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KD Alert: Public Authority Law Reform (SCA) Assembly Bill 5443 Vetoed by Governor Cuomo

By Andrew L. Richards
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Governor Cuomo has vetoed Assembly Bill 5443- Public Authority Law Reform (SCA). This legislation, which had passed both the State Assembly and Senate, addressed a longstanding inequity in the Public Authorities Law (PAL) that has created a hardship for construction contractors doing business with the New York City School Construction Authority (SCA).

The legislation sought to amend the PAL making it comparable to the Education Law regarding the trigger point at which a claim must be filed against the SCA. The current PAL point is based on a claim accrual standard while the rest of the state, governed by the Education Law, which has a statutory trigger point based on a "date of denial" standard. The result of this disparity between the PAL and Education Law has resulted in many instances where a contractor's potential claim against the SCA was time-barred before the contractor was even aware that it may have had a claim.

In his brief message vetoing this legislation, Governor Cuomo stated, "This bill would provide that claims against the New York City School Construction Authority (SCA) arising out of breach of contract accrue when the SCA formally denies payment. However, this bill would take effect immediately, and impact not just contracts executed after its enactment but current contracts and ongoing litigation, which is unacceptable. In addition, this bill could delay the completion of school construction projects and result in higher costs to New York City. For these reasons, I cannot approve this bill."

As a result, you are advised to file timely claims with the SCA according to the standards set by the current Public Authorities Law. Andrew Richards, Chair of KD's Construction Law Practice, is available to answer any questions you might have.

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