Virginia Governor Slowing Down Legislation to Raise the State’s Minimum Wage

The Virginia General Assembly voted to increase the state’s minimum wage to $12 over three years. As passed, the legislation would increase the wage to $9.50 an hour on Jan. 1, 2021, $11 in 2022 and $12 in 2023.

Northam is asking to delay that first increase five months, pushing it back to May 1, 2021. He is not proposing a change to the subsequent increases.

His administration cited economic uncertainty caused by the ongoing COVID-19 pandemic. Business groups and local governments have been lobbying Northam to reconsider the legislation.

Northam did not act on calls from advocates to expand the legislation to remove exemptions for certain classes of workers, including agricultural laborers, who are left out of the bill.

He also proposed delaying a handful of other bills pursued by labor groups to May 1, 2021, including legislation that would allow local governments to engage in collective bargaining with their workers, establish a prevailing wage for some public contractors and open the door to project labor agreements.

All of the proposed changes have drawn strong condemnations from advocates: “The anti-worker forces who saw opportunity in tragedy have secured yet another victory,” said Doris Crouse-Mays, president of the Virginia AFL-CIO, in a statement. “They will be back next year where they will undoubtedly attempt to win more.”

Gambling in Virginia

Northam left a massive bill legalizing casino gambling in five cities largely intact, but he does have thoughts about where the taxes from the estimated $900 million in revenue should go.

Under the bill passed by the General Assembly, the state’s share would go into the state’s general fund, where it could be spent by lawmakers on pretty much anything.

Northam proposed setting it aside “for programs established to address public school construction, renovations, or upgrades.”

The state currently doesn’t fund local school construction, something some lawmakers had been pushing to change without much success.
President’s Column
Kathy Bigelow
Chapter President
Comfort Control, Inc.

The COVID-19 crisis is presenting a new set of challenges to us all! No one is immune including our loved ones, our valued employees, customers, suppliers, and others who our businesses depend on. A tremendous amount of emergency legislation has been passed at the federal, state, and local levels to help prevent our country spiraling into a full blown economic depression. Like you, I know trying to stay abreast of it all is a challenge. Information is rapidly coming at us from a variety of governmental agencies, financial institutions, associations, law firms, the media, and elsewhere. In fact, it can be very overwhelming! However, as successful business leaders I have confidence that together we will all get through this.

In recent weeks I have been catching up on my reading and skimming through some trade publications from just a few months ago and it is amazing to see how much has changed! It was only last February where I was scanning an article on the record low unemployment figures in construction. Yet today there are stories where hundreds have been laid off due to the virus.

Although construction has been classified as "essential" business, many firms have slowed down considerably and unfortunately workers have been laid off. Even in our area some jobsites have been closed. However, the government is providing support and financial assistance to those with fewer than 500 employees.

While dealing with the immediate COVID-19 crises is everyone’s top priority, it is important to keep in mind that this too will end eventually and things will return to "normal." Of course, no one yet knows what the new "normal" will look like as much has changed since the pandemic became front page news. What new safety measures will be required at the worksite? What changes will take place affecting the supply chain? How will our health insurance polices be changed? Will unemployment benefits go back to what they were or will this too see significant changes? These and many more questions will be asked and examined as we enter a new chapter.

More importantly, how will this event impact your business...our industry? When businesses start reopening, what impact will this have on our trade? Are hotels, building managers, and others using this time to make necessary repairs and renovations? Prior to COVID-19 state legislatures passed huge spending bills for schools and education. Will this money still be available? Will these projects move forward?

Some may recall the recession of 2008 and how things changed following that period. Proper and effective communication has never been more important. What are you telling your employees? Your customers? Your business partners...those vendors and others who play an important role in your business?

One place to go to hear the most current information and exchange ideas is the SMACNA Annual Convention taking place in Colorado Springs September 27—30! This is your opportunity to meet and network with industry members from across the country and learn how they are dealing with the same issues we are all facing.

Forming partnerships, or coalitions, around mutual needs and interests is nothing new. However, SMACNA and SMACNA Mid-Atlantic are rich resources you and your company can tap into for strength and support. If you need information or have a specific question, feel free to call on these organizations. If they don't have the answer, I am sure they will direct you to someone who does.

Please stay safe and keep healthy!
**Delays Resulting from Coronavirus May be Both Excusable and Compensable**

Authors: Michael H. Payne, Robert Ruggieri & Casey J. McKinnon  
(Cohen Seglias; federalconstruction.plslegal.com)

As the economic crisis caused by COVID-19 evolves and worsens, there are many novel questions that government contractors and government agencies face. Certain FAR clauses that limit a contractor’s right to recover damages need to be revisited, including the clause entitled “Default (Fixed-Price Construction)” found at FAR 52.249-10. Under this clause, delay resulting from an Act of God, such as an epidemic, is excusable, but it is also non-compensable. This holds out the very real possibility of significant financial harm to construction contractors and seems to run counter to the government’s objective of preserving companies so that there will be an economic recovery once the crisis is over.

Currently, Department of Defense agencies are making every effort to treat projects as essential to the national defense and contractors are permitted, and in some cases directed, to continue performance. Since the government wants projects to continue, and government contractors want to keep working, there appears to be a commonality of interest. Contractor employees, however, are increasingly concerned about their personal health and safety and, in some cases, are refusing to report for work. This is compounded by the Permits and Responsibilities clause (FAR 52.236.7), which requires contractors to comply with “State, and municipal laws, codes, and regulations applicable to the performance of the work.” Accordingly, even though the federal government requires work to continue, state and local governments may be requiring people to maintain social distancing and stay at home. Even if exemptions are granted for government contractors working on essential projects, that does not lessen the legitimate concern of workers who are fearful of health risks.

There appears to be an irreconcilable conflict between the government interest and the personal health interests of workers. Although the government would be hard-pressed to terminate a contractor for default because of delay resulting from the pandemic, it is of little consolation to contractors that the delay will simply be excusable while fixed project costs continue without compensation.

Although the payroll relief provisions of the CARES Act will help companies with fewer than 500 employees meet payroll expenses, fixed home office and field overhead costs will continue unabated. Most notable within the CARES Act is Section 3610, Federal Contractor Authority, which provides discretion for an agency to modify the terms and conditions of the contract to reimburse paid leave where contractor employees could not access work sites or telework but actions were needed to keep such employees in a ready state. In addition to this welcome payroll relief, we believe that the government should take steps to make coronavirus-related delays both excusable and compensable.

Fortunately, there has been recent movement along those lines. The Under Secretary of Defense released a memorandum on March 30, 2020, with the subject “Managing Defense Contracts Impacts of the Novel Coronavirus,” stating that “Where the contracting officer directs performance of the work, which may include recognition of COVID-19 impacts on performance under that contract, the contractor may also be entitled to an equitable adjustment to contract price using the standard FAR changes clauses (e.g., FAR 52.243-1 or FAR 52.243-2).” This suggests that contracting officers, in fairness, may have the authority to treat a COVID-19 project delay as compensable under the Changes clause. It is also permissible for contracting officers to issue stop work orders and suspensions of work that are compensable. A contractor who is delayed by the coronavirus crisis should request compensation under the Changes or Suspension of Work clauses. The memorandum further provides that:

Requests for equitable adjustment must be considered on a case-by-case basis, in consideration of the particular circumstances of each contract, impacts realized from COVID-19, applicable law, and regulations, and inclusive of any relief that may be authorized by laws enacted in response to this national emergency. When reviewing requests for equitable adjustment, contracting officers are to take into account, among other factors, whether the requested costs would be allowable, allocable and reasonable to protect the health and safety of contract employees as part of the performance of the contract. Equitable adjustments to the contract or reliance on an excusable delay should not negatively affect contractor performance ratings.

The attorneys in our Government Contracting Group are available to assist you on these and other government contracting matters. Call 202/466-4110 for more information.
Louver Selection Tips
By Mike Binkholder

Louvers are the start and end points of your HVAC system. They cover the exterior ventilation openings of your building and prevent foreign material – water, sand, dust, and other debris – from getting through to your duct work. Some louvers are better at blocking heavy rainfall but will have greater air resistance.

Air performance louvers are designed for maximize airflow, often at the cost of protection. Choosing the right louver can be a balancing act. The key to choosing the right louver is understanding what you need. If rainfall isn’t a concern, then you should choose straight blade louvers with minimal features along the blade profile. These louvers will provide the best air performance but will not provide much protection during a storm. For areas where heavy rain is common, choose severe weather louvers with blade catches and drainable troughs. These features block water as it passes along the air stream and safely drains the water out from the louvers sill. However, the more features on the blade, the more air resistance occurs.

Always choose a louver that meets your requirements first, but don’t overdo it. A hurricane louver may not be the best choice to block light rainfall. Find the right balance between performance and protection! Mestek is happy to answer questions and ensure your design requirements are met.

Questions? Please contact Mike Binkholder
Vice President of Sales
Mestek Commercial Damper Louver Group
Cell: 570/637-0102

SMACNA’s Downspout & Gutter Sizing Calculator

The Sheet Metal and Air Conditioning Contractors’ National Association (SMACNA) is now providing a simple and effective Downspout & Gutter Sizing Calculator. This tool allows engineers, architects, designers, and contractors to easily and accurately size downspouts and gutters per SMACNA’s Architectural Sheet Metal Manual.

The calculator’s Rain Intensity Wizard allows you to select the city nearest you and utilize the information taken from the tables in Architectural Sheet Metal Manual 7th Edition – 2012 for your calculations. The Rain Intensity per ASMM Table 1-2 uses the 5-minute Duration for a 10yr or 100yr storm, thereby providing a worst-case scenario for your downspout and gutter design. Since the Rain Intensity data is constantly being updated by the National Oceanic and Atmospheric Administration (NOAA), this calculator also allows the manual entry of the Rainfall Intensity, thereby allowing you to calculate per the local authority having jurisdiction in your area. For the most up-to-date rain intensity data, NOAA’s website is http://hdsc.nws.noaa.gov/hdsc/pfds/index.html. (Use Precipitation Intensity as your data type.)

The gutter and downspout size required is highly dependent on the number of sections and length of those gutter sections and the number of the downspouts.

- Adding additional sections of gutter, thereby reducing the length of each section, will reduce the size of the gutter required. Also, the gutter width relation to height may also be adjusted.

- Adding additional downspouts will change the downspout volume resulting in smaller gutters/downspouts.

You may manually enter the Design Area of the roof for the calculation or use the Design Area Wizard. This Wizard makes it easy to calculate the roof Design Area by providing various shape calculations and the calculation for Vertical Walls area per International Plumbing Code (IPC.)