

THE ACT REPORT

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TRADES FOUNDATION

The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council, with offices in Charleston and Clarksburg. Steve Burton, President; Roy Smith, Secretary-Treasurer; Steve White, Director.

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WV Jobs Act Passes

With less than two hours left in this year's legislative session the West Virginia Jobs Act finally passed and will be signed by Governor Wise to become law.

The Jobs Act went through a number of changes and compromises during the session but in the end the main principles remain—local jobs for local workers.

The key elements include:

- All state funded construction projects must hire 75 percent local workers for any project \$500,000 or more.
- A local worker is someone who has resided for at least six months in any county in West Virginia or any county within 75 miles of our border.
- Projects funded through loans, grants or bonds by the state infra-

structure council, economic development authority and school building authority are also covered under the law.

• Federal, county and municipi-

got the ball rolling by making sure our bill got on the agenda and taken seriously."

White explains that Senators Jeff Kessler, D-Marshall and

where the trouble began.

The chairman of House Finance is Harold Michael, D-Hardy. And Micheal does not like bills that favor working families. He refused to place the bill on the Finance Committee agenda.

Sen. Jon Blair Hunter, D-Monogalia, made a deal with Michael to help push forward a bill Michael wanted in the Senate in exchange for Michael's commitment to move the bill in his committee.

Michael agreed but then double crossed Hunter by forcing an amendment to the Jobs Act.

"We had a huge fight just to get our bill on the agenda and when it did come they gutted it," said Roy Smith, State Building Trades Secretary-Treasurer. In a surprise move Michael amended the Jobs

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'WE HAD A HUGE FIGHT JUST TO GET OUR BILL ON THE AGENDA.'

ROY SMITH, SECRETARY -TREASURER,
WV STATE BUILDING TRADES

pal projects are excluded.

• If a company can not find a qualified local worker they can apply to the state job service for a waiver and be released from the requirement.

"We had a tremendous battle to get this bill passed and we owe much thanks to a variety of people," said ACT Director Steve White. "Our friends in the Senate

Brooks McCabe, D-Kanawha led a subcommittee that oversaw the changes and compromises. "When we got out of that committee we had a bill everyone said they could live with."

Over in the House of Delegates the bill easily passed through the Government Organization committee but then moved on to the Finance Committee and that's

Laborers Leave Building Trades

The West Virginia Laborers District Council parted ways with the West Virginia State Building & Construction Trades Council and ACT last month.

The Laborers pulled out because Gov. Bob Wise named Jim Lewis, a former ACT staff member, as State Labor Commissioner instead of Tim Millne, the assistant business manager of the Laborers District Council, and also a former ACT staff member.

According to an article in the March 13th Charleston Daily Mail, Gary Tillis, business manager of the Laborers District Council, said members had been talking separa-

tion for six months or more, but Millne being passed over for Labor Commissioner was

The Laborers made up 20 percent of the ACT budget, but the setback will not af-

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STEVE WHITE, ACT DIRECTOR

the final straw.

Tillis said he also believes ACT unduly influenced the governor's decision.

Steve White, ACT Director, said the Building Trades executive board submitted both men's names to the governor.

fect any of the foundation's main activities such as ad campaigns or the West Virginia Works television show, said White.

"I hope the Laborers will eventually rejoin ACT," said White.

White points out the La-

borers departure comes at a critical time for the Building Trades as a whole. The Carpenters Union at the International level has recently chosen to drop out of the AFL-CIO. Local relations between the West Virginia Carpenters and the state AFL-CIO and Building Trades remain strong.

What the effects from the International Carpenters' move will be on the local level are unclear at this time but the potential exists for serious problems if the Carpenters locally are forced to leave the West Virginia AFL-CIO and Building Trades.

POSSIBLE ILLEGAL ALIENS ON SITE

Illegal Contractors Found on Federal Prison Project

Non-compliant sub-contractors and possibly illegal workers have been found at the Dock-Bear Run Federal Prison construction site near Glenville.

Federal officials refused to allow a State Labor Division compliance officer on the premises. As a result, Compliance Officer Sam Boggs issued cease and desist orders to four sub-contractors. It was later discovered they had

pliance with state law.”

The \$110 million facility is being built by New York based Bell Constructors

In addition workers on the job observed at least one vanload of Hispanics being driven to the site, according to ACT Representative Steve Montoney.

“These are clearly not local workers and from our experience we believe there are signs they may be illegal,” Montoney said. “Local

‘IT IS OUTRAGEOUS FOR TAX FUNDED PROJECTS TO EMPLOY OUT-OF-STATE OR ILLEGAL WORKERS WHEN QUALIFIED LOCAL WORKERS NEED JOBS’

STEVE MONTONEY, ACT REPRESENTATIVE

not obtained proper state construction licenses. According to a recent article in the Glenville Democrat, Labor Commissioner Jim Lewis referred to a letter from U.S. Senator Robert Byrd, D-WV, saying all contractors on federal job sites must apply for and secure state construction licenses.

“We hope to resolve this matter peacefully,” said Lewis, according to article. “If it can’t be resolved, there are harsher methods the state can use.”

“We have no intention of shutting down jobs in Gilmer County, but just want to bring the sub-contractors into com-

pliance with state law.”

The federal prison’s on-site construction phase chief, Steve VanAman, has reported that 112 of Bell’s 131 employees are West Virginians. According to that same report, only one worker is Hispanic.

“We are in the process of obtaining a list of workers at the federal job site so we can see where the workers came from,” said Montoney.

“It’s outrageous for a tax funded project to employ out-of-state or illegal workers when there are qualified local workers who need jobs.”

ACT Foundation, State Building Trades Moving to New Location

The ACT Foundation and the State Building Trades are moving on up to the East End.

the building is located one block from the WV AFL-CIO office and one block from the new Clay Center, and two blocks from the Inter-

offices will be on the second floor, the first floor will house a large meeting room and the remainder will be rented out.



This East End office building is the future home of ACT and the State Building Trades

After a long search ACT and the Building Trades have purchased a new office building at 600 Leon Sullivan Way near the newly renovated Farmers Market in Charleston.

The two-story 11,000 square foot building was purchased from Shawnee Hills for \$550,000.

Constructed by Conrail in 1973,

state. To add to the convenience the building has plenty of free parking.

“We are glad to be moving into a more convenient location,” said Roy Smith, Secretary-Treasurer of State Building Trades. “Having ACT and the Building Trades in the same location will greatly improve efficiency.”

ACT and the Building Trades

“In the end we believe the mortgage on the new building will be the same as rent at the old ACT office,” said Smith

“Overall this is a good deal for West Virginia Construction Workers.”

Pending some moderate renovation the move-in date is July 1.

Johnson Boiler Works Loses Again

Johnson Boiler Works has failed again in their repeated attempt to deny unemployment benefits to a former employee who was involved in a drive to organize the Wheeling based non-union mechanical contractor.

Joseph McAninch, a commercial truck driver and plumber won his right to unemployment benefits after his former employer’s appeal was denied in a Kanawha County Circuit Court.

Johnson Boiler Works Inc. fired McAninch after he declined an out-of-town work assignment because his wife was eight months pregnant,

with a history of medical problems. McAninch was also a supporter in an organizing drive of the Plumbers and Pipefitters Union.

Kanawha Circuit Court Judge Todd Kaufman denied Johnson Boilermaker’s appeal of the Board of Review of the West Virginia Bureau of Employment Programs’ de-

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Trades Make Progress in Legislature

The 2001 legislative session resulted in a number of victories, and some failures, for construction workers.

Under victories we can clearly include the West Virginia Jobs Act as a success for all working families. (See story on pg. 1)

Another accomplishment was a bill allowing the state contractor licensing board to revoke the license of a contractor who knowingly hires a person who is not legally able to work in the United States.

While the law was aimed at contractors who hire illegal aliens, it also covers companies who hire child labor.

The lead sponsor on the bill was Del. Ken Tucker, D-Marshall.

Final rules for the crane operators certification process were put in place. This last set of rules cover the hands-on testing for certification. After September 1, 2001 all crane operators will be required to have a license. Those who can show prior experience can still be grandfathered up to that date. After Sept. 1 all new applicants must take both the hands-on and writ-

ten tests.

The Economic Accountability Act, HB 2600, died in the House Economic Development Committee chaired by Del. Sam Cann, D-Harrison. This bill was aimed at determining where our state tax credits for economic development go and to analyze what benefits are received. A similar senate bill sponsored by Sen. John Unger, D-Berkely, passed the legislature but was changed significantly the last night. At this time the contents of the bill are not known.

As the Unger bill passed the Senate it included many key elements on economic development accountability that were included in HB 2600.

While accountability failed, tax break bills were overflowing. One bill gave windmill power plant developers huge property and B & O tax breaks. This bill sponsored by Del. Harold Michael, D-Hardy, gave away thousands of tax dollars aimed at local schools to developers who never had to show the need for such breaks. A project in Tucker County is slated for next year.

A bill for plumbers licensing

never was advanced but is being rewritten to avoid jurisdictional disputes. The bill to move electricians licensing to the Division of Labor also failed to advance. However, there will be new rules written regarding current electrician license requirements to be submitted to next years legislature.

Two bills aimed at repealing prevailing wage laws were effectively stopped. However prevailing wage rate remains a topic of discussion among legislators.

Finally, rules to implement last year's debarment bill never got off the ground. The bill will allow state, county and local agencies to keep a list of companies that are not allowed to bid public works projects. Any contractor already on the Federal debarment list would automatically go on the state list. Rules must be written to allow for due process when placing a company on the list and a mechanism for making the list available to awarding agencies. These rules were supposed to have been written by the Underwood administration but never were.

Results of the Important Issues in 75th Legislature

• **WV Jobs Act**—Requires all state funded projects hire local workers
Sponsor(s): Hunter and 25 others
Result: Pass See story on pg. 1

• **Economic Accountability Act (HB 2600)**—Designed to track economic development funds
Sponsor(s): Fleischauer and others
Result: Fail (similar senate bill passed)

• **Illegal Aliens**—Requires that any contractor who knowingly hires illegal workers have their contractor's licenses revoked
Sponsor(s): Tucker and others
Result: Pass (Senate Bill)

• **Require Plumbers Licensing**—Would implement statewide licensing procedures.
Result: Not Introduced

• **Reform Electrician's Licensing**—Transfer oversight from the state Fire Marshall to the Labor Division
Result: Not Introduced

• **Attack on Prevailing Wage Laws**—The law would exempt construction for the education authority from prevailing wage law.
Sponsor(s): Overington
Result: Fail

Legislative Rules

• **Crane Certification**—Requires hands on test
Sponsor(s): Wooten and others
Result: Passed

• **Debarment from publicly funded projects**—Rule for bidding any contractor who has broken the law from bidding on state, county or municipal projects.
Result: Not Introduced

Sunland Forced to Post Violation Across U.S.

Sunland Construction Inc. an out-of-state, non-union, company has been forced by the National Labor Relations Board (NLRB) to post a "Notice to Employees" informing them of their right to organize at all of their job sites in the U.S.

The posting is the result of a settlement agreement of an unfair labor practice complaint filed by the Operating Engineers Local 132.

This complaint was filed when Sunland laid off workers who were attempting to organize the Columbia Gas job site in Gladys, WV.

The company also posted signs prohibiting union solicitation.

As previously reported, the Operating Engineers were participating in an informational picket concerning Sunland's low wages and unwillingness to hire local workers.

After the layoffs the picket quickly changed its focus to unfair labor practice.

This picket brought to light Sunland's poor workmanship and poor time management.

As a result Columbia Gas allowed their contract to expire and gave the pipe renovation work to S.T. Pipefitters Inc., who is signatory with the Operating Engineers and Rig Welders.

According to Bill Lemley, Pipeline Special Representative for the Operating Engineers International, getting Sunland Inc. out opens the door for S.T. Pipefitters to

receive more pipe renovation projects from Columbia Gas this summer.

"This reaffirms workers' rights to solicit union organization on the job site," said ACT representative Steve Montoney.

"No matter where they go Sunland will have to tell all of its workers of the violations that occurred in WV."

High Court To Hear ACT Appeal on WVU Case

The WV State Supreme Court has agreed to hear ACT's appeal on a case involving the use of a private foundation to build a new building at West Virginia University.

The financing and construction of the \$23 million University Services Center is being handled by the WVU Foundation.

WVU will then lease the building from the foundation for 30 years after which the university will own it.

In May, Kanawha County Circuit Court Judge Charles King ruled this arrangement was legal.

"The court is not persuaded that WVU's alleged use of the foundation as 'conduit' for the construction and financing of the office building has transformed that project into a 'public improvement,' as defined by the statute," King ruled according to an article in the April 4

Charleston Gazette.

ACT believes this financing scheme was an attempt to circumvent the law requiring all state agencies to submit projects for bid and requiring the successful bidder to pay prevailing wages.

"They say they have a contract provision calling for the payment of prevailing wages, but we don't know if they are paying it," said ACT lawyer Vincent Trivelli.

According to Trivelli, ACT has filed various requests under the Freedom of Information Act. However, the requests were refused by the WVU Foundation. It said they were a private, not public, institution and did not have to respond.

When asked by the court what he wanted to accomplish, Trivelli suggested the remaining work on the building be rebid and prevailing wages be paid.

"Maybe we can do something about future situations," Justice Joseph Albright observed.

The case should go to trial later this year.

WV JOBS ACT

CONTINUED FROM P.1

Act by taking out the School Building Authority, Infrastructure Council and most importantly the state Economic Development Authority. "Local hiring for economic development projects is a key component of the bill," said Smith. "The Micheal amendment made the bill useless in our eyes."

The fight was then on with an attempt to put back the language taken out with an amendment on the floor of the House. With the help of other labor delegates, White and Smith started to get commitments to help repair the bill. Not only was the powerful finance chair opposed to the bill but the Speaker of the House Bob Kiss, D-Raleigh was aiding in the effort to keep the bill from a vote.

"We had the votes to win but the 'leadership' refused to run the bill," said White. "And our votes included not only our usual labor Democratic support, but a large

number of Republican votes as well."

With the votes in hand to win a battle, a deal was made to put the language taken out by Michael back in, with a small change.

Michael then tried blackmail to force supporters of the Jobs Act to support a tax break bill for windmill developers. "We told him we would not be blackmailed," said Smith. "His response was that's the way we do business here."

But in the end it was the persistent and forceful pressure of AFL-CIO President Jim Bowen that made the difference. "Bowen kept us in the game and kept the pressure on," said White. "If we didn't have the team effort of Bowen and Perdue and the many other labor lobbyists and folks back home sending letters and making calls we would not have gotten this bill through. It was that close."

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JOHNSON

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cision, which declared McAninch ineligible and not disqualified for unemployment benefits.

His [McAninch's] testimony and Mrs. McAninch's doctor's letter verifying the husband's conviction that his wife shouldn't be left alone in here eighth month of pregnancy, were introduced to ascertain the whole truth, wrote Kaufman.

Kaufman sighted rulings in several other similar cases.

According to other cases, McAninch is entitled to unemployment benefits because his declining a work assignment due to medical illness of a family member doesn't constitute misconduct.

McAninch is a member of Plumbers and Steamfitters LU 83 Wheeling.

WEST VIRGINIA WORKS SHOWTIMES

WBTV Clarksburg & Morgantown Saturdays @ Noon	FOX 59 Beckley & Bluefield Saturdays @ 12:30pm
FOX 11 Charleston, Huntington Parkersburg Sundays @ 11:30am	
CABLE CHANNEL 10 Wheeling, St. Clairsville & Moundsville Saturdays @ noon	
CABLE CHANNEL 16 Steubenville, Follansbee & Wellsburg Saturdays @ noon	

Give us a call if you have an idea for a show!
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