

THE ACT REPORT

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ACT is a division of The West Virginia State Building and Construction Trades Council, AFL-CIO. Steve Burton, President; Dave Efaw, Secretary-Treasurer; Steve White, Director.

Charleston - (304) 345-7570
Toll Free - (800) 930-9675
www.actwv.org



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WV SUPREME COURT RULES FOR ACT-TRADES ON KING COAL CASE

The WV Supreme Court of Appeals overturned a Kanawha County Judge in favor of ACT and the WV State Building Trades.

Judge Robert Stucky had tossed out ACT's case about the King Coal Highway saying they lacked standing, the right to bring a case.

But the Supreme Court, in a 4-1 ruling written by Judge Menis Ketchum, disagreed

with Stucky and paved the way for ACT to finally have their case heard. The ruling was issued on June 22.

The suit stems from a 2003 deal between Nicewonder Construction, the WV Division of Highways and the US Department of Transportation to pay the coal company for moving 'overburden' from a mountaintop removal job if the company would leave a portion of road bed for the King Coal Highway.

The 14 mile stretch of highway called the Red Jacket section is in Mingo County.

ACT attorney Vince Trivelli argued the case before the court on May 20, more than six years after it was filed.

The case was first taken up in Federal Court and initially Judge John Copenhaver ruled in favor of ACT saying Davis-Bacon wages should be paid. However he denied the claim that bidding laws were violated holding that it was a

one-time event.

Then, after waiting for more than a year, Copenhaver changed his mind and decided ACT didn't have any right to bring the action at all.

ACT then returned to state court to enforce state law, but Kanawha County Circuit Court Judge Robert Stucky was apparently persuaded by Copenhaver's ruling and followed suit, saying ACT didn't have any members and

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PIPE TRADES-UA HOLD REGIONAL APPRENTICESHIP COMPETITION

A nine-state regional Pipe Trades apprenticeship contest was held from Tuesday, June 14, through Thursday, June 16 at the Charleston Civic Center.

Apprentices from Michigan, Indiana, Kentucky, Ohio, Pennsylvania, Maryland, Virginia, the District of Columbia and West Virginia compete in five categories of welding, pipefitting, plumbing, HVAC and sprinklerfitting.

All together 32 contestants performed demonstrations of their trades each day, showing the quality of the construction skills necessary to keep them highly productive, and the public safe.

The event was sponsored by the WV State Pipe Trades as well as the United Association. Charleston Local 625 Training Director Brett Matthews coordinated the effort.

"This contest shows what skilled labor is all about," said Matthews.

"Our members are the most highly-trained, efficient work force out there, and this contest gave the public a chance to come see what we do to make their lives functional and safe every day."

A special event for Legislators brought members of the House and Senate Education Committees to the event on the opening day.

The Interim Select Committee on Education along with other elected officials attended the contest for a special tour and live demonstration of downhill welding – a key skill needed for Marcellus Shale gas projects.

"Marcellus Shale is creating thousands of construction jobs in West Virginia," said Matthews. "We want to make sure these jobs go to qualified local workers. This contest demonstrates we have the skills to get the jobs done."

In the end contest winners came from Michigan and Ohio and will attend the national contest in Ann Arbor, Mich. in August.



TONY TOLER, an apprentice from Charleston LU 625, competed in the welding category.

TRI-STATE BT IN TOP 10 OF CONTRIBUTORS**DIABETES FUNDRAISER NETS \$20,000**

For the 17th year the Tri-State Building Trades Council has raised money to help find a cure for Diabetes – a disease effecting 24 million Americans.

The effort is part of the Dollars-Against-Diabetes, known as DAD's Day events across the nation promoted by the Building and Construction Trades Department of the AFL-CIO.

With a focus on activities around Father's Day, State and Local Building Trades Councils around the country have been able to donate over \$21 million dollars to the Diabetes Research Institute, located at the University of Miami in Miami, Florida.

Tri-State's event was held

on June 17 at the Sugarwood Golf Course in Wayne County and hosted 42, four person teams for a total of 168 participants.

"We had to turn people away," said Steve Burton, event coordinator and Business Manager of the Tri-State Building Trades.

"Even with the bad economy our people know the importance of taking on this terrible disease and do their part each year."

Members of the Trades, contractors and owner representatives participated.

Together the group raised almost \$20,000 which makes the Tri-State Building Trades one of the top ten contributors in the country for the DAD's Day event.

According to Burton the

Trades have actively supported the DAD's Day campaign for the last 17 years.

Burton noted numerous volunteers but gave special recognition to Operating En-

gineers Local 132 who organized the food and cooking for the crowd.



A SEA OF golf carts start the DAD's Day event sponsored by the Tri-State Building Trades. The effort raised \$20,000 for Diabetes research.

PRODUCTIVITY KEY TO COST CALCULATION**STUDY SHOWS PREVAILING WAGE RATES DON'T INCREASE CONSTRUCTION COSTS**

A new study in Colorado finds the Davis-Bacon requirement, often called Prevailing Wage, doesn't result in higher construction costs.

The study "An Analysis of Davis-Bacon Prevailing Wage Requirements: Evidence from Highway Resurfacing Projects in Colorado," by Dr. Kevin Duncan examined the effect of prevailing wage laws on construction costs of state and federally funded highway resurfacing projects in Colorado.

Colorado follows the pre-

vailing wage law for federally funded projects but does not for state projects because they do not have a state prevailing wage law.

All regular standards in the state, besides the prevailing wage requirement, are the same as federal standards so both state-funded and federally-funded projects could be compared.

The study found that, after adjusting for project size and complexity, there is not a significant statistical difference

between the cost of construction projects that do and those which do not require prevailing wages be paid.

At first blush the federally-funded projects were much

MANY PEOPLE ASSUMED PROJECT COSTS WOULD RISE AS WAGES INCREASE, BUT THIS STUDY SHOWS THAT IS NOT THE CASE FOR A NUMBER OF REASONS.

more expensive than state-funded projects.

But this is because federal projects are substantially bigger and more complex than state-funded projects.

Many people assumed project costs would rise as wages increase, but this study shows that is not the case for a number of reasons.

Construction projects that pay prevailing wages have higher productivity and efficiency, demonstrating the advantage of hiring and paying for trained, experienced workers. The increased efficiency and productivity of prevailing wage projects ends up equalizing the cost with projects that

don't pay prevailing wage.

The study also points to data that shows labor makes up a small percentage of total construction costs, averaging only 25 to 30 percent.

Since labor costs are such a low percentage of the total cost, productivity of a project does not need to substantially increase to balance the payment of prevailing wages.

The study also demonstrates that prevailing wage requirements don't affect the number of bidders on a project and points out there is no evidence that prevailing wage laws favor any contractor type over another.

PARKERSBURG-MARIETTA BUILDING TRADES VOLUNTEER TO BUILD SCHOOL SHELTER

Members of the Parkersburg-Marietta Building Trades Council recently volunteered their time and skills to build a new picnic shelter for the Fairplains Elementary School in Parkersburg.

The local Parent Teachers Association had secured a \$5,000 grant for materials but had no way to build the structure.

The solution was simple because the school already had the Building Trades as their "business partner."

"Our Council has worked with the Fairplains Elementary through the Partnership

in Education program since 1995," said Bill Hutchinson, Business Manager for the Parkersburg-Marietta Building Trades.

According to Hutchinson volunteers from the Carpenters, Cement Masons, Iron Workers, and Laborers did the project starting on Saturday, June 11 and finishing on the following Saturday.

A number of local union contractors donated equipment as well.

School Principal Liz Conrad was very appreciative and praised the workers who volunteered.

"You could really see the difference in having trained, skilled people work on the project," said Conrad.



VOLUNTEERS FROM THE Parkersburg-Marietta Building Trades Council build a 16 by 30 foot covered shelter for their "business partner" the Fairplains Elementary School in Parkersburg.

WV WORKERS COMPENSATION CONSORTIUM BEGINS THIRD YEAR OF PROGRAM SUCCESS

An innovative program aimed at improving safety, claims handling and lower premiums for workers compensation is entering its third year.

By all accounts the program has been a success and participants are looking to grow the effort.

Twenty-seven companies participate, up slightly from the year before.

Success comes from maintaining a much lower accident rate than the industry average.

When workers are hurt the claims process is closely monitored to make sure they

are getting quality treatment quickly.

Use of a 'troubleshooter', ACT's Lesly Messina, has been a huge plus to the program.

Messina works to give an injured worker any information they might want during the claims process.

The cooperative effort between Labor, Management and the insurance participants is unmatched in the region.

"I think working together on workers compensation has been beneficial for all parties," said Tom Reece, Chairman of the group and an owner of RC General Contractors.

There are actually two efforts working at the same

time.

First is a Captive reinsurance facility – contractors banding together to share a layer of risk backed by a portion of their premium along with additional funds for a reserve.

The insurance company backing them is Union Labor Life Insurance (ULLICO), a company created and owned by labor unions.

RoundStone Management, Ltd. based in Cleveland, OH is the Program and Captive manager.

They work with contractors, their agents and ULLICO to facilitate the process of getting a policy, collecting premiums and making sure

enough funding is available for all claims.

Wells Fargo has been hired as the claims manager.

The second effort is the West Virginia Workers Compensation Consortium made up of labor and management representatives.

This nonprofit group works on education, safety and marketing of the insurance program.

While the program has worked well it is not perfect. Serious injuries and even fatalities are still a reality of the construction industry.

But the effort has shown the unionized sector is much safer than it typically gets credit for.

It will still take a few months to close out the accounting for the first year of the program but early figures indicate the fund will be able to return premium to most of the contractors in the program.

"Before we just paid premium and that was that," said Reece. "Now we are seeing a way to get back some of that premium if we all do our jobs and provide a safe workplace."

Industry experts predict tough times ahead for those buying Workers Compensation coverage which puts the contractors in the program in a much better position than their competitors.

UA LOCAL 521 APPRENTICE APPLICATIONS

Applications for the Huntington Plumbers and Pipefitters Joint Apprenticeship School will be taken at Work Force West Virginia offices this year.

Interested applicants can apply from Monday July 18 through Friday July 29th, during weekday hours of 8:30am to 5:00pm at any Job Service office.

The five year program

teaches all aspects of the plumbing and pipefitting trade including pipe fitting, welding, medical gas, CAD, instrument technician, blue print reading, plumbing, heating and cooling.

Apprentices are paid while on-the-job and also go to school for a minimum of 216 hours per year.

This announcement is meant to obtain an active selection list for the programs future apprenticeship needs

and will remain valid for two years.

This is not an employment announcement.

To qualify an applicant must be at least 18 years old, have a high school diploma or GED, a valid driver's license and be physically able to perform the work of the trade.

As part of the application a T.A.B.E. (Basic Education) test will be required.

Applicants must reside in the area covered by Local 521

which is the Counties of Cabell, Lincoln, Logan, Mason, McDowell, Mingo, Wayne and Wyoming.

A copy of the applicant's birth certificate, driver's license, high school diploma or GED and if recently in the military a DD214 form may be requested at a later date.

A drug and alcohol test will also be required.

The recruitment, selection, employment and training of apprentices shall be without discrimination because of race, color, religion, national origin or sex.

The sponsor will take affirmative action to provide equal opportunity.

For more information call the Director of Training Doug McNelly at 304-523-6085.

ORGANIZERS BLITZ PROJECTS



ORGANIZERS FROM A variety of crafts got together to 'blitz' nonunion projects in the Charleston area in late June. Their mission was to contact nonunion construction workers and talk about the advantages of being a union member. They plan to make the same effort in other parts of the state during the summer. Pictured (from left) are Terry Turley, IBEW; Tim "Squirrel" Jividen, UA; Bert McDermitt, IBEW; Jerry Scarbro, Painters; Ronnie Smith, Iron Workers; Wayne Rebich, ACT; Paul Shaffer, Scott Brewer, and Chad McCallister, Carpenters; Jim King, Sheet Metal Workers; and Henry Neal, Laborers.

KING COAL

CONTINUED FROM P. 1

didn't show they were directly harmed.

"The way the company and Highways argued the case nobody could bring suit,

because in their view no one was injured," said Trivelli.

Key to ACT's case is the fact that no competitive bidding took place before the state committed to more than \$100 million.

In addition, wages paid

on the project were below the prevailing wages of the area in violation of state and federal Davis-Bacon laws requiring government construction contracts to pay area wages and benefits, not substandard rates.

Not only did Nicewonder get taxpayer money to subsidize their mining operation the deal allowed Nicewonder to avoid costly but important quality standards required on all other road projects.

"Anyone can save money

on the short term by cutting quality," said Tommy Plymale, Business Manager of Operating Engineers Local 132.

"But we think the cost to taxpayers will be higher."

The case now goes back to Kanawha County Court.

ACT Foundation
600 Leon Sullivan Way
Charleston, WV 25301
(304) 345-7570

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toll free 1 888 524-1421

600 Leon Sullivan Way, Suite 101
Charleston, WV 25301
(304) 344-0194 fax 344-0195
toll free 1 877 593-6093

reception@uniontradesfcu.com