

# 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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## SPECIFICS LACKING ON HOW TO CURB BUSINESS CHEATING

# Injured Workers Hurt By New Comp Bill

**Workers Compensation benefits were on the chopping block again during a recent special session of the legislature.**

The draft of the bill spells out specifically how numerous worker benefits will be cut.

Simply put it will be harder to get fewer benefits.

For example, total temporary-disability will be capped at 104 weeks. Thresholds to apply for a permanent disability increase to 50 percent. In addition, Carpal Tunnel Syndrome will not be counted on disability.

"It's business as usual," said Steve White, ACT Director.

"Lawmakers are finding specific ways to cut benefits for injured workers. In the meantime the loopholes remain for companies who don't pay their premiums."

The draft cites no specifics on how to crack down on businesses that default on their premiums, and form new companies. This task is left to a new proposed Board of Managers.

Labor leaders also say the bill doesn't do enough to promote workplace safety.

Although 8,000 of the state's 42,000 employers account for

80 percent of the accidents, companies with excellent safety records are forced to subsidize the ones that don't.

"I think safe companies should get a discount," said Dave Carte, Business Manager for Bricklayers Locals 5 and 9. "We have the drug programs and safety classes but our contractors still don't get a break."

Other problems with the bill include the creation of a new court system to replace the state supreme court. New judges are to be appointed rather than elected by the public.

New legal hurdles have been proposed to make it harder for a worker to bring a case to court or win.

Self-insured companies are

being allowed to decide their own claims and require company doctors.

Premium rates are frozen for three years, even for businesses categories with dangerous records.

"We know there are problems with the Comp system and we have worked with the

*Continued on p. 4*

## Parkersburg Trades Ready Lynch House For Jessica's Homecoming



**MEMBERS OF PLUMBERS AND FITTERS Local 565 work on pipes as part of a project to renovate the home of former POW Jessica Lynch in Palestine, WV. A number of other crafts also donated their time to the project.**

## Attack On Prevailing Wage Renewed By ABC

**The anti-worker contractors association, Associated Builders and Contractor's (ABC), has filed another appeal.**

This time they are protesting Division of Labor (DOL) Commissioner Jim Lewis's May de-

cision to deny its objection and appeal of the 2003 wage rates.

The appeal will be heard in Kanawha County Circuit Court.

The ABC's basic claim continues to be that because most contractors didn't return wage surveys, the rates were incorrect.

ABC still claims the prevailing

wage rate calculation was inaccurate because DOL didn't obtain an adequate number of wage surveys from West Virginia licensed contractors. They failed to mention that almost 5,000 contractors were mailed survey forms and most didn't answer.

The ABC also continues to allege that DOL relied almost

exclusively on collective bargaining agreements to determine the new wage rate, when union labor supposedly only represents 19 percent of the construction market.

In addition to the old charges, which have already been proven invalid, ABC also contends that

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# WV State Building Trades/ACT Dues 15 Cents

## It's official.

West Virginia State Building Trades dues have dropped from 25 cents to 15 cents per man-hour as of June 1.

The change was made during the recent special constitutional convention held in May.

Delegates decided to decrease dues to meet the needs of members.

ACT will now focus less on direct organizing because many of the locals now have their own organizing capabilities.

Instead the organization will focus more on information gathering and professional services such as lobbying, legal counsel and public relations.

As a result of the changes many West Virginia construction lo-

cals that are not currently members have committed to rejoin or are putting the question to their membership.

"We felt the reorganization was necessary to reunite the trades throughout the state," said Steve Burton, President of the State Building Trades.

"We've heard very positive feedback from the Laborers,

the Painters locals not presently in, the Iron Workers in Wheeling, a number of Electrician locals, the Sheet Metal Workers and others."

The number one priority for the ACT Foundation has not changed and that is to get more work for our members.

Becoming more united is very important for the trades, accord-

ing to Dale Rose, Business Manager for Roofers Local 185, Charleston.

"The trades are under an increased attack, we need to be together now more than ever," said Rose.

"In unity there is strength. Organized labor has proven that in the past and it still holds true today."

## ENVIRONMENTAL APPEAL DENIED

# State Supreme Court Clears Way For Mt. Storm Windmills

## The West Virginia Supreme Court has stopped an environmental group's attempt to block the WV Public Service Commission's approval of a windmill project at Mount Storm.

ACT filed a brief to try to convince the court to reject the appeal of an environmental group from grounding the \$200 windmill project.

The group claimed the 300 foot windmills will disrupt the flight patterns of some migratory birds.

However, the PSC approved

the project with the stipulation that NedPower, the project's owner, meet 14 additional requirements, which included wildlife studies.

"The PSC was very thorough in its review before approving the projects," said Vince Trivelli, ACT Lawyer.

Hundreds of local jobs and

hundreds of millions of dollars in wages and tax revenue were at stake with the courts decision.

According to ACT's calculations the project would provide:

- 331 local jobs including 200 local union construction jobs.
- \$5.6 million in wages
- \$2.8 million in taxes

"This appeal was mind blowing," said Darwin Snyder, President of the North Central West Virginia Building Trades Council.

"Many environmentalist are commending this project. It is more environmentally friendly than any other form of power generation in West Virginia."

# NLRB Sides With Operators 132 Against Greenbrier Resort

## The Operating Engineers took on both The Greenbrier Resort and the White Sulphur Springs Police Department and won.

In a May 2 decision, NLRB Administrative Law Judge Benjamin Schlesinger ruled that The Greenbrier violated Operating Engineers Local 132 members' First Amendment and National Labor Relation Act (NLRA) Section 7 rights to peaceful protest.

The judge ordered The Greenbrier to 'cease and desist' any interference with the Operators peaceful protests, they must also post notices.

Section seven of the NLRA guarantees employees of their rights to 'form, join or assist a

union.'

"We knew we had the right to be there and this decision confirms it," said Ronnie Burdette, Business Manager for the Operating Engineers Local 132.

The NLRB charges stemmed from two incidents where the police were

called in to break up pickets protesting Lynch Construction, a supposed union company working at the Greenbrier.

Protesters accused Lynch of paying substandard wages.

In the first incident, which occurred on June 20, 2002, protesters were peacefully picketing on the public right-of-way

near the entrance to The Greenbrier when the police were called in to demand a parade and public assembly permit. The protesters were also threatened with fines and jail time.

As a result the protesters left. The following day Donnie Huff, lead organizer for Local 132, along with his lawyer attempted to obtain a parade and public assembly permit. They were told they had to wait five days to get a permit and they couldn't apply that day anyway because the police chief was out of town.

the protests were peaceful and legal. In addition, they claimed hotel officials were not responsible for the police departments' actions, according to a brief filed in the case.

Judge Schlesinger didn't believe this, however. He pointed out several pieces of evidence that proved hotel officials did

On Monday June 24 Huff decided to proceed with the protest assuming the parade permit ordinance was unenforceable.

Like clockwork, the police showed up again threatened fines and jail time if the protesters didn't leave.

The protestors held their ground.

At trial The Greenbrier's attorney admitted

that the protests were peaceful and legal. In addition, they claimed hotel officials were not responsible for the police departments' actions, according to a brief filed in the case.

Judge Schlesinger didn't believe this, however. He pointed out several pieces of evidence that proved hotel officials did

seek police involvement to stop the protest.

The most damaging evidence came from the testimony of the police chief.

He said two men who worked for the Greenbrier came to the station early on Monday June 24 to complain about the protesters being back, which prompted him to go to the picket line.

In addition, Greenbrier attorneys sent a letter to the prosecutor urging the city to take action against the protesters.

"This decision set a good precedent," said Rodney Marsh, Organizer for Local 132.

"If we ever need to take action at the Greenbrier or anywhere in White Sulphur Springs again Greenbrier officials and the police will know we don't back down."

**'WE KNEW WE HAD THE RIGHT TO BE THERE AND THIS DECISION CONFIRMS IT.'**

**RONNIE BURDETTE, BUS. MANAGER, OPERATORS 132**

## Court Rules \$215 Million Development Grant Committee Is Unconstitutional

**L**awmakers are scrambling to correct their mistakes when they created a \$200 million grant committee last year.

The State Supreme Court allowed most of the committee's work to stand. However the way members were selected violated the state constitution.

The constitution says that the legislature appropriates money but the executive branch spends it.

It's legal to create the \$200 million fund, but the legislature can not control and direct how the funds are spent.

The State Supreme Court ruled that the Grant Committee appointments were unconstitutional because the Speaker of the House and the Senate President appointed six of the nine committee members.

"The good news is the court defined the problem and OK'd the rest," said Roy Smith, Secretary Treasurer for the West Virginia State Building Trades.

Projects across the state from a baseball stadium in Charleston to a Victorian Outlet Mall in Wheeling have been on hold waiting for the court ruling.

The court laid out a road map on how to fix the problem. According to a footnote in the

decision, the committee selection process wouldn't be tainted if the Governor were to appoint the same nine members to the committee.

Reappointment of the committee is only one of the options.

However, lawmakers are now scrambling to find the fastest way to get the grants back on track.

The legislature may also enact the projects by passing a law during the special session.

Both the governor's office and legislators say they want to do whatever will get the projects back on track more

*Continued on p. 4*

## Sites Excavating Pays \$13,144 In Back wages

**A**CT and Operating Engineers Local 132 convinced Sites Excavating it had to pay a total of \$13,144 to seven workers on a sports complex project in Grant County.

ACT Representative Larry Young filed Freedom of Information requests for bid documents and certified payroll with Sites Excavating and the project owner the Grant County Parks and Recreation.

After the requests were received officials with Sites and Parks and Recreation called Operating Engineer Business Agent, Rick Feaster claiming they didn't know it would be a prevailing wage job.

"I assured them the project was supposed to be subject to prevailing wage because it is being funded by grants from the Governor's Office and the Legislature," said Feaster.

When Sites officials asked how they could rectify the situation, Feaster instructed them to comply with Young's request.

Young found the company was

shorting its workers as much as \$20 per hour on prevailing wages through an investigation of its certified payroll.

After the evidence was presented to Sites management, they voluntarily paid the seven equipment operators the balance of their pay without the division of labor getting involved.

"I knew something was fishy with Sites when I saw that their bid was about \$10,000 less than the next lowest bidder," said Young.

Sites winning bid was \$18,449 the next lowest bidder was Scott Excavating at \$29,500.

The sports complex, located in Petersburg, will consist of two little league-sized fields and one larger field for baseball and adult softball. A walking track is to be installed around all three fields.

"I don't know exactly whose fault it is that Sites wasn't paying prevailing wage, but the fact still remains it has to be paid, said Feaster.

"And thanks to ACT's efforts we can ensure that the playing field remains level for all contractors."

## CONCRETE DRIVERS GET THREE YEAR AGREEMENT

### Teamsters Sign New Contract

**A**fter tough negotiations Teamsters Local 175 has signed new contracts with longtime union companies Arrow Concrete of St. Albans and Pfaff & Smith Building Supply of Charleston.

Both Arrow and Pfaff & Smith signed three-year contracts, which include pension and salary increases for each of the three years.

In addition, both companies also agreed to continue providing health and welfare benefits at no cost to the members.

Landing these new deals was no easy task according to Randy Atkins, Secretary-Treasurer for Teamsters Local 175.

At Arrow, which has been organized for 21 years, the old contract was on a day-to-day extension by the time the mem-

bers working there accepted the company's final offer. The new contract was ratified by 73 percent of its employees.

Pfaff & Smith, which is one of Local 175's oldest members, was not as easily persuaded to give the drivers what they deserved.

After a recent one-month contract extension expired the drivers elected to reject the company's final offer and go on strike on May 31.

By June 2 the company made another offer, which 90 percent of the 15 employees ratified.

"Health care cost was the biggest sticking point with both companies," said Randy Atkins.

"Both companies saw that our members were willing to do whatever it took to maintain their current health care benefit."

"The Teamsters would like to

thank Mike Matthews of the Charleston Building Trades and the folks at ACT for their roles in settling these critical contract negotiations."

Settling these two contracts were critical because several union construction companies in the Charleston area would have been without concrete, had both companies' workers gone on a prolonged strike, according to Atkins.

"All parties involved pushed for a quick end to the negotiations so that each company could honor its contracts," said Atkins.

"I urge all of the members of ACT to support their fellow union members by using only union made concrete."

There are five non-union concrete facilities in the Kanawha Valley so competition is tight, according to Atkins.



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# Trades Show Support For \$1 Billion Project

**M**embers of the North Central West Virginia Building Trades once again came out in force earlier this month to support the proposed Longview Power Generation Project.

Union members attended various board and committee meetings where Monongalia County officials were deciding whether or not to support the proposed \$950 million coal-fired power plant project.

As of press time the Monongalia Board of Education and the Development Authority approved a property tax deal that would bring in \$105 million over 30 years.

Now, the fate of the project is in the hands of the County Commission.

The Commission decided to delay the vote until June 18 to allow the city of Morgantown to hold a public meeting on the

## ABC Attack

*CONTINUED FROM P. 1*  
Commissioner Lewis misinterpreted state law and abused his power as the final decision maker on prevailing wage.

"This is just another attempt for ABC to lay the ground work to lobby the legislature for changing prevailing wage laws in the next session," said Roy Smith, Secretary-Treasurer for the

**Thank You!**  
Monongalia County School Board  
and  
Development Authority  
**For Supporting  
the Families of North Central  
West Virginia**



**We urge the  
Monongalia County Commission  
to join us in supporting the  
Longview Power  
Generation Project**

**What's At Stake**  
\* \$105 Million in new property tax revenue  
\* New Local Jobs!  
\* 545 construction jobs  
\* 200 coal mining jobs  
\* 50-60 plant jobs  
\* Additional jobs in trucking, wood industries, business services, gas stations and other industries  
\* \$158 Million in new wages  
\* \$64 Million in additional taxes during the construction phase  
(Source: Center for Labor and Community Research)

**The North Central WV Building Trades and the 20,000 members of the ACT Foundation solidly support the Longview Power Generation Project**

North Central WV Building Trades Council & The Affiliated Construction Trades Foundation, a division of the WV State Building Trades, AFL-CIO

**The N. Central WV Trades placed this ad in the Dominion Post to show support for Longview.**

matter.

The power plant will have a far greater impact on the community

West Virginia State Building Trades.

ACT is confident that the previous hearing's findings will hold up.

In a nutshell, state law leaves the manner of investigation and determination of prevailing wage to the discretion of the DOL Commissioner.

"It appears state law allows

\$105 million dollars in property tax revenue, which would make it the largest tax payer in

for Commissioner Lewis to determine rates the way he did," said Vince Trivelli, State Building Trades Lawyer. "West Virginia law only mandates that the DOL Commissioner determine a prevailing wage for public projects.

"It doesn't specify exactly how the wage should be investigated or determined."

than just property taxes and producing power, according to Natalie Stone, Executive Secretary of the North Central West Virginia Building Trades.

The Longview project will bring:

- 545 construction jobs for a duration of 39 months, peak employment at 1,200
- 50-60 good paying plant jobs
- Up to 200 coal mining jobs
- Additional jobs in trucking, wood industries, business services and other industries

• \$158 million in new wages during construction

the county

• \$64 million in other taxes paid during construction

County officials' approval is only another step in the long process of getting this project off the ground.

The company still has to obtain environmental permits, approval from the Public Service Commission, and most impor-

tantly funding.

"Longview supports local workers and we will continue to take every opportunity to show our support for the project," said Stone.

"Hopefully the project will become a reality not only because it will be good for union construction workers but also the community."

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## Comp

*CONTINUED FROM P. 1*

WV AFL-CIO to make significant offers," said White. "We are willing to support a bill that is fair but not one that only takes from injured workers."

As the ACT Report goes to press the session is still underway.

## Grants

*CONTINUED FROM P. 3*

quickly.

"Hopefully law makers can fix this problem quickly," said Willard "Bubby" Casto. "These grants will create thousands of badly needed construction jobs for West Virginians in the long run."

## WV Works

Teams up with Homer Laughlin China again to give away five sets of tableware from Fiesta Ware.

**Watch Sunday June 29**

**Call In To Win**

Watch WV Works Throughout June for details

**WOAY 4**  
Oak Hill  
Sundays @ 11:00am

**WCHS 8**  
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Huntington, Parkersburg,  
Beckley, Bluefield  
Sundays @ 11:00am

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Morgantown  
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