



# THE ACT REPORT

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## In Legislature

# ACT Fights Off Industry, Wins Study Of CPA

The ACT Foundation's Community Protection Act will undergo a year-long study by the West Virginia Legislature.

That was the outcome of intense fighting between the West Virginia Manufacturers Association and ACT during the final two weeks of the Legislature's 1994 regular session.

It was a victory for ACT.

Both industry and non-union contractors wanted nothing to do with even studying whether there might be a community hazard to allowing unskilled outside construction workers to build highly dangerous industrial facilities in West Virginia.

And that's exactly what ACT's Community Protection Act (CPA) is targeted against.

Under the proposal, outside contractors employed by industry to build dangerous facilities would have to hire only those workers whose skills in their trades have been certified by the State Labor Commissioner.

The concept is a new one in the building and construction industry. Devised by ACT, its intent is to insure the safety of communities located near dangerous facilities such as chemical and power plants by requiring that those who build such

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PROTESTING FOR THEIR RIGHT to a union recognition election are Brown & Root construction workers and Charleston Building and Construction Trades Council officials. They picketed the NLRB headquarters in Washington, D.C. on March 10.

## Brown & Root 'Non-Vote' Taken To NLRB's Office

On March 10 local construction workers carried their fight for union representation at

Brown & Root Construction to Washington, DC.

Joined by building trades members from DC, the group demonstrated at the National Labor Relations Board to protest the board's failure to set a date for a Brown & Root union recognition election after nearly a year.

The Charleston Building and Trades Council petitioned in late March, 1993, for an election among workers employed by Brown & Root, one of the world's largest construction corporations, at three local chemical plants -- Union Carbide, Rhone-Poulenc and DuPont.

"We went through months of NLRB hearings and jumped through all their procedural hoops a long time ago. Twelve months is too long to wait for an election date. Justice delayed is justice denied," said Steve Midkiff, an organizer for the Charleston Building and Con-

struction Trades Council.

"The last time I checked, West Virginia was still part of the United States. We're confident we can win this election. All we're asking for is the chance to vote," Midkiff said.

After demonstrating outside the office the group moved inside and met with NLRB officials for thirty minutes. They

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were promised that the Charleston Trades election petition would receive priority treatment.

According to Building Trades business manager Bubby Casto the election effort may now be on track. "We've heard from sources inside the NLRB that our case is finally moving forward. The guys on the job have put up with intimidation and harassment but they are hanging in there. If we can get a fair election we will win," commented Casto.

## Chemical Plants Lose Special Rates

# ACT Fights Pollution Tax Break

Does global competition justify tax breaks for polluted land? Don't try that argument in Kanawha County.

Last month both Union Carbide and Rhone Poulenc learned that the assessments on their land would be raised by about \$18 million.

The increased assessments will bring in about \$600,000 in additional taxes.

Union Carbide and Rhone Poulenc have been discounting their property taxes for years because of pollution.

But Commissioners Duke Bloom and Bill Reese didn't buy the argument that polluted land deserved a tax break.

At a board of equalization and review meeting Commission President Bloom said, "I have a problem with someone being able to contaminate their own prop-

## Tax Break

erty and pull their bootstraps up and get reduced taxes...

"If they're required to clean up their property, that's their responsibility. And we should consider in detail any evidence of contamination, including what contaminants are there, plans for clean up, monitoring and EPA monitoring and whether they're contaminating in our water table."

Property taxes have been on the rise for all state residents as reappraisals move forward.

However, ACT discovered that many large corporations are getting tax breaks while the average citizen is paying more.

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# North-Central Building Trades Council Believes 'Definitely ACT Is The Answer'

The North Central West Virginia Building and Construction Trades Council, AFL-CIO has jurisdiction in 19 counties, including the Eastern panhandle covering 8,303 square miles.

There are 42 local unions with jurisdiction in this council area, which also is allied with 13 other labor organizations, including the Affiliated Construction Trades Foundation.

Charles Finkenbinder, business manager, estimates an average of 150 members in each local union for a total of roughly 6,000 to 8,000 members.

## ACT Watches Cancer Creek Die Slow Death

The Cancer Creek Bill died a slow death during the recent regular session of the West Virginia Legislature.

While ACT focused on the Community Protection Act during the session, ACT representatives nevertheless also closely watched the Cancer Creek issue.

At one point midway through the session, industry made a side attack to include language called "parity" in a massive bill reorganizing the Department of Environmental Protection (EPA). Had industry had its version of parity, it would have paved the way for Cancer Creek type laws.

This was headed off, although a weakened version of parity did pass.

Several of the local unions are ACT members, and Finkenbinder is also a member through the Building Trades Council.

He said that ACT helps in a variety of ways: research, manpower, legislative, advertising, and money--things that every Local needs more of.

"ACT helps with researching various projects as to whether or not the companies are paying prevailing wage. They have the time and the manpower to research projects," he said. "That

really gives this council a boost."

Finkenbinder said he is particularly impressed with the prevailing wage program.

"This is something we have needed to do for a long time but the local councils didn't have time to cover all the projects. The prevailing wage monitoring has helped us a lot with letters and investigations."

According to Finkenbinder, his local unions and members have the same problems as union members all over the country,

with the constant battle with the non-union element.

He said one of the biggest fears is that anti-union Brown & Root will spread up to his area. He hopes with the help of ACT and the Charleston building trades it won't get into his area.

"I hope they keep the anti-union contractors out of the state," he said. "I know a lot of us are counting on it."

Finkenbinder believes actions at the Legislature are important for the council right now.

"If the Community Protection Act passed, it would be a big help to organized labor. It would force contractors to use only skilled manpower -- the same thing our contractors have been doing all along."

With this bill, the general public would be better off too -- a whole lot safer."

Finkenbinder also added that his council supports the Cancer Creek fight and other legislation as endorsed by the West Virginia Labor Federation, AFL-CIO.

"I definitely think ACT is the answer to the construction problem. By banding together we have the manpower and the money to fight the elements that are against working people and our way of life."

## Boilermakers' McCormick Gets Top Post

James McCormick, business manager of Boilermakers Local Union 667, has been named assistant to International President Charles W. Jones.

McCormick replaces retiring International Representative A.E. Walser of Kernersville, North Carolina.

Handling grievances, job and jurisdiction disputes, arbitration, contract negotiations, and otherwise helping President Jones will be among his new duties which will begin April 1.

Locals he will represent include Local 667 of Winfield, W. Va., Local 154 of Pittsburgh, Pa., Local 30 of Greensboro, NC., Local 105 of Chillicothe, Ohio, and Local 40 of Elizabeth Town, Ky.

The International Boilermakers Union has about 80,000 members, of which 25,000 are construction workers.

Assistant Agent Ron Bush will take over the duties of Business Manager of Local 667 until elections are held this spring.

### LIGHTS...CAMERA...ACTION!



ACTING NATURALLY while filming a commercial for ACT's "Building A Better Community" series is Rick McCullough, left, of Parkersburg.

The advertisement was taped February 26 at the Millwrights Local 1755 in Parkersburg. The series is currently being aired on statewide television stations.

Despite a mild attack of the nervous jitters, Tonya Dotson, right, and Wayne Kerby, not pictured, also successfully completed filming for the commercial.

The ad focused on union safety, and is the fifth to be completed in the series of seven, including health care, pensions, and other benefits to the community.



## Inquiry Turns Up Low Wage Rates

ACT's fair contracting program can help on union jobs too.

Tim Millne, ACT's fair contracting representative, worked with Dwight Sutton of Teamsters Local 175 to cut through miles of red tape on the Winfield Lock and Dam project.

Employees of Wayne Bayliss Trucking, a signatory company, were not getting the prevailing

rate on the project. Federal prevailing wage law is very complicated when Teamsters are involved. Sometimes the rates apply and sometimes they don't.

Millne first contacted the US Army Corps of Engineers in January and again in February about the Winfield project requesting payrolls and a clarification on the teamster rates.

In the process of locating the documents for Millne, the government discovered that the employer had received the wrong information on wage rates.

"Our main goal is to catch cheaters," commented Millne. "But we can play a role helping fair contractors get the right wage determinations too."

When the errors were discov-

ered, the company immediately corrected them. Seven employees were reimbursed over \$12,000 in back pay.

"These federal jobs can be a paper nightmare for employees, contractors and unions," said Sutton. "ACT helped us all get to the bottom of the problem and we easily reached a solution that satisfied everyone."

## Penalty Largest In State History

# Rhone-Poulenc Hit By \$1.6 Million Fine

Six months after the explosion that claimed the life of a Rhone-Poulenc worker, the Department of Labor's Occupational Safety and Health Administration (OSHA) hit the company with the largest safety fine in West Virginia history, \$1.6 million.

U.S. Labor Secretary Robert B. Reich said the citations against Rhone-Poulenc are part of a coordinated effort by the Department of Labor to bring the full force of the law to bear against employers who fail to follow basic safety standards.

"All workers should be able

to do their jobs without fear of injury due to employer negligence. I have directed the departments OSHA to take action against corporate bad actors who put competitive advantage over the safety of their workers," Reich said.

Rhone-Poulenc was accused of 24 willful violations, "committed with an intentional disregard of, or plain indifference to" federal safety regulations, and three serious violations.

The citations included allegations that the company held no inspections or tests of the piping system on its Larvin unit; failed to correct unit deficiencies; and failed to investigate near-miss incidents.

Further, the company's report of its own investigation was inaccurate, OSHA said.

Many representatives of the citizen committee formed to monitor the independent investigation have been saying all along that Rhone-Poulenc's study was faulty.

"When Rhone-Poulenc gave us their executive summary, it didn't have anything of value in it. They didn't answer our questions about that explosion," said Bill Thomas, ACT Industrial Representative, and committee member.

"It seemed as if they were trying to hide something. Now it looks as if we were right."

"We have been warning people that bringing Brown & Root into the Kanawha Valley would put the public at risk. To date Rhone-Poulenc has not been able to disqualify Brown & Root as a potential cause of the August incident. At the same time

## Tax Break

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One reason was the polluted land loop-hole.

About 80 percent of property taxes go to county schools. The rest is divided between municipal and county budgets.

## After 1980 Merger

# Parkersburg/Marietta Council Maintains Balance For States

In 1980, the Parkersburg and Marietta Building & Construction Trades Councils merged into the Parkersburg-Marietta Building & Construction Trades Council.

Since then, the council has tried to maintain an even split with the officers -- if the president is from West Virginia, then the vice president is from Ohio.

"We try to be equal from both sides," said John Seafler, business manager.

The council covers six counties in Ohio, and eight in West Virginia, and has about 50 affiliates in good standing. Seafler estimates the membership to be around 5,000 people. Eight locals are ACT members.

When the combined councils opened, Seafler and Pam Smith, the secretary, were the only employees. In 1991, Steve Crum was added to as an organizer.

Seafler said that the councils membership has been fortunate, as far as employment goes, for the last five or six years.

"We've had about 80 percent employment, not in every craft, but that's been the average. Right now it's beginning to decrease"

The threat of non-union labor is one of the hindrances that his members must overcome.

"That and the attitude of potential clients or owners who look at the bottom line as a dollar

sign, and not quality," he added.

Seafler said the Ohio Valley is still looking pretty good, though. "Work seems to be shifting from the West Virginia to the Ohio side, but that's okay. We're still maintaining employment. Our members used to do a lot of work at Dupont, GE, and Ravenswood Aluminum. Now they're removing to Shell, Amoco, and other plants in Ohio. It's a matter of shuffling workers around, but they're still working."

His council was one of the first to support ACT, he said.

"We financed some mass meetings and communications to get it established."

Advertising is strong everywhere, he said, and the council has received results from it.

"We've had negative comments from industry on the Community Protection Act advertising, and positive comments about our health care and safety training, really a lot of good comments on that, not only from industry, but the community in general," he said.

As for other benefits that ACT offers, Seafler said that research plays a major role.

"It's important for various organizations to have a reliable resource to come to for research," he said.

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they may award them the contract to rebuild the unit," commented Thomas.

OSHA officials say the explosion was caused by an increase of chlorine into the Larvin unit in an effort to increase the product's yield. The excess chlorine led to plugging of the reactor loop on several occasions.

If Rhone-Poulenc had investigated those plugging incidents, the August explosion may have been avoided, officials say.

While Rhone-Poulenc is arguing the fines are not justified many disagree.

"If OSHA hadn't thought that the citations against Rhone-Poulenc were serious enough to warrant the fines, they wouldn't have given them in the first place. I think the company should pay them," said Thomas.

Rhone-Poulenc has been plagued with problems for the past year. Last May there was a

chlorine leak that sent five workers to the hospital and forced area residents to shelter in place.

The company also was fined \$300,000 by the U. S. Environmental Protection Agency last May over multiple violations of hazardous waste laws. EPA also fined Rhone-Poulenc \$900,000 for violations regarding hazardous waste that is incinerated in their boiler.

Local citizens, community and labor groups, and faculty at West Virginia State College are circulating a petition demanding Rhone-Poulenc fund a complete safety and environmental audit.

According to Pam Nixon, president of People Concerned about MIC, the problems with Rhone-Poulenc have been going on for years and not getting any better. "We've had meetings and talked and talked with company officials for too long. It's time for some results."

## PICKET LINE REACTIONS

### "Respect Picket Lines!"

**A good union member is extremely careful when confronted with a picket line situation. When a picket line is established on a job where he or she is working:**

1. He **leaves** -- he **does not talk** -- just leaves.
2. He **reads the picket sign** as he leaves.
3. He **does not hang around** near the job.
4. He knows that **once a picket line is established**, his Business Agents and other union officials are **legally gagged and handcuffed** from giving advice pertaining to that job. They can **only** tell him if the picket line is authorized.
5. He **does not allow himself to be drawn into conversations** with anyone at the job site.

### **A Good Union Member Knows His Rights**

- A. He has the right to work behind **any** picket line.
- B. He has the right to **decide for himself** whether to walk off a job being picketed.
- C. He understands that his trade **may be under attack next**.
- D. He knows that a two gate system **means a picket line** and he has the **right not to work**, no matter how many gates the employer sets up.

## Know Your Rights!

✂ *Clip and save for later reference.* ✂

## Allen Fisher Retires

# State Labor Commissioner Resigns To Take New Post With State Trades Council

Roy Smith, West Virginia's State Labor Commissioner, has been named secretary-treasurer of the West Virginia State Building and Construction Trades Council.

Smith's resignation from state government was announced March 15. He was to take over his new post with the state building and construction trades council on March 21.

On that date Smith replaces Allen Fisher. Fisher is retiring after 17 years as secretary-treasurer of the state council. He also was executive director of ACT since its inception in December, 1991.

Smith now becomes ACT's executive director.

At ACT's constitutional conference in February, Fisher was voted an honorary member of the executive board in acknowledgment of his vision and dedication to service.

Smith began his career in organized labor as an electrician apprentice with the International Brotherhood of Electrical Workers Local 872 in Beckley.

He also served as treasurer, president, and business manager at the Beckley local. Smith is currently a member of IBEW Local 466 of Charleston.



**ROY SMITH**  
*Taking Over*

Smith said the work he's most proud of since taking the position of Labor Commissioner in January, 1989, was the passage and enactment of the Contractors Licensing Act and the Elevator Safety Act.

While the elevator safety program has just gotten off the ground, contractor licensing has been functioning very successfully since 1991, Smith said.

"It currently lists more than 17,000 licensed contractors in the state of West Virginia," he said.

Even though ACT was created after Smith took office, he kept up to date on its progress while he was state labor commissioner.

"I intend to become active," Smith said of his new dual roles with the state council and ACT. "I feel very positive about ACT. It definitely is making its place in the labor movement."

## B&R Seeks Vote Delay — Again!

The Charleston Building & Construction Trades Council's organizer for Brown & Root has accused the non-union construction giant of trying to further

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delay a union vote of B&R's Kanawha Valley workers.

Brown & Root officials recently asked the National Labor Relations Board to reopen hearings on the holding of a union

recognition election for the corporation's employees at Union Carbide, DuPont and Rhone-Poulenc chemical plants.

"It's a last-ditch attempt to delay the vote," said the Charleston trades council's Steve Midkiff. "We don't want to see that happen."

NLRB officials said the vote has been delayed because new

labor board members appointed by President Clinton's administration weren't approved by Congress until recently.

B&R in its new move to get the NLRB to reopen hearings on the election argued a drop in the number of workers it employs at the plant means labor officials should reconsider how many should vote in the election.

## Parkersburg/Marietta

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"Research on permits and actual fundamentals, that kind of technical assistance, has been a lot of help. It gives us a chance to speak about something like water pollution with authority.

"That helps us with the overall cause of putting qualified

people to work, rather than focusing only on the dollar as the bottom line."

Seafiler said there are several locals in his area reviewing their lack of ACT membership.

"I think the concept behind ACT is exceptionally good," Seafiler said.

## Legislative Study Set For CPA Bill

(Continued From Page 1)

facilities know how to perform the work for which they're hired.

The Community Protection Act would not affect in-plant employees despite industry efforts to leave that impression.

Working not so quietly behind the scenes in opposing any legislative action whatsoever on the CPA bill was Brown & Root of Texas, one of the nation's construction industry giants.

Non-union Brown & Root has been hired by Union Carbide, DuPont and Rhone-Poulenc to replace unionized construction contractors in Kanawha County.

A B&R representative not only testified against the CPA in a public hearing held Feb. 24 by the Senate Judiciary Committee, it also sought to feed misinformation to legislators about the legality of passing the CPA.

Also testifying against were Elmer Fike, representatives from Dupont and Mike Clowser, Executive Director of the West Virginia Contractors Assn.

Among those speaking for ACT at the hearing in behalf of the CPA were Stuart Calwell, ACT's lawyer, and ACT Director Steve White.

Additionally, concerned residents of communities located near chemical plants and the West Virginia Construction Council gave their endorsement.

While a head count indicated ACT had a majority on the com-

mittee to put the bill before the full Senate, Judiciary Chairman William Wooten, D-Raleigh, suggested the year-long study.

"Legislation like this hardly ever gets passed the first year its introduced," Wooten advised ACT leaders. "It's better to let legislators study it between sessions so they'll become more informed on it."

ACT decided to follow Wooten's advice and the Senate quickly passed a resolution ordering one. But industry indicated it opposed even a study.

Industry representatives hurried to head off passage of the CPA study in the House of Delegates. Their effort was pinned on mis-informing legislators that federal OSHA regulations prohibited enactment of the CPA.

In reality, according to Calwell, no prohibition exists. Calwell said OSHA rules target the "training" of workers for in-plant process safety, while the CPA focuses on whether construction performed by workers is sufficiently "skilled" to protect neighboring communities.

"It's like the difference between driving a car and building one. OSHA mandates training to run a plant but nothing on how to build one," said Calwell.

ACT representatives beat industry to House leaders, however, and were assured the study resolution would pass.

It did on March 12th, the final day of the legislative session.

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