

THE ACT REPORT

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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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Former ACT Staffer Jim Lewis Appointed Labor Commissioner

ACT lost a staff member but gained a friend at the State Capitol when Jim Lewis became West Virginia's new Labor Commissioner.

Gov. Bob Wise appointed Lewis after he helped with the campaign in the Parkersburg area.

He was recommended to the Wise transition team by the State Building Trades and the Labor Council.

"The two main priorities of the Division of Labor are better enforcement of the codes which protect workers to regain their confidence, and to curb the growing problem with illegal aliens taking jobs from West Virginians," Lewis said.

According to Lewis, the Wise administration is going to begin a program under the Wage and Hour Section of the Division of



Labor Commissioner Jim Lewis being congratulated by Gov. Bob Wise after his swearing in. Labor to aid the U.S. Immigration and Naturalization Service (INS) in enforcing work status laws. "This would mean Work and Hour agents would be sent to INS training and deputized by the federal agency," said Lewis.

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National Labor Relations Board Joins ACT Legal Fight Against Labor Ready

In a highly unusual move the National Labor Relations Board (NLRB) has asked a Federal Judge to enter a lawsuit filed against construction unions.

The good news is the NLRB is weighing in on the side of the Tri-State Building Trades in a lawsuit filed against them by Labor Ready, a Washington-based company which does business in West Virginia.

The NLRB has asked the court to allow two motions. The first seeks to intervene in the case, while the second asks that counts

2 and 3 of Labor Ready's complaint against Tri-State Building Trades and six individuals be

by the Tri-State Building Trades which are pending before the court. The NLRB stated, in its

does not interfere with or encroach upon the uniform system of federal laws governing labor relations."

Last July the NLRB issued a Bill Johnson Complaint against Labor Ready stating the company's civil complaint against the Tri-State Building Trades is baseless and was filed in retaliation for Tri-State's participation in the NLRB proceeding.

Labor Ready's civil suit alleges union members engaged in a secondary boycott of the firm which supplies employers with temporary construction work-

**'WE HAVE RESEARCHED THIS
CASE THOROUGHLY AND WE
BELIEVE THERE IS NO MERIT TO
THEIR CASE.'**
MARY McQUAIN

ACT LAWYER

dismissed because the claims are preempted by federal labor law. This is completely in line with motions to dismiss made

motion, that its interest in seeking intervention is in "protecting the public interest by insuring that West Virginia State law

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ACT Intervenes In Power Plant Permits

ACT is intervening in the applications of several companies seeking to build new gas fired power plants.

Six new power plants are either being built or planned in West Virginia representing more than a billion dollars in new investment.

ACT wants to insure the construction of these plants are a benefit to the citizens of West Virginia.

"These plants could mean more jobs for local construction workers, an improved tax base, and more low cost energy for both residential and business users," comments Roy Smith, Secretary-Treasurer of the State Building Trades.

"Instead we are seeing an invasion of out-of-state companies and workers, astronomical tax breaks and rising consumer costs."

ACT is intervening in the permit processes of Panda Energy of Texas in Cabell County, and

Cogentrix of North Carolina in Marshall County. Both companies are proposing large gas fired

Constellation is the sister company of Baltimore Gas and Electric and is building a \$110 million

'ACT JUST WANTS TO MAKE THESE OUT-OF-STATE COMPANIES ACCOUNTABLE TO THE TAXPAYERS OF WEST VIRGINIA'

BILL DEAN, PRESIDENT OF THE UPPER OHIO VALLEY BUILDING TRADES

power plants that will each produce over 1000 megawatts.

"We simply want more information about these projects," said Vincent Trivelli, ACT lawyer. "We do not want to wait for these deals to be finalized before we find out what the impact will be on local workers and consumers."

ACT also has filed a complaint with the Public Service Commission because permits for Constellation Power of Maryland were approved based on a misleading application, according to Trivelli.

peaking unit on the banks of the Big Sandy River in Wayne County.

"Constellation Power promised local workers would build the plant and the project would be privately funded," Trivelli said. "However it has asked the County Commission for industrial revenue bonds and few local workers have been hired."

Constellation stands to benefit from perhaps as much as \$34 million in tax breaks because of the Industrial Revenue Bonds.

The much larger plants in Cabell and Marshall County are still on the drawing boards.

"ACT just wants to make these out-of-state companies accountable to the taxpayers of West Virginia by making them inject money back into the local economy," said Bill Dean, President of the Upper Ohio Valley Building Trades.

Dean is concerned about North Carolina based Cogentrix who is proposing a 1600 megawatt gas fired plant in Marshall County and an 1100 megawatt gas powered plant in Peasants County.

Cogentrix has not hired any local workers in Marshall county, according to Dean.

"I have tried to contact the company several times, but I haven't had any calls returned," he said.

"I think it's a good project for the valley, but they need to use local workers."

Like Cogentrix, Dominion Power is going to use Pleasant County resources for its own

300 megawatt peaking station which is currently under construction.

Dean believes Cogentrix has a history of not hiring local workers.

Panda Energy is planning to build an 1,100 megawatt base power plant in Culloden. In their Public Service application they stated there were no West Virginia construction companies capable of building their facility.

According to Steve Burton, Business Manager of the Tri-State Building Trades, there are a number of companies operating in West Virginia that can build these projects, if given the chance.

"We're concerned that these new companies will act like Constellation Power at their Big Sandy Peaker unit," said Burton. "They promise local jobs but they don't deliver."

Trivelli said "Companies that come into the state and get tax benefits need to benefit West Virginia by hiring local workers and ACT is going to make sure that happens."

ACT, Bluestone Coal Set For Face Off In Court

Thanks to the ACT Foundation West Virginians will get their day in court.

Gov. Bob Wise's Administration has withdrawn a request to the State Supreme Court seeking to prohibit ACT from intervening in cases seeking to compel payment of \$200 million in worker compensation premiums.

The original request opposing ACT had been sought by the administration of former Gov. Cecil Underwood.

The action by Wise's administration reverses that.

Technically the Wise administration's reversal was to withdraw Underwood's request for a "writ of prohibition" overturning an earlier ruling by McDowell County Circuit Judge Booker Stephens which would have allowed ACT to argue on behalf of workers in the West Virginia vs. Bluestone Coal workers compensation case.

Bluestone Coal is one of 19 large coal-contracting firms ACT wants to pay delinquent workers

compensation funds of their sub-contractors. Those sub-contractors went bankrupt owing the Workers Compensation Fund more than \$200 million.

Once the Wise administration backed ACT's intervention, Bluestone Coal had no choice but to back down on its effort to block ACT from having its say.

"The state of West Virginia will finally get its day in court to uncover the truth about the delinquent workers compensation premiums" said Stuart Calwell, ACT's attorney.

"The lawsuit against Bluestone and 18 other coal companies was first filed in 1996 during the administration of former Gov. Gaston Caperton.

The Underwood administration tried to dismiss the lawsuits just as they were ready to go to trial in 1999.

Bluestone contends it should not be held responsible for the Workers Compensation premiums of its sub-contractors and that Bluestone had paid all their federal reclamation and black lung fees, as well as all state

severance taxes.

Bluestone Coal attorneys also contend the company should not be held liable because the firm's owners hadn't been notified of their liability for contractors' debts.

Yet even after the suits were filed, between 1996 and 1999, nine more Bluestone contractors defaulted on their workers compensation premiums.

These contractors accrued more than \$500 thousand in total debt since the lawsuit was filed.

Participation Is Key To Legislative Process

Many issues concerning West Virginia's workers will be presented to the 2001 session of the West Virginia Legislature which began Feb. 14th.

ACT wants its workingmen and women to get involved.

"It is important to be an active participant in government," says B.B. Smith, ACT's legislative representative.

"So please, take the time to call, write, or visit your legislator to let them know how you feel about the issues which affect your life."

NLRB

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ers.

The suit, filed in 1999, is only one of many legal confrontations between ACT and Labor Ready.

The legal tug-of-war between the two began when Labor Ready committed unfair labor practices against Donnie Huff, an ACT Representative from Huntington and other union members, while they were attempting to organize Labor Ready's work force at Phoenix Park in Huntington.

After being found guilty of unfair labor practices, Labor Ready filed the 1999 lawsuit alleging the secondary boycott.

According to Mary McQuain, ACT lawyer, the secondary boycott allegedly occurred when union members were picketing a job site where Labor Ready and Phoenix Park had joint employees.

"We have investigated Labor Ready's allegations thoroughly,

and we believe there is no merit to any of their claims," McQuain said.

In a related matter the NLRB has issued a new complaint against Labor Ready. On January 31, Laura Atkinson, Acting Regional Director for Region 9, issued a complaint based on Labor Ready's renewed "motion to compel the Union and other affiliated labor organizations named as defendants to produce their membership lists and authorization cards signed by [Labor Ready's] employees."

"Labor Ready is unlawfully using the courts as a weapon against our organizing efforts," commented Steve Burton of the Tri-State Building Trades.

Important Issues For the 75th WV Legislature

* THE WEST VIRGINIA JOBS ACT

The bill is similar to regulations of the Appalachian Regional Commission which require federal projects to employ workers from the local area.

The bill would require 90 percent of the workers on any publicly-funded project to meet one of two criteria—workers must live within 75 miles of the job site and/or in a West Virginia county.

* ECONOMIC ACCOUNTABILITY

This law would require companies applying for economic development incentives to detail what type and how many jobs they are going to create for West Virginia workers.

Additionally, it would require businesses, which already receive incentives to file progress reports.

* REFORM ELECTRICIAN'S LICENSING

The licensing process is now overseen by the State Fire Marshall's office, where the fees are not being used to enforce the licensing law. The new law would shift control to the Division of Labor where licensing laws could be more easily enforced.

* **REQUIRE STATE PLUMBER'S LICENSE** The law would implement a statewide quality control measure and standardize licensing procedures.

* REVOCATION OF A CONTRACTOR'S LICENSE WHO HIRES ILLEGAL ALIENS

This law would implement the revocation of any contract's license proven to have hired illegal workers to fill West Virginia jobs.

* LEGISLATIVE RULES WHICH NEED TO BE APPROVED FOR BILLS PREVIOUSLY PASSED.

1. Crane Operators Certification

Crane Operators Certification Bill rules requiring passage of a hands-on test as well as a written test to receive certification.

2. Debarment from publicly funded projects

This is a legislative rule based on the federal debarment bill forbidding contractors who have broken any laws from bidding on federally funded projects. The rule will apply the same way except for that it will cover state, county and municipal projects.

LEWIS

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Lewis is the former ACT Representative for the Parkersburg area. He also is a 30 year member of the Parkersburg Plumbers and Pipe fitters LU 565 where he worked on and off as an apprentice instructor.

Lewis will oversee the Division of Labor which consists of five sections. They are:

* Wage and Hour Section - makes certain the state laws intending to protect workers are enforced. This section also is in charge of wage payment collec-

tion.

* Contractors Licensing Section - ensures all contractors working in the state have a West Virginia contractor's license.

* Weights and Measures Section - this is a consumer protection division. It ensures all measuring equipment is calibrated correctly through regular inspections.

* Manufactured Housing Section - Makes certain manufactured housing is kept up to state law.

* Safety Section - Enforces

state safety regulations which the federal Occupational Safety and Health Administration doesn't cover.

"We are proud to have Jim selected as the Commissioner of Labor," commented Ed Boone, Business Manager for Plumbers and Pipefitters Local 152 in Morgantown and a Vice President of the West Virginia State Building Trades. "Jim will do an excellent job for the working men and women of West Virginia."

CONTRACTOR AGREES TO BENEFITS**Cement Masons LU 887 Solidarity Pays Off**

Blacktop Industries and Equipment has agreed to pay benefits after a successful job action by Cement Masons LU 887 at the Huntington Post Office job site.

The Cement Masons and other Union workers walked off the Huntington Post Office job site Jan. 24 because Blacktop Industries and Equipment, a subcontractor, was delinquent on payment of vacation, pension and health and welfare benefits for last October through December.

All the workers were fired that evening.

The next day Mark Smithson, business manager for the Plaster



Members of the Plaster and Cement Masons LU 887 take job action against Blacktop Industries' at Huntington Post Office job site.

and Cement Masons LU 887, sign at the work site, shutting down the entire job.

However, the sign was removed at the request of the general contractor, York Hunter, who had agreed to negotiate the impasse.

Explained Smithson: "The

owner of Blacktop Industries agreed to negotiate with us."

The negotiations lasted a day.

"Blacktop Inc. agreed to pay all fringe benefits and give the workers their jobs back," said Smithson.

"The company also agreed to pay the out of pocket expenses for two workers' prescription drugs."

Smithson said those drugs would have been covered had the fringe benefits been paid on time."

The workers were back on the job with full benefits by Jan. 26.

"I was very proud of all the workers for their solidarity and support of each other," said Smithson.

"I would also like to commend the cooperative efforts of the general contractor to keep harmony between the company and the workers," he added.

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Charleston House Holiday Inn

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Tuesday, Feb. 27 at 10 a.m.

Open To All ACT Members

For More Information Contact Your Local Business Manager.

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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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