

Memorandum of Opposition
S.8648 (Ramos) / A.9598 (Joyner)

The Empire State Chapter of Associated Builders and Contractors (ABC), which represents hundreds of merit shop contractors and subcontractors, employing hundreds of thousands of workers throughout the state of New York, opposes S.8648 (Ramos) / A.9598 (Joyner).

If passed, this bill will change the definition of a “covered renewable energy system” from projects with a capacity of greater than five megawatts to projects with one or more megawatts. The average renewable energy project in New York is between 2.5 and 5 megawatts. That means this bill will negatively impact almost every renewable energy project in New York by making them subject to prevailing wage and Project Labor Agreements (PLAs).

S.8648/A.9598 will completely derail the state’s green energy efforts. New York has thousands of more renewable energy projects needed in order to reach these goals. By making nearly all renewable energy projects too difficult and expensive will make it almost impossible for us to reach our renewable goals. While we agree that the state should be building a “green grid”, what we don’t agree with are discriminatory government mandates that will drive up the cost of construction and exclude most New York State construction workers.

A PLA is a pre-hire bargaining agreement that dictates who can and cannot work on a project. Typical PLAs call for 3 out of every 4 workers to come from the union hall. This completely ignores the fact that 75% of New York’s construction workforce is open shop or not part of a union and would therefore be unable to work on these projects.

How can the state expect to get planned projects completed on time when you’re deliberately excluding over 75% of the contractor pool? Rather than successfully delivering projects on time and within budget, you’ll scramble to get projects completed, balloon the budgets through unnecessary change orders and overtime schedules, or downgrade the projects to meet the higher price. When you decrease the number of bids on a project, the cost of that construction increases significantly because there is no competition.

Experts agree that the lower the number of bidders, the higher the cost of the project. A study by Dr. Paul G. Carr, P.E., of Cornell University, illustrates what happens when the number of bidders on a project is reduced. The study looks at 125 public works projects in New York State. The study unequivocally found that by reducing the number of bidders on public projects the cost of construction will increase. A reduction of two bidders added more than 4% to the bid cost.

When talking about a major green infrastructure package, we need competition in the bidding process to guarantee the state doesn’t overpay for these projects. As a public servant, you need to ensure that the taxpayers, your constituents, who have been loyal to their community and their state and paid their taxes throughout this pandemic don’t have their tax dollars wasted by overpaying for state renewable energy projects.

In addition to the issues brought on by PLAs, this bill will force all of these projects to also be subject to prevailing wage laws. The Center for Governmental Research and the Empire Center for New York State Policy conservatively estimates that prevailing wage mandates can drive up the cost of construction by as much as 25%. With inflation, rising material prices, and supply chain disruptions already wreaking havoc on contractors and consumers, New York State should not be contemplating policies that drive costs even higher for taxpayers. In order to achieve the state’s climate goals established under the Climate Leadership and Community

Protection Act, New York must invest billions in taxpayer dollars into building new energy infrastructure. The money will go a lot further towards accomplishing the state's climate goals if project costs are kept under control and not unnecessarily increased by mandating prevailing wage.

ABC urges Albany to stop pursuing policies that increase the cost of construction for taxpayers and excludes the majority of construction workers in New York State. For these reasons, the ABC Empire State Chapter opposes this legislation

If you have questions, please reach out to our Public Affairs Manager, Tanner Schmidt, at (585) 730-1814 or tschmidt@abcnys.org