

# THE ACT REPORT

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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.

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## NEW TRANSMISSION TAX PROPOSED

# 2009 LEGISLATIVE SESSION PASSES HALFWAY MARK

**The 2009 legislative session is more than halfway over and progress has been slow on bills promoted by ACT and the State Building Trades.**

The Health Care on Public Works bill has passed the House Health Committee and is now before the House Judiciary Committee.

H.B. 2478 would require contractors to show construction workers have health insurance for at least 80 percent of the hours worked on large public construction projects.

Public projects include money for benefits but some companies do not offer health plans. The bill would make sure most of the workers on public projects do not go without health care coverage.

Nonunion contractor opposition has stopped the bill in prior years.

The updated Alcohol and Drug Free Workplace bill was on the agenda of the House Po-

litical Subdivisions Committee in early March but failed to get voted on. An unrelated bill caused long debate and the committee eventually ran out of time.

As the ACT Report goes to

press the bill is again on the agenda for March 11.

On the agenda for consideration in the House Energy, Industry and Labor Committee is a bill to provide a 15 minute paid

break after four hours of work - H.B. 2686

Current law provides for an unpaid 20 minute break after six hours of work. The Committee

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**TALKING POLITICS AT the State Capitol are (from left) Sen. Jack Yost (D-Brooke), Bill Dean, Iron Workers; Tim 'Squirrel' Jividen, WV State Pipe Trades; Dave Efaw, WV State Building Trades; and former State Building Trades Secretary-Treasurer Roy Smith. A weekly meeting with labor endorsed Senators and Delegates is organized by the WV AFL-CIO.**

## MAN TIED TO \$2 MILLION STATE DEBT ALLOWED TO BID PUBLIC JOB

**A painting company once banned from bidding state and federal projects has resurfaced as a low bidder on a state painting contract.**

IPI, Inc., was started by Matthew Joey Taylor after he and his companies North American Inc., and North American Construction Inc., got into debt and trouble.

Both North American companies are now defunct but they are listed, along with Taylor, as owing huge amounts of unpaid workers compensation and unemployment premiums totaling more than \$2.2 million.

In addition, the companies and their officers were found to have defrauded the government when they were caught wasting paint on a cost plus contract.

Taylor is now the President of IPI, the apparent low bidder for

a state highway painting contract last month.

The contract is for maintenance work and includes unit pricing for various applications. In many instances IPI underbid the next contractor by only one cent.

"How IPI is allowed to even bid is beyond me," said Rick Hackney, Business Manager for Painters District Council 53. "And it's just wrong to tell the second place bidder who pays

all of his taxes and has a good track record that the state will abandon him for one cent."

State law stops any company, or related party, who is in default to the state for more than \$1,000 from bidding any state projects.

An affidavit filed at bid time by IPI said they do not owe more than \$1,000.

ACT has uncovered numerous liens filed against Taylor and

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# \$1.8 BILLION STIMULUS FUNDING FOR WV INCLUDES \$330 MILLION FOR CONSTRUCTION

## Getting details on the Federal funds from the stimulus package has been slow and portions of the funding remain unclear.

It is clear Federal stimulus funds for West Virginia will create much needed construction jobs but the bulk of the money will go to non-infrastructure areas.

The largest block of funds, \$664 million, will be used for health care and other programs for low-income families, and \$551 million will go for education and technical training.

About \$330 million will go to infrastructure building such as road construction, paving, and water and sewer expansions.

The largest block of infrastructure funding, about \$205 million, goes to highway projects.

Road building expansions will see \$97 million, bridge repair \$20 million and bridge replacements \$17.5 million.

Money for resurfacing is \$62 million and about \$10 will go to slide repairs and truck climbing lanes.

The projects are split evenly between the states three congressional districts.

The first group of projects

and nearly \$20 million for water and sewer infrastructure.

Funds are also available for renewable energy initiatives, \$32 million, and weatherization assistance programs, \$38.5 million.

Transit projects will see \$19 million and housing funding is set at \$20 million.

How these allocations will be spent, and when the projects go to bid, is still being determined.

For school construction the funding is more complicated.

West Virginia is allowed to issue \$156 million of a new category of tax credit bonds called "Qualified School Construction Bonds." The bonds are issued as non-interest bearing bonds, and the bondholders receive tax credits instead of interest.

In addition to the states portion of stimulus funds Senator Robert Byrd was able to get 60 special appropriations in the budget worth \$143 million, the majority are for construction projects.

## WEST VIRGINIA IS ALLOWED TO ISSUE \$156 MILLION OF A NEW CATEGORY OF TAX CREDIT BONDS CALLED "QUALIFIED SCHOOL CONSTRUCTION BONDS."

should be out to bid early next month.

An additional \$62 million is allocated for clean drinking water

## LEGISLATIVE

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will also be meeting on March 11.

Both bills are before Committees called Minor Committees that only meet once or twice a week.

Major Committees - Finance, Judiciary, Government Organizations and Education - usually meet four days a week.

Another bill being promoted is H.B. 2923 which would require prime contractors submit a subcontractors list within two hours of a bid. It is a practice already in use by the State School Building Authority and is designed to stop bid-shopping.

An update to the Crane Operator Certification law would revise some terms and add a Tower Crane licensing category.

Other bills of interest include dealing with potential funding problems of the Unemployment Compensation Fund.

Severe economic downturn is

putting pressure on the fund which has not raised the funding level since 1984. Business leaders are fighting additional funding and have proposed cutting benefits.

Governor Manchin has put forward a plan that would have both companies and workers chip in more money if the fund starts to run low.

The Governor has proposed a transmission tax aimed at two new 765-KV lines in WV. The tax would raise funds that could help pay for infrastructure projects in the state.

Manchin is also proposing changes to the way Engineers get public construction contracts. His proposal would have engineering companies bid on contracts once they qualify. Currently engineers do not bid and it is believed their costs have risen because of this.

The session ends on April 11.

You can call toll-free to leave a message for your legislator at 1-877-565-3447.

## RALLYING TO SUPPORT JOBS



**THE WV AFL-CIO held a rally at the state Capitol on March 4 to bring attention to the massive job loss recently in the state and to call on legislators to support a "Buy American" Resolution.**

**That day the House of Delegates took up the Resolution called H.R. 18 asking Congress, President Obama and the State of West Virginia to "purchase goods and services made or performed in the United States of America whenever and wherever possible" with regards to the stimulus money. Incredibly 11 Republicans voted against the measure- Delegates Andes, Armstead, Azinger, Blair, Carmichael, Cowles, Lane, J. Miller, Overington, Porter and Walters.**

# HOW WV DETERMINES THE PREVAILING WAGE ON STATE CONSTRUCTION PROJECTS

**State prevailing wage laws, like the federal Davis-Bacon Act, make sure public construction projects benefit local communities.**

Without these laws, low wage companies' drive down living standards and communities suffer from government spending.

In West Virginia the WV Division of Labor (DOL) determines the prevailing wage each year for each of the state's 55 counties.

Federal Davis-Bacon rates are determined by a different method that will be covered in a future article.

The WV DOL gathers wage information from a variety of sources including contractors and labor unions.

In 2008 more than 4,000 contractors received a wage sur-

vey from the DOL and had an opportunity to submit information.

In addition around 100 construction collective bargaining agreements covering some 20,000 union construction workers and hundreds of union contractors were submitted.

The DOL also sends information requests to County Commissions and advertises to the public.

After collecting data and public comment the DOL determines the prevailing wage for each craft in each county.

The determined wage is not a mathematical average but instead is defined as the modal wage – the most commonly observed hourly wage.

Results include both wages and a total fringe benefit package.

Data is only collected for wages earned during the year

and the work performed must be similar to the work required on state projects.

Residential work is not included in the state prevailing wage calculations. Wages and benefits tend to be much lower in the residential sector and the workforce seldom is employed in the commercial or industrial sector.

The survey is voluntary and often the return rate is low among nonunion contractors. However labor organizations and their partner contractors do send in their collective bargaining data.

Each January the new wage rates and benefit totals are pub-

lished. They then become part of any public construction projects bid document.

Contractors bidding the project, whether union or non-union, must figure on paying the prevailing wages and benefits for the craft and county where the work will take place.

The system has been in place for years and produces positive results.

Opponents to the law often claim the support of fair wages costs the public extra. However numerous studies show these claims are without merit.

In states without a prevailing wage law it is true wages are

lower as well as benefits.

However the cost to the public for construction services are the same as in prevailing wage states.

Studies focusing on the 'per square foot' cost of schools have provided the best data.

"Schools in prevailing wage states cost the same as those in low-wage states," said Steve White, ACT Director.

"Taxpayers never see any of the promised savings because there are none.

Instead, eliminating prevailing wage laws mean productivity, safety, training and communities suffer."

## PLUMBING CONTRACTOR SIGNS WITH UA LOCAL UNION 625



**SIGNING UP WITH Charleston Plumbers & Pipefitters Local 625 are (from left) Al and son Jeff Williams, owners of Williams Mechanical Inc., Jeff Perry, Business Manager of Local 625 and Tim 'Squirrel' Jividen, organizer with the WV State Pipe Trades. The union worked with Williams over many months to put the deal together. The company is based in Beckley and has around 25 employees who perform plumbing work throughout WV.**

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# \$300 MILLION BEECH RIDGE WIND PROJECT GETS ANOTHER PSC APPROVAL

**The \$300 million Beech Ridge wind project got final approval from the state Public Service Commission in mid-February.**

Developer Invenergy from Chicago has spent more than four years before the PSC and the state Supreme Court in their effort to obtain permission to build the 119 turbine complex.

The project is in Greenbrier County on land owned by the paper and forest products company MeadWestvaco. In addition a 13 mile transmission line

will be built to a sub-station in Nicholas County.

The decision issued on February 14, 2009 by the PSC had to do with 18 pre-construction conditions the company had to fulfill before construction could begin.

The conditions were set out in 2006 when the PSC granted initial approval. But a court challenge about the approval and the use of conditions delayed the project.

Ultimately the state Supreme Court ruled the PSC acted properly.

The latest ruling doesn't mean

the opposition to the project is over.

Opponents have asked the PSC to reconsider their decision and may again go to the Supreme Court.

However most observers feel the project will survive further challenges and will soon begin construction.

Two contractors have already been selected for the job. White Construction will be responsible for the roads, towers, and turbines while Alldridge Electric will handle the electrical and transmission line portion.

"We are in touch with the de-

veloper and they tell us they are close to contract with these companies for the project," said Mike Matthews, Business Manager of the Charleston Building Trades Council.

The project approval comes at the same time Governor Joe Manchin is proposing legislation

to boost construction of new clean-energy projects.

The Alternative and Renewable Energy Portfolio Act would require 25 percent of electricity sold in West Virginia to be generated from wind, solar, clean-coal, biomass and hydroelectric facilities by the year 2025.

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## MEMBERS ASKED TO CONTACT BANK

# CITY NATIONAL BANK USING NONUNION CONSTRUCTION MANAGER

**City National Bank's contracting practice is causing concern among local construction workers.**

City National recently awarded two renovation projects worth approximately \$1 million to Jarrett Construction Service, Inc.

Jarrett Construction does not hire local building trades crafts and they often use nonunion subcontractors.

The projects are in Charleston and Beckley.

Prior to the decision Laborers' Union representatives spoke

to bank management to explain the benefits of using union contractors and union craftsmen to perform their work.

However City National Bank still went with a nonunion construction manager saying it was

our local union contractors and have yet to find one that was allowed to bid on the project," said Craig Harvey, Business Manager of Laborers' Local 1353,

"If you are a customer of City

National you should call your local bank and express your concern on this matter."

Some sub-

contractors on the job are union but no commitment has been given that all crafts will get their work.

"We're watching everything Jarrett does and taking action when needed," said Scott Brewer, Service Representative of Carpenters Local 1207.

a business decision.

The bank said a union contractors bid on the Charleston job was too high but local union officials don't believe any union contractors were given the chance to bid the job.

"We've checked with some of

**"WE'RE WATCHING EVERYTHING JARRETT DOES AND TAKING ACTION WHEN NEEDED," SCOTT BREWER, CARPENTERS LOCAL 1207**

## STATE DEBT

CONTINUED FROM P. 1

his North American companies in Kanawha County Court and has submitted the documents to the state Purchasing Department and the Division of Highways.

Past legal action by the state to hold IPI responsible for North American's workers compensation debt failed at the Supreme Court. The connection between IPI and the North American companies, even though similar owners were present, was not enough according to the court.

However the state purchasing law may be easier to enforce than the workers compensation law.

One lien names Matthew Joey Taylor as owing more than

\$62,000.

ACT attorney Vince Trivelli pointed to the debt, the law and the definition of related party in his letter to state officials.

A related party is defined as "a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor..."

"We think it's clear," said Hackney.

"Until Taylor pays his workers compensation bill from his old companies he should not be allowed to get public projects with his new company."