

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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LABOR BACKED DELEGATES MAKE THE DIFFERENCE

New Speaker of the House Elected

Labor's candidate, Del. Rick Thompson, (D-Wayne), has won the Democratic party caucus vote 42 - 29 to become the next Speaker of the House of Delegates.

The Speaker is the top post in the House of Delegates and is responsible for appointing committee chairs, committee assignments for members and has major influence on what legislation will be voted on - and what bills will never see the light of day.

The post had been held for 12 years by Del. Bob Kiss (D-Raleigh) who decided not to run for office this term.

Thompson faced Del. Scott Varner (D-Marshall) in the vote that took place among the 72 elected democrats to the House.

Although Varner has been a Labor endorsed candidate for many years he was running as the new leader of the current team in office selected by Kiss and

thus lost the support of Labor.

Thompson campaigned on a commitment to make the office more open, allow more debate, and to end the practice of allowing just a few members to control the process.

Technically the election will be on the first day of the legislative session, January 10, 2007. At that time all 100 members of the House will vote. But given the

72 to 28 advantage the Democrats have it is unlikely any candidate could mount a challenge against Thompson at this point.

Key to Thompson's win was

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NEWLY ELECTED DELEGATE Orphy Klempa (D-Ohio) (left) poses with newly elected Speaker of the House Rick Thompson (D-Wayne) and his wife, Beth Thompson. Klempa is the only Building Trades member serving in the legislature. He is a member of Carpenters Local 3 Wheeling and a representative of the Mid-Atlantic Regional Council of Carpenters.

Coal Operator Asks IRS to Call Mine Waste a Charitable Contribution

A coal company is asking the Federal Internal Revenue to classify their mountain top removal operation in Mingo County as a charitable contribution.

The ruling would save Trinity Coal Partners LLC up to \$21 million per year.

In return, the company promises to build a 12 mile section of the King Coal Highway.

After being tipped off by Operating Engineer Local 132 Organizer Rodney Marsh the ACT

Foundation began researching the operation.

Freedom of Information Act

highway during the course of its mining operations if we are able to obtain from the IRS a designation

"...CALLING A STRIP MINE A CHARITABLE CONTRIBUTION DOESN'T MAKE SENSE TO ME." RONNIE BURDETTE, BUSINESS MANAGER OF OPERATING ENGINEERS LOCAL 132

requests uncovered a number of letters sent to legislative leaders from the Mingo County Redevelopment Authority.

"Trinity coal is proposing to construct this 12 mile section of

nated charitable contribution for their work."

The letter further proposes moving the highway to ridge tops to allow the elimination of two large bridges.

Documents show Trinity wanted government help to expedite mining permits and to "utilize its condemnation right for utilities and adverse surface tracts that may be required."

In a letter dated October 30, 2006 from Mike Whitt, Executive Director of the Mingo County Redevelopment Authority, to Senator Robert C. Byrd, Whitt claims, "...Trinity Coal has already constructed to grade an approximate one mile section of the King Coal Highway in anticipation of receiving the charitable contribution designation

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Lewis to Leave Labor Post

Jim Lewis has decided to leave his position as Commissioner of the West Virginia Division of Labor.

Lewis was first appointed to the post by Governor Bob Wise in January 2000. Governor Joe Manchin reappointed Lewis when he took office in early 2005.

Lewis said it was just time for him to move on.

"I've been in the trades for 37 years," said Lewis. "I'm really excited to be able to stay home more and work on some committees I'm involved in around there."

Although Lewis has enjoyed his time as commissioner, he claims it has been a long haul. The drive alone took him three hours a day from his home in Wood County, then after spend-



ing eight hours in Charleston, he barely had enough time to fulfill his obligations at home, such as serving as an officer on the examining board for the Parkersburg Pipefitters Local 565.

He also serves on the committee of the Experimental Aircraft Association. But he holds no regrets.

State Building Trades.

After conducting telephone polls and evaluating data the group put together a series of post card campaigns.

Together with the national

"The work that I was able to do in the trades has allowed me to go to this level. It has been a great opportunity I wouldn't trade for anything," said Lewis. "I appreciate the support the Labor movement gave me to get this job."

While working for state government Lewis had to give up contributing to his union pension fund. He intends to go back to work at the trade and work towards eligibility for a full retirement.

"I've worked with a great group of people," said Lewis. "They'll help you anyway they can."

Lewis began his career as a pipefitter when he was 19 and accepted into the apprenticeship program.

Governor Joe Manchin will select Lewis's replacement.

Labor's candidate."

The Republican members selected their leader to replace Charles Trump (R-Morgan) who, like Kiss, decided not to run for office. Del. Tim

Armstead (R-Kanawha) was chosen by his party caucus and was unchallenged.

In the State Senate Earl Ray Tomblin (D-Lonan) was re-elected without

opposition to another term as Senate President, the comparable post to the House Speaker.

However the Republicans chose a new Minority Leader, Don Caruth, (R-Mercer) to replace Sen. Vic Sprouse (R-Kanawha).

Hearing on Wind Project Canceled

Public hearings for the proposed 44 turbine Liberty Gap Windmill project in Pendleton County were scheduled to begin on December 12.

But a technical mix up ended up canceling the hearings.

Rules of the State Public Service Commission (PSC) make the company applying for a permit responsible for publishing notices about the hearing in certain newspapers.

The legal firm handling the case for Liberty Gap failed to publish the notices forcing the hearing date to be postponed.

The PSC instead held a public comment session at its Charleston offices. The PSC then ruled to reschedule the hearings on April 16, 2007.

Because state law requires the PSC to complete work in a certain number of days an agreement to extend the time period must be worked out as well.

Members of the North Central WV Building Trades had prepared to attend the hearing and testify about the agreement they had negotiated to insure local union workers were employed on the project.

"We're disappointed the hearings were not held, we've worked hard to help this project move forward," said Natalie Stone, Executive Director of North Central.

Liberty Gap is being developed by U.S. Wind Force LLC, a Pennsylvania-based company.

U.S. Wind Force has signed a memorandum of understanding with North Central and the

WV State Building Trades pledging to use contractors that employ local union workers for all of their WV projects.

In addition the ACT Foundation hired an economist to model the economic impact of the project and to predict the effects on payrolls, purchases of local goods, and the resulting boost to the local economy.

ACT's economic impact report showed a 50 turbine project, with 18 miles of transmission line costing \$185 million would create about 165,000 manhours of construction employment over the estimated 8 month construction phase.

In addition to the resulting \$8 million in local construction worker wages, added benefits include local purchases of materials and supplies, taxes, and the resulting secondary effect of spending those new dollars in the local economy.

Earlier this year the PSC permit application for the project had been in jeopardy. The PSC threw the permit application in July out when they claimed the company tried to prevent access for a consultant working for opponents, who wanted to conduct a site study.

The West Virginia State Building and Construction Trades Council, who has provided legal support to intervene in the case, filed objections with the PSC stating the sanction to throw out the permit application was too strong.

The PSC agreed to reinstate the permit application after Liberty Gap agreed to allow on-site inspections and to pay some of the costs of the opponents' experts.

House Speaker

CONTINUED FROM P. 1

backing from organized labor. During the primary and general elections this year Labor focused on the Speakers Race. With few

exceptions endorsements only went to candidates who would agree to back the labor candidate for Speaker.

In addition a few key groups, including the State Building Trades, funded independent expenditures to support candidates

"COMING OUT WE KNEW WE HAD PICKED UP EIGHT NEW DELEGATES WHO WERE COMMITTED TO SUPPORT LABOR'S CANDIDATE." ROY SMITH, SECRETARY TREASURER OF THE WV STATE BUILDING TRADES

mood towards Democratic candidates the effort proved very successful.

"Going into the election we thought Thompson was ahead a few votes," said Smith. "Coming out we knew we had picked up eight new Delegates who were committed to support

COMPANY OWNED BY POWER BALL WINNER JACK WHITTAKER

Diversified Enterprises Fights Subpoenas

Diversified Enterprises, owned by famed Powerball winner Jack Whittaker, is in trouble with the National Labor Relations Board (NLRB) and the West Virginia Division of Labor.

In August a number of Diversified employees approached different craft union representa-

tives including the Carpenters, Bricklayers, Operating Engineers and ACT Representative Wayne Rebich.

The workers had a variety of concerns about their rate of pay and working conditions.

As the workers began to organize themselves they claim they were

threatened, demoted, and moved to different projects.

"IT IS THE BURDEN OF THE PARTY SUBPOENAED TO SHOW A REASON WHY THE BOARD'S SUBPOENA SHOULD NOT BE HONORED," EARL LEDFORD, REGIONAL ATTORNEY FOR REGION 9 OF THE NLRB

Charges were filed against Diversified at the NLRB by the

Mid-Atlantic Regional Council of Carpenter in September and

August claiming Diversified broke the law on a number of occasions.

At the same time seven workers filed a "Request for Assistance"

with the West Virginia Division of Labor claiming they were not paid the right pay for projects in Beckley, Parkersburg and Elkins while working for Diversified.

Some say they were paid at lower rates while performing the work of higher paid crafts, others claim overtime was not paid.

Both the NLRB and the WV DOL have been look into these claims and the cases are heating up.

While investigating Unfair Labor Practice charges the NLRB directed the company to turn over documents relating to payroll and work assignments.

The NLRB issued a subpoena for the documents on October 27.

However just a few days later Diversified's lawyer filed a petition to avoid delivering the documents. Claiming the request was would produce "overburdensome, voluminous amounts of information" Whittakers lawyer wants the subpoena revoked.

Earl Ledford, Regional Attorney for Region 9 of the NLRB responded by referring the issue to the NLRB in Washington DC.

Ledford made his case against revoking the subpoena in a memorandum outlining a long history of cases backing up the NLRB investigators ability to

require information.

On November 9 Ledford wrote "the Regional Director has full discretion to issue precomplaint investigative subpoenas whenever the evidence sought would 'materially aid' in determining whether a complaint should issue."

Ledford goes on to explain how Diversified made claims basic payroll information was secret without any explanation and that the NLRB had offered to allow signed testimony to cut down on the paper request but the company refused.

"It is the burden of the party subpoenaed to show a reason why the Board's subpoena should not be honored," Ledford wrote. "The Employer has failed to meet this burden."

The case will be decided by a five person panel in Washington DC appointed by the President and approved by the Senate.

Workers are currently working on a project for the Shady Springs Public Service District in Raleigh County.

The \$7 million water treatment facility is located near Flattop Lake.

"We just heard they fired a guy on December 11," said Wayne Rebich, ACT Representative.

"I am sure a new set of charges will be filed."

International Human Rights Day



KENNY PERDUE, PRESIDENT OF THE WV AFL-CIO (right) and Reverend Dennis Sparks, Executive Director of West Virginia Council of Churches spoke to a group of about 100 supporters on International Human Rights Day, December 11.

International Human Rights Day marks the anniversary of the adoption of the Universal Declaration of Human Rights by the UN General Assembly in 1948, which ensured workers the right to individual freedom via economic security and independence and that includes the freedom of workers to form unions.

"Studies show that states where many workers belong to unions have lower poverty rates, better schools and less crime," said Perdue. "We're trying to sustain this quality of living for the citizens of West Virginia but due to corporate injustice workers are being fired for trying to form unions." The event took place at the state Capitol Building in Charleston.



New Labor Backed Retiree Group Meets

The year old chapter of the West Virginia Alliance for Retired Americans (WVARA) held their first election of officers during their second annual conference in November at Cedar Lakes Conference Center in Jackson County.

The meeting was sponsored by the West Virginia AFL-CIO and the WVARA in cooperation with the Institute for Labor Studies and Research of West Virginia University, and was opened by Chapter President Ernest (Spud) Terry.

A full agenda followed including inspirational speakers, for an attendance of about 75 members.

The three biggest issues the WVARA is fighting for are: prescription drugs, healthcare, and shrinking pensions.

West Virginia State Auditor,

Glen B. Gainer III spoke from the heart about what West Virginia needs today to stay ahead of the game. Also, Bruce Downton, the president of the Maryland ARA spoke.

Last year the group changed umbrellas from the AFL-CIO's retirees to the WVARA. A conference was held to establish the new charter and to elect officers for one year.

At this year's conference an executive board was formed from each of the three districts and the following officers were elected for two years.

"It's a new group, and we're still getting our feet wet."

I think this new chapter will get the attention of the Legislature on retiree issues," said board member and retired boilermaker Raymond "B.B."

Smith.

The WVARA Conference was concluded with a resolve of those present to work in unison to empower and improve the status of all West Virginia retirees.

The new WVARA chapter is headquartered at the state AFL-CIO offices in Charleston.

The group started as a method of becoming a more ef-

fective lobbying organization to work for retirees, according to Smith.

It plans to be very active in legislative sessions and to aggressively try to get retirees more active in the political arena.

Groups of 15 or more can join by getting in touch with a WVARA officer at the AFL-CIO in Charleston, or by calling B.B. Smith at 304/545-7781.



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Coal Operator

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from the IRS..."

However no records are in the hands of the WV DOH regarding this mile of highway road bed already built, including any agreements, inspection or testing records, maps or blueprints.

Highways officials guess the company is stacking material to be used for the road project but claim they have no involvement.

Trinity was formed in 2005 and is jointly owned by Sowood Commodity Partners Fund II LP and Jeffery Hoops. Sowood is a large private firm based in Boston, Seattle and Houston.

The managing partner of Sowood is reported to be Carl Tricoli, a former Executive of Enron Corporation.

Hoops is associated with a number of WV mining operations and is based in Milton.

Records from the Secretary of State and Mine Safety and Health Administration show Hoops as the sole member of Frasure Creek Mining, LLC. Frasure Creek is operating a surface mine in Mingo County.

"We are not against common sense projects to save tax payers money," said Ronnie Burdette, Business Manager of Operating Engineers Local 132. "But calling a strip mine a charitable contribution doesn't make sense to me."

"We'll get a poorly built road but the coal company won't have to reclaim their mine and will get a whopping tax break."

The ACT Foundation has a case before Federal Judge John Copenhaver regarding a similar deal made between the West Virginia Division of Highways, the U.S. Department of Transportation and coal operator Don Nicewonder in 2004.



WVARA VICE PRESIDENT and member of Boilermakers Local 667 Raymond "BB" Smith (right) takes the microphone at the ARA Conference held in Jackson County. Also pictured (from left) Ernest (Spud) Terry, President; Sterling Ball, Executive Vice President and Jim Picarella, Treasurer.