentoring program for ten years. **AGC NYS did not oppose or support. Status: Passed both houses.**

**S.6301/A.7795** – establishes a four-year procurement pilot program at the Dormitory Authority of the State of New York to expand contracting opportunities for small businesses and minority and women-owned business enterprises. The Pilot Program would consist of an annual amount not to exceed a total value of \$20 million or 5% of the value of all DASNY construction contracts awarded in a given fiscal year. **AGC NYS did not oppose or support. Status: Passed both houses.**

**S.6599/A.8429** - establishes the New York State Climate Leadership and Community Protection Act (CLCPA) to adopt measures to put the state on a path to reduce statewide greenhouse gas emissions by eighty-five percent by two thousand fifty and net zero emissions in all sectors of the economy. Mandates prevailing wages on projects covered by the CLCPA. **AGC NYS opposed. Status: Passed both houses.**

**S.6458/A.8281** - provides permanent rent regulation protections to covered buildings; extend tenant protections statewide; expand tenant protections for mobile and manufactured home owners and residents in manufactured home parks. **AGC NYS oppose. Status: Passed both houses.**

**S.6293-A.7636-B** - expands New York City's express Design Build authorization to fully include: the Department of Design & Construction (DDC), Department of Transportation, Department of Environmental Protection, School Construction Authority, Department of Parks & Recreation (Parks), New York City Housing Authority & The New York City Health & Hospitals Corporation. Requires project-labor agreements, and federal, state and local minority and women-owned business enterprises goals. **AGC NYS oppose. Status: Passed both houses.**

**S.6577/A.8421** - increases protections to employees of all protected classes who have been subject to discriminatory harassment in the workplace. Provisions of this bill include: provides that the Human Rights Law covers all employers in the state; extends protections and eliminates the "severe or pervasive" standard against all forms of discriminatory harassment based on all protected categories; expands protections to independent contractors; allows punitive damages and attorney's fees in employment discrimination cases; expands the construction clause to require courts to interpret Human Rights Law liberally; prohibits non-disclosure agreements; prohibits mandatory arbitration to resolve cases of sexual harassment; expands the powers of the Attorney General to enforce the Human Rights Law; requires employers to provide employees with notice in English and in the employee's primary language containing the employer's sexual harassment prevention policy. **AGC NYS oppose. Status: Passed both houses.**

**S.2844-B/A486-B** - strengthens the current laws to increase the likelihood that victims of "wage theft" will be able to secure payment of unpaid wages for work already performed from their employers. The bill creates an "employee's lien," under the mechanics' lien provision. **AGC NYS oppose. Status: Passed both houses.**

**S.4573/A.6592** - reduces the amount of time that workers on strike must wait prior to receiving unemployment insurance benefits. The bill includes workers with existing collective bargaining agreements. **AGC NYS oppose. Status: Passed both houses.**

### ***Bills Not Passing Both Houses***

**S.6094/A.8208** - increases penalties for endangerment of a highway worker, promotes work zone safety awareness, and establishes a fund for additional work zone safety enforcement. **AGC NYS support. Status: Did not pass Senate or Assembly.**

**S.1947/A.1261** - subjects all projects financed, in whole or in part, through certain public entities, to the strictures of the prevailing wage. **AGC NYS oppose. Status: Did not pass Senate or Assembly.**

**S.3314-A/A.4508-A** - enacts Carlos' Law; relates to crimes involving the death or injury of a worker; establishes higher fines for corporations who commit such crimes; establishes the crimes of endangering the welfare of a worker in the third, second and first degrees. **AGC NYS oppose. Status: Did not pass Senate or Assembly.**

**S.1527-B/A.1617-B** - establishes a new agency for the regulation of cannabis, to create a regulated and taxed cannabis industry in New York, and to provide for various social and economic justice initiatives. The bill would prohibit employers from imposing a drug-free workplace. **AGC NYS oppose. Status: Did not pass Senate or Assembly.**

**S.5398** - mandates third-party tracking software to verify hours worked and billed on state government contracts greater than \$250,000. **AGC NYS oppose. Status: Did not pass Senate, No Assembly Sponsor.**

**S.5498/A.574** – requires full payment for delivered materials pertaining to public works projects; and prohibits the retention of any payment due and owing a material supplier for a construction project. **AGC NYS oppose. Status: Did not pass Senate or Assembly.**