

Found money: Shutting down underground construction economy would be worth millions of dollars to N.J., experts say

By Tom Bergeron

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Focus On ...



Andrew Miller

From left are: Kevin Duncan, professor of economics, Colorado State University; Richard Tolson, director, Bricklayers and Allied Craftworkers Administrative District Council of New Jersey; John Froomjian, senior research associate, William J. Hughes Center for Public Policy at Stockton University; and Darlene Regina, chief operating officer, Associated Construction Contractors of New Jersey.

Gov. Phil Murphy has pulled out all the stops in his search for more revenue.

Cannabis ... sports betting ... millionaire's tax. He's even proposed raising the state income tax.

In a state starved for enough revenue to pay its bills and its obligations — let alone pay for the new programs the governor campaigned on — the quest is understandable.

But it leaves union leaders and members up and down the state scratching their heads.

Both practices are illegal. And, according to a 2016 study by [Stockton University](#), cost the state nearly \$20 million in taxes while millions more are not being contributed to the state's unemployment insurance program.

It's an issue many governors in New Jersey (and other states) have wrestled with. But one New Jersey's labor leaders feel may finally be dealt with.

Hope came early in May, when Murphy signed an executive order creating a 12-member task force to evaluate the state's current enforcement practices — and come up with ways to improve it.

"The exploitation of workers is not only unethical — it is illegal," Murphy said at the time of the signing. "In New Jersey, we promote fairness, fight against discrimination and work to end unfair labor practices. I am proud to take this step forward to end a practice that creates an unfair advantage over companies that play by the rules and hurts our working families."

The ceremony took place at the new state-of-the-art training facility in Edison at the Northeast Regional Council of Carpenters.

John Ballantyne, former head of the Northeast Regional Council of Carpenters, said he is hopeful the issue may finally be addressed.

"Gov. Murphy came in and, in a very short period of time, recognized that this was a major issue not just for the state but for workers and workers' rights," he said. "And it wasn't just the unions or the workers that he spoke to, he spoke to industry officials, he spoke to the contractors, he spoke to the people that it mostly affects."

Ballantyne spoke at the recent [ROI-NJ Thought Leadership](#) panel, New Jersey's Underground Construction Economy, Bringing Billions of Dollars Above Ground, at Forsgate Country Club in Monroe.

The topic sparked a lot of discussion.

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Richard Tolson, the director of the [Bricklayers and Allied Craftworkers Administrative District Council of New Jersey](#), doesn't hold back.

"This isn't a new issue," he told the audience.

"Ten years ago, our union offered every legislator in the state a bus tour of what we see every day. That invitation remains unanswered. Anybody who leaves here today skeptical of what's going on, I'll take you to Jersey City and throughout the state of New Jersey to show you what's going on."

Because of the history, he said he's encouraged by the governor's recent words — "it is welcomed wholeheartedly by the construction trades" — but he wants to see action.

Tolson said his union has been hit particularly hard.

"Here's how it affects our union," he said. "We went from a high of 2.4 million man-hours statewide in 2008-2009 to a low in 2013 of 900,000 hours. Times the total package of \$70 dollars an hour by more than a million

Tolson was quick to stress it wasn't all about money.

He said the quality of the work on some of the state's most important infrastructure projects could suffer, too.

"This causes a reduction of contributions to our training fund," he said. "And that is a joint labor-management agreement. I can't stress that enough.

"We agreed to do this with our partners. It isn't that we demanded it. We sat down together. We negotiated it. We see the value of training for the future and we contribute to that fund jointly. The reduction of a million man-hours that contribute to the fund adds up and reduces our ability to do training."

And the loss of man-hours hurts towns and cities looking to bring middle-class jobs to their communities.

"There isn't a municipality in the state that we go into to do jobs that doesn't want givebacks to their residents," he said. "Rightfully so. And not just jobs, but careers.

"The building trade unions offer those careers. That differentiates us from our competition, which just offers a job. But we have to have the dollars coming in to sustain that kind of training, to sustain that state-of-the-art type of facility. This effects our ability to provide that opportunity.

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John Froomjian is a senior research associate at the [William J. Hughes Center for Public Policy](#) at Stockton University and one of the authors of the 2016 report.

He said he was shocked by the extent of its findings.

"There's clear evidence that people are working off the books, that people are being misclassified as if they are independent contractors when they're clearly not, and that millions of dollars of taxes and unemployment insurance is just not being paid," he told the audience. "The numbers are pretty eye-popping.

"There are an estimated 35,000 workers working underground. That's more than the entire population of Princeton. There is up to half a billion dollars of wages being earned underground that's just not being taxed. We've lost at least \$20 million in income taxes that are not being paid due to work off the books and misclassification. And up to \$7 million in unemployment insurance is not being paid."

Froomjian was quick to point out he feels this is not a victimless crime.

"This is money that should be circulating through the New Jersey economy and it is not," he said. "This is also money that keeps the middle class strong. We're talking about middle-class workers who are working at a disadvantage. Their companies go for bids and they can't compete because unscrupulous contractors are not playing by the same rules."

Darlene Regina, the chief operating officer of the [Associated Construction Contractors of New Jersey](#), said she wasn't surprised by the totals.

"We knew it was that big," she said. "Our contractors that we represent don't compete in that market. They can't compete. And they don't want to, mainly because they are very different.

spend time mentoring them. This helps build the community.

Froonjian feels those communities are at risk.

"I think one of the questions that you can ask is, 'What happens 10 years from now?' " he said.

"The jobs that are being hurt are solid middle-class jobs. These jobs are for families who are able to live in good communities and are able to contribute taxes. We keep hearing about income inequality; these are middle-class families that are being hurt. And the more we lose the middle class, the less ability we have to fund the budget, to pay the taxes, to basically build our communities.

"That's a social cost that may be a little bit invisible, but over the long haul, it's going to hurt our state."

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So, what can be done?

The governor said his task force will offer ideas. The two academics on the panel offered theirs.

Kevin Duncan, a professor of economics at [Colorado State University](#) who has studied the impact of unions on the economy throughout the country, offered two ideas.

"In California, the state made certified payrolls publicly available information a few years ago," he said. "That helps a lot.

"It's easy for a worker to check that the number of workers on the job matches up to the number of workers on the payroll. That would discourage contractors from cheating on jobs."

Duncan said more can be done before jobs are awarded, too.

"You can create bid ordinances that establish criteria other than low bid for winning a contract," he said. "The contractors would have to get pre-qualified for bidding on a public contract. That might screen those contractors from bidding on a public job."

Froonjian said it's a numbers game.

"The state does 35,000 inspections in the field each year, but they are trying to monitor 100,000 businesses that are registered to do work on public projects," he said. "We're talking 600 school boards and more than 500 municipalities and state agencies. Twenty-five field inspectors are trying to monitor all that activity and it's just too much.

"The unions have said, 'We don't need many new laws here, we need the laws on the books to be enforced.' And it would be self-funding. The fines that are levied against the unscrupulous contractors could fund the enforcement activity. With more enforcement, you would get more fines and it would pay for itself. A lot of other states are more aggressive in policing this."

So why aren't more states doing more?

"I think we're in a political period where ideology drives a lot of political discussion," Froonjian said. "So, if you're a party which is pro-business, you don't want to upset people who are your contributors or who are on

“The governor has taken that very first step,” he said. “Actually, it was preceded by the appointment of a very knowledgeable and very caring and very aggressive commissioner of labor (Rob Asaro-Angelo).

“I think that is very encouraging for all of us in the building trades.”

Still, however, there appears to be a way to go.

Ballantyne said some examples of the underground economy are out in the open – but not dealt with.

“What’s really difficult – and, actually, shocking – is when you see independent contractors utilized on prevailing wage public works projects,” he said. “Then, not only does the state not receive the taxes from the wages that would come into the coffers and help move the state forward, but they strip away the ability to have highly skilled and qualified carpenters and contractors on their job.

“They also cheat the general public, because those wages are prescribed by law to be paid on job sites – and that doesn’t happen all the time because people are circumventing it as misclassified contractors.”

To whom would you talk ... and what would you say?

So, what’s the first step to fixing the underground construction problem? The six panelists at the ROI-NJ Thought Leadership event, New Jersey’s Underground Construction Economy, Bringing Billions of Dollars Above Ground, were asked this question: To whom would you talk ... and what would you say?

Danilo Barros, apprentice carpenter

Nonunion workers: I would tell them about the help the unions provide each worker. I would tell them I’m doing a much better job because I’m trained and it’s helping me grow. I’m not just staying in the same position, but I’m learning different types of trade, all different details you wouldn’t know if you were working nonunion. I would tell guys they don’t even know if they would like something else, because they don’t get a chance.

Kevin Duncan, professor of economics, Colorado State University

The governor: He has to understand the importance of skilled development of the industry, because it’s who is going to build your infrastructure. I would also make an appeal to all politicians in general about the fiscal impact and the tax revenue reduction that hurts the state. Those two things are important and usually are levers to get politicians motivated.

John Froomjian, senior research associate, Hughes Center for Public Policy at Stockton University

The general public: I want to talk to the average person in New Jersey who may think this is a victimless crime. That there’s not a whole lot going on and it doesn’t really affect them because they don’t work in the industry. But it’s an issue that affects all of New Jersey. It affects anyone who pays taxes or has work done. The average person needs to understand that this is affecting the entire state.

Darlene Regina, chief operating officer, Associated Construction Contractors of New Jersey



from growing, we are going to lose good contractors who offer people who want to go into the construction trades a career where they can stay here and they can live here. There will always be construction jobs. But that's exactly what it will be: A \$10-15 job where they are getting no benefits and they will have no way to gain any kind of a lifestyle here.

Richard Tolson, director, Bricklayers and Allied Craftworkers Administrative District Council of NJ

Anyone who will listen: We need to expose those that are making the most money. It's been going on too long. Some groups are making incredible fortunes on the backs of exploited workers. We need to expose them. Rental rates haven't come down. Lease rates haven't come down. Material costs are the same. And there are record profits. Where are these profits coming from? The backs of labor. I think the next element of our initiative is to educate the general public that there are those at the top that are taking advantage of all workers, not just union workers. It's a universal message that will be solved by identifying the bad elements and appealing to the conscious of all people.

(Editor's note: Between the time of this event and the date of this publication, the Northeast Regional Council of Carpenters was dissolved by the national organization. The locals that made up the Northeast Council were merged into other councils.)

Read more from ROI-NJ:

- 'This isn't a union issue – it's a fairness issue': Underground construction economy's impact
- Worker safety is big part of issue with underground construction economy

Tom Bergeron | tbergeron@roi-nj.com | tombergeron5

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