



Construction Legislation And Regulation To Watch, *Law360*, ft. Erik Ortmann

Erik Ortmann, partner in Kaufman Dolowich & Voluck's Long Island office, was featured in John Kennedy's article published in *Law360*.

Law360 (May 9, 2018, 3:13 PM EDT) — Three federal initiatives spearheaded by President Donald Trump are at the top of construction lawyers' list of legislation and regulations to watch, but two local issues in California and New York also deserve attention, experts say.

Tariffs top the trio of Trump-linked topics, followed by the president's proposed infrastructure plan and his efforts to streamline the environmental review process for large projects. At the state level, attorneys are keeping an eye on possible changes to a New York program aimed at helping minority- and women-owned businesses, as well as a new California labor law that makes contractors liable for debt owed by their subcontractors.

Possible Changes to New York's MWBE Program

When New York set its fiscal year 2019 budget, it reauthorized the Minority and Women-Owned Business Enterprise program, which aims to help the state hire more such companies for construction and other work. Despite several proposed changes by Gov. Andrew Cuomo, the program remained the same, but experts believe there will be intense negotiations regarding some sought-after modifications that may affect future construction contracts.

One issue is the state's \$3.5 million cap on the net worth of anyone trying to certify their business under the program, said Erik Ortmann, a partner at Kaufman Dolowich Voluck LLP.

New York Assemblymember Rodneyse Bichotte, D-Brooklyn, who chairs the assembly's Subcommittee on Oversight of Minority and Women-Owned Business Enterprises, has pushed to eliminate the cap. A recent attempt made it to Cuomo's desk, but he vetoed it in late December.

Ortmann said that on one hand, the state is asking minority and women-owned businesses to take on fairly large contracts that "require some financial wherewithal," but on the other hand, the state is saying that businesses can't be certified as MWBEs if they're run by a person who's worth too much money.

Another question is whether the program will expand to include local governments and any other entity that receives state funding, Ortmann said. That's part of what Cuomo wanted in this year's budget, but like the rest of his proposed changes, it was rejected.