



S.8844 (Reichlin-Melnick) / A.10109 (Zebrowski)

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BILL S.8844 (Reichlin-Melnick) / A.10109 (Zebrowski)
SUBJECT Construction Materials Price Escalation Relief
DATE May 10, 2022
SUPPORT

The Business Council supports S.8844 (Reichlin-Melnick)/A.10109 (Zebrowski), which would amend the terms of state construction and commodity contracts to provide equitable relief to contractors who have sustained unanticipated expenses due to price escalation of construction materials.

The legislation provides that contractors who hold contracts with the state and public benefit corporations who experienced cost increases in excess of five percent for materials that were purchased or invoiced after March 1, 2020, related to contracts for which they submitted bids before April 1, 2020, are eligible to apply for an adjustment to their contract to recoup the increased material costs. The state comptroller would be required to approve any increases in contract prices and in cases where contractors have suffered or will suffer net losses, the Office of General Services Commissioner will be authorized to grant an increase in price of the materials in the contract to prevent further loss to contractors.

Construction material cost increases have been notable, especially during the pandemic. Prices have risen for many products including asphalt, concrete and plywood, and contractors and subcontractors are facing sizable burdens as a result of these increases, without any relief under current law. The adverse impact on contractors can range from substantial delays, increased costs or the possibility of going out of business. When considering that the overall price of construction materials jumped nearly 17.7 percent in 2020 based on an analysis by the US Census Bureau, the largest year-over-year increase in material costs since 1970, life has become challenging for contractors and project owners.

For example, costs have nearly doubled for steel mill and plastic construction products and have increased significantly for lumber and plywood, copper, and brass. Contractors have also seen substantial increases for diesel fuel which is used for construction equipment and trucks to handle issues ranging from deliveries to the hauling away of dirt and debris. Industry volatility due to market conditions and expectations has made it difficult for firms to do business since the bids they submit are based on current prices and the expectation that they will hold, not rise.

The state has provided relief in this area previously and there is precedent. In 1974, Chapters 944 and 945 were signed into law providing relief for contractors on price increases for steel and petroleum in state and municipal contracts as a result of a global energy crisis. In 2004, Chapter 56 aided contractors facing sharp increases in steel prices. That law allowed adjustments to the prices of steel products in construction contracts allowing contractors to be reasonably and fairly reimbursed for unexpected price escalations, while also providing the state with the benefit of any subsequent de-escalation in prices.

The construction industry is dealing with steep and fast-rising costs for materials that are needed for them to complete their bids and finish the process. This bill will give contractors and subcontractors the assistance they need in doing their work and avoiding shutdowns. For these reasons, the Business Council strongly supports S.8844 (Reichlin-Melnick)/A.10109 (Zebrowski).