



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

JAMES F. BRENNAN  
44th Assembly District  
Kings County

CHAIR  
Committee on Corporations,  
Authorities,  
and Commissions

COMMITTEES  
Codes;  
Education;  
Real Property Taxation

June 19, 2014

Commissioner Joseph Martens  
Chair, Board of Directors  
New York State Environmental Facilities Corporation  
625 Broadway  
Albany, NY 12207-2997

Re: Tappan Zee Bridge Project

Dear Commissioner Martens:

In a press release issued on Monday, June 16, Governor Cuomo announced that the Environmental Facilities Corporation (“EFC”) will be lending, from its Clean Water State Revolving Fund (“CWSRF”), the amount of \$511.45 million to the Thruway Authority to pay for certain environmental projects relating to the construction of the New New York Bridge project to replace the Tappan Zee bridge. According to newspaper articles, the EFC Board is scheduled to vote on this proposal on Thursday, June 26.

For the following reasons, we are writing to urge the board to postpone voting on this matter until the EPA, the public and other interested parties have the opportunity to review, consider and provide comments on this proposal:

1. Violation of State law. Current law authorizes the EFC to extend credit and make loans for the construction or acquisition of a project. (Public Authorities Law, §1285-b) The term “project” is defined to mean: any sewage treatment works, sewage collecting systems, solid waste disposal facilities, air pollution control facility, water management facility, industrial hazardous waste treatment, storage, exchange and disposal facility, inactive hazardous waste disposal site remedial program, storm water collecting system, and waste oil recovery, reprocessing and rerefining facilities. (PAL, §1285(15)).

Moreover, the EFC website states that the purpose of the CWSRF is to provide “low-interest rate financing to municipalities to construct water quality protection projects such as sewer and wastewater treatment facilities”.

Based on the projects listed in the Governor’s press release, we have serious doubts and questions over whether these projects come within the statutory definition, and whether they are consistent with both the statutory purposes of the EFC and the purposes of the CWSRF.



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2. EPA concerns. Our offices have learned that the U.S. Environmental Protection Agency is currently reviewing the Governor's proposal to determine whether it is authorized or allowed under applicable Federal laws and regulations or the Comprehensive Conservation Management Plan.

6/19/14

Since the EPA will ultimately have to approve this proposal, it would be wise to postpone voting on this matter until the EPA has completed its review and made its determination.

3. New York City funds. Some parties have expressed the concern that only New York City projects are eligible for these funds. That the City may have declined to use these monies in the current fiscal year does not mean that such funds can legally be diverted to help construct the New New York Bridge.

Please provide us with EFC's legal analysis supporting the use of funds allocated to New York City to pay for the projects proposed in the Governor's press release.

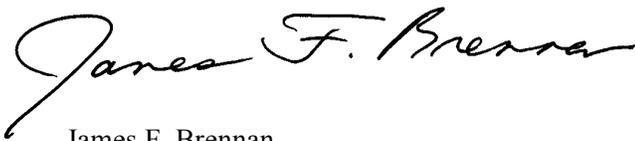
4. Absence of public notice. We are particularly concerned over the how this proposal was announced. The announcement was made on Monday, June 16, with the EFC vote scheduled to be taken on June 26. (We note that, as of the date of this letter, there has been no public agenda for the scheduled board meeting to take place on that date; the date was reported in various newspaper articles.) Ten days is clearly insufficient for the public and other interested parties to review, consider and comment on this very complex and unusual proposal.

According to the 2013 Report Card for America's Infrastructure, published by the American Society of Civil Engineers, the State of New York has reported \$27 billion in drinking water infrastructure needs and \$29.7 billion in wastewater infrastructure needs over the next 20 years. We are very concerned that the diversion of this funding to build a new bridge will have an adverse impact on current and future sewage and water treatment projects in NYC.

For the forgoing reasons, we urge you and the other members of the board to postpone taking any action on this matter, to provide the public a reasonable and meaningful period of time to comment, and to allow the EPA to complete its review and consideration of this proposal.

Thank you for your attention to this matter.

Yours truly



James F. Brennan  
Member of Assembly

Daniel J. O'Donnell  
Member of Assembly

Brian Kavanagh  
Member of Assembly

cc: Matthew J. Driscoll  
Cesar A. Perales  
Francis T. Corcoran  
Charles Kruzansky  
Vita DeMarchi