

# 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; Roy Smith, Secretary-Treasurer; Steve White, Director.

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## UNION PENSION FUNDS ARE MAJOR HOLDERS OF CORPORATE STOCK Trades go to Shareholders Meeting

In attendance at the annual shareholders meeting for Penn National Gaming were members of West Virginia's construction labor movement.

The corporate meeting is used to elect members to the board of directors and report on the company's progress to shareholders.

Gary Tillis, Business Manager of the Laborers District Council of West Virginia traveled to the June 1 Philadelphia meeting as a shareholder.

"Our pension funds hold billion of dollars in corporate stock in companies like Penn National," said Tillis.

"As shareholders we have rights we need to use."

Penn National owns the Charles Town Race Track in West Virginia's eastern panhandle.

Unfortunately most construction work at the track goes nonunion.

"We wanted to know why

local union workers are not getting to work at the Charles Town Track," said Tillis.

Another issue discussed was the recent failure of legislation to allow table games at the states four race tracks.

Had the legislation passed each county where tracks are located could have voted to allow table games at the tracks.

Recent legislation passed in Pennsylvania to allow slot machines at tracks has raised concerns that WV tracks will lose business. Table games would fill the loss according to industry leaders.

But the WV AFL-CIO stayed neutral in the debate largely because of the poor relations with Penn Central.

"We see a benefit to the tracks and an opportunity for work for our members," said Steve White, ACT Director.

"We can have decent jobs with benefits, not hollow promises."

Combining shareholder activism with union representation is a growing trend. Union pen-

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ATTENDING THE SHAREHOLDERS meeting of Penn National Gaming in downtown Philadelphia are (from left) Gary Tillis, Richard Metcalf, Laborers International, Steve Smith, Laborers WV, and Steve White.

## WV Supreme Court Lets Company Off

The new Supreme Court has let the owners of painting company IPI, Inc. off the hook for a huge Workers' Compensation debt.

Justice Spike Maynard wrote the opinion which reversed a Kanawha County Circuit Judges' ruling that owners of IPI were responsible for the debt of North American Inc.

North American was co-owned by Joe Morris and Matthew Joey Taylor.

In the late 1990's North

American got into serious financial and legal trouble.

Morris pled guilty to money laundering and tax evasion

charges that landed him a 3 1/2 year prison sentence.

Prior to getting the prison sentence Morris transferred his

**"EVEN A BLIND MAN COULD SEE THE OWNER OF NORTH AMERICAN JUST CHANGED COMPANY NAMES AND LEFT THE WORKERS' COMPENSATION FUND HOLDING HUNDREDS OF THOUSANDS OF DOLLARS IN UNPAID PREMIUMS" CLARENCE MITCHELL, BUSINESS MANAGER, PAINTERS DISTRICT COUNCIL 53**

North American stock to his partner Taylor, giving Taylor control of the business in late 1997 or early 1998.

In February of 1998 his wife started IPI with Taylor as president.

Taylor then leased equipment from North American to IPI, a deal in which he signed for both companies.

Taylor sold North Americans' real property to pay off a bank judgment. He also sent letters to North Americans' customers telling them about his new company IPI.

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# Statewide Pension Bond Vote Underway

**T**he vote to allow the state of West Virginia to sell \$5.5 billion in bonds to refinance state pensions is underway.

Early voting has already begun as the final election day on June 25 approaches.

The effort, led by Governor Joe Manchin, aims to put the states financial house in order with a fixed payment plan to fund state pensions and stop the rising cost of interest charges.

If passed by voters the measure will allow the state to borrow up to \$5.5 billion, and convert the current escalating debt into one that has fixed payments.

Estimated savings this refinancing could bring are \$1.5 billion over 30 years. "We are taking care of the bills we already owe," said Manchin. "We are not creating new debt."

Of course convincing the public that such a large bond issue is not new debt but a better financing method is not an easy task.

Governor Manchin has called on business, labor and education leaders to lead a public education effort in support of the measure.

The State Building Trades executive board voted to support the Governor and urge members to vote for the amendment.

Passage of the amendment will allow the state to better manage its

debt, and will not cause drastic budget cuts in other areas such as funding for the construction of infrastructure projects.

The WV AFL-CIO as well as Teacher and Public Employee



unions have also endorsed the effort along with the Chamber of Commerce and other business organizations.

However, there is opposition.

Don Blankenship, head of Massey Coal, has pledged to spend hundreds of thousands of dollars to defeat the measure.

According to the Manchin administration Blankenship is still upset over the recent raise in coal severance tax the Governor pushed through the legislature to pay off the unfunded workers compensation liability.

Blankenship orchestrated the defeat of Supreme Court Justice Warren McGraw last fall by spending more than \$5 million on a vicious attack ads.

Some have asked what protections there are to stop the legislature from getting the state in the same situation.

According to Gov. Manchin there are a number of protections built into the law to stop future Governors or the legislature from creating more debt.

- The benefit calculation structure for effected plans must be locked into place and cannot be increased while any bonds are outstanding.

- Any benefit increases that are granted must be paid for within ten years.

If approved the measure would allow the state to sell up to \$5.5 billion in bonds, but the decision to sell, and what portion of the allowed amount, would be made depending on interest rates available.

## Longview Files Federal Complaint

**L**ongview Power has filed a complaint with the Federal Energy Regulatory Commission (FERC) against Allegheny Energy concerning the stalled negotiations over a transmission agreement.

In Longview's complaint they allege Allegheny's "intransigence and blatant violations" of FERC requirements have unfairly blocked the development of the \$1 billion coal fired plant in Monongalia County.

Longview needs to get power from their 600-megawatt unit onto nearby Fort Martin Substation transmission lines in order to sell their power on the wholesale market.

Since Allegheny owns the transmission lines, they are required to allow other power producers top access those lines without interference.

Allegheny has rejected the proposed path for new transmission lines claiming the line would "pose

a threat to slope stability" of the right-of-way. They also claim an alternate route would cross a proposed ash landfill it may build in the future.

But Longview claims they have asked repeatedly for evidence to back up this claim of slope instability or current plans to build an ash landfill and have received nothing.

Instead, Longview argues, Allegheny is just trying to protect their economic interests by keeping competition away.

Longview also pointed to numerous documents where Allegheny had asked for compensation for the interconnect agreement, an apparent violation of current rules.

After pointing out Allegheny's request for up to \$9.5 million, Longview writes, "Allegheny is blatantly seeking to exploit its

market power over interconnections of potential generation market competitors to its monopoly transmission system. In effect, Allegheny is holding Longview's interconnection hostage until Longview pays Allegheny's re-

quested ransom."

Longview has asked FERC to Fast Track their complaint.

In a related event Allegheny has recently filed with the state Public Service Commission for permission to build new sulfur dioxide removal units, or scrubbers, at their Fort Martin Power Station. Legislation passed at this year's legislative session allows companies like Allegheny to use approved rate increases as collateral for bond financing for such projects.

Allegheny has also filed a request for a rate increase to make use of the new legislation.

The \$400 million project, if approved, could start by the end of the year. But as in the Longview project, there are always many delays that are possible in such endeavors.

Allegheny has agreed to use local union building trades workers on the project.

All work at the Fort Martin site has historically been covered under a National Maintenance agreement.

## Sheet Metal Workers Re-Affiliate

**M**embers from three Sheet Metal Workers Districts have approved contracts that re-affiliate them with ACT and the WV State Building Trades.

The Clarksburg, Parkersburg and Charleston Districts of Sheet Metal Workers Local 33 ratified their new contracts last month to become effective June 1.

At the beginning of the year Local 33 had to drop out of the State Building Trades because of financial problems.

The funding for State Building Trades dues came out of the local's treasury and because of a decline in work the local was faced with severe cutbacks.

The new contracts share the expense of dues between the members and the locals.

"We agreed to take 12 cents of wage increases and Local 33 agreed to pay three cents per

hour to make up the 15 cents ACT/State Building Trades dues," said Dave Minor, Business Manager for the Clarksburg area.

The problem had been one of finances, not with the value of services received.

"The State Building Trades and ACT are valuable tools for us," said Jim Black, Business Agent for the Charleston area.

"Their ability to take on political and legislative issues, as well as be active at the Public Service Commission or Health Care Authority on behalf of Sheet Metal Workers is important work that needs to be done."

With the re-affiliation of the three Sheet Metal Workers districts only the Wheeling area, the eastern panhandle and the Huntington area remain un-affiliated.

"We are pleased to have the Sheet Metal Workers from these three districts re-affiliate," said Roy Smith, Secretary-Treasurer of the State Building Trades.

# Panera Bread Goes Union

**The owners of Panera Bread have agreed to build all future stores in West Virginia with union carpenters and laborers.**

The agreement came after members of both unions posted a huge banner in front of the construction project where a new Panera Bread store is being built in Charleston.

The message was simple - "Shame on Panera Bread."

The contractor building the project did not pay decent wages or have benefits.

Police were called at least three times in attempts to force the banner and union members off the site but they stood their ground.

"We got a lot of support from the public," said Scott Brewer, Service Representative for Carpenters Local 1207.

On May 18 the Carpenters took banners to Panera Bread stores at Morgantown and Clarksburg.

That's when they got a call from John Hass, construction manager for Covelli Enterprises.

"You're costing us money," said Hass. And that's what led to a deal.

Covelli Enterprises owns and operates Panera Bread and O'Charley's restaurants in the state.

In a May 20 letter to the Mid-Atlantic Regional Council of Carpenters Hass wrote "we agree to require that the contractors with whom we contract to build these

[Panera Bread and O'Charley's] restaurants shall employ members of the [Carpenters and Laborers]."

The banner campaign had gone on for a little more than a month and was having an affect.

"Bannering gets our message across to the public," said Dick Ullum, Assistant Executive Secretary for MARCC.

"We don't blame the worker and we don't blame the contractor, we just focus on the decision maker, the owner."

According to Ullum, Covelli plans to build 22 restaurants in West Virginia.

The company has already requested contractor lists for upcoming Huntington and Parkersburg stores.

## Court

*CONTINUED FROM P. 1*

Workers Compensation officials took these factors into consideration when they determined the control Taylor had over North American and IPI proved IPI was a successor company to North American.

IPI was sent a bill for \$865,486 to cover North American unpaid premiums which IPI protested.

A hearing examiner issued a decision in April of 2001 rejecting IPI's protest and agreed that IPI was the successor for North American.

The hearing examiner's decision was upheld by the Circuit Court of Kanawha County.

The case was then taken to the West Virginia Supreme Court of Appeals where it was overturned.

In the decision Justice Maynard focused on whether or not IPI acquired "substantial all" of North Americans' assets.

He concluded IPI didn't own North Americans' real estate, only had three former employees out of ten and since IPI had leased only 115 items of 182 owned by North American they had not acquired "substantially all" of North American.

"Even a blind man could see the owner of North American just changed company names and left the Workers' Compensation fund holding hundreds of thousands of dollars in unpaid premiums," said Clarence Mitchell, Business Manager of Painters District Council 53.

"As far as I'm concerned this new Supreme Court gave a green light to workers compensation cheaters."

The case illustrates the many real problems the Workers' Compensation fund has had

over the years. Contrary to public perception that workers have caused the Worker Compensation fund problems, the courts have often allowed company owners to avoid their Workers' Compensation debts.

Hundreds of millions of dollars in unpaid premiums have been left uncollected, most due from the coal industry, while injured workers have suffered repeated benefit reductions and cut backs.

Fortunately ACT was able to get new language incorporated into legislation passed last year that will stop such cheating in the future.

Currently those who own ten percent or more of a company are held liable for the Workers' Compensation debt and cannot start a new company until the debt is paid.

In an unrelated case Taylor entered guilty pleas before U.S. District Judge John Copenhaver in October of 2000 on behalf of himself and on behalf of IPI and North American Inc. to; over-billing DOH on bridge projects between 1994 and 1997; illegally storing hazardous material; sending paint, rust and waste sand into a creek.

Records show workers were instructed to waste paint by overspraying, spraying tarps and leaving paint in buckets to be thrown away.

The time and material jobs ended up costing tax payers hundreds of thousands in unneeded charges.

Taylor entered into an agreement in 2001 to pay back \$300,000 plus interest and was placed on five years probation. He made an initial payment of \$50,000 and was to make annual \$50,000 payments until the debt was paid.

In four years he has only paid an additional \$19,800.

## Bricklayers and Laborers Protest Lang Masonry



*LETTING THE PUBLIC know about Lang Masonry and their poor record as an employer and contractor are members of the Bricklayers and Laborers unions in Parkersburg.*

*After protesting in front of an Old Navy project at the Grand Central Mall for the month of May the protest followed Lang to Pars Brain & Spine Institute's new office building in early June.*

*According to Bricklayer Organizer Steve Ruble, Lang Masonry doesn't pay decent wages and has substandard benefits.*

*Ruble is also passing out copies of an unfavorable report on Lang's performance at Frontier High School in Ohio.*

*The report, written by Engineering Diagnostics details pages of "Construction issues" that raise serious points regarding Lang's performance on the project.*

*"We believe in high quality work and decent pay with benefits," said Ruble. "We want the public to know Lang provides neither."*

WORKER DIES IN FALL

# Contractor Arrested for Wage Bond Violations

**S**tate Police arrested Jay Stewart, Vice-President of Parkcrest Builders, for violating a cease and desist order issued by the WV Division of Labor.

Stewart was taken off the job in handcuffs because Parkcrest had already been given a cease and desist order on April 20, and by May 5 had not complied.

Parkcrest Builders is the general contractor at The District, a student housing complex being built in Morgantown.

The project has been plagued with problems including violations of state contractors licens-

ing laws and serious safety problems that have taken the life of one worker already.

Houston based Parkcrest Builders is one of many out-of-state contractors working for developer EA Morgantown LLC. EA Morgantown is based in Florida and connected to a huge real estate development empire owned by the Ecclestone family.

The District is a 21 building, 280 unit apartment complex which aims at getting WVU students as tenants.

While local students are what the developers are counting on they have shunned local construction workers on the project.

Instead companies from Texas, Pennsylvania and Ohio

have gotten the work.

Trades members picketed the site last Fall when it first began.

Also cited for law violations were West Star Drywall, Smart Companies, Tile Tech from Texas; Bruin Roofing, Alliance Fire Systems from Pennsylvania; and Level Tech from Akron, Ohio.

These companies were cited for a variety of offences such as failure to have a contractors license, failure to have a wage bond and failure to have employee identification.

More than 55 workers were on the project during the latest enforcement action by the WV DOL.

Problems have not been only with the department of Labor.

OSHA is investigating the death of Manuel Garcia, a worker for Bailey Electric, of Hattiesburg Mississippi.

Garcia, age and address unknown, fell to his death on April 23 when he apparently was using an aluminum ladder as a staging plank.

"It doesn't get much worse

than The District," said Laborers organizer Steve Montoney.

"They've brought in all these workers, many appear to be illegal. They break all of our laws, they even have a death on the project.

"West Virginia tax payers created WVU but this out-of-state company plans to profit from it."

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*THE DISTRICT IS an apartment complex that wants WVU students as tenants, but doesn't want to let the construction worker parents of those students work on the project. Instead they have imported more than 55 workers and broken numerous state laws.*

## Shareholders

*CONTINUED FROM P. 1*

sion funds are one of the major holders of corporate stock.

Such holdings create the opportunity for workers to think as owners and become powerful

forces in corporate issues.

According to both Tillis and White they got a very warm reception from corporate officers.

Follow up meetings are being planned to discuss future construction plans at the facility.

"We were treated profession-

ally and respectfully," said Tillis.

"We look forward to future meetings to find ways Penn National can continue its success, provide a good return for our funds, and be good corporate citizens when it comes to construction labor practices."

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<b>WOAY 4</b> Oak Hill Sundays @ 11:00am	<b>WCHS 8</b> Charleston, Huntington, Parkersburg, Beckley, Bluefield Sundays @ 11:00am	<b>WDTV 5</b> Clarksburg & Morgantown Sundays @ 11:00 am
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## WEST VIRGINIA WORKS SHOW TIMES SUNDAYS AT 11 AM

**CABLE CHANNEL 9**  
Steubenville, Follansbee &  
Wellsburg  
daily @ 11:00am &  
11:00pm

**CABLE CHANNEL 10**  
Wheeling, St.Clairsville &  
Moundsville  
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11:00pm