



**New York State Joint Legislative Budget Hearing on Economic Development
February 13, 2020**

Testimony submitted by Michael Kracker, Executive Director, Unshackle Upstate

Unshackle Upstate is a non-partisan, pro-taxpayer, pro-economic growth, education and advocacy coalition made up of chambers of commerce, trade associations, job creators and taxpayers throughout Upstate New York.

Our mission is to advocate for fiscally responsible policies that support a vibrant Upstate economy. Through controlled spending, reduced taxes, and regulatory reforms, we believe Albany can help grow the economy in communities throughout Upstate New York.

A key component to ensuring a bright future for Upstate New York is protecting and expanding economic development efforts throughout the region. While New York City booms, upstate continues to lag far behind. According to the non-partisan Empire Center for Public Policy, the post-recession private sector job growth in the 50 county Upstate region trailed all but three states – Connecticut, West Virginia and Wyoming. Job growth in New York City, meanwhile, far exceeded the national average.

Given the difficult economic reality upstate, it is critical that Albany not only support investment in economic development efforts but reject any proposals that would hamper an already ailing regional economy. Given the anemic job growth numbers upstate, any new obstacles should be flatly rejected.

Testimony Relating to Executive Budget Proposal Article VII, TED Part FFF, Require Prevailing Wage to be Paid on Certain Private Construction Projects

On January 21, 2020 Governor Andrew Cuomo unveiled his 2020-2021 Executive Budget, which included proposal to expand the state's prevailing wage mandates to certain private construction projects.

Several versions of this proposal were introduced last year, including a bill that would require prevailing wage mandates and benefits be applied to any project receiving a single dollar of public support. The final version, introduced by the Governor last year, would have exempted New York City from these mandates, imposing them solely on the states more economically distressed regions, particularly Upstate.

The latest bill language from Governor Cuomo would apply these mandates on *projects that receive thirty percent or more in public benefit and have a total construction cost of \$5 million or more*. These prerequisites are paired with a lengthy list of carveouts and exemptions intended to protect certain development projects from the impact of these mandates.

Some of the exemptions in this proposal include family dwellings, certain non-profit and affordable housing construction, Downtown Revitalization Initiative investments and the value of brownfield and historic rehabilitation credits. Additional carveouts are specific to New York City development, including construction of supermarkets, schools and certain small business incubator development, alongside the City's crucial 421-A tax abatement program.

The proposal also establishes a "Public Subsidy Board" empowered to make recommendations "which shall have full force and effect of law". Specifically, the board may make changes to:

- The minimum threshold percentages
- The minimum dollar threshold of project costs
- Construction work excluded from the project
- The definition of "construction"
- Whether benefits, monies or credits shall constitute public funds

As stated in the New York State Senate Blue Book, this 11-member board, largely appointed by the Governor, "may alter the proposal in the future."

Fundamentally, this proposal, and others like it, threaten the future of economic development in Upstate New York. Given New York's hostile business climate and high cost of construction, public support is often needed to jump start private development. This is particularly true for economically stressed communities in Upstate New York, where many projects already operate on near break-even margins.

In reality, imposing prevailing wage and benefit mandates on private construction projects will dramatically increase the costs of construction, resulting in fewer development projects taking place and less jobs being created. These outcomes would be a huge step backwards for Upstate communities who have worked hard to rebuild their economies after decades of economic decline.

The expanded prevailing wage mandates included in the Executive Budget proposal present several areas of concerns. While this policy does not explicitly include a New York City exclusion, as was proposed in 2019, many of the carve-outs and exemptions favor the five boroughs. Specifically, the bill exempts certain supermarket construction through the NYC FRESH Program, New York City small business incubator construction and certain New York City school construction projects. No such exclusions exist for similar work in Upstate or other areas of New York.

This proposal also explicitly exempts New York City's 421-a as "public funds", while including industrial development agency programs that provide a similar benefit to communities outside of New York City, including Upstate.

As we stated in 2019, carving New York City out of a prevailing wage deal while forcing these mandates on Upstate, the most economically stressed region of the state, made no sense. Similarly, advancing this proposal, which imposes a greater negative impact on the areas outside of the five-boroughs would be irresponsible and further widen the economic divide between upstate and downstate. Legislators, particularly those representing Upstate districts,

should join us in vehemently opposing any proposal that disparately impacts struggling Upstate communities.

By capturing IDA funding and other economic development tools, this proposal would limit local communities' ability to take ownership of job growth and retention efforts in their own backyards. According to the New York State Economic Development Council there were more than four thousand IDA projects around the state valued at more than \$98.1 billion in 2017. If enacted, this proposal would put that economic activity at risk and make it more difficult for local communities to control their future.

Finally, we have significant concerns with the Public Subsidy Board. As noted above, this unelected board would have the authority to modify many of the policies laid out in this proposal. With no legislative approval, the board could reduce the percentage threshold, lower the total construction cost amount, add or remove conditions for "construction work" or make other decisions that fundamentally alter the proposal, with the full force and effect of law.

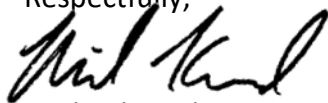
The mere existence of a board with this level authority would be enough to discourage economic investment. The provisions included in this proposal are already bad public policy. Adding significant uncertainty would further erode the confidence of the development and construction industry, resulting in less investment or encouraging capital to be invested out of state.

When the Governor discussed prevailing wage during his recent budget address, he stated his desire to work with the legislature to craft a "fair" law. By including a board with the power to undo anything negotiated with the legislature or stakeholders, this proposal is neither fair nor done cooperatively. Rather, the creation of this board follows an unfortunate trend of elected leaders turning over responsibility and authority to unelected entities empowered to make decisions that impact the taxpayers of this state. Any party effected by the decisions of this board would have no ability to hold the decision makers accountable in the voting booth. The provisions included in the legislation could be changed in a single meeting, without approval from the legislators elected to make the laws of the state.

In the interest of certainty, fairness and accountability, this board must be removed.

To be clear, **Unshackle Upstate opposes any effort to expand the state's prevailing wage mandates to private construction.** Such mandates drive up construction costs, limit job growth and hurt efforts to revitalize a struggling Upstate economy. For the reasons outlined above, and in the interest of protecting economic development in upstate and throughout New York **we respectfully urge the Governor and the Legislature to reject this proposal and others like it.**

Respectfully,



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