

# THE ACT REPORT

VOLUME 18 NUMBER 4  
APRIL 2009



A PUBLICATION OF  
THE AFFILIATED  
CONSTRUCTION  
TRADES FOUNDATION

The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council. Steve Burton, President; Dave Efaw, Secretary-Treasurer; Steve White, Director.

Charleston - (304) 345-7570  
Toll Free - (800) 930-9675  
www.actwv.org



**INSIDE**  
Alcohol & Drug Pg. 2  
Unemployment Pg. 2  
Crane Operator Pg. 3  
Power Wagon Pg. 3  
Illegally Fired Pg. 4  
Union Trades Pg. 4

## CRANE & DRUG FREE BILLS PASS

# 2009 LEGISLATIVE SESSION OVER

**Passage of legislation to update crane operator legislation and the Alcohol and Drug Free Act were two successful efforts of ACT and the WV State Building Trades.**

However a bill to require contractors show their workers have health insurance on public projects failed as well as a bill that would have required contractors to list their sub-contractors within two hours of a bid.

A bill to allow more design-build projects for highways passed.

Ten projects worth up to \$150 million total may use the new method in the next three years.

In addition if new funds come from Washington then even more design build projects may result.

The WV State Building Trades took the lead on a bill to provide all workers with a paid break for each four hours of work.

A similar law is in Kentucky and other states.

The bill passed the House of Delegates but failed to get out of the Senate Labor Committee.

“The Chamber of Commerce and Hospital Association both had issues with the bill, we just

ran out of time in the Senate,” said Del. Dave Walker (D-Clay) who was the lead sponsor of the bill and is a member of Operating Engineers Local 132.

Bills helping workers regard-

ing unemployment (see story) and workers compensation passed.

The workers compensation bill will provide a higher mileage

*Continued on p. 3*



**TALKING WITH BUILDING Trades members on the floor of the House of Delegates are Ronnie Burdette (center left) and Chuck Parker (center right) from Operating Engineers Local 132. The four members of the Building Trades elected to the House of Delegates give construction workers a loud voice when it comes to laws concerning them, (from left) Del. Dan Poling (D-Wood/Painters); Del. Dave Walker (D-Clay/Operating Engineers), and (from right) Del. Orphy Klempa (D-Ohio/Carpenters) and the newest Building Trades member Del. Greg Butcher (D-Logan/Operating Engineers).**

## PSC DENIES PETITION TO REHEAR

# CONSTRUCTION TO START ON \$300 MILLION GREENBRIER COUNTY WIND FARM WITHIN WEEKS

**After years of struggle a major wind project will finally start construction, likely by the end of the month.**

The latest action by the West Virginia Public Service Commission to deny a petition to rehear

the Beech Ridge Wind Farm case took place on April 3.

Developer Invenergy LLC has chosen White Construction of Indiana to lead the construction effort for the \$300 million project.

Aldridge Electric from Illinois will be the main electrical contractor on site.

Both companies have already met with the Charleston Building Trades to work out pre-job jurisdiction issues.

According to Chris Bunning of White Construction the company hopes to start work by the end of April and will have an aggressive schedule.

Phase one of the project will

be to erect 67 turbines by the end of the year and get them into operation.

According to the developer the 67 turbines represent over 100 megawatts of renewable electricity capacity which will be sold to Appalachian Power.

“We are very pleased that the

*Continued on p. 3*

# ALCOHOL AND DRUG FREE ACT EXPANDED

**P**assage of H.B. 2771 means requirements of the Alcohol and Drug Free Act now apply to city, county and other local government construction projects.

Last year legislation created the Act but only for state projects.

Each contractor bidding a project must have an alcohol and drug free program in place that meets the requirements of the law.

For the most part union workers and contractors are familiar with the nine panel test used for pre-employment, post accident and random testing.

In addition training for workers and supervisors is required.

The new law will create a basic report each prime contractor must file at the end of the job showing they have done the required testing and training. Ohio has similar reporting requirements.

Only on projects costing more than \$100,000 will the pro-

grams be mandatory.

The current limit is \$25,000 on State projects but the limit was raised as a compromise to pass the bill.

"It's a safety issue and we resisted many attempts to weaken the bill," said Del. Dan Poling, (D-Wood) who was the lead sponsor.

Amendments to only cover projects over \$1 million, to exempt employers with less than 15 employees and to cut out the county and city projects all failed, after some long debates.

One thing that helped get the law passed was a good showing of building trades members at a key Judiciary Committee meeting.

"We had about 25 people in the room and that showed the Senators we were serious," said Dave Efaw, Secretary-Treasurer of the WV State Building Trades.

Sen. Jeff Kessler (D-Marshall), Chair of the Judiciary Committee, was also key to its passage.

During the year ACT Representatives had gone to numerous

County Commission meetings explaining the proposal and getting local support.

During one floor debate Sen. Brooks McCabe (D-Kanawha) read the list of 18 resolutions to show county support.

In the end it was two important points that made the case.

Construction is dangerous and the use of illegal drugs and alcohol is high.

A 2007 government survey showed the construction indus-

try had the second highest rate of workers who use illegal drugs at 14 percent. Only food service workers had a higher rate.

The bill passed on the final day of the session and goes into effect July 10.



**MEMBERS OF THE Building Trades look on as Del. Tim Manchin (D-Marion) (standing) prepares to chair a meeting of the House Political Subdivisions Committee which took up the Alcohol and Drug Free bill and passed it out. The bill then went to House Judiciary, the full House, Senate Judiciary and the full Senate before passing on the final day of the legislature.**

# STATE UNEMPLOYMENT FUND RESCUED

**C**ollapse of the Unemployment Trust Fund will be avoided this year thanks to measures taken at the legislature.

Employers will be required to pay more into the fund and \$40 million will be transferred from a workers compensation reserve fund to slow the drain high unemployment is having.

With unemployment rates at 7.5 percent, almost double last years numbers, the fund could have gone broke as early as the end of this year if nothing was

done.

Then the state would be required to borrow money from the federal government and pay interest and penalties.

In West Virginia employers pay into the fund for the first \$8,000 of wages they pay an employee each year.

One of the problems is the \$8,000 level has been the same since 1981.

Employers in other states on average pay into their funds for

the first \$13,750 of payroll.

The new law will raise the level to \$12,000, at least until the

payroll tax.

ACT's Steve White took the lead for Labor in the negotiations on the bill.

"Everyone agreed we didn't want the fund to go broke, and it wasn't fair to have a payroll tax with the employer rate still at the 1981 level," said White.

An 'employer violator system' was added to the law so companies, and their owners, who default on payments would be tracked and banned from

state contracts.

An estimated \$155 million extra, about double what the fund would normally get, will be needed just to meet the needs expected this year.

Some Republicans tried to use tax payers money to bail out employers.

But Federal law requires states to have an unemployment program funded by primarily by employers.

At least 14 states, including Ohio, Kentucky, Pennsylvania, and North Carolina, have already borrowed almost \$6 billion to keep their funds solvent.

**"EVERYONE AGREED WE DIDN'T WANT THE FUND TO GO BROKE," STEVE WHITE, DIRECTOR, AFFILIATED CONSTRUCTION TRADES**

fund gets in better shape.

A payroll tax, like was done in the 1980's when the fund was in trouble, was proposed that would have cost workers more than \$40 million each year.

But House leaders rejected

# UPDATE MADE TO CRANE OPERATOR LICENSE LAW

**Changes to the crane operator certification law supported by the Operating Engineers has passed the legislature.**

H.B. 3076 added a new license category for Tower Crane operators and also updated some license terms in the law.

The Crane Operator Certification Act went into effect in 2001 and has proven to be very successful legislation.

The law is based on a national standard for crane operator certification developed by the Na-

tional Commission for the Certification of Crane Operators, a group made up from manufacturers, contractors, labor and safety representatives.

In the old law, crane operators could get a license for small and large telescoping boom cranes. But national groups are using different language, fixed-cab and swing-cab, for these license categories. The Crane bill will simply change the category names and allow those who already have a license to automatically move to the newly named category.

Chuck Parker, Training Direc-

tor for Operating Engineers Local 132, led the effort to pass the bill. "If you have a small telescoping boom license then next time you renew it will come back as a fixed cab license, nothing changes but the name," explained Parker.

"If you only have a large telescoping boom license you will get a choice when your license renews on which category you want - fixed or swing cab."

West Virginia has one of the best crane operator licensing laws in the nation which put workers ahead of new federal changes proposed by OSHA.

## LEGISLATIVE

*CONTINUED FROM P. 1*

reimbursement for injured workers. The current rate is only 15 cents per mile.

Strong measures to hold prime contractors responsible for their sub-contractors workers compensation payments ended up getting watered down but some gains were made.

A number of bills that would have added money for construction projects also failed including a proposal by Governor Manchin to tax electric transmission lines and send a major part of the \$130 million raised each year to infrastructure projects.

A bill sponsored by Sen. Bob Plymale (D-Wayne) could have created around \$250 million for higher education school construction but the bill died in the final days in the House.

"We may have a chance to take a second look at these bills when we come back to do the budget," said Del. Orphy Klempa (D-Ohio), a member of the Carpenters who is on the Finance Committee.

A measure to freeze the gas tax formula also died in the House in the final days.

Each year a portion of the West Virginia gas tax is calculated based on the price of fuel.

It is estimated lower rates this year will lower the tax around five cents at the end of the year.

Each cent costs the Highway Fund \$14 million and means federal matching money will not be secured.

The tax was frozen last year to help consumers with high gas prices.

Two bills aimed at election laws failed.

One called the "Clean Elections" bill would give candidates funds to run their election if they pledged not to take money from other sources.

Another bill would have required more disclosure of who funds ads at election time.

Making sure new laws don't hurt is also important.

Sometimes its better when a bill dies.

Building Trades leaders had been carefully watching a bill that would allow schools to be built by private developers and then leased to county school boards.

Concerns over bidding, prevailing wages, and quality construction were a few issues that were not clear.

The bill passed the Senate but failed to move in the House.

Instead the bill will be studied over the year to see if there are real advantages to the private finance methods proposed.

tion workers this month."

The development effort has lasted nearly four years, and has resulted in the Beech Ridge Wind Farm undergoing the most intense scrutiny ever given to a West Virginia wind project by state and federal regulators and the state's Supreme Court.

The project will start at the same time the Legislature has passed a requirement that 25 percent of all electricity generated in the state come from renewable and clean-coal sources by the year 2025.

## WV CARPENTER COUNCIL DEMONSTRATES POWER WAGON



**MEMBERS OF THE Mid-Atlantic Regional Council of Carpenters were on hand at the Capitol in Charleston to demonstrate a new union-built in West Virginia product called the Power Wagon. It's a portable trailer that recharges as you drive and can produce electricity to run a construction site or for emergency response.**

## WIND FARM

*CONTINUED FROM P. 1*

PSC has rejected the request that it reconsider its decision in the Beech Ridge Wind case," said Dave Groberg, Invenergy LLC Vice President of Development.

"It is our intention to move immediately forward with the construction of the project.

We are ready to do our part to improve the current difficult economic conditions in Greenbrier County, including hiring skilled West Virginia construc-

**EMPLOYEE FREE CHOICE ACT INTRODUCED****WORKERS ILLEGALLY FIRED IN 26% OF UNION ELECTION CAMPAIGNS**

**O**ne major reason why unions are supporting the Employee Free Choice Act is the current unfair system workers face when trying to form a union.

According to a recent report 26 percent of union-representation elections in 2007 were marred by the illegal firing of a pro-union worker.

The paper, "Dropping the Ax: Illegal Firings During Union Election Campaigns, 1951-

2007," by John Schmitt and Ben Zipperer, was originally published in the Harvard Law Review and the University of Chicago Law Review.

The report finds a significant increase in the current decade in the share of union-representation elections where workers have been fired for supporting the creation of a union.

The report was produced by the Center for Economic and Policy Research (CEPR).

"Aggressive actions by employers -- often including illegal firings -- have significantly under-

mined the ability of U.S. workers to unionize their workplaces," said John Schmitt, CEPR senior economist and lead author of the report.

"The financial penalties for illegal actions, including firing pro-union workers, are minimal, so it makes perfect sense for employers to break the law to derail union-organizing efforts."

The study finds that pro-union workers were fired in 26 percent of union election campaigns over the period 2001-2007 (most recent available data).

The 26 percent rate is up from about 16 percent in the last half of the 1990s.

The U.S. House and Senate both introduced the Employee Free Choice Act on March 10, launching the legislative battle to restore workers' freedom to

form unions and bargain for a better life.

It has been reported that business groups are spending hundreds of millions of dollars to defeat the measure.

To view the full report go to [www.cepr.net](http://www.cepr.net).

ACT Foundation  
600 Leon Sullivan Way  
Charleston, WV 25301  
(304) 345-7570

Non-Profit Org.  
U.S. Postage  
PAID  
Permit # 1374  
Charleston, WV 25301

**STATE BUILDING TRADES PLANNING SESSION HELD**

**MEMBERS OF THE West Virginia State Building Trades participate in a planning session earlier this year facilitated by Steve Cook (standing) of the WVU Institute for Labor Studies and Research. The session yielded new projects for ACT and the State Building Trades to deal with the economic downturn in a more aggressive way.**

**Union Trades**  
Federal Credit Union

**Remember the Annual Spring Car Sale at Parkersburg City Park on May 7th, 8th and 9th. A Special 4.5% rate for 60 months is being offered with discounts available. This is one sale you or your pocketbook can't afford to miss!!**

**Union Trades**  
Federal Credit Union

**Savings are just a clip away**

**Receive 1% off April Loan Rates**

Bring this coupon to Union Trades Credit Union to receive an extra 1% discount off our already low rates.

Certain loan types excluded. Other loan discounts do not apply. Coupon valid on new loans only. See a loan officer for details.

**Offer Expires 04/30/09**

1925 Murdoch Avenue  
Parkersburg, WV 26102  
(304) 485-1421 fax 485-1487  
toll free 1 888 524-1421  
[reception@uniontradesfcu.com](mailto:reception@uniontradesfcu.com)

600 Leon Sullivan Way, Suite 101  
Charleston, WV 25301  
(304) 344-0194 fax 344-0195  
toll free 1 800 450-8530  
[receptionchas@uniontradesfcu.com](mailto:receptionchas@uniontradesfcu.com)