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A Division of the WV State Building Trades, AFL-CIO | Bill Hutchinson, President | Dave Efav, Secretary-Treasurer | Steve White, Director

# NC Trades Protest at MUB

Members of the North Central West Virginia Building Trades Council took to the streets on September 7 to protest lost construction jobs at a Morgantown Utility Board (MUB) project.

The general contractor on the \$78 million project, Ulliman Schutte Construction from Miamisburg, Ohio (south of Dayton), is importing most of their construction workforce from out of the area while local rate payers and taxpayers are footing the bill.

According to Stone some local workers from a few of the crafts are working through subcontractors but that still leaves lots of people paying the bills but not able to work.

“Our members and local citizens are paying for this project but can’t get a job here,” said Natalie Stone, Executive Director of the North Central Council. “We asked MUB for help and they refused.”

The entire project, estimated at \$101 million, will completely revamp Morgantown’s Star City water treat-

ment system.

Capacity to treat water will increase to 20.8 million gallons per day

from the current 12 million.

The main construction contract

**Cont. on p. 2>>**



Members of various craft unions and the North Central WV Building Trades line the street near a \$78 million wastewater treatment facility being built in Morgantown with public funds and mostly imported workers.

## DOH Doesn't Care about Local Hiring, Taxes Painters Want Contractor to Obey WV Laws

Members of Painters District Council 53 and supporters protested at the Department of Highways to call attention to local unemployed workers they believe are illegally being denied jobs on highway projects.

The protest took place August 21 in front of a Charleston DOH office building.

At issue is a company from Florida, Seminole Equipment, who was awarded a \$1.25 million bridge painting project near Charleston. The project was bid in October of 2016.

The projects falls under a state law called the West Virginia Jobs Act which requires 75 percent of the

workers to come from the ‘local labor market area.’ The local labor market is defined as all of West Virginia and any county in a surrounding state that is within 50 miles of the border.

As required by the Jobs Act Seminole asked WorkForce to find qualified local workers. The qualifications they wanted included 10 years of experience, a lead card and a special certification.

According to Painters District Council 53 Business Manager Dan Poling at least three unemployed local workers met the experience and lead requirements but not the certi-

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Painters District Council 53 Business Manager Dan Poling (right) and Director of Organizing Brian Stanley address a gathering in front of DOH offices in Charleston during an August 21 rally in support of unemployed workers and protesting DOH's refusal to enforce state laws.

# WV Supreme Court Hears Challenge of Injunction Blocking So-Called Right-to-Work

The West Virginia Supreme Court of Appeals heard arguments on Thursday, September 7 for and against a preliminary injunction blocking the so-called Right-to-Work law.

The action was brought by West Virginia's Attorney General who asked the Supreme Court to overturn the preliminary injunction.

The argument quickly turned into a discussion about whether or not RTW was constitutional.

That prompted Supreme Court Justice Margaret Workman to ask about the purpose of the hearing.

"Justice Workman correctly pointed out that the hearing that day was about the preliminary injunction, not the full case," said Vince Trivelli, one

of two lawyers representing unions in the case.

The Trades and the WV AFL-CIO were also represented by Professor Bob Bastress, a WVU law professor and recognized expert in the state constitution.

A number of Justices made it clear they would prefer to have the Circuit Court rule and then, if someone took issue with that ruling they could appeal to the Supreme Court.

Kanawha County Circuit Court Judge Jennifer Bailey granted the preliminary injunction in August of 2016 and has yet to make her final ruling on the case.

One reason for the delay has been the insistence by the National Right to Work Foundation that an individual fee payer become a party to the case.

They made the request literally minutes before the hearing on the Motions for Summary Judgment and triggered a series of delays for another hearing, with motions and briefs all of which take time.

Core to the case is the legal requirement that a union represent all workers in a bargaining unit – union members and nonmembers - once a majority has agreed to have a union.

Opponents say unions don't have to represent everyone, they choose

to.

Opponents also say unions can represent only union members as a "minority union."

Labor organizations say being a "minority union" means you are not really a union at all.

"If a union has been certified as representing an employee unit and does not represent all workers fairly then they are subject to legal action and penalties," said Dave Efaw, Secretary-Treasurer of the WV State Building Trades. "If we went for their so-called minority union a company would not have to negotiate in good faith or negotiate at all.

We would be going back to before 1932 when passage of the Wagner Act made unions legal."

Efaw points out since unions are required by law to represent all employees RTW forces unions and their members to spend money on those who do not pay for services.

Unions say RTW is unconstitutional in part because it takes money from those who pay for collective bargaining and other services and forces them to provide those services to nonpayers for free.

"RTW violates basic democracy," said Efaw. "If the majority approves something then all have to abide by it at least until the next election." ■

## Trades Protest

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went to bid in September of 2016 and is to be funded by a variety of sources.

The main source of funding is local ratepayers who, starting in July 2016, saw their water bill increase 33 percent and sewer rates 87.5 percent according to newspaper reports.

In addition taxpayers are helping to fund the project with \$25.5 million from the State Revolving Fund.

According to Stone more than 50 people were at the protest and the public was very supportive.

"People expect our elected officials to at least try to make sure local

workers get a fair chance, especially when public funds are being used," said Stone.

MUB posted a response to the protest claiming they could only follow state law and would do so.

"We asked MUB for help in communicating with the contractor, to get more local businesses introduced as subcontracts, and to promote local workers, all can be done under existing law but they refused" said Stone. "Frankly MUB made us feel like second-class citizens, good enough to pay but not to get the job." ■

## 2017 Labor Day Events



(Top) Affiliates of the Tri-State Building & Construction Trades Council participate in the Catlettsburg, Kentucky Labor Day Parade.

According to Business Manager Mark Johnson many crafts were in the parade with a strong showing among members. "It was a great turnout and our folks did a great job," said Johnson.

(Below) In Charleston on the weekend before Labor Day the Charleston Building Trades hosted a tailgate event prior to Labor Night at Power Park on Saturday, August 26..

According to Business Manager Paul Breedlove hundreds came to the tailgate and thousands to the game. The Kanawha Valley Labor Council sponsored the event.

"This is the second year for this tailgate before the game and people really enjoy it," said Breedlove. The many volunteers deserve thanks.

## 'Pathway to Prosperity'

# Road Bond Vote to be Held on October 7

West Virginia voters will go to the polls on Saturday, October 7 for one issue, to allow or deny the state from borrowing up to \$1.6 billion for road building and repair projects.

Governor Jim Justice (R) has been traveling across the state to make his case in support of the bond. Governor Justice focuses on three main themes; our roads are in desperate need of repair and investment; no new taxes are needed; and the jobs the measure will create will help jump-start our economy.

Convincing the public about the need for improving state roads is an easy sell. For a variety of reasons funds for the state road program have not kept up with the needs.

Funding for the bond is already in place so the vote will not mean a tax increase, or decrease. During the most recent legislative session vehicle registration fees were increased,

the sales tax on vehicles went up, and gas taxes were raised three and one half cents all to provide an additional \$130 million per year for roads.

Voter approval, required by the state constitution, would pledge these funds to pay back the bonds.

A number of other measures were also approved to allow the sale of additional bonds, which do not require public approval, which will raise around \$1 billion for road funding. Half would come from pledging a portion of future Federal funds and the rest from tolls collected by the West Virginia

Turnpike Authority.

Governor Justice says 48,000 jobs will be created when looking at his total road program. While the construction jobs will certainly be only a portion it is clear the addition of \$1.6 billion will have a significant impact in the next few years.

In order to help educate the public about the complete road building plan the WV Division of

Highways has created a number of documents including maps locating projects and a 600 project list with details. **The information is on their web site.**

Although the final date to vote is Saturday, October 7 early voting for two weeks prior to that date is allowed as well as absentee ballots as in any other election.

There have been a number of

groups and individuals opposing the bond measure. The State Republican Executive Committee voted to oppose the measure saying the debt was a burden. An unknown group is running internet ads in opposition with a similar message. In addition an officer of one of the largest road contractors, Orders Construction, has written in opposition noting the bond may be too much for local companies to handle.

Concerns about making sure conditions are fair to allow local hiring of contractors and workers has always been an issue with the State Building Trades. A number of proposals have been sent to DOH and the Governor's office to enhance local chances.

"We think if the West Virginia Jobs Act is enforced as it was intended, and the same for our drug-free and tax laws then we will have a fair chance at these jobs," said ACT Director Steve White.

"We gave specific examples of how these laws can be enforced and how DOH could require apprentices or trainees on every job. We are hopeful there will be some action soon." ■

**"We think if the West Virginia Jobs Act is enforced...we will have a fair chance at these jobs,"**

**Steve White,**

*Director  
Affiliated Construction Trades*

## Painters

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fication. Poling pointed out the certification is not a DOH requirement.

WorkForce, unable to fill the work order, gave Seminole a Jobs Act waiver allowing them to bring in workers to do the project.

However payroll records show that most of the workers on the project do not have the same certification required of local workers.

"DOH is letting this contractor have two standards for hiring, one to deny jobs for local workers who must be certified, and the other for their imported workers who don't have to be certified," said Poling. "We want our elected officials to stand up for local workers and make this company obey our laws."

Further research has uncovered even more problems with Seminole. Certified payroll records show that no state income tax withholdings are being made on the project.

State law requires employers to withhold WV income tax for anyone who is working in the state for at least

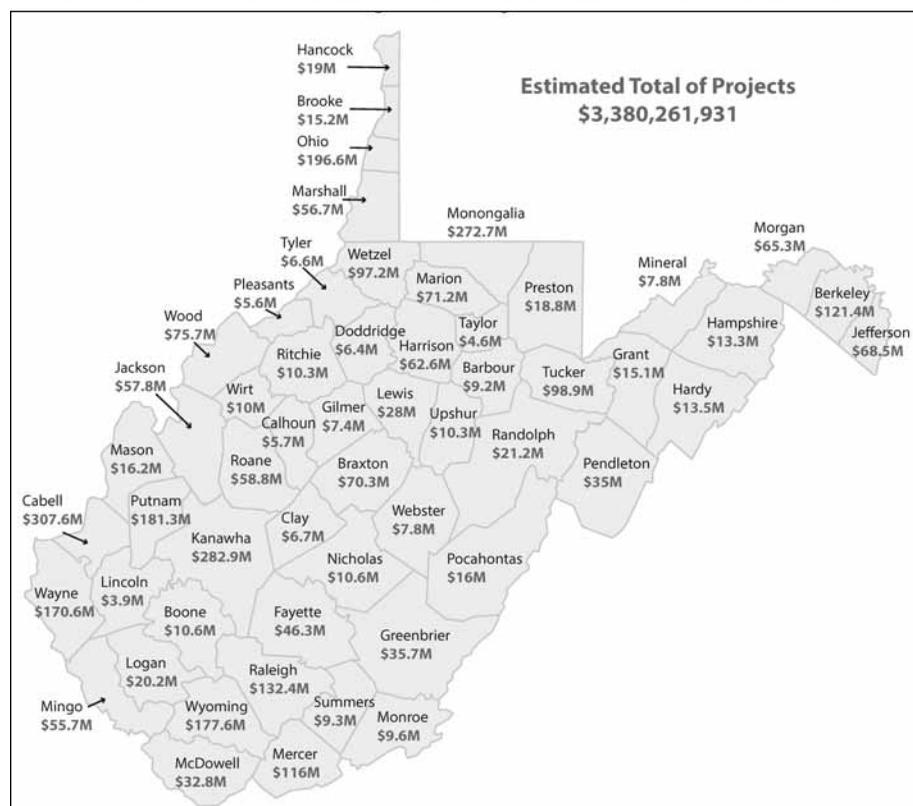
30 days in a year. Workers from surrounding states can have their home state income tax deducted, just like a West Virginia worker who goes to a surrounding state can have West Virginia income tax deducted.

Workers from all other states must have WV income taxes withheld and then can file a return where they may get all or some back depending on each workers circumstance.

ACT research shows Seminole has been awarded around \$10 million in projects over the last decade and questions whether they ever paid the state income tax on behalf of any worker.

The state income tax can be up to six and one-half percent, and bridge painting projects are very labor intensive so ACT estimates approximately \$500,000 or more may be owed.

"If they are not paying state income tax on top of denying jobs to local workers, I don't know how DOH can sit by and let this go on," said Poling. ■



# \$884 Million, 830 MW Gas-Fired Electric Power Plant Public Hearing on Brooke County Power

Members of the Trades in the Brooke County area came out in force to support a major new construction project proposed for the area during a recent public hearing.

The State Public Service Commission is considering an application from Energy Solutions Consortium LLC to build an \$884 million, 830 megawatt gas-fired electric power plant near Colliers.

The hearing was held on Wednesday, August 23 in Follansbee.

The developer and the Upper Ohio Valley Building Trades Council have a Memorandum of Agreement that commits the company to using local union construction workers to build the project.

Because the plant will sell power on the wholesale market rather than to retail customers the rates charged are not at issue.

The main permit needed from the PSC is called a siting certificate.

A number of factors must be fulfilled for the PSC permit such as securing all environmental permits; cultural and historic surveys; noise and traffic studies; endangered species reviews and much more.

All are required to make sure the project will be able to comply with existing state and federal laws.

Opposition to the facility comes from two directions.

First there are a few residents who live nearby and are concerned about living close to a power plant.

But second is a shadowy group called the Ohio Valley Jobs Alliance who has questioned similar projects such as Moundsville Power and Harrison County Power and potentially cost local construction workers thousands of jobs.

The group refuses to disclose who is funding their expert consultants or legal team.

During testimony in an air permit appeal of a similar project called Moundsville Power the groups Treasurer testified he never asked if the attorneys for OVJA were charging anyone for their services, and that they had never sent any invoices to OVJA for their services. He also testified that despite the fact that he had asked representatives of Murray Energy "if there was any way they could help us", Murray Energy never provided OVJA with any money.

"I can understand the concerns of local residents whose lives will be affected by the construction activity," said Kyle Brown, President of the Upper Ohio Valley Building Trades. "What I can't understand is how a

group like the OVJA can interfere with positive economic development finally occurring in Brooke County or who may be hiding behind this shadow group."

Already approved by the Brooke County Commission and Board of Education the project would bring

in \$27.3 million over the next three years in property taxes alone.

"We have an agreement in place that will create good construction jobs, with fair pay and benefits for local workers and will translate into about \$96 million in paychecks," said Brown. ■



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Trades members from the Brooke County area came out in force to support a proposed \$884 million electric power plant at a public hearing held on August 23 in Follansbee.

## WV Flood Relief Effort



State Delegate Mike Ferro (right) (D-Marshall) receives a donation for the City of McMechen Flood Relief Fund from Tom Conner, Business Manager of IBEW Local 141 Wheeling.

Iron Workers Local 549 Wheeling, Plumbers and Pipefitters Local 83 and the Upper Ohio Valley Building Trades Council were also among those who donated funds and supplies at an August Building Trades meeting.

Funds were also presented to Delegate Dave Pethel (D-Wetzel) for the Hundred/Littleton Disaster Relief Fund.