



Reform of Wicks Law by James Rowland

In his initial speech as Governor of the State of New York, Elliot Spitzer stated:

"I look forward to working with you on legislation to reform Wicks Law, which drives up construction costs for school Districts and municipalities. We must increase the law's outdated threshold while protecting subcontractors."

Dating back to the 1920's, Wicks Law required the use of multiple contractors on public construction projects where the entire cost of the public work exceeded \$50,000. The fifty thousand dollar threshold had remained for in excess of 40 years. Many industry groups had long argued that the threshold was far too low and that the requirement to use multiple contractors contributed to higher overall costs, delays, disputes between contractors and cost overruns. Some politicians, including Mayor Bloomberg, have called for a complete repeal of Wicks Law.

After months of discussion, in June 2007, legislation was finally passed legislation aimed at reforming Wicks Law. Under the reforms, the threshold level upon which Wicks Law will apply has been raised to \$3 million for New York City, \$1.5 million in Nassau, Suffolk and Westchester Counties and \$500,000 in all other counties within the State. Other measures in the Wicks Law reforms include; (a) the time for payment to contractors to be reduced from 15 days to 7 days; (b) a requirement that, on those contracts that fall below the threshold, that contractors submit sealed subcontractor bids; (c) the authorization to allow the Department of Labor to enforce of public work projects and prevailing wage laws through the issuance of stop-bid orders; and (d) the requirement

that project labor agreements (“PLA”) be reached between contractors and workers and that .

While the reforms to Wicks Law appear to satisfy Governor Spitzer’s commitment to increase Wicks Law’s thresholds while protecting subcontractors, some in the industry do not believe that the thresholds were raised high enough, given the costs of construction, and that the inclusion of PLAs will only serve to increase construction costs. Small business groups such as the National Federation of Small Businesses, have argued that the use of PLAs increased the cost of public construction projects by as much as 20% and would pose a potentially insurmountable barrier to small businesses competing for public projects as many are open shops and the requirement of PLAs would impose significant costs, possibly preventing them from participating in public projects.

ATTORNEYS

James H. Rowland