



March 28, 2013

This newsletter is delivered electronically to our members.

Construction Industry

AGC Member Authors Whitepaper on the Effects of Obamacare on Construction

AGC Member Government Contractors Benefit Trust, administered by Direct Retirement Solutions, recently authored a whitepaper titled *The Effect of Obamacare on Construction Companies*. The whitepaper is authored by Jeffrey Bennett, MBA, QPFC and Thomas Santa Barbara, QPFC and offers strategies for compliance leading to more competitive bidding. Take a look at the whitepaper [here](#).

2013-14 New York State Budget Summary

The Governor and Legislature have reached an agreement on the 2013-14 New York State Budget. The final budget includes agreements on workers' compensation reform, unemployment insurance reform, extends the effective date of DERA, adds \$75 million for the CHIPS and Marchiselli programs, Innovation Hot Spots, establishes a new financing structure for the State University of New York's Residence Hall Program, and \$110 million for SUNY2020 and CUNY 2020.

The 2013-14 State Budget extends taxes including the 18-a utility tax assessment on electric, gas and steam; "millionaires' tax"; and the MTA business surcharge tax. The State Budget includes a \$350 rebate to taxpayers earning up to \$300,000 and a minimum wage increase to \$9.00 by 2015.

The budget does not include an expansion design-build and design-build-finance for all state agencies and authorities.

Below is a summary of capital projects appropriations and significant changes to state law.

New York State Capital Projects Appropriations (S.2604E/A.3004E)

Agency / Authority**2013-14 Capital Appropriations
(estimated)**

Adirondack Park	-
Agriculture and Markets	5,500,000.00
City University	45,083,000.00
Department of Corrections	310,000,000.00
State Education Department	17,400,000.00
Energy Research and Development	37,000,000.00
Department of Environmental Conservation	444,300,000.00
Office of Children and Family Services	37,675,000.00
Office of Temporary and Disability Assistance	30,000,000.00
Office of General Services	97,000,000.00
Department of Health	85,600,000.00
Homeland Security	450,000,000.00
Housing and Community Renewal	74,200,000.00
Hudson River Park Trust	-
Office of Information Technology	87,740,000.00
Office of Alcoholism and Substance Abuse	97,606,000.00
Office of Mental Health	196,955,000.00
Office for People with Developmental Disabilities	168,950,000.00
Metropolitan Transportation Authority	-
Military and Naval Affairs	39,200,000.00
Department of Motor Vehicles	205,759,000.00
Office of Parks, Rec, and Historic Preservation	103,700,000.00
Department of State	10,000,000.00
State Police	25,000,000.00
State University of New York	286,597,000.00
Thruway Authority	2,000,000.00
Department of Transportation	3,700,000,000.00
Urban Development Corporation	403,057,000.00
Community Enhancement Facilities Assistance Program	-
Economic Development - Capital	-
Economic Development Program	-
High Technology and Development Program	-
Higher Education Capital Matching Grant Program	-
Jacob Javits	-
Regional Economic Development Program	-
State and Municipal Facilities Program	385,000,000.00
State Equipment Finance Program	-
Strategic Investment Program	-
Transformative Projects Program	-
World Trade Center - Department of Transportation	-
Total	\$6,984,749,000

**Transportation, Economic Development and Environmental Conservation
(S.2608D/A.3008D)**

CHIPS and Marchiselli Program

Increases funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program from \$402,000,000 to \$477,797,000 for state fiscal year 2013-2014. (Part A)

Commercial Motor Vehicles

Increases penalties for the use of mobile telephones and portable electronic devices while operating a commercial motor vehicle. (Part C)

Division of State Police Troop T

Shifts the cost for the New York State Police assigned to the New York State Thruway Authority to the New York State Budget. (Part E)

Cleaner Greener NY Act of 2013

Redirects unclaimed bottle deposit receipts to the Environmental Protection Fund.

DASNY – Design and Construction Management

Extends the authorization the New York State Dormitory Authority to enter into design and construction management agreements with the Department of Environmental Conservation, and Office of Parks, Recreation and Historic Preservation to April 1, 2014. (Part I)

Retail Gasoline – Alternate Power Source

Requires certain gasoline outlets in New York City, Long Island and Rockland and Westchester counties to install back-up power capacity. (Part S)

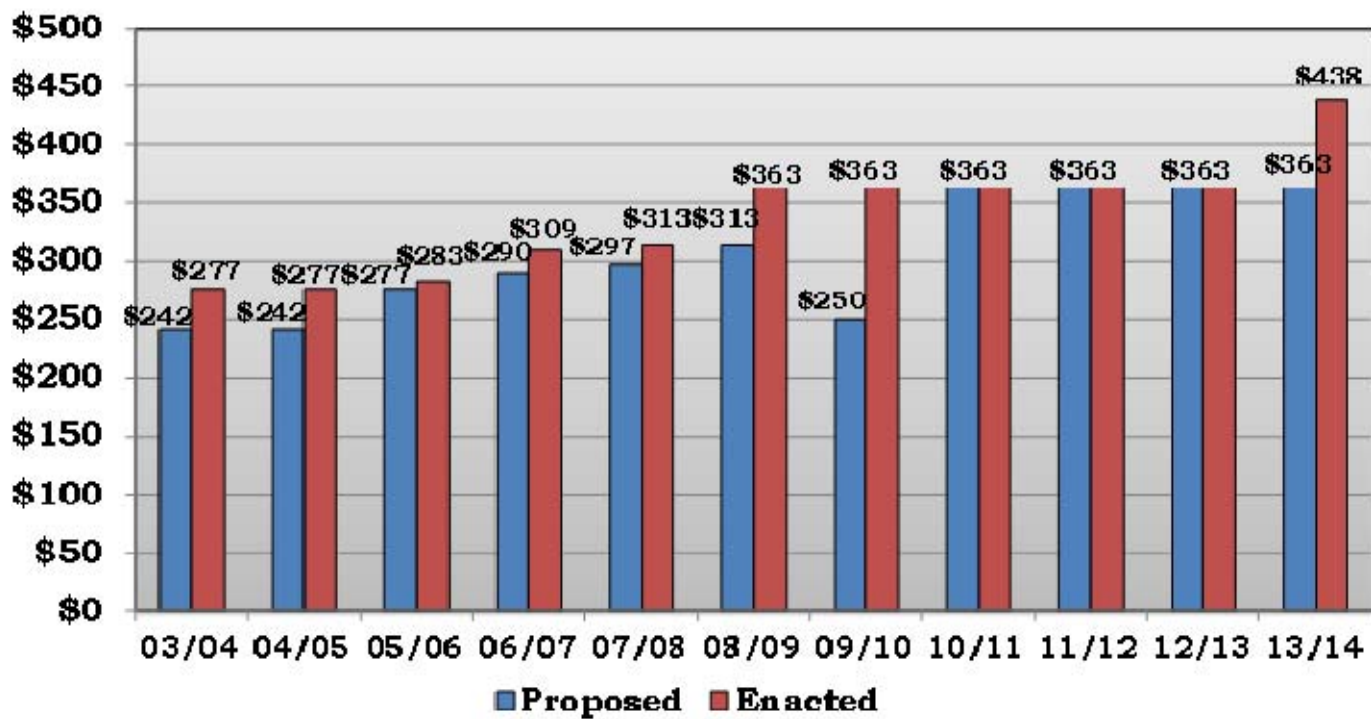
Diesel Emissions Retrofit Act

Extends the effective date of the Diesel Emissions Retrofit Act to December 31, 2014. (Part U)

Airport Capital Improvements

Increases grants and loans for airport capital improvements to \$1 million. (Part V)

Consolidated Highway Improvement Program Appropriations (\$ millions)



**2011-12 and 2012-13 Enacted Budgets vs.
2013-14 Executive and Enacted Budgets**

	SFY 2011-12 Revised	SFY 2012-13 Enacted	SFY 2013-14 Proposed	SFY 2013-14 Enacted
State/Local Construction	\$1,807	\$2,753	\$1900	\$1855
Engineering/Administration	\$642	\$742	\$696	\$741
Preventative Maintenance	\$296	\$303	\$320	\$320
Right of Way	\$69	\$96	\$65	\$65
Facilities/Equipment	\$38	\$38	\$18	\$18
Other Federal	\$58	\$55	\$103	\$103
Rail	\$57	\$57	\$54	\$64
Aviation	\$14	\$6	\$4	\$14
Non-MTA Transit	\$50	\$40	\$37	\$42
CHIPS/Marchiselli	\$403	\$403	\$403	\$478
Canals	\$16	\$0	\$0	\$0
Multimodal/Regional Council	\$0	\$0	\$100	\$0
Plan Total	\$3,450	\$4,493	\$3,700	\$3,700

Education, Labor and Family Assistance - (S.2607D / A.3007D)

Establishes a new financing structure for the State University of New York's Residence Hall Program.

This budget establishes a new financing structure for the State University of New York's ("SUNY") Residence Hall Program whereby the Dormitory Authority of the State of New York ("DASNY") would continue to finance the construction, operation and maintenance costs of new and existing dormitory facilities at SUNY. However, debt service costs associated with the program would be satisfied through a new fund held by the Commissioner of the Department of Taxation and Finance without State appropriation.

The new financing structure established in this bill would allow for the revenues to be deposited in a newly created Dormitory Facilities Revenue Fund, held under the control of the Commissioner and outside of the State Treasury. Debt service obligations from existing bonds, as well as bonds issued under the new program, would be satisfied from revenue collected in the new fund. Subsequently, revenues remaining in the fund after the payment of debt service costs and the funding of required reserves would be transferred

to the custody of the State Comptroller, where it would become the absolute property of SUNY. Once transferred, the revenues would be available for operating and capital costs and expended through a State appropriation. (Part B)

Extends the New York State Higher Education Capital Matching Grant Program

Extends the Higher Education Capital (HECap) Matching Grant Program for one additional year and amends the reallocation process of the remaining funds. The 2006 Enacted Budget authorized the creation of the \$150 million HECap Matching Grant Program to support capital projects at the State's various independent colleges. Projects were selected through a formula-driven process and were required to have a three to one (non-State to State) dollar match by eligible academic institutions. To date, 151 projects totaling \$142.3 million is currently allocated. (Part C)

Unemployment Insurance Reform

Broadly reforms New York's Unemployment Insurance (UI) system, reducing employer costs, increasing UI benefits for claimants, creating incentives for employment and stabilizing UI Trust Fund finances. (Part O)

Minimum Wage Increase

Increases the minimum wage from \$7.25 to: \$8.00 on December 31, 2013; \$8.75 on December 31, 2014; \$9.00 on December 31, 2015. (Part P)

Rural and Urban Community Investment Fund Program

Establishes a fund for the creation, preservation and/or improvement of affordable housing; or the creation, preservation or improvement of the commercial, retail or community facilities component of mixed use affordable residential developments. (Part DD)

Workers' Compensation Reform

Broadly reforms New York's Workers' Compensation system. This proposal is under review by AGC NYS. The [New York Compensation Insurance Rating Board](#) issued an overview of the proposed changes. (Part GG)

Public Protection and General Government – (S.2605D/A.3005D)

Design-Build and Design-Build-Finance

Design-Build and Design-Build-Finance authorization for state agencies was omitted in the final budget agreement.

Revenue – (S.2609D/A.3009D)

MTA Business Tax Surcharge

Five year extension of the temporary metropolitan transportation business tax surcharge. (Part A)

New York Innovation Hot Spots Program

Establishes an Innovation Hot Spots Program affiliated with private or public universities and colleges and non-profit organizations associated with universities and colleges and provide tax benefits for new businesses located in the “innovation hot spots”. (Part C)

Industrial Development Authority Reform

Reforms current Industrial Development Authority (IDA) practices of providing financial assistance with respect to State sales and use tax benefits. The final budget rejects a provision proposed by the Governor that required approval from Empire State Development or Regional Councils. (Part J)

Personal Income Tax Extended – “Millionaires’ Tax”

The budget extends the personal income tax surcharge through 2018. The top income tax rate is 8.82 percent for singles earning \$1 million and couples earning \$2 million. (Part FF)

New York State Innovation Capital Fund

In order to strengthen the university/industry connection and prepare New York businesses to compete for private-sector venture investment, the New York State Urban Development Corporation shall have the power to establish and administer the New York state innovation venture capital fund to provide critical seed and early-stage funding to incentivize new business formation and growth in New York state and to facilitate the transition from ideas and research to marketable products. (Part JJ)

U.S. Infrastructure Earns an Overall Grade of D+

ASCE's 2013 Report Card for America's Infrastructure shows that we can make progress on raising the grades. Look for key solutions and infrastructure success stories for every

state at www.infrastructurereportcard.org. And in spite of the poor overall grade of D+, six grades improved: roads, bridges, rail, solid waste, and drinking and wastewater systems. Why? In sectors where public and private investment was made and innovative solutions pursued, the grades rose.

Download the free app at www.infrastructurereportcard.org.

AGC of America Chief Economist Addresses AGC NYS Members

Ken Simonson Discusses Positive Signs and Material Prices

AGC of America's Chief Economist Ken Simonson addressed the AGC NYS Membership at the Downtown Association in NYC last week. He discussed the construction economy generally and relative to New York as well as trends and thoughts about construction material prices. As to the construction economy, Ken noted some positive signs particularly relative to multi-family housing. He also made special note of the Panama Canal expansion and the impact on improvements at and around the NY/NJ ports and the related impact on storage, rail facilities, bridge and tunnel improvements and potential changes in distribution and manufacturing. He noted that the one drag on the construction economy is the lack of public sector investment. For a copy of Ken's PowerPoint, NY Fact Sheet and most recent DataDigest, click on the following links. Staff Contact: Joe Hogan

Economic & Legislative Issues Video Available / Future Outlook Recording from Convention Available

Related to the above article, AGC of America provided an economic, legislative and regulatory update to attendees at the recent Annual Convention. The [**Economic & Legislative Issues Luncheon**](#), sponsored by iSqFt, was captured and is available as a [**downloadable digital recording**](#).

The session included outlooks for the future as well as analysis from AGC's Legislative team and Chief Economist Ken Simonson regarding the current economic and legislative landscapes.

For questions regarding the Economic & Legislative Issues Luncheon, other recordings available from AGC's Annual Convention or iSqFt, please contact Elisa Brewer Pratt at [**brewere@agc.org**](mailto:brewere@agc.org).

Call for Presentations – AGC NYS Construction Industry Conference 2013

Please submit your proposal for workshop presentations at the upcoming Construction Industry Conference—December 10-12, Saratoga Springs—to [**Karen Morrison**](#) before May 15, 2013.

Building

Upstate NY Lean Community of Practice?

As we have been reporting for some time, AGC NYS has been an integral part of the formation and development of an LCI (Lean Construction Institute) Community of Practice in New York City (LEANNYC). From time to time you may have seen notices and information about programs being offered in NYC. LEANNYC provides a tremendous opportunity for General Contractors/CM's, Designers and Owners to come together to discuss ways to work together and promote Lean practices. Beside the discussions of Lean Practices, networking opportunities are very apparent. We have now had some interest raised about forming a Community of Practice (or Communities of Practice) in Upstate New York. If we find that there is sufficient interest among AGC NYS Members, designers and owners, we will be happy to try and facilitate this effort. Please let us know your thoughts. For more information on Lean, click on the following links - <http://agcleanforum.org/>
<http://www.leanconstruction.org/index.htm>

Staff Contact – Joe Hogan

AGC NYS/SUCF Continue Progress on Change Order/Scheduling Processes

The AGC NYS & SUCF Change Order/Scheduling Task Forces met again recently at the SUCF Offices. The group is making very good progress towards improving both the contractual language and procedures relative to change orders and schedule submission. The goal is to make these processes more useful, practical and equitable for all parties. Hopefully soon we will be ready to release for view a finished (or near finished) product. Thank you to all involved.

Staff Contact – Joe Hogan

Highway

Region 5 – WNY Breakfast

April 11, 2013

Joseph's Country Manor and Grove on Columbia Avenue

Come meet with various western NY owners on program and outlook for 2013. Talk with your legislators from the region, too.

Region 6 Roundtable with NYSDOT

This year's Region 6 Roundtable is scheduled for **Friday, April 19, 9:30AM to Noon.**

The location is Canisteo American Legion, West Main Street (State Route 36), Canisteo, NY. Please RSVP to: Jim McGee

(607)324-3636 or email jmcgee@dolomitegroup.com

NYSDOT Details Drivers First Program

On Thursday, March 21, AGC NYS received a briefing on the Drivers First initiative at NYSDOT. This initiative includes processes to better communicate work zone information to the public and pre-planning for addressing traffic flow in project plans. It

also provides DOT site staff with instructions to incorporate added considerations in project planning and the ability to change the work zone plan on active projects.

Per the Federal regulations in place since 2004, traffic impact mitigation has been integral to the design equation. We note that now design criteria will also include “political and media attention” when developing a project plan. Politics and media can now influence engineering and engineering economics decisions? We certainly hope not. Solid engineering analyses and cost-benefit calculations must be the basis for ethical, professional design decisions. NYSDOT has indicated that this will not change.

However, there is new risk that the impacts of this program could be costly and time consuming. NYSDOT designers will need to adequately incorporate the program impacts into their project cost estimates and completion schedules. AGC NYS asks our members to keep us apprised of conditions being inserted into bid documents and those being added to on-going projects.

Contractors on active projects need to be aware of the changes and refer to the appropriate General Conditions sections which apply to changes in the work. Notification and recordkeeping will be critical to recovering any impact costs and time.

Please remember that SAFETY is foremost on any project – for drivers and workers alike!

Reference documents:

NYSDOT’s PowerPoint presentation:

https://www.agcnys.org/files/NYSDOT_Drivers_First.pdf

EI 08-008 - 23CFR 630.1010 Significant Projects

https://www.dot.ny.gov/portal/pls/portal/mexis_app.pa_ei_eb_admin_app.show_pdf?id=6825

23CFR Part 630 Subpart J – Work Zone Mobility Rule

http://ops.fhwa.dot.gov/wz/resources/final_rule.htm

FHWA QuickZone - A user-friendly computer software tool for estimating and analyzing length of queues and delays in work zones.

http://www.fhwa.dot.gov/resourcecenter/teams/operations/ops_5qz.cfm

Staff Contact: Karen Morrison

Recent NYSDOT Engineering Issuances

EB 13-006 Effective Date: 2/14/13

List of Current Materials Bureau Publications.

https://www.dot.ny.gov/portal/pls/portal/mexis_app.pa_ei_eb_admin_app.show_pdf?id=11176

EB 13-013 Effective Date: 3/08/13 Modifies: EB 12-003

Extended End Date for Use of Older Cable Guide Rail and Median Barrier Anchor Blocks.

https://www.dot.ny.gov/portal/pls/portal/mexis_app.pa_ei_eb_admin_app.show_pdf?id=11186

EB 13-014 Effective Date: 3/15/13

Procedures for Locally Administered Federal-Aid Projects Manual, (PLAFAP) Revised Chapter 6, Consultant Procurement and Administration, Appendices and Forms.

https://www.dot.ny.gov/portal/pls/portal/mexis_app.pa_ei_eb_admin_app.show_pdf?id=11191

HMA Density Testing Inspector Certification Courses and Exams

Testing technicians must hold a current certification for any NYSDOT or Thruway work. Certification period is five years. Recertification exams are held on the second day of the courses listed below:

- ☐ April 11 & 12, Newburgh
- ☐ May 2 & 3, Alfred
- ☐ June 13 & 14, Newburgh
- ☐ August 22 & 23, Newburgh

For registration and payment information:

The Center for Community Education and Training
Alfred State College
10 Upper College Drive
Alfred, NY 14802
Fax – 607-587-3295
Email – ccet@alfredstate.edu

Safety

GHS Training Dates Announced

The Occupational Safety and Health Administration is making changes to the Hazard Communication Standard which will align the United States into conformity with the Globally Harmonized System of Classification of Labeling of Chemicals (GHS). The Standard scope and application requires employers to provide information to their employees about the hazardous chemicals to which they are exposed; by means of a hazard communication program, labels and other forms of warning, Safety Data Sheets, as well as information and training. **Employers must train their employees regarding the new label elements and Safety Data Sheet format by December 1, 2013.** [Click here for training dates.](#)

Around the State

Joe joined Members and SUCF staff to discuss improvements to the change order and schedule submission processes.

Mike, Joe and Walter visited AGC NYS Members in the Hudson Valley

Mike, Joe and Walter were in NYC for a presentation to senior staff of new AGC NYS Member Tishman about the breadth and scope of programs and services available to them from AGC NYS and AGC of America. They were joined by Ken Simonson, AGC of America Chief Economist.

Mike and Joe traveled to NYC for the presentation AGC of America Chief Economist Ken Simonson made to the Membership.

Joe traveled to Watertown to visit Members and provide Partnering Facilitation Services for a project at Fort Drum.

Joe traveled to NYC for Membership recruitment and a meeting with the NYC Bar Association about an upcoming CLE program on construction contracts.

Joe was a guest of the Subcontractors Trade Association at their monthly dinner meeting and heard from the NYC SCA about their improvements to the change order process.

Joe attended the LEANNYC program – “What is Lean Construction? An Owner’s Perspective.”