



June 4, 2019

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Sen. Andrea Stewart-Cousins
NYS Senate Majority Leader
188 State Street Room
Legislative Office Building
Albany, NY 12247

Speaker Carl Heastie
NYS Assembly
907 LOB 932
Albany, NY 12248

Re: A.1261/S.1947 Negotiations

Dear Hon. Cuomo, Hon. Stewart-Cousins & Hon. Heastie:

We are writing on behalf of the major Long Island economic development organizations, the Association for a Better Long Island, the Long Island Builders Institute, and the Long Island Association, to inform you of our continuing concerns regarding the expansion of public works legislation being considered during the 2019 State Legislative session, specifically bill A.1261/S.1947.

For the last six weeks, at the request of numerous legislative officials, our coalition has negotiated in good faith with various regional and NYS labor organizations and/or representatives of labor organizations. We have attended three separate negotiating sessions in Albany and one session in New York City, in addition to meeting with our local labor representatives, at which numerous attempts were made to find a solution which coordinates the use of public benefits in privately funded development projects that would allow such projects to find private capital financing and move forward. Unfortunately, the President of the NYS Building & Construction Trades Council has yet to attend a single negotiation meeting and, with the exception of a couple individuals, meetings have been primarily attended by outside lobbyists representing labor, not actual union members who have experience in building.

While we agree that substantial public benefits should correlate into additional prevailing wage or other set wage rate requirements, the original bill language and subsequent drafts provided by the labor community would, in the opinion of the economic development community, substantially increase construction costs and significantly threaten the ability to attract outside private financing. The original bill does not guarantee additional jobs for labor unions and

prohibits economic development to address critical needs on Long Island. Subsequent variations of the bill still do not guarantee additional jobs for labor and continues to preclude economic development to address critical needs in our region.

In response, we've made several counter proposals that would increase the number of prevailing wage jobs while ensuring our region's critical needs, like diverse housing options and safeguarding our ability to attract and maintain jobs, are preserved. While current law requires the payment of prevailing wage only if 100% of the project is funded by public benefits, our most recent proposal would make those projects that receive over 50% in public funds and/or benefits pay the standard public works wage to 100% of the construction jobs. Our motto, if the public is subsidizing the majority of the project then, rightfully, the project should pay the standard public works wage to those working on the job. In addition, those projects that receive less than 50% in public funds and/or benefits should pay the same percentage in the standard public works wage to those working on the job. It is our position that if a project receives X% in public funds, then it is only appropriate that such projects pay the same percentage in public works wages. We also agreed that these projects hire locally as it is equally important to us that New Yorkers, who live and contribute to our local economy, work on any project that gets public funds and/or benefits. Lastly, we agreed that stronger enforcement was required, to protect labor from bad actors who may try to undercut any agreement and/or avoid hiring outside labor. Unfortunately, our common sense proposal was rejected.

The following issues must be resolved in a productive manner to ensure that economic development activity on Long Island does not come to a complete halt:

1. We continue to firmly believe that the amount of prevailing wage paid to the labor unions should be proportionate to the amount of public subsidies received by an individual project. If a project receives 30% of its development costs through public subsidies, such proportion should be used to determine the amount of workers who should be paid by prevailing wages.
2. If a threshold has to be used to determine the amount of the project to be paid prevailing wage, the group would support a 30% minimum level of public support with the following exemptions to the funds being calculated as public subsidy
 - a. Construction work performed on any multiple dwelling here no less than 10% of the residential units are affordable at 130% of the area median income
 - b. All projects financed by an IDA for the express purpose of retaining and/or attracting new jobs that do not include a residential housing component
 - c. All subsidies for renewable energy programs
 - d. All subsidies for historic preservation purposes
 - e. All subsidies under the NYS brownfield program
 - f. All subsidies for affordable housing programs for the federal government, state or local governments
 - g. All subsidies for the installation or construction of sewer connections or sewage treatment plants
 - h. No financial limitations on the amount of these subsidies
3. Construction work means work only performed on site or of transportation of aggregate supply construction materials to the site
4. Expansion of use of MBE and WBE contractors and sub contractors beyond Article 15-A of the Executive Law requirements to allow for an additional 2% exemption for any developer going beyond the Executive Law percentage

requirement. Thus any developer which exceeds the % usage in Article 15-A would be judged on a 32% minimum rather than the standard 30%.

5. Oppose the use of any commission or other legal entity which would have the ability to modify any legal requirements to ensure that a fixed percentage of IDA financial projects must be prevailing wage projects.
6. Effective date of July 1, 2020 that states that any project which receives a preliminary-inducement notice from an IDA before that state would be grandfathered in.
7. Inclusion of reform language to Article 78 of the CPLR to ensure that a performance bond can be required in any residential project

The Long Island Builders Institute, the Association for a Better Long Island and the Long Island Association remain committed to ensuring that any new state legislation will not impede our region's economic development success. **At this point, the current NYS proposal does not protect our region's economic viability, it would prevent our millennials and baby boomers from calling Long Island home and it would impede our ability to attract and maintain jobs. Therefore, we cannot support NYS Bill S.1947/A.1261 and/or variations of such legislation to the detriment of our region.** We remain ready and willing to negotiate a fair compromise that will increase jobs for labor while protecting our region's economic future.

Sincerely,



Mitch Pally, CEO
Long Island Builders Institute



Kyle Strober, Executive Director
Association for a Better Long Island



Kevin Law, President & CEO
Long Island Association

cc: Long Island NYS Senate Delegation
Long Island NYS Assembly Delegation
Nassau County Executive Laura Curran
Nassau County Legislature
Suffolk County Executive Steve Bellone
Suffolk County Legislature
Long Island Housing Partnership
Community Development Corporation – Long Island



April 26, 2019

Matthew Aracich
President
Building & Construction Trade Council
of Nassau & Suffolk
300 Motor Parkway Ste.200
Hauppauge, NY 11788

Ed Doyle, Sr.
President
Building & Construction Trade Council
of Westchester & Putnam
1360 Pleasantville Rd.
Briarcliff Manor, NY 10510

Gary LaBarbera
President
Building & Construction Trade Council
Of Greater New York
71 West 23rd St. Suite 501-03
New York, NY 10010

Dear Matt, Ed and Gary:

We are writing to request a meeting with you to discuss proposed NYS prevailing wage legislation.

As leaders of organizations that represent owners, contractors and related businesses, we understand the importance of paying good wages and benefits. We also feel confident that you share our belief that sensible policies to achieve this goal need not stand in the way of advancing crucial efforts to drive economic growth, attract/retain companies and jobs, build affordable or workforce housing and support smaller contractors, including minority-and women-owned business enterprises (MWBEs).

We are extremely concerned that the proposed prevailing wage legislation will dramatically increase costs and, as a result, derail economic development efforts as well as raise barriers to entry for contractors and workers alike. However, we do believe that with constructive dialogue we can reach a compromise that accomplishes the following.

- Pays good wages and benefits for construction workers in our regions of the State of New York;
- Is sensitive to cost differentials between geographic regions as well as the type of construction of development undertaken;
- Provides the State of New York, as well as our respective regions, all the necessary tools to attract and retain companies/jobs;
- Encourages much needed affordable or workforce housing;
- Facilitates transit-oriented developments and downtown revitalizations;
- Ensure that small contractor, including MWBEs can effectively compete for and win contracts in the construction industry.

We would appreciate the opportunity to meet with you and discuss these issues and explore an agreeable path forward.

Please contact Mitch Pally of the Long Island Builders Institute at (631) 232-2345 to let us know of your interest in such a meeting and, if you are interested, of dates and times that work for you for a meeting with us on Long Island.

Thank you for your time and interest in this mutually important matter.

Sincerely,



Kyle Strober
Executive Director
Association for a Better Long Island



Dr. Marsha Gordon
President & Chief Executive Officer
Business Council of Westchester



Mitchell H. Pally
Chief Executive Officer
Long Island Builders Institute



Kevin Law
President & Chief Executive Officer
Long Island Association



John Banks
President
Real Estate Board of New York

Cc: The Honorable Andrew Cuomo, Governor, State of New York
The Honorable Andrea Stewart-Cousins, Majority Leader, New York State Senate
The Honorable Carl Heastie, Speaker, New York State Assembly
Members of the New York State Senate
Members of the New York State Assembly
Peter Florey, President, Long Island Builders Institute
Laureen Harris, Chair, Association for a Better Long Island
Anthony Justic, Chair, Business Council of Westchester
William Rudin, Chair, Real Estate Board of New York
Laurence Waldman, Chair, Long Island Association



February 26, 2019

The Honorable Andrew M. Cuomo
Governor of New York State
NYS Capitol Building
Albany, NY 12224

The Honorable Andrea Stewart-Cousins
New York State Senate Majority Leader
Room 330, State Capitol Building
Albany, NY 12247

The Honorable Carl Heastie
Speaker of the New York State Assembly
LOB Room 932
Albany, NY 12248

Re: State Legislation concerning Prevailing Wage

Dear Governor Cuomo, Majority Leader Stewart-Cousins and Speaker Heastie:

Legislation has been introduced in Albany (Assembly Bill 1261 / Senate Bill 1947) expanding the definition of public works projects and requiring all projects that receive Industrial Development Agency (“IDA”) benefits to pay a prevailing wage. The Long Island Association (“LIA”), Long Island Builders Institute (“LIBI”) and the Association for a Better Long Island (“ABLI”) oppose this bill and other similar efforts to mandate a prevailing wage because doing so would be detrimental to the Long Island region as we seek to create new manufacturing jobs, diversify our housing supply and develop more affordable housing.

By imposing a prevailing wage on these projects, it is likely to increase the average cost by approximately 35-40% on Long Island which would not make most projects unfeasible. Higher costs could mean fewer projects which would mean less construction work for labor, less job growth and a shrinking tax base while adversely impacting the housing challenges to attract and retain millennials and a skilled workforce. In sum, these added costs would outweigh the net benefits to a project, most likely making the project unfinanceable and negatively impacting our economy.

While we enjoy a good working relationship with our brothers and sisters in Labor, the LIA, LIBI and ABLI oppose legislative efforts to mandate a prevailing wage on projects that receive IDA benefits.

Sincerely,

Kevin S. Law
President & CEO
Long Island Association

Mitch Pally
CEO
Long Island Builders Institute

Kyle Strober
Executive Director
Association for a Better Long Island

cc: New York State Senator Jessica Ramos
New York State Assemblyman Harry Bronson
Long Island Delegation of the New York State Legislature



FOR IMMEDIATE RELEASE

February 26, 2019

Media Contact: Charles Wiff: (607) 743-8314 or charles@gramcomm.com

Don't Block NY Building Coalition Launches to Stop Irresponsible Expansion of Prevailing Wage; Support Economic Development and Competitive Jobs in NYS

More than 30 Business, Building, Construction, Economic Development, Health Care and Affordable Housing Groups Join Forces to Keep New York Competitive and Economic Development Moving

ALBANY – More than 30 business, building, affordable housing, construction, health care and economic development groups, among others, have joined forces to create **Don't Block NY Building** (dontblocknybuilding.org), a new coalition aimed at supporting economic development and encouraging job growth in New York State.

As its first initiative, Don't Block NY Building is opposing legislation – S.1947 (Ramos) / A.1261 (Bronson) – that would artificially inflate the cost of future construction, while also discouraging public-private partnership throughout New York State.

This legislation would unnecessarily expand the definition of public work to include nearly all future construction projects, including those that receive even minor incentives or assistance from local governments, and as a result subject nearly all economic development projects in the State of New York to prevailing wage. The effects would be immediate and devastating to all of New York State, bringing billions of dollars in present and future economic development initiatives screeching to a halt and hobbling the efforts of local governments that are working to strengthen their communities.

Simply put, projects would be too expensive to complete.

Negatively impacted projects would include those that rely on public funding to provide a community good – affordable housing, brownfield redevelopments, historic preservation, health care, renewable energy and nonprofits, to name but a few examples.

Additionally, the bill would mandate that the off-site fabrication of products and materials be included under this expanded definition, harming interstate and international commerce and putting New York companies across a range of industries at a major competitive disadvantage.

Don't Block NY Building Coalition members include: Business Council of New York State, Real Estate Board of New York, Associated Builders and Contractors – Empire State Chapter, American Council of Engineering Companies of New York, Associated General Contractors – New York State, Association for a Better Long Island, Buffalo Niagara Partnership, Business Council of Westchester, Capital Region Chamber, Center State CEO, Cortland County Chamber of Commerce, Greater Binghamton Chamber of Commerce, Greater Rochester Chamber of Commerce, North Country Chamber of Commerce, Habitat for Humanity NY, Healthcare Association of New York State, Long Island Association, Long Island Builders Institute, MACNY (Manufacturing Association of Central and Upstate New York), National Federation of Independent Business – New York, NYS Builders Association, NYS Economic Development Council, Partnership for New York City, New York State Association for Affordable Housing, Steuben County IDA, Unshackle Upstate, Northeastern Subcontractors Association, Wyoming County Chamber of Commerce, and Seneca County Chamber of Commerce, among others.

“This bill undermines the state’s efforts to promote private sector capital investment throughout New York, especially upstate where many counties continue to see flat economic growth. The state needs new investments to help grow and sustain jobs. Driving up project labor costs will hamper many employers, including for-profit businesses as well as non-profit service providers that our communities rely on,” said **Heather C. Briccetti, Esq., President and CEO of The Business Council of New York State, Inc**

“This legislation represents a death knell for most private sector development in New York, particularly affordable housing projects. Good wages are important, but this legislation imposes wages and benefits more than two times what a typical construction worker is paid,” said **John H. Banks, President, The Real Estate Board of New York.**

“This bill would establish an overly expansive and illogical definition of 'public work' to include any project that receives economic development assistance, tax credits or even the most basic IDA assistance. The stark reality is that it would kill many of those critical, job-creating projects, particularly in Upstate New York where the vast majority of such development likely would not happen without such programs. These incentives are necessary in the first instance because of the high cost of building and developing in New York, making it ironic if not laughable that the Legislature would entertain adding significant costs and burdens as a result of accepting them. Well beyond the construction industry, community based not-for-profit organizations, brownfield and environmental remediation, affordable housing programs, historic preservation, health care, renewable energy, and other sectors would all be hurt by this deeply flawed public policy. The private sector can do math, and it will not spend \$6 as a condition of receiving \$2. We need to make New York more affordable and friendly to job creation, not less. Yes—there is a need for a clearly defined and logical definition of public work to protect labor, the private sector and taxpayers — but this scattershot approach is certainly not it,” said **Mike Elmendorf, President & CEO of the Associated General Contractors of New York State.**

"Imposing prevailing wage on all projects that receive state funding would be a death sentence for Upstate economic development initiatives. Under this mandate, efforts to revitalize neglected areas in our communities would be far too expensive to pursue. This includes critical community development projects like affordable housing, non-profit facilities, hospitals and other construction important to a higher quality of life. If our leaders in Albany are truly committed to growing the struggling Upstate economy, they will scrap this short-sighted proposal and work on serious solutions to get Upstate growing," said **Michael Kracker, Executive Director of Unshackle Upstate.**

"Economic Development in New York State is costly, requiring public-private partnerships to create jobs, stimulate economic activity, and increase quality of life. Redefining public works to include any project that receives public incentives will increase cost by 20% on average, far outweighing the value of any incentive and make projects in New York State economically unfeasible. The NYSEDC strongly opposes these proposed changes that will halt economic activity, stifle job growth, and reduce the number of projects across New York State," said **Ryan Silva, Executive Director of New York State Economic Development Council.**

"Regardless of what people think, it's not the weather that's driving businesses away. It's the anti-competitive nature of our government that's the driving force of our job and population loss. Now we have an ill-fated attempt to redefine public work that will only heighten our states notorious reputation as being unfriendly to business and continue to negatively impact the quality of life for all New Yorkers. As one of the highest taxed and overly regulated states in the nation, New York lawmakers can ill afford to make our state less attractive for job creators. Yet that's exactly what they'll do if they attempt to place prevailing wage on private projects," said **Brian Sampson, President of the Association of Builders and Contractors – Empire State Chapter.**

"New York's antiquated prevailing wage mandate is a major contributing factor to the high cost of public construction across our state. From roads and bridges upstate to crumbling subways downstate, New Yorkers are already paying too much for too little in return. Expanding this broken, costly, and inefficient mandate to private sector development will cripple investment and growth, and further shut out New York's small businesses from bidding and winning work by putting them at a greater competitive disadvantage," said **NFIB's New York state director, Greg Biryła.**

"Prevailing wage requirements would negatively impact affordable housing throughout New York State. Construction costs are not just important but are the determining factor between whether affordable workforce housing is built in our communities," said **Kristin Savard, President New York State Builders Association.**

"Habitat for Humanity currently opposes any legislation expanding the definition of "Public Works" to include all construction projects with state subsidies. This change would include affordable housing projects and enforce prevailing wage for Habitat homes across the

state. Habitat affiliates are at the forefront in combating our state's housing crisis. This proposal could slow production, increase purchase prices, and force affiliates to serve fewer families," said **Mary Robinson, Chief Executive Officer of Habitat for Humanity of New York State.**

"As New York continues to face a statewide affordable housing crisis, the proposed prevailing wage expansion would make it even harder to build and preserve homes for low-income families across upstate and downstate communities. We will not forget the families, children and seniors who rely on affordable housing – and the Legislature must not forget them either. We urge lawmakers to reconsider this bill and recognize that rushing to unnecessarily increase construction costs will also take homes away from those who most need them," said **Jolie Milstein, president and CEO of the New York State Association for Affordable Housing (NYSFAH).**

"A potential new state law mandating prevailing wages on projects that receive IDA funding would have a chilling effect on building workforce housing so desperately needed in our region," said **Kevin S. Law, President & CEO of the Long Island Association.**

"The Long Island Builders Institute, representing over 570 companies on Long Island, strongly oppose any new measures to expand the use of prevailing wage on projects assisted by IDA financing, especially affordable housing. The lack of affordable housing is one of the major issues facing our region and any requirement to use prevailing wage will make it almost impossible to do so," said **Mitchell Pally, Chief Executive Officer of The Long Island Builder's Institute (LIBI).**

"Decision-makers in Albany should be laser focused on setting policies that improve the state's business climate. Expanding the prevailing wage will make New York less competitive and its associated increased costs will prevent countless projects from proceeding," said **Mark Eagan, President and CEO of the Capital Region Chamber.**

"The Business Council of Westchester, the county's only business membership organization focusing on economic development and advocacy, has always opposed prevailing wage legislation. As we look to recruit and retain more jobs in Westchester County and New York State we cannot afford to create a new state-wide program that would dramatically increase the cost of building new public and private projects. Implementing prevailing wage would be putting another unfunded mandate on the back of businesses and in turn make New York even more costly and less competitive and essentially drive businesses to other states," said **John Ravitz, Executive Vice President and COO of the Business Council of Westchester.**

"Expanding New York's prevailing wage mandate to private projects will stall Buffalo Niagara's momentum and stymie progress and job creation throughout Upstate. Given Upstate's anemic business climate, most private development – including non-profit, affordable housing, historic rehabilitation and brownfield projects - do not materialize without some form of public support. Most of these projects can already be described as break-even and a dramatic increase in total project costs will dramatically overtake the

value of any incentive turning the whole project financially upside down. Expanding the prevailing wage mandate to private projects will be a death blow to private investment in Buffalo Niagara and the rest of Upstate,” said **Dottie Gallagher, President & CEO of the Buffalo Niagara Partnership.**

"The reality is that this isn't about higher wages but about whether important projects can happen at all. New York remains a high cost state, and even more so in areas like the Adirondacks where basic construction costs are even higher than elsewhere. It takes public partnership of various kinds to leverage private investment in the case of many economically important projects, but that leverage is lost with high cost mandates. The result becomes not higher wages but less construction and less work all around. There must be a huge caution light on any expansion of union wage mandates," said **Garry Douglas, President of the North Country Chamber of Commerce.**

“New York State is facing very serious challenges in 2019. Our state budget is experiencing a 2.3-billion-dollar shortfall. Higher taxes would crush a lagging southern tier economy. By reforming state regulations involving prevailing wage, this could save state budget billions and ensure our infrastructure needs are met. We must stop any attempt to expand prevailing wage to include private projects granted tax incentives and credits by economic development agencies to spur development. This expansion of existing law would simply crush any development in the Southern Tier,” said **Jennifer Conway, President and CEO of the Greater Binghamton Chamber of Commerce.**

“Not only would any new expansion of the already onerous prevailing wage laws further increase construction costs across the region, they would do so on the backs of already overtaxed Long Islanders. We don't need more laws and mandates that hinder growth, we need to strive for more competition and to encourage innovation and efficiency,” said **Kyle Strober, Executive Director, Association for a Better Long Island.**

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Don't Block NY Building consists of more than 30 statewide, regional and local organizations aimed at ensuring New York remains competitive, New Yorkers keep working and economic development remains on track in the Empire State. The diverse coalition includes business, economic development, building, construction, health care and affordable housing groups. The coalition urges lawmakers to support competitive salaries and sustainable economic development. Learn more at dontblockbuildingny.org.



3/12/18

Hon. Andrew Cuomo
 Governor – New York State
 Executive Chamber
 Albany, NY 12224

Re: Redefining Public Works Projects as a way to Expand Prevailing Wage

We the undersigned, the state’s leading business and industry groups representing tens of thousands of New York State employers, want to restate our united and universal opposition to S.2975-A (Murphy) / A.5498-A (Bronson) or any expansion, extension or application of New York State’s prevailing wage mandate to include private development projects that receive some degree of public support. We also oppose any redefinition of public work to include private projects that receive economic development support.

According to the Empire Center’s seminal report on the topic, [“Prevailing Wage: New York’s Costly Public Works Pay Mandate”](#), prevailing wage increases the costs of construction jobs by as much as 25 percent.

The report detailed prevailing wage cost increases by area:

- Albany-Schenectady-Troy area: 13 percent
- Rochester and Syracuse Metro areas: 14 percent
- Dutchess-Putnam County area: 15 percent
- Long Island and Buffalo Metro area: 20 percent
- New York City Region: 25 percent

New York State’s existing prevailing wage mandate is already flawed and miscalculated, in no way representing the actual prevailing or median regional wage for a given construction trade. In light of the state’s budget multi-billion dollar deficit, extending this wildly expensive mandate to private sector economic development projects will further strain state finances, result in less economic development across New York State and needlessly waste taxpayer dollars.

Further, the negative economic effects of expanding prevailing wage will be more acutely experienced Upstate, which by every metric continues to economically lag downstate and the majority of the nation.

Broadening and expanding the definition of public works projects to include private development that receives public support essentially targets smaller, community based projects that receive a fraction of public funding and are driven by local private dollars. For most projects, such a drastic increase in total project cost dwarfs the incentives and economic benefits bestowed. These are break-even projects at current wage and benefit rates in their communities; any additional mandated increase in cost placed on these projects will make many of them financially unfeasible.

We ask that you join us in opposing the expansion of prevailing wage to public work and focus on the advancement of responsible policies that will attract investment, revitalize communities and respect taxpayer dollars.

Your time and attention to this matter is appreciated and we look forward to working with you to build a strong and growing New York State economy.

Respectfully,

**Association for a Better Long Island, Inc.
Buffalo Niagara Partnership
Capital Region Chamber of Commerce
Dutchess County Regional Chamber of
Commerce
Empire State Chapter of Associated Builders
and Contractors
Greater Binghamton Chamber of Commerce
Greater Rochester Chamber of Commerce
Long Island Builders Institute
Manufacturers Association of New York
NFIB of New York**

**New York Construction Materials
Association, Inc.
New York State Builders Association
NYS Economic Development Council
North Country Chamber of Commerce
Seneca County Chamber of Commerce
The Business Council of New York State,
Inc.
Ulster County Regional Chamber of
Commerce
Unshackle Upstate**

Cc: Hon. John Flanagan - Majority Leader, New York State Senate
Hon. Carl Heastie - Speaker, New York State Assembly
Hon. Jeff Klein - Leader, Independent Democratic Conference
Hon. Andrea Stewart-Cousins - Minority Leader, New York State Senate
Hon. Brian Kolb - Minority Leader, New York State Assembly
New York State Senate
New York State Assembly
Alphonso David, Counsel to the Governor
Brendan Hughes - Assistant Secretary for Economic Development
Lindsay Boylan - Deputy Secretary for Economic Development