
In a statement released to New York State lawmakers and Albany policy makers the Long Island Contractors’ Association (LICA) reminded that bold vision, dynamic leadership and innovative financing are the tools that will put tens of thousands of New Yorkers back to work, repair and improve our public infrastructure and give New York the means to compete and win in a global economy. But those tools need to be created and distributed by state officials.

With Election Day fast approaching, LICA is reminding our lawmakers that investing in our infrastructure must be at the top of the list for the 2014 agenda.

Governor Andrew Cuomo’s much touted accelerated bridge and pavement plan was supposed to be the government initiative that would put the heavy construction industry in New York State back on its feet, having been pummeled by a recession that put many thousands out of work.

(Continued on next page)
The year started optimistically enough with the budget passed on time, even though it included a two-year statewide transportation funding plan that was below historic levels. Governor Cuomo’s next phase of the “New York Works” program was anticipated 45 days after the budget’s adoption but an agreement on selected projects was never reached by the legislative houses and that remains the case as of this writing.

**Reaching for Opportunities**

Regrettably, it now appears that the construction window is about to close without the expected new projects “New York Works” promised and that will be lethal to the tens of thousands of construction workers desperate for work.

LICA knows the 2014 legislative session will focus on funding, marking completion of the state’s two-year capital program at the same time the federal highway program expires. New York State Department of Transportation (NYSDOT) Commissioner McDonald has forged a strong working relationship with the industry to develop a cooperative advocacy approach in Washington, D.C.; but if Albany can’t focus on delivering the necessary programs to maintain and improve the safety and quality of the state’s infrastructure system, then the very heart of our heavy construction industry will be critically damaged.

In the end, Albany needs to explore how to expand its fiscal toolbox and identify new ways to secure funding. Public private partnership (P3) initiatives; state and local infrastructure banks; and more design/build projects should be pursued. Archaic regulations, in addition, must be addressed, such as the costly scaffold law. It’s time for bipartisan infrastructure leadership because “business as usual” has become no business for New York State.

**LICA Member Speaks at NYS Senate Construction Regulatory Reform Forum**

Representing LICA, Michael Posillico of LICA-member Posillico testified at the New York State Senate forum on construction regulatory reform this past week regarding the critical need to reform an outdated and unreasonable system.

He stated, “...we are facing a quiet but desperate crisis. I am here representing the Long Island Contractors’ Association whose members comprise the heart and soul of the local heavy construction industry. We employ thousands of union men and women right here on the Island and play a pivotal role in building and strengthening our region’s infrastructure.”

The entirety of Posillico’s testimony makes for compelling reading.

Our quest for a 21st century infrastructure is governed by archaic, cumbersome and unworkable regulatory mandates. It is akin to building a space station with cave drawings.

*(Continued on next page)*
Red Tape across the Hudson

The new Tappan Zee Bridge is perhaps a more practical example of what we seek to achieve in building for the future while fighting the red tape that threatens to swamp its construction.

Let’s be clear. We applaud New York State’s leadership in expediting this strategic project. Through your advocacy and political leadership this project is now being fast-tracked so that it may be financed, built and used by millions who will travel on its bridge deck in record time. Design/Build procedures and Public Private Partnerships have advanced beyond mere rhetoric into real action, real jobs, real progress and a real Hudson River span. We ask you to continue these efforts, particularly with financing, as an example of how similar efforts may be implemented on other projects throughout the Empire State.

Putting hardhats on lawyers

But one of the most glaring problems with the high cost of construction is exemplified in this job. Number One: the obsolete scaffold law. Number Two: the very laudable, yet overextended D.B.E. (Disadvantaged Business Enterprise) and M.W.B.E. (Minority & Women-Owned Business Enterprise) goals.

The scaffold law is one of the most costly provisions contractors must consider when developing public bid offerings for our public works projects. It is only a moderate exaggeration to suggest that our insurance costs extend as high as the projected towers required by the new bridge. There is simply no logical explanation as to why the State of New York is the only state in our great nation that has not repealed such an antiquated and obsolete requirement. Its sole purpose is to benefit trial attorneys. If this issue is not addressed we might as well put hard hats and vests on the trial lawyers and give them tools to work on the bridge so that they will, at the very least, earn their paychecks.

Let’s turn to another area that “means well.” On Long Island, we are proud that our partners in the labor trades far exceed the national average in the number of minorities participating and, yes graduating, from our apprenticeship schools. We are an industry whose foundation is built on the sweat and hard work of immigrants, and others who have traditionally been marginalized. It is in that spirit that we continue to provide opportunities for training and success for those who are beginning careers in similar positions.

Means Well – Works Lousy

Yet, this over-ambitious agenda to achieve short-term successes has been met with failure. The state’s DBE and MWBE programs continue to increase the goal limits without carefully considering the reality of the marketplace or existing success rates. As an example, when soliciting bids for the Tappan Zee project, the State set goals to obtain certain minority ownership participation through the inclusion of subcontractors. The list of eligible DBE contracts spanned the entire State, without any recognition that firms based 200 plus miles from the job site would probably be very unlikely to participate.

(Continued on next page)
In its ambition, the State even went so far as to seek participation outside of New York State, without any recognition that the current New York State construction labor force is suffering with unemployment levels as high as 30% during the recent recessionary years. In addition, a project like the Tappan Zee Bridge, requires many specialty skills which may not be within the portfolio of our existing MWBE partner firms. Each project needs to be analyzed and reviewed independently when setting its goals.

Disadvantaged businesses also need to see the opportunity for real advancement and success. The state needs to assist in creating the financial footing so that these partners may responsibly demonstrate their abilities and talents. Currently, the general contractors are placed in the precarious position of handling much of the bonding and insurance needs of the partnering subcontractors, a responsibility, we believe, should lie within the state’s realm. And, at times, we have experienced the failure of disadvantaged businesses during a project, and incurred the significant costs as a result. Adding insult to injury, because of the lack of financial stability provided to the failed subcontractor, the general contractor is then penalized for not meeting its DBE or MWBE goal, which in reality becomes a mandate.

Every facet of our society seeks to participate in programs that improve who we are as a diverse and inclusive nation. And we recognize that laws such as DBE and MWBE hope to leverage public dollars to create social change that will benefit everyone. But, like the scaffold law, these tools are flawed, uneven, dysfunctional, and ultimately harmful to the very individuals they were designed to assist. With every tax dollar precious, and the need for infrastructure construction obvious, the time for reform is now and this Committee has the means of being an agent of change.

Bringing the Transportation Investment Conversation to the Kitchen Table Level

National Survey Shows Value of Good Roads & Transit

By: Pete Ruane, American Road and Transportation Builders Association's (ARTBA) President & CEO

Many Americans have little idea about how much money they personally pay every month to maintain and improve the roads, bridges and public transit we use. But 75 to 80 percent of them say having safe, efficient and well-maintained transportation infrastructure is at least, if not more, important to their personal livelihood and well-being than good cable, cell phone, Internet, water, sewage and household electricity and natural gas services.

These were the key results in a national Ipsos Public Affairs survey – recently commissioned by ARTBA as part of the “Transportation Makes America Work” campaign – that aimed to gauge public sentiment about the role of transportation in daily life, and relative to other modern necessities we routinely rely upon.

ARTBA’s initiation of this first-of-its-kind opinion research is no accident. It is the outgrowth of the key recommendations in the ARTBA Strategic Planning Committee (SPC) report approved by the board in 2011. The traditional political arguments of “job creation,” fixing “structurally deficient” bridges, “preventing 34,000 annual highway deaths,” and explaining the perils of traffic congestion have not been resonating in the current political environment. An interstate bridge collapses and there’s a collective political yawn. As a result, the SPC report, among other things, called for changing the industry’s message and putting forth a new “value proposition.” The survey is the latest in our ongoing efforts to reframe the transportation debate with the public and elected officials.
Among the other notable poll findings:

- Nearly 8-in-10 (78 percent) said driving a motor vehicle is “very” or “extremely” important to our ability to conduct our daily lives. Twenty-one percent (including 34 percent of low income respondents) say the same about using public transportation;
- Nearly 9-in-10 (88 percent) said transportation infrastructure is important to maintaining a strong U.S. economy;
- 83 percent said our transportation network is important in ensuring national defense and emergency response capabilities;
- And no matter where we live – whether rural or urban – 71 percent agreed growing traffic congestion in U.S. metropolitan areas is making products we buy everywhere more expensive because congestion increases transportation costs for businesses.
- 74 percent agreed that “investing in transportation infrastructure should be a core function of the federal government.”

However, the survey did reveal one major disconnect between the perceived value of transportation mobility and an individual’s personal investment in the infrastructure that provides it. When asked the question how much their household pays each month in gas taxes (the primary means of financing highway and transit capital improvements), 40 percent of respondents said they “didn’t know.” In fact, according to FHWA data, the average U.S. household paid $46 per month in gas taxes in 2011 – the most current year available.

Another 24 percent estimated they pay more than double that amount, which in some cases is likely an overstatement, as this would involve buying enough gas to fuel a household’s cars for nearly 5,400 miles per month, while federal data show the average household with one or more cars drives just over 2,100 miles per month.

**U.S. Commerce Department’s** 2011 data shows the average household spends about three-and-a-half times more each month for household electricity and natural gas service ($160) than we pay in state and federal gas taxes. We also pay three-and-a-half times as much monthly, on average, for landline and cell phone service ($161) and nearly two-and-a-half times as much for cable and satellite television, radio and internet access ($124).

The bottom line is that this research helps bring the transportation investment conversation down to the kitchen table level, rather than talking about trillion dollar needs. If system beneficiaries – the public and U.S. businesses – invested in transportation infrastructure in line with what we routinely pay monthly for other necessary services, we would see reduced transportation costs for business, faster commutes, and safer, smarter, more durable roads, bridges and transit. It’s the industry’s job, collectively, to try and convince everyone it is an investment worth paying for.

We are off to a good start, too, because following the public release of the survey results, we have received scores of inquiries for the survey’s results and crosstabs from state DOTs and other industry groups interested in helping communicate the “new language” on the value of transportation investment.

We encourage all ARTBA members to join us in changing the conversation! Get the full survey results at [www.tmaw.com](http://www.tmaw.com).

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Message from LICA’s Counsel on the Patient Protection and Affordable Care Act

By: Richard B. Ziskin, Esq. of the Ziskin Law Firm, LLP

Many provisions of the Patient Protection and Affordable Care Act (ACA) that become effective beginning in 2014 are designed to expand access to affordable health coverage. These include provisions for coverage to be offered through a Health Insurance Marketplace (Marketplace), premium tax credits to assist individuals in purchasing such coverage, employer notice to employees of coverage options available through the Marketplace, and other related provisions.

Beginning January 1, 2014, individuals and employees of small businesses will have access to affordable coverage through a new competitive private health insurance market – the Health Insurance Marketplace. Open enrollment for health insurance coverage through the Marketplace begins today (October 1, 2013). Section 1512 of the Affordable Care Act creates a new Fair Labor Standards Act (FLSA) section 18B requiring a notice to employees of coverage options available through the Marketplace.

The ACA requires most employers to provide notice of the Health Insurance Marketplace, and the United States Department of Labor has published the attached Model Notice to Employees of Coverage Options. (There is a filled in Notice as well to use by example.)

Section 18B of the FLSA, as added by section 1512 of the Affordable Care Act, generally provides that, in accordance with regulations promulgated by the Secretary of Labor, an applicable employer must provide each employee at the time of hiring (or with respect to current employees, no later than March 1, 2013), a written notice:

1. Informing the employee of the existence of the Marketplace (referred to in the statute as the Exchange) including a description of the services provided by the Marketplace, and the manner in which the employee may contact the Marketplace to request assistance;
2. If the employer plan’s share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs, that the employee may be eligible for a premium tax credit under section 36B of the Internal Revenue Code (the Code) if the employee purchases a qualified health plan through the Marketplace; and
3. If the employee purchases a qualified health plan through the Marketplace, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes.

Employers are required to provide the notice to each new employee at the time of hiring beginning October 1, 2013. For 2014, the Department will consider a notice to be provided at the time of hiring if the notice is provided within 14 days of an employee’s start date.

With respect to employees who are current employees before October 1, 2013, employers are required to provide the notice no later than October 1, 2013. The notice is required to be provided automatically, free of charge. If your company is covered by the Fair Labor Standards Act, it should provide a written notice to its employees about the Health Insurance Marketplace by October 1, 2013, but there is no fine or penalty under the law for failing to provide the notice.

The notice must be provided in writing in a manner calculated to be understood by the average employee. It may be provided by first-class mail. Alternatively, it may be provided electronically. (It seems that providing a copy of the notice in (1) (Continued on next page)
an existing employee’s pay envelope; or (2) a new employee’s hiring packet, would suffice.) A copy of the Notice should be placed in each employee’s personnel file.

Finally, I am in the process of verifying that all Union Welfare Funds meet the minimum standards required by the ACA. The NYC DCC & Teamsters Local 282 Welfare Funds have already advised that they each meet the minimum standards.

Click here to view the New Health Insurance Marketplace Coverage Options and Your Health Coverage (blank form).

Click here to view the New Health Insurance Marketplace Coverage Options and Your Health Coverage (filled-out form).

Click here to view the letter from the NYC DCC Welfare Fund.

ARTBA Conducts 3rd Quarter Contractors Survey

ARTBA is now conducting its 3rd Quarter 2013 Industry Conditions Survey and would appreciate your participation. As in the past, ARTBA will use the survey results in its advocacy efforts by showing elected officials and the media true “on the ground conditions” within the industry. This survey takes about 5-10 minutes to complete, asks for general information, and is confidential.

The survey results will be an important tool in illustrating the industry’s current challenge for elected officials, the media, and others. ARTBA wants to ensure the survey results are comprehensive enough to give an accurate viewpoint of the industry during the second quarter of 2013. The survey close date is Wednesday, October 9th.

To take the survey, please click here.

Carpenters Request W-9 Form

Recently, LICA members may have received the attached letter from the Empire State Carpenters Apprentice Committee asking that they return a W-9 form. This request is required by law and should be completed and returned to the apprentice program.

NYS Labor Law, art.23; § 811.1 Registration of Apprenticeship Programs and Agreements requires that union contractors that participate in jointly sponsored apprentice training programs must provide said apprentice program with the employer’s name, address, and either the employer’s Federal Employer Identification Number (FEIN) or New York State Unemployment Insurance Employer Number.

If you cannot supply this information with your FEIN number, the New York State Department of Labor (NYSDOL) will not consider you to have a registered New York State Apprenticeship Program, barring you from any prevailing wage work.

If you have any questions, please contact William Macchione, State Training Director at his office at 631-952-9555.

Click here to view a copy of the letter and the W-9 form.
LICA Members Show Support for Long Island’s Fight Against Hunger

LICA members Holzmacher, McLendon & Murrell, P.C. (H2M) and Greenman – Pedersen, Inc. will be participating again this year in the Canstruction® Long Island 2013 competition in which design teams compete to build structures made entirely out of canned foods.

The Canstruction® Long Island design/build competition puts a visual spotlight on hunger while showcasing the Long Island design community’s best and brightest. Teams of engineers, architects and construction professionals come together to defy expectations as they build fantastic sculptures from thousands of cans of food all while raising awareness of the fight against hunger in our local communities.

The resulting structures become an art exhibit open to public view. At the end of the exhibition all of the food used in the structures is donated to the Long Island Cares, Inc., The Harry Chapin Food Bank to be distributed to food pantries across Long Island. Since 2007, Canstruction® Long Island has donated over 232,000 cans of food, the equivalent of approximately 93 tons of food, to help feed the hungry in Nassau and Suffolk Counties.

LICA members who have participated in the past include Grassi & Company, The LiRo Group and Lockwood, Kessler & Bartlett, Inc. (LKB). Grassi & Company took home the award for “Honorable Mention” in 2011. H2M won two awards in 2011 for “Most Cans” (6,675) and “Honorable Mention” for their giant colorful Care Bear, “Care-A-Lot Can Bear” creation and won last year for “Structural Integrity.” Greenman – Pedersen won big last year, taking home awards for “Juror’s Favorite,” “Most Cans” (7,241) and “People’s Choice.”

Canstruction® will host a Cocktail Reception and Awards Ceremony on Thursday, October 24th at the RXR Plaza in Uniondale, New York, celebrating the designs and for industry networking. All structures will remain on public display every day from October 25th through November 6th. Cost of admission is one can of food, but visitors are encouraged to bring as many cans as they like!

For more information on this event, please click here to visit Canstruction® Long Island’s website. If your firm is interested in sponsoring this event, please contact Sponsorship Coordinator Tracy Lobdell at tracy@canstructionli.org.

Your donations will be used to purchase cans which will ultimately make their way to local food banks to help the hungry right here on Long Island.
Welcome New Member!

LICA would like to take a moment to welcome new supplier member Penn Jersey Machinery to our organization.

Penn Jersey Machinery is the exclusive Volvo construction equipment dealer in New Jersey, Eastern Pennsylvania and Delaware and also sells and services Volvo Road Machinery in New York. Penn Jersey Machinery and its predecessors have been serving the Eastern Pennsylvania and New Jersey market since 1983, offering Volvo construction equipment for sale and rent, as well as product support. The Volvo Construction Equipment line includes compact equipment as well as the former Ingersoll-Rand compaction equipment line and Blaw-Knox pavers (which Volvo CE acquired in March 2007). Volvo Construction Equipment consistently offers the best products for the job because each piece of equipment has the technology and power that you need to complete every job. From design to production to sales to service, Volvo Construction Equipment is totally committed to your satisfaction, day after day, year after year.

For more information on Penn Jersey Machinery, click here.

Columbus Day Holiday Schedule

Click here to view the LICA/GCA holiday schedules.

Click here to watch our video on the impact of Hurricane Sandy and contracting efforts to repair and restore damaged parts of Long Island.

(Bid Results on next page)
**Bid Results**

**Numbers in red represent the winning bid**

Highlighted and bold companies represent LICA Members

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<th>Bid Date</th>
<th>Project Name</th>
<th>Owner</th>
<th>Contractor 1</th>
<th>Bid Amount 1</th>
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<td>Executive Drive Water Main Replacement</td>
<td>Manhasset-Lakeville Water District</td>
<td>Alessio Pipe &amp; Construction</td>
<td>$187,105</td>
<td>Bancker Construction Corp</td>
<td>$188,892</td>
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<td></td>
<td></td>
<td>Roy Wanser Inc.</td>
<td>$215,350</td>
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<td></td>
<td></td>
<td></td>
<td>Merrick Utility Associates Inc.</td>
<td>$224,450</td>
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<td>9/26/13</td>
<td>Demolition of Former School Building @ 252 Grand St</td>
<td>Town of North Hempstead</td>
<td>Fiber Control Inc.</td>
<td>$243,000</td>
<td>Giaquinto Masonry Inc.</td>
<td>$201,175</td>
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<td></td>
<td>Giaquinto Masonry Inc.</td>
<td>$277,000</td>
<td>Fiber Control Inc.</td>
<td>$201,175</td>
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<td></td>
<td></td>
<td>Gramercy Group/Gramercy Wrecking &amp; Env</td>
<td>$689,000</td>
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<td></td>
<td>Gramercy Group/Gramercy Wrecking &amp; Env</td>
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<td>Gramercy Group/Gramercy Wrecking &amp; Env</td>
<td>$1,210,000</td>
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<td>Gramercy Group/Gramercy Wrecking &amp; Env</td>
<td>$34,900</td>
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<td>Gramercy Group/Gramercy Wrecking &amp; Env</td>
<td>$34,900</td>
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