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60 DAY LEGISLATIVE SESSION FOR 2009 UNDERWAY IN CHARLESTON

The 2009 legislative session started on February 11, a month later than usual.

The delay occurs every four years after a governor is elected. Health care reform should be a major topic this year.

An interim committee has endorsed a series of recommendations made by a study group aimed at expanding government funded programs, reducing costs and finding more affordable ways for people to get health care coverage.

ACT has been working for the past few years to make sure funds included in government contracts for construction worker health care don't end up somewhere else.

Some contractors do not offer health care plans and pay additional cash rather than into a health plan.

ACT's proposed law would ensure construction workers on public projects have some sort of health care before the contractor is allowed to bid.

In addition, ACT is proposing changes to the Alcohol and Drug Free Act passed last year.

The change would expand the law to cover not just state construction projects, but those done for counties and cities as well.

A number of County Commissions have already passed resolutions in support of the measure.

Another legislative issue will be updating the crane operators certification law. The law was passed in 2001 and has proven valuable to improving job site

safety.

A few changes are being proposed in order to keep up with changes in the industry.

Tower cranes are not specifically listed in the current law. A new proposal will include tower

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TALKING ABOUT LEGISLATIVE issues are (from left) Dave Efaw, State Building Trades Secretary-Treasurer; Kenny Perdue, President of the WV AFL-CIO; and Jim Pitrolo, Legislative Director for Governor Joe Manchin.

ADDITIONAL WIND PROJECT IN THE WORKS

NORTH CENTRAL TRADES TO BUILD NEW \$370 MILLION WIND PROJECT

The North Central WV Building Trades Council and AES Corporation have reached an agreement on their second Memorandum of Understanding for the construction of wind turbines in WV.

The latest project is called AES New Creek and will be located on a seven mile stretch

of the New Creek Mountain ridgeline in Grant County.

The project consists of 66 wind turbines that will have a capacity of up to 160 Megawatts and cost approximately \$370 million.

AES sent their application to the WV Public Service Commission (PSC) on December 19.

The project, if approved, is expected to take nine months to construct and require 123 construction workers.

Related business activities as well as property and B&O tax revenues add to the economic impact the project could have for the state and community.

Grant County could get as much as \$673,000 more in property taxes per year depending on the final configuration of the project.

North Central is working together with the Affiliated Construction Trade to get involved in the permitting process.

Testimony from North Central representatives is key to showing the positive economic impact the project will bring.

In addition ACT will supply economic data to the PSC showing the financial effects when using local skilled construction workers to build the project.

ACT attorney Vince Trivelli will play a role in the hearings appearing before the PSC and representing the Trades.

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SBA LOOKS FOR MORE FUNDING**PRESTON SCHOOLS LOOK AT PRIVATE CONSTRUCTION: TRADES SKEPTICAL****Promises to build schools for less money is catching the attention of Preston County School Board.**

Building Trades representatives are closely watching the direction proposals given to the Preston School Board take.

A company called Sustainable Educational Facilities, LLC has made a series of presentations to the Board in the last few months promising they can save money by avoiding prevailing wage requirements, eliminating bidding, using cheaper materials and avoiding government requirements.

Partnering with the group are a number of local businesses including non-union construction companies.

However the group wants the county and the state to guarantee it makes a profit as part of the deal.

They also want property to build the schools on to be leased to them for one dollar.

The proposal comes after a \$50 million school bond failed by only 61 votes to get voter approval in November. An additional \$19 million had been

pledged by the State School Building Authority.

Documents received from a Freedom of Information request made by the ACT Foundation include minutes and documents from a Special Meeting of the Board called on December 1 and held on December 3, 2008.

A variety of scenarios were presented including building and furnishing schools, looking to the State School Building Authority for money, and going to voters for a special levy for funding.

Projects for six schools to be paid back over a 24 year period were discussed.

"We have yet to get all the details but this looks more like a scam than a plan," said Natalie Stone, Executive Secretary of the North Central WV Building Trades.

"We welcome and support most efforts to build new projects, but how this idea would benefit Preston citizens is hard to see."

The Preston County case is not the only effort underway to find alternative school construction financing.

The State School Building Authority received a report on February 6 from its finance committee on a recent trip to New

York City to learn about a process called "Certificates of Participation."

Instead of a county passing a school bond they could enter into a long-term lease to finance a project.

A private bond would be sold and the county would be responsible for paying it back, much like if they passed a county bond.

The reason the SBA is look-

ing at the financing method is because they believe there is \$500 million to \$1 billion in school project needs without any funding.

The finance committee made no recommendation but plans further study.

Steve Burton, Business Manager of the Tri-State Building Trades has been a member of the SBA since its start in 1990.

He expressed skepticism at the meeting, especially given the failure of alternate financing methods nationally.

"We will watch this closely," said Burton. "Perhaps in other states where they have not had the benefit of a School Building Authority there may be a need, but I don't see what any of these financing methods bring to help the kids of West Virginia."



GOVERNOR JOE MANCHIN (center) attended the recent meeting of the SBA and is flanked by SBA Executive Director Mark Manchin (left) and Steve Burton (right). Gov. Manchin talked about his desire to have local participation in all school projects. He emphasized the stimulus package might be a help, but would not be a solution to all ills.

LEGISLATIVE

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cranes as a licensed category.

Some old terms such as small and large telescoping boom cranes will be changed to fixed-cab and swing-cab cranes following industry standards.

An effort to give voters an option on how elections are financed is another bill of interest.

Called the "Clean Election" law the bill would allow candidates to avoid raising money through campaign contributions and provide limited public funding instead.

Candidates would have to show they have serious support before being eligible for the funding.

The influence of large contributors, like Massey Coal's

Don Blankenship, concern many. The U.S. Supreme Court has agreed to hear an argument about whether Blankenship's \$3 million expenditure to get Brent Benjamin elected to the West Virginia Supreme Court should disqualify Benjamin as a judge from any cases concerning Massey.

Projections for the state unemployment fund, while currently

sound, are dire if the economy worsens because employers are still paying in based on levels set in the 1980's.

The State Chamber of Commerce is calling for a cut in benefits rather than pay a modest increase.

West Virginia already has the lowest average payout of all surrounding states. Unemployed workers in Pennsylvania receive

on average \$95 more per week than those in WV.

The session may see some action on energy policy.

Following Ohio a "Renewable Portfolio Standard" is being discussed.

This would require state producers of electricity to diversify into wind, clean-coal, hydro, bio-mass and other production methods.

\$561 MILLION IN HOUSE BILL

STIMULUS PACKAGE INCLUDES FUNDS FOR WV INFRASTRUCTURE CONSTRUCTION

The Obama stimulus package will mean significant new construction of roads, bridges, schools, water lines, sewage treatment plants and more.

As the ACT Report went to press the Senate is close to passing the measure but differences with the House version must still be resolved.

Based on the House version West Virginia could see around

\$561 million for construction related projects.

Although a big emphasis has been on infrastructure spending, only about \$62 billion of the more than \$800 billion package is construction related.

Other expenses include tax breaks, medicaid support, and funds to help state budgets.

Highway funding tops the list of construction related spending in WV followed by K-12 school

Highways	\$243 million
K-12 Construction	\$101 million
Clean Water	\$95 million
Weatherization	\$70 million
State Energy Program	\$38 million
Drinking Water	\$20 million

Source: FFIS Federal Funds Informaion for States

projects be ready to construct within 90 to 180 days of funding. These so-called “shovel ready” projects are key to getting money into the economy to boost business activity. Governor Joe Manchin worked with state agencies to put together a list of \$2.3 billion in projects to present to federal legislators.

Congress has insisted

Specific projects most likely will not be listed in the federal stimulus bill, instead the funds will go to the state to be used in the appropriate categories. Most agencies are looking to match federal funds with state or local funding to get more projects funded. The State School Building Authority put together a list of shovel ready construction projects totaling more than \$210 million if they were to receive \$101 million of federal stimulus funds.

Other expenses include tax breaks, medicaid support, and funds to help state budgets.

DAVIS-BACON MEANS FAIR CONTRACTING

FEDERAL STIMULUS BILL INCLUDES PREVAILING WAGE REQUIREMENT

Lawmakers in Washington DC have included important Davis-Bacon language into the Federal Stimulus bill.

Often referred to as a ‘Prevailing Wage’ law, the Davis-Bacon Act is a key protection of federal construction contracts for workers, contractors and communities that is often misunderstood.

Named after the two Legislators who sponsored the bill in the 1930’s the Davis-Bacon Act requires special minimum wage rates be paid to construction workers on federal construction contracts.

The reasoning in the 1930’s is as valid today as it was then.

Government contracts, meant to boost local economies, were having the opposite effect. In-

stead of creating jobs for local workers and businesses new construction contracts were lowering wages and hurting local contractors.

Local contractors were being under bid by companies from out of the area who would import low wage labor for the construction projects.

The result meant no contracts for local businesses and no jobs for local workers.

Instead a downward pressure on wages and earnings resulted from the government project.

By awarding federal contracts in this environment, the federal government became involved as an “unwilling collaborator with unscrupulous firms that sought to get government business by cutting wages” wrote one of the sponsors.

For many in Congress the federal bidding process tended to

favor contractors with low-wage, low-skill laborers (even if family-wage contractors were otherwise superior in terms of efficiency, management of sub-contractors, quality of work, and profit rates).

In order to combat such unfair and damaging contracting practices, and to establish better and more productive standards of competition, Congress looked for a way of setting minimum standards for wage rates on public construction projects.

The Davis-Bacon Act of 1931 was sponsored by two Republicans, Representative Robert Bacon (R-NY) and Senator James Davis (R-PA). The Act required wages paid on federally financed projects to be no lower than the wage standard in the community where the project was to be built. By placing a floor on wages paid, contractors

competed on the basis of efficiency, profit rates, quality of work, and better management of sub-contractors and material suppliers.

Over the years a variety of changes have been made to the law to require weekly pay periods, certified payroll records, the posting of wage rates on the job, and requiring wages to be paid based on the work performed not the title assigned a worker.

The history of prevailing wage laws go back further than the 1930’s. In 1891 Kansas became the first state to attempt to address conditions resulting from government construction. The Kansas Eight-Hour Bill required that the minimum daily wage that prevailed before passage of the law would remain at that rate for an eight hour work day on all public works projects.

Over the next three decades

many states adopted legislation similar to the Kansas bill and by the end of the 1920’s forty-one states had passed some sort of prevailing wage provision.

West Virginia passed a prevailing wage law in 1935 which continues today.

The laws have been attacked many times over the years with low wage supporters promising huge savings to tax payers as reason to repeal the measures.

However careful study has shown no savings result when prevailing wage laws are eliminated, only lower wages, higher profits, poor quality projects and a decline in training, safety and benefit programs.

“Prevailing wage is the community wage and works to bring productivity and quality to government projects,” said Dave Efaw, Secretary-Treasurer of the WV State Building Trades.

OBAMA SIGNS EXECUTIVE ORDER FAVORING UNION PROJECT LABOR AGREEMENTS

President Barack Obama signed an Executive Order allowing and encouraging Project Labor Agreements for large federal construction projects.

“It is the policy of the Federal Government to encourage executive agencies to consider requiring the use of project labor

agreements in connection with large-scale construction projects...” stated the February 6 Executive Order.

PLA’s are a common feature on large private sector jobs but had been banned by former President George Bush in 2001 for construction projects with federal funds.

The Obama Order will require government agencies to evaluate PLA’s on construction projects

valued at \$25 million or more.

The Order does not require the use of PLA’s however it recognizes the many advantages a project owner can get if a quality labor supply is secured.

Furthermore the Order points to advantages owners get when complex construction projects with multiple employers are more efficiently managed under a PLA.

A project labor agreement

sets standards and conditions for an entire project which promotes stability and harmony on a project.

Contractors do not have to be party to a collective bargaining agreement to bid on a project but must agree to become party to the project agreement with

one or more appropriate labor organization if they work on the project.

According to the Order any and all restrictions to requiring a PLA are immediately revoked.

Regulators have 120 days to make appropriate rules needed to implement the order.

NEW REPORT SAYS SOME COMPANIES GET WV TAX BREAKS, THEN CUT JOBS

Some companies in West Virginia have cut their work force after getting tax credits and low-interest loan assistance from the state.

That news comes from a report entitled “Money for Nothing: Do Business Subsidies Create Jobs or Leave Workers in Dire Straits?” published by the nonpartisan WV Center on Budget and Policy.

The group looked at two types of tax credits and a low interest loan program given by the state.

The report documented a variety of companies who received credits and loans but ended up with fewer workers than before getting the state assistance.

According to the report Sequelle Communications Alliance got \$600,000 from the WV Development Office in 2002 plus \$160,000 from the Mid-Ohio Valley Regional

Council and \$3.29 million from the U.S. Department of Agriculture to create 50 good paying jobs. The company is now defunct with the former chief executive indicted in 2008 for misappropriating millions of public funds.

Tech-Seal Products of Ohio County received a \$304,000 low interest loan in 2003 to add jobs, but in their application for another loan in 2006 claimed they had lost 7 jobs since 2003. They were granted an additional \$765,000 loan.

Interstate Hardwoods of Pocahontas County received a low-interest loan of \$722,260 and up to \$150,000 in state tax credits between 2003 and 2006 but reduced employment to 200 employees from 215.

One of the biggest problems identified in the report is the lack of timely data about loans and credits.

Information that is available is often outdated or vague. Actual number of jobs created, or a

measure of their quality is also often lacking.

Some tax credit programs have payback requirements if job goals are not met but information on the enforcement of these provision in not published.

Although the report was critical about the economic development efforts programs it did not call for their elimination. Instead a number of recommendations to improve the tax credit and loan programs were offered by the group.

Recommendations all centered around providing more information both to the public and to policymakers such as the legislature as well as suggesting more accountability about results.

One recommendation is to follow the practice of 27 states currently providing company-specific online disclosures of business subsidies.

Another idea is to publish the results of credits and loans similar to states like Illinois and Min-

WIND

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AES received permission to build their 65 turbine Laurel Run project in Randolph and Barbour Counties late last year.

“Both of these projects are welcome news for our work force,” said Natalie Stone, Executive Secretary of the North Central WV Council.

“With the uncertain economy ahead we know these jobs will be needed for our members and their families.”

In addition a project called Pinnacle Wind Force has started

nesota.

Improving “claw-back” provisions which require refunds if the companies don’t produce the results promised.

Another suggestion is to create a unified development budget which catalogs both direct

the regulatory process needed to file an application to the PSC to build 23 wind turbines in Mineral County.

On January 30 Pinnacle filed their required 30 day Notice Of Intent which starts the regulatory process.

The developer, U.S. Windforce LLC, has already committed to work with local building trades workers.

If approved the \$120 million project would have a 55 megawatt capacity.

The regulatory process could take up to a year or more to complete.

assistance and credits from state and county governments. Illinois, New Jersey, Texas and Rhode Island are already doing this.

To read a full copy of the report go to www.wvpolicy.org.

The ACT Foundation is one of the supporters of the Center.

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