



LEGISLATIVE MEMO
CONTACT: WALTER PACHOLCZAK
VICE PRESIDENT OF GOVERNMENT AFFAIRS
T (518) 456-1134
WPACHOLCZAK@AGCNYS.ORG
WWW.AGCNYS.ORG

MEMORANDUM OF OPPOSITION

BILL: S.6787 (Comrie) / A.6791 (Bichotte Hermelyn)

SUBJECT: Construction Industry Advisory Council – 3rd Extender

DATE: May 22, 2023

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and open shop construction companies strongly opposes S.6787 (Comrie) / A.6791 (Bichotte Hermelyn) which, extends the provisions of ineffective and potentially dangerous laws, chapter 782 of the laws of 2021, and chapter 98 of the laws of 2022.

For a third time, this bill would attempt to establish an independent advisory council to study the current public contracting process, adopt recommendations and best practices with further legislative proposals in order to improve the current state of public contract process to make it fair, predictable, and equitable for all involved.

While well-intentioned, this bill would try to establish an ineffective twenty-three-member advisory council. It is important to note that the population of the unfilled board to date confirms that it is dominated by those who sit outside the direct chain of privity and, more importantly, contractual risk.

New York State has a long history of establishing advisory councils, task forces, and committees that are charged with conducting public meetings, reviewing public comments, and producing reports to address important issues that have produced little to no results. This bill would extend the ineffective advisory council until 2025.

AGC NYS commends the sponsors of this bill to address problematic contractual provisions in public works contracts. On public procurements, it is the general contractor that assumes the risk when state and local governments delay projects, do not provide timely notice for claims, and include onerous forfeiture provisions in contracts.

However, addressing the problem by extending the provisions of this ineffective law for a third time is not the procurement reform that legislators should support. For these reasons, AGC NYS opposes S.6787 (Comrie) / A.6791 (Bichotte Hermelyn).