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## Bridge plan roils labor

Cuomo plan to shift Tappan Zee iron work offsite triggers union backlash.

By Daniel Massey

June 10, 2012 5:59 a.m.

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Gov. Andrew Cuomo's proposal for a new Tappan Zee Bridge, already criticized for its fuzzy funding plan and lack of mass transit, now has another problem: a rift with organized labor that threatens to throw the \$6 billion project into turmoil.

Construction trades councils in Rockland and Westchester counties last week overwhelmingly voted down a project labor agreement, or PLA, proposed for the new bridge that would've eased union wage and work rules. The Cuomo administration's insistence on shifting much of the work away from Metallic Lathers and Reinforcing Ironworkers Local 46 prompted rejections by 30 of the 36 trades that voted.



[+] Enlarge

Bloomberg News

**TROUBLED WATERS:** A union leader says his members would lose \$40 million in wages and benefits if the state relocates rebar work for the \$6 billion Tappan Zee Bridge replacement.

Multiple labor, construction and government sources tell *Crain's* the state wants to cut, bend and fabricate the reinforcing steel for the project offsite, possibly upstate, instead of on or near the bridge. It's not exactly clear why, but one possibility is that it would create jobs upstate and help the governor sell the project in sections of New York that might otherwise be skeptical of such a large downstate expenditure. It could also mean a big payday for an upstate company, or a federally defined "disadvantaged business" that could be created there to do the work.

### UNCERTAIN MOTIVES

"Is this about spreading the wealth of the project around to the rest of the state to say that the Tappan Zee Bridge is not just a Westchester or Rockland project, it's a New York state project?" asked one labor source. "We've deliberated about this, but I can't tell you we have an actual answer."

The state's move could also lower costs, though it's not clear by how much. Local 46 recently reopened its contract and agreed to cut wages and benefits by 15% on private projects and offered the same deal for the Tappan Zee. Even with the discount, the labor in a place like, say, Buffalo would cost about \$25 an hour less, though shipping the material nearly 400 miles to the bridge site would add an expense.

Also, if the union cuts its rates on the Tappan Zee, it would establish a new, lower prevailing wage that would save money on other public projects.

A push by business groups for any offsite jobs not to pay prevailing wages is also possible. A letter to Mr. Cuomo last month by a statewide business coalition opposed extending prevailing wage to public works where materials are fabricated offsite. It did not specifically mention the Tappan Zee project.

"For the Tappan Zee, being able to twist rebar offsite is a real priority for cost savings and cost savings alone," said one construction industry source.

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Local 46, whose jurisdiction includes New York City, has been a perennial target of major construction managers, who argue that its contracts protect an outdated business model. Labor sources believe some of those contractors may be pressuring the Cuomo administration to use the Tappan Zee to help establish a new standard.

The administration could also attribute an offsite work plan to the Federal Highway Administration's insistence that no provision in the PLA may restrict competition. Other federal projects along Interstate 287 have included protections for Local 46 members, but they have not been as large as the Tappan Zee.

In a letter to Sen. Charles Schumer obtained by *Crain's*, Local 46 Business Manager Terrence Moore wrote that carving his members out of the cutting, bending and fabricating of rebar for the bridge would deprive them of more than \$40 million in wages and benefits.

### DEAL DEEMED 'SUICIDE'

"It would be suicide for our local to support a PLA that deprived our members of much of the work that they should be doing in connection with this project," he wrote.

Mr. Moore said he was "very disappointed in the process" but declined to comment further. Last week, he gave a 50-minute speech before the vote by the Rockland County Building & Construction Trades Council and the Building and Construction Trades Council of Westchester and Putnam, swaying other unions to his side.

It's not clear how much the lack of a labor deal will affect or delay the project. Questions about whether the state is circumventing the competitive bidding process could also lead to legal challenges.

Deputy Secretary for Transportation Karen Rae, who is spearheading the Tappan Zee project for Mr. Cuomo, did not return a call seeking comment. A spokesman for the governor would not discuss the rift with labor. He referred calls to the state Thruway Authority, which has jurisdiction over the project.

"We are continuing to negotiate in good faith with labor to reach a project labor agreement on the new Tappan Zee Bridge that will provide important assurances for workers and significant cost savings," said Thomas Madison Jr., the executive director of the Thruway Authority.

*A version of this article appeared in the Jun. 11, 2012, print issue of Crain's New York Business.*

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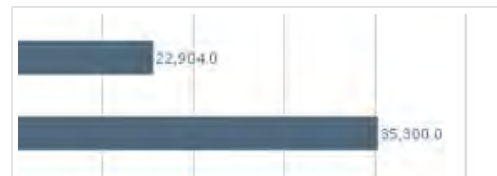
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# McMahon: Union deal will add to Tappan Zee Bridge cost

June 20, 2012 by E.J. McMAHON



Sometime this summer, Gov. Andrew M. [Cuomo](#) will perform the financial equivalent of pulling a rabbit out of his hat -- explaining how a cash-poor, heavily indebted state government (and its Thruway Authority, whose credit rating outlook was just downgraded to "negative") will come up with \$5 billion to \$6 billion to build a new bridge across the widest stretch of the lower [Hudson River](#).

Yet even as he struggles to find ways to pay for a replacement Tappan Zee Bridge, Cuomo is rigging construction rules in ways that will

make it needlessly more expensive.

Just this week, the governor announced that the Thruway Authority and 14 construction trade union groups had reached a project-labor agreement, required by the Tappan Zee bid documents. The deal, Cuomo said, "will save taxpayers hundreds of millions of dollars, while putting in place important protections for our workers."

Translation: The unions will waive some of their usual work rules and promise not to strike, and the state will protect these workers (and their employers) from nonunion competition.

The modified work schedules under the agreement should, indeed, save money -- compared solely to standard union contracts, that is. But this doesn't necessarily mean the Thruway Authority will get the best value for its construction dollars, wherever they ultimately come from.

For example, it's now [common](#) for builders to cut costs through off-site pre-fabrication of the steel needed to reinforce concrete. But one of the parties to the project-labor agreement, Local 46 of the Metallic Lathers and Reinforcing Ironworkers Union, knew its members would lose out if this practice were allowed on the Tappan Zee job. Although Local 46 reportedly agreed to a wage and [benefit](#) rollback, the governor's announcement did not disclose whether the Thruway Authority made any concessions of its own to seal the deal, which had been rejected in two previous votes by the unions involved.

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The main argument for project-labor agreements, which allow unions to control hiring and work rules, is that they minimize costly delays by preventing strikes, especially on big projects. But these deals are anti-competitive, effectively shutting out nonunion contractors -- who might otherwise do the same-quality work for less, and whose employees make up a majority of the statewide construction workforce.

Studies by the Beacon Hill Institute, a market-oriented think tank based at Suffolk University in Boston, have shown that project-labor agreements significantly drive up school construction costs, in particular -- by up to 20 percent, in New York's case. Yet President Barack Obama is pushing them for all federal work costing more than \$25 million -- not that New York needed the push.

Like all such agreements, the deal for the Tappan Zee project was negotiated behind closed doors, and it's unclear whether the Thruway Authority conducted the legally required due diligence study to demonstrate that a labor agreement should be required as the most cost-effective approach to building the bridge.

The use of union-only labor agreements is not the only regulatory policy driving up public construction costs in New York. An even costlier and more pervasive requirement is the state's prevailing wage law.

This mandate adds 25 to 30 percent to the cost of development, according to a study issued last week by Columbia University's Center for Urban Real Estate. While 32 states have similar laws, the study says, New York is one of only five to stipulate union contracts as the basis for wage and benefit rates on public work.

The center's research indicates the Empire State is unique in treating the union pay scale as "prevailing" if a union contract covers as few as 30 percent of the workers in a given region. The state continues to treat union wages as a baseline, even though unions now represent barely a quarter of New York's construction workers, the study says.

This research suggests the state could reduce annual capital costs by \$2 billion to \$3 billion if it based prevailing wages on the regional averages computed for construction job titles by the federal Bureau of Labor Statistics, rather than on union contracts. The study was commissioned by a trade group of affordable housing developers, who have beaten back legislative attempts to extend the prevailing wage mandate to their industry.

Given the enormous sums at stake and the post-2007 scarcity of construction work, it should surprise no one that New York's construction trade unions reportedly were among the biggest donors to the Committee to Save New York, the business-dominated group that has campaigned for Cuomo's budget priorities. Since the unions would find it harder to survive in a more competitive environment, they need to build political bridges wherever they can.

Unfortunately, the taxpayers are left to pay the toll.

*E.J. McMahon is senior fellow at the Manhattan Institute's Empire Center for New York State Policy.*

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# Governor Cuomo Announces Labor Agreement That Will Save Hundreds of Millions of Dollars, Representing a Critical Step Forward in the Tappan Zee Bridge Project

[1]

Albany, NY (June 18, 2012)

Governor Andrew M. Cuomo today announced that a Project Labor Agreement (PLA) has been reached between the State Thruway Authority and 14 labor organizations, a critical step forward in the Tappan Zee Bridge project and saving taxpayers an estimated \$452 million.

"Replacing the Tappan Zee Bridge represents one of the largest public infrastructure project in the nation, and the agreement reached today will allow thousands of New York's working men and women to secure good jobs building a new, safer bridge," Governor Cuomo said. "This agreement will save taxpayers hundreds of millions of dollars, while putting in place important protections for our workers. For too long we have talked about replacing the Tappan Zee, and we cannot wait any longer. Now is the time for action."

Key provisions contained in the PLA include:

- A standardized 40 hour straight time work week for all trades and the flexibility to schedule four 10 hour work days to optimize construction for a combined estimated savings of \$122,956,095 million;
- A higher ratio of apprentices to journeypersons than typically allowed in collective bargaining agreements, saving an estimated \$59 million;
- Giving workers that arrive one hour prior to their shift \$25 a day rather than an hour of overtime, saving an estimated \$59 million;
- Standardized holidays that eliminates overtime for service trades saves an approximate \$2.6 million.

The PLA also creates employment opportunities for union members across the Hudson Valley and New York Metropolitan Region, assures payment of fringe benefits, and acts as a mechanism to settle jurisdictional disputes through an organized grievance process. A stipulation of the agreement states that lock-out or other work disruptions, including renegotiations of area Collective Bargaining Agreements, is not permitted.

Chairman of the New York State Thruway Authority Howard P. Milstein said, "This agreement is good for taxpayers, good for workers, and good for the project. Significant savings will be realized and thousands of trade jobs will be secured because of this milestone agreement. It ensures that we will have reliable, local labor for the duration of the construction project."

James Cahill, President of New York State's Building Construction Trades Council, said, "On behalf of the New York State Building and Construction Trades Council and its affiliates and members, I want to commend the Thruway Authority for entering into this historic agreement. This PLA will lead to thousands of construction jobs for New Yorkers and millions of dollars in cost savings to the State. We especially want to thank Governor Cuomo for his vision and persistence in driving this important project forward. We have been talking about building a new Tappan Zee Bridge for decades; under Andrew Cuomo's leadership we are finally building a new bridge. We look forward to working with the Thruway Authority and the successful bidder in delivering a new bridge on time and under budget."

Ross J. Pepe, President of Construction Industry Council of Westchester and Hudson Valley, Inc., said, "The Project Labor Agreement is vital for a complex and large project like replacement of the Tappan Zee Bridge. The PLA provides for continuity of the workforce, cost efficiencies, flexibility and productivities saving millions of dollars while at the same time assuring local workers the opportunity to participate in public works."

The PLA builds upon Governor Cuomo's commitment to increase MWB/E participation in state contracting. Approximately \$400 million will be available for Disadvantaged Business Enterprises (DBE) contractors, with a sizable portion going to MWB/Es. This agreement augments the use of small and minority businesses by allowing additional flexibility, while also encouraging increased employment of women and minority construction workers.

Another major benefit of the PLA is the participation in the Helmets to Hardhats program. This program connects returning veterans to employment opportunities in the construction industry. Without the PLA, veterans would not receive an advantage in securing jobs on the project.

Under the agreement, a memorandum of understanding will be signed between the Building Trades Council of Westchester and Putnam, the Rockland County Buildings Trades Council, the New York State Buildings Trades Council, and the Thruway Authority, as representative for the selected Design-Build contractor. The agreement is subject to final approval from the Federal Highway Administration and the New York State Thruway Authority Board of Directors.

The PLA is a required provision of the New Tappan Zee Bridge Project Request for Proposals, <http://www.thenewtzb.ny.gov/bidprocess/index.html> [2] and will maximize public investment in the groundbreaking bridge replacement.

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**Exclusivity Agreement Will Increase Cost  
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Shutout New York Construction Workers**

*State Mandate Reduces Competitive Bidding, and effectively locks Out 75% of Eligible  
NY Construction Workforce from Building New Bridge*

**STATEMENT FROM ABC PRESIDENT STEPHEN LEFEBVRE:**

The Associated Builders and Contractors, Empire State Chapter, is calling on Governor Cuomo to reject the use of a project labor agreement (PLA) on the Tappan Zee Crossing Project. With the state's financial difficulties, use of a state-mandated union-only agreement –requiring the hiring of union-only labor in exchange for illusory savings - would be unconscionable to taxpayers and the hundreds of non-union construction workers who will be barred from working on the project.

Construction firms which employ 75% of the construction workers in New York State who choose not to belong to a union will not bid on the project - which will drive down competitiveness in the bidding process which, in turn, will drive up the cost to taxpayers.

Remarkably, the studies used to justify PLA cost savings are developed in a vacuum. They attribute “savings” to insignificant concessions while totally ignoring actual savings if the project were open to non-union workers. In situations where projects are bid with and without a PLA, the non-PLA bid is invariably lower. A recent state Supreme Court case, for example, indicated that a heavy highway project in Orange County would have saved \$4.5 million *more* than promised by a PLA, if the state had not mandated the used of such an agreement. The court ultimately reversed the state's use of a PLA finding that the study relied upon by the state did not justify the use of a PLA.

Government mandated PLAs are a tool of organized labor to carve out an anti-competitive scheme that funnels work to their workers. Without a state-imposed PLA, a contractor can work directly with its own workforce to negotiate work rules, schedules and shifts that best benefits the taxpayer and its workforce.

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I strongly urge Governor Cuomo to ensure the use of an open and fair competitive bidding process by directing that bids be accepted with or without a PLA and to award the project to the lowest responsible bidder. This is the approach promoted by the Public Construction Savings Act legislation (S.4121/A.7855) and it promises to benefit our taxpayers and the state's construction workforce.

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*The Empire State Chapter of Associated Builders and Contractors ("ABC") represents over 550 merit-shop construction contractors and subcontractors employing thousands of workers throughout the State of New York.*