

# Weighing the Pros and Cons of PLAs

A hard look at pre-hire project labor agreements

BY DENNIS POTTENGER

Last winter, in a report to the Sacramento Regional Transit Board of Directors, RT staff recommended against negotiating a pre-hire project labor agreement (PLA) with local building trade unions relating to \$70 million in construction work on Regional Transit's \$208 million southern extension of light rail. Earlier this spring, the RT Board went against this recommendation and approved a pre-hire PLA for construction on the south line extension scheduled to begin late next year.

The RT Board's decision was a controversial one, spawning everything from scathing newspaper editorials to a passionate, sometimes angry, debate between government agencies and non-union contractors and trade organizations over the benefits and drawbacks of project labor agreements.

In Sacramento and around the country, it's clear that the political and legal battles over PLAs are just beginning. So far, court cases from San Francisco to Boston have created a long list of complex questions. In essence, the conflict over PLAs breaks down into two camps. Supporters claim that PLAs maximize local hiring, ensure labor peace, enhance on-the-job safety, and keep taxpayer

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costs down by eliminating expensive strikes and work stoppages. And opponents insist that project labor agreements discriminate against non-union contractors, women, minorities

and apprentices — in the process eroding the competitive bidding process and leading to higher taxpayer construction costs.

## The evidence

In a bid to identify the impact project labor agreements are having on business in the Capital Region, *Comstock's* looked into issues involving two recent PLAs — Regional Transit's \$208 million south line light-rail extension, and the city of Sacramento's \$38 million Sump 2 wastewater improvement project.

Mark Gilbert, chief legal counsel for Regional Transit, says that several key issues caused the RT Board to vote 3 to 1 in favor of a PLA this past April. According to the report presented by the RT staff, one important concern was that project delays resulting from contractor strikes or work stoppages could jeopardize crucial federal funding (The south line must open for service by the year 2003 or RT could lose \$103.3 million in federal funding).

Regional Transit, of course, is no stranger to this form of fiscal fallout, having suffered millions of dollars in light-rail cost overruns in the 1980s. But in attempting to eliminate labor strikes and the resulting costs associated with project delays, opponents of PLAs charge that the RT Board made a number of misguided assumptions.

"The project labor agreement," says John Robinson, executive director of the Golden Gate Chapter of American Builders and Contractors (ABC), "forces every worker on the project to become a member and maintain membership in a trade union for the duration of the project — even if they have chosen to work for a company that is not signatory to a union. This is unfair for the 80 percent of California construction

## Definition of a PLA

**Project-labor-agreement (n)** An accord between a government agency and a building trade union, entered into before a project is put out to bid, that typically includes a government promise to use only union workers in exchange for a union promise not to strike.



workers who are not union members and who do not want to pay union dues and fees."

This past February, after the Sacramento City Council approved a PLA for Sump 2, the much-needed overhaul of Sacramento's outdated wastewater treatment facilities, Robinson, whose group represents more than 300 general contractors, subcontractors and suppliers in the California construction industry, stated that "Sacramento taxpayers should note that fewer companies will be bidding on this project because of the PLA. The Council claims that [the PLA] will ensure economic completion of the project. In reality, the PLA means fewer bids, less competition, and ultimately, higher prices for taxpayers."

So why have Sacramento's city officials supported PLAs? "This agreement maximizes the opportunities for local hire," Regional Transit Board member Darrell Steinberg told a reporter after the RT vote in April. "It's as close as we come to a guarantee that Sacramentans are put to work on the extension."

As for the claim by PLA opponents that such agreements chill competition, Roland Katz, attorney for the Operating Engineers Local No. 3, is quite blunt. "Project labor agreements are not competition killers. No one is precluded from bidding on jobs."

## The fine print

Technically, Katz is correct. Neither the light rail nor the Sump 2 PLAs prevent non-union shops from bidding on or being awarded contracts. But language in the agreements *does* require workers on both projects to pay union dues and fees and contribute to union

pension plans and benefit packages. What does this mean for non-union workers forced to join a union under a PLA?

Under a typical union's constitution and by-laws, non-union electricians wishing to work on a PLA project would have to quit their current jobs, thus terminating any pension benefits built up there and pay an initiation fee to join Sacramento Local IBEW 340, which would take \$3.21 per hour from their paychecks. Because they are new, those workers would not receive any of the benefits of existing union members and, when they leave the union after the job to return to their former employer, any money paid into the union pension would be non-transferable and thus wasted. "They would not get any benefit from that money, except a job," says Steven R. Moore, president and CEO of Rex Moore Electrical Contractors & Engineers.

Kevin Dayton, government affairs director for the Golden Gate Chapter of ABC, says that there is also evidence that PLAs discourage minority- and women-owned businesses from bidding on public works projects. For instance, Dayton says, after the Sacramento City Council approved a PLA on the Sump 2 project earlier this past winter, the winning general contractor reported a minority-owned business participation of just 0.48 percent — well shy of the city of Sacramento's goal of 9 percent. Sump 2 participation by women-owned businesses was 0.47 percent, again well below the city's goal of 3 percent.

In the face of such statistics, Dayton wonders how PLA proponents can make the claim that such agreements don't shut non-union shops out of the bidding process. "People who support project labor agreements can talk all they want," Dayton says, "but the bottom line is that PLAs prevent 80 percent of the construction shops in California from bidding on projects and winning contracts. Fewer bidders means reduced competition and higher construction costs. In the end, guess who gets to pay for that increase? Uh-huh. The taxpayer."

As supporting evidence, Dayton cites a 1995 study on the Roswell Park Cancer Institute in Buffalo, N.Y., conducted before and after a PLA was implemented. The study showed that "bids made before the PLA totaled \$1 million under budget, while bids made after the PLA totaled \$3.5 million over budget."

Closer to home, a report on PLAs prepared jointly by the California chapters

of ABC and the California Chamber of Commerce indicates that "the Southern Nevada Water Authority rejected a bid from a non-union "Merit Shop" company that was \$200,000 lower than the second-lowest bid, solely because the company would not submit to the union rules and restrictions required in a pre-hire PLA."

"We feel," Dayton concludes, "that organized labor has one main reason for advocating PLAs: to gain market share by lobbying public officials to favor companies that have a collective bargaining agreement with a union. This policy opposes the principles of open competition and free enterprise and we believe this is unfair to workers, employers and taxpayers."

#### The parties

In Sacramento, where Mayor Joe Serna Jr. and other local leaders such as City Council member and RT Board Chair Lauren Hammond are openly pro-union, some critics talk of a union-only conspiracy. "That's a crock of you know what," Hammond says of the conspiracy theory. "How can we have a conspiracy? Do you know how hard it is for us to agree on anything? We all want business in Sacramento to thrive."

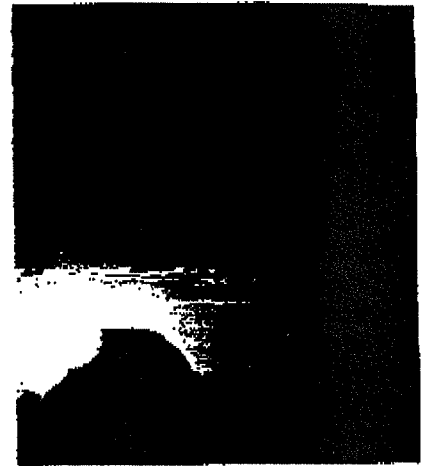
There are, Hammond admits, "a number of council members who support organized labor. I myself was a

### **"The PLA means fewer bids, less competition, and ultimately, higher prices for taxpayers."**

*John Robinson  
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union member 20 years ago. I'm not going to apologize for that." In voting in favor of the light rail PLA, Hammond says her intent was to make sure local workers — especially local workers of color — have an opportunity to earn wages and build careers. "The PLA . . . helps ensure that the people who will build the track . . . look like the people who will ride the train."

Labor attorney Katz agrees, adding that "we think it's beyond question that unionized workers are more productive than non-unionized workers," citing "a whole body of evidence from around the country, including a recent study which found that it's cheaper to build a mile of freeway in highly-unionized California than it is in Florida, a state which does not have prevailing wage laws."



Rex Moore CEO, Steven Moore, says he has found the opposite in his business. Since he changed from a union to an open shop, his company is 20 to 30 percent more productive. He attributes the difference to the union's work restrictive rules and the attitudes that go along with union workers. "It is widely held — and a Cal OSHA report confirmed — that non-union projects are safer and cheaper than union projects."

#### The jury says . . .

So what's the real truth about PLAs? Are they necessary tools that deliver top-quality public works projects on time and under budget? Or do they end up costing business and taxpayers more in the end? Do PLAs create opportunities for local work forces? Or do they snuff out those opportunities? From a legal standpoint, the jury is still out. In California, the Supreme Court has recently agreed to hold hearings in lawsuits challenging PLAs in both San Francisco and Los Angeles.

In Stockton, where the city will soon be forced to spend millions on wastewater treatment improvements in a bid to comply with discharge requirements to the San Joaquin River, public officials and private-sector business leaders are watching the cases closely.

"Solving the city of Stockton's wastewater treatment challenges is vital to the economic future of this region," says Comstock's Editorial Board member Ronald S. Addington, executive director of the Business Council Inc. of San Joaquin County. "A project labor agreement has not been considered by the city, nor should it be, as it dampens the competitive process."

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