STATE OF NEW YORK

8831

IN ASSEMBLY

January 13, 2022

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend a chapter of the laws of 2021 establishing a construction industry advisory council on public contracting reform, as proposed in legislative bills numbers S. 4323-C and A. 6232-C, in relation to the membership of such committee and providing for the repeal of such provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections 1, 2, 3, 9 and 11 of a chapter of the laws of 2021 establishing a construction industry advisory council on public contracting reform, as proposed in legislative bills numbers S. 4323-C and A. 6232-C, are amended to read as follows:

Section 1. Legislative intent. [~~The legislature finds that construction contractors often face significant challenges when bidding and working on public works projects in New York state. Often, the inclusion of onerous or inequitable contract terms and conditions governing issues such as contractor payment, job delays and dispute resolution, can place an unfair burden on contractors in public works projects. Furthermore, the legislature finds that many prior, piecemeal attempts to address these inequities through individual approaches have proven unsuccessful, and therefore a more equitable and comprehensive approach is warranted. The legislature also finds that current inefficiencies in the public contracting process are responsible for driving up the cost of construction, making New York a less competitive place to engage in such work in relation to other states, which in turn harms the New York state economy and costs jobs.~~

~~Therefore, it~~] **It** is the intent of the legislature to establish [~~an~~] **a temporary** independent advisory council charged with (a) studying the current public contracting process; and (b) adopting recommendations, best practices and legislative proposals in order to reform and improve the current state public contracting process, by making it fairer, predictable and equitable for all parties involved.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. There is hereby created a **temporary** construction industry advisory council on public contracting reform (the "advisory council"), which shall consider and advise on matters concerning the improvement of the current public works contracting process in New York state.

§ 3. The advisory council shall consist of [~~the following~~] **twenty-three** members**. The members shall include twelve members** appointed by the governor as follows: [~~three~~] **five** members representing the various state agencies and authorities, [~~two members upon the recommendation of the speaker of the assembly, one member upon recommendation of the minority leader of the assembly, two members upon the recommendation of the temporary president of the senate, one member upon the recommendation of the minority leader of the senate, one member upon the recommendation of the comptroller, three members representing general contractors in the construction industry, three members representing subcontractors in the construction industry, three members representing employee trade councils in the construction industry and two members representing minority and women business owned enterprise contractors. Appointments~~] **including the commissioner of labor or his or her designee, two members representing minority- and women-owned business enterprises, one member representing service-disabled veteran-owned business enterprises, two members representing subcontractors in the construction industry, one member representing employee trade councils, and one member representing general contractors in the construction industry; four members upon the recommendation of the temporary president of the senate, to include one member representing minority- and women-owned business enterprises, one member representing general contractors in the construction industry, one member representing subcontractors in the construction industry, and one member representing employee trade councils; four members upon the recommendation of the speaker of the assembly, to include one member representing minority- and women-owned business enterprises, one member representing general contractors in the construction industry, one member representing subcontractors in the construction industry, and one member representing employee trade councils; one member upon the recommendation of the minority leader of the senate; one member upon the recommendation of the minority leader of the assembly; and one member upon the recommendation of the comptroller. To the extent possible appointments** shall be made within 60 days of the effective date of this act. Vacancies in the advisory council shall be filled in the same manner.

§ 9. No later than 365 days after the effective date of this act, the advisory council shall**, by a majority,** issue a report of its findings, including any recommendations for legislative, executive or regulatory action as it may deem necessary and appropriate, and suggest best practices for a [~~more~~] fair and efficient public works contracting process by addressing the subject matters specified in section [~~8~~] **eight** of this act. **The report shall also include a summary of the positions advanced by the members of the advisory council regarding these subject matters.** The advisory council shall terminate 60 days after the date on which it submits its report as required by this section.

§ 11. This act shall take effect immediately **and shall expire and be deemed repealed two years after such effective date**.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 establishing a construction industry advisory council on public contracting reform, as proposed in legislative bills numbers S. 4323-C and A. 6232-C, takes effect.