

THE ACT REPORT

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A Division of the WV State Building Trades, AFL-CIO | Steve Burton, President | Dave Efaw, Secretary-Treasurer | Steve White, Director



Legislative Session Sees Subcontracting Bill Pass

Saturday April 13 at midnight marked the end of the 2013 legislative session.

Earlier that day HB 2716 passed, a bill aimed at preventing bid-shopping on public construction projects.

The new law will prevent a contractor from forcing subcontractors to keep bidding for their portion of a public project long after bid day when the public agency has settled on a price.

"Getting the best price up to bid day is fine, but after the state has settled on a price what advantage is there to taxpayers if the subcontractors are forced to keep bidding?" notes Steve Burton, President of the WV State Building Trades.

Burton has been a member of the State School Building Authority where a similar policy has successfully been in effect for many years.

The bill will only apply to state

projects, not those of counties or cities, and only for projects valued

at more than \$250,000. Any subcontractors performing more than

\$25,000 of work on such projects
Continued on p. 2 >>



Del. Phill Diserio (D-Brooke) (from left) and Del. Dave Walker (D-Clay) talk over legislation with ACT Representative Matt McComas. Diserio and Walker are both Building Trades members, Diserio from IBEW Local 246 and Walker from Operating Engineers Local 132. Not pictured is Del. Dan Poling (D-Wood) who heads up Painters District Council 53. Poling is also the Chair of the House Energy, Industry and Labor Committee.

Trades' Charges that Dominion Contractor Violated National Labor Law Move Forward

The National Labor Relations Board has indicated they will reopen their investigation of the Trades charges of labor law violations at Dominion Resource's Natrium construction site.

The Mid-Atlantic Regional Council of Carpenters filed unfair labor practice charges last year after dozens of their members applied to Dominion's contractor CB&I Inc., for work at the \$500 million natural gas facil-

ity being built in Marshall County.

Boilermakers Local 667 also filed charges soon after for the same reason – qualified local workers were not getting jobs because of their union affiliation.

In a December 3 letter to Carpenters Organizer Mike Jenkins the Regional Director for the NLRB said they were not willing to move forward on the charges.

The Carpenters, with assistance

from ACT attorney Vince Trivelli, appealed the decision. The Boilermakers have appealed as well.

Additional testimony from local union workers including workers who were able to get hired at the project brought more evidence to light.

Eventually the charges were amended to include the following phrase.

"Since on or about March 26,

2012 and all times thereafter, the above named employer, by its officers, agents and representatives, has, by informing employees that the Employer would not hire or use union members, surveilling and isolating union members and advising employees not to speak to employees who were union members has interfered with, restrained and coerced its employees in the exercise of their

Continued on p. 2 >>

Dominion Gas Project Delayed - Again

Dominion has announced another delay to their Natrium gas processing project.

Originally the project was to be completed by early December of 2012. Now some four months after that date the end is nowhere in sight.

Newspaper reports simply say the completion date has been pushed back with no date given.

Their apparent business decision to reject local union workers is clearly taking a toll on the project.

"We know that on many similar projects built by local union labor the schedules have been met and the gas processors and their customers are making money," said Tom Gray, President of the Upper Ohio Valley Building Trades. "You have to won-

der how disappointed Dominion's partners are at this time."

Shortly after the project was announced ACT and Building Trades representatives got assurances from Dominion representatives that contractors who use local union workers would get a chance to bid the project.

"But when we saw the invitation only bid list not one of the companies we recommended were there," said Gray.

When Dominion announced CB&I was picked for the job a delegation from ACT, Project BEST and the Upper Ohio Valley Building Trades went to Houston to meet with CB&I officials and see if a deal could be reached to use skilled local union craft workers for the project.

"We were politely told no thanks, even though we offered a very bare-bones simple project agreement," said Gray.

Soon after, ACT began running TV ads about Dominion's lack of commitment to using local workers. Although Dominion often stated

they wanted local workers the reality was hundreds of workers were imported to do the project while many qualified local workers remained unemployed.

Those observing the project estimate the delay will reach at least six months if not more. ■

Subcontracting Bill

Continued from Page 1

must be listed within one business day and cannot be changed unless agreed upon by the owner and only for certain reasons.

Last year a bill was passed to try the policy for a year and was limited to projects let to bid by the state Division of Purchasing.

A bill to promote workplace safety failed to pass the full legislature but did pass out of both the House and Senate Labor Committees (see story).

A bill to allow Monongalia County to keep a portion of sales taxes generated in the county to fund a new baseball stadium and related infrastructure failed to pass in the last few hours of the session.

Legislation to allow a new gaming facility in Pendleton County passed the Senate but did not survive in the House.

A bill to extend the 'Home Rule' law that allows certain cities to avoid some state laws passed. It became controversial due to gun related

amendments but also in the bill were amendments to insure laws could not be changed about open bidding, prevailing wages, freedom of information and open meetings.

Anti-union measures seen recently in other states, such as Right-to-Work and attacks on prevailing wage laws, were introduced but did not advance in any committees.

Two bills supported by the Trades to improve election laws passed. One makes clear that groups who mail postcards or pay for print ads about candidates before an election must disclose their source of funds. Some groups had found loopholes to avoid disclosure and spend thousands to elect or defeat candidates.

Also passed was a law to continue the option for Supreme Court candidates to avoid asking for campaign contributions from private individuals, groups and PACs and instead use public funds once they show they have viable campaigns. ■

Dominion Contractor

Continued from Page 1

rights guaranteed in Section 7 of the Act."

In a March 28 letter to Trivelli, NLRB Regional Director Robert Chester wrote "After review, I have considered my decision and have now determined that additional proceedings on the 8(a)(1) allegations raised in the appeal is warranted.

The Section 8(a)(3) allegations remain pending before the General

Counsel Office of Appeals."

According to Trivelli this means the case will move forward on two tracks.

"Region Six will move forward on the case regarding the problems at the work site included in the amended charge," said Trivelli.

"In addition our appeal about the refusal to hire is still pending and will be decided in Washington." ■

More than 8,000 at United Mine Workers Rally in Charleston



Members of Painters District Council 53 (from right) Glen Jackson, Cecil Ferguson, Jerry Scarbro and Rich Patrick, are among a crowd of more than 8,000 people who attended the United Mine Workers of America rally in Charleston on April 1.

The Rally was a protest of Patriot Coal's attempt to void their benefit agreements through bankruptcy.

A number of coal companies spun-off their union operations to form Patriot, and now want to break long standing agreements to provide pension and health benefits. The UMWA believes Patriot was created to fail.

A number of Charleston Building Trades crafts showed up at the rally to show support including the Carpenters, Electricians and Laborers.

OSHA 10 Safety Bill Fails by Single Vote

A bill to improve safety for construction workers failed to pass a key committee in the House of Delegates by one vote.

The bill, HB 2354, would have required construction workers on tax funded projects to have the OSHA 10 hour construction safety training.

The House Government Organization committee took up the bill on March 28 after it had passed the House Industry, Energy and Labor committee earlier in the session.

Delegate Phill Diserio (D-Brooke) spoke in support of the bill and told how he had to inform his mother the day his brother fell to his death on a construction project. "Had my brother taken the OSHA 10 class he may be alive today," said Diserio.

But soon after when the vote was taken the measure failed 11 to 12.

Two contractor groups, the anti-union Associated Builders and Contractors and the Contractors Association of WV, joined together to help

defeat the measure saying the training was not needed and wasteful.

In letters to legislators that showed up in newspapers the groups falsely claimed passage of the legislation would somehow hurt safety. They said that contractors would not be able to provide site specific training.

In addition these safety opponents claimed the bill would hurt small contractors, ignoring language that excluded many small contractors.

Projects valued at less than \$50,000 were excluded and companies with less than seven days of work on a project were not covered. In addition, workers had 90 days to get the training the first year.

Even though a number of contractor groups had shown support for the bill by sending letters and making calls to legislators their voices along with numerous union workers who visited the capitol was not enough.

"If you think about it we lost the vote when we lost a number of good

candidates at election time," said Dave Efaw, Secretary-Treasurer of the WV State Building Trades Council.

The OSHA 10 has long been an industry standard for basic safety awareness. After the disasters at Sago and the Upper Big Branch mines, craft union leaders looked at ways safety could be promoted in the construction industry.

"We didn't want to wait for a disaster to work on safety," commented Efaw. ■

Government Organization Committee Vote on HB 2354

No	Del. Karen Arvon (R-Raleigh)
No	Del. Tom Azinger (R-Wood)
No	Del. Anna Border (R-Wood)
No	Del. Scott Cadle (R-Mason)
Yes	Del. Mike Caputo (D-Marion)
Yes	Del. Phill Diserio (D-Brooke)
Yes	Del. Jeff Eldridge (D-Lincoln)
No	Del. Larry Faircloth (R-Berkeley)
No	Del. Ryan Ferns (D-Ohio)
No	Del. Michael Folk (R-Berkeley)
No	Del. Bill Hartman (D-Randolph)
No	Del. Gary Howell (R-Mineral)
Yes	Del. Ronnie Jones (D-Hancock)
No	Del. Larry Kump (R-Berkeley)
Yes	Del. Dana Lynch (D-Webster)
Yes	Del. James Morgan - Chair (D-Cabell)
No	Del. Josh Nelson (R-Boone)
Yes	Del. Brady Paxton (D-Putnam)
Absent	Del. William Romine (R-Tyler)
Yes	Del. Peggy Smith (D-Weston)
No	Del. Randy Smith (R-Preston)
Yes	Del. Margaret Staggers (D-Fayette)
Yes	Del. Dale Stephens - Vice-Chair (D-Cabell)
Yes	Del. Randy Swartzmiller (D-Hancock)

Workers Memorial Day

April 28, 2013 will mark the 25th annual observance of Workers Memorial Day by the West Virginia AFL-CIO. This is a day set aside by unions to remember workers who have suffered and died because of workplace hazards.

Who: WV AFL-CIO, Friends and Family of WV's Fallen Workers

What: 25th Annual Observance of Workers Memorial Day

When: Sunday, April 28th at 2:00PM

Where: Parking area south of Willow Island Memorial (North of Parkersburg on Route 2, across from Pleasants Power Station)

We invite and encourage everyone's attendance to remember and honor twenty two (22) workers who died as a result of a workplace accident in West Virginia during 2012.

In addition the names of the 51 workers killed at Willow Island Power Station in 1978 will be read aloud to commemorate the 35th anniversary of that tragedy. The workers died when scaffolding collapsed while the cooling tower was being constructed.

The Willow Island disaster is considered the worst construction accident in U.S. history.

**Doesn't Del. Ryan Ferns
Care About Worker Safety?
Ohio County Families DO!**

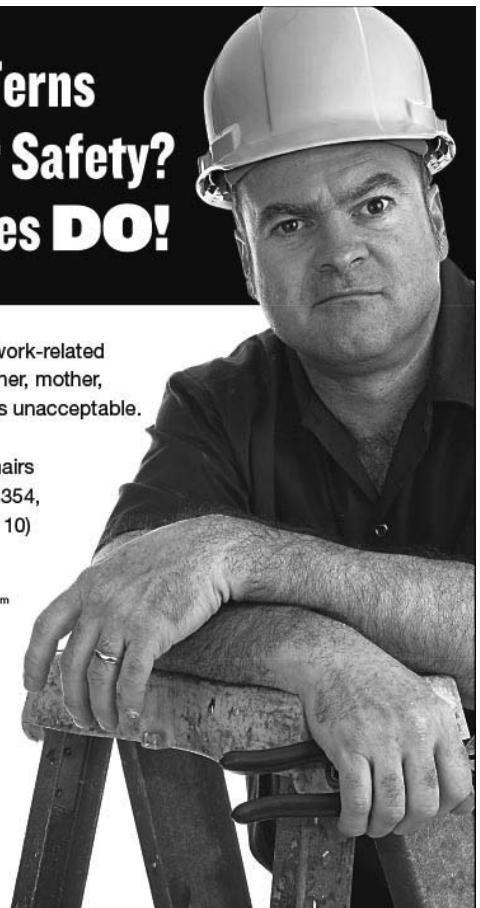
Nearly 50 West Virginians lost their lives in work-related accidents in 2011*. We believe even one father, mother, son or daughter not coming home at night is unacceptable.

Isn't Del. Ferns bothered by those empty chairs at the dinner tables? He voted against HB 2354, a bill requiring proper safety training (OSHA 10) for workers on public projects.

* U.S. Bureau of Labor Statistics, latest data available. <http://www.bls.gov/ro3/cfowrv.htm>

**Delegate Ferns
Voted Against
Safety Training**

Paid for by West Virginia State Building & Construction Trades Council, AFL-CIO



Newspaper ads like this one have been run to let the public know about some of those who voted against the OSHA 10 bill in both committees.

PSC Rules on Dominion-Hope Hedging

The State Public Service Commission has reached a decision with both good and bad news for consumers on issues raised by ACT relating to Hope Gas and a practice called 'hedging.'

The Commission expressed its concern that Hope "has not been mindful of, or has not fully understood" the Commissions past Orders.

They also wrote in their March 29 ruling that "It is reasonable to order that the 2005 Hedging Stipulation is no longer in effect."

The price of natural gas in the wholesale market is at record lows, but Hope customers have faced significant rate increases in past years, in part due to the losses from hedg-

ing contracts that may have been big profits for Hope's parent company Dominion.

"Hedging is a fancy term for betting," said ACT's Steve White. "Hope 'bet' that gas prices would go up when in fact they went down."

"And Hope lost the 'bet' month after month, year after year."

ACT had argued the hedging cost ratepayers millions in extra costs, but even more astounding says White was the revelation that the 'bets' were made with a sister company.

"You have Hope betting prices will go higher and losing," said White. "And they are losing rate payers money to a sister company who

presumably made a lot of profit."

ACT's expert has calculated Hope's hedging activities from March of 2006 through June of 2012 produced losses of more than \$22 million.

Any gains by the Dominion subsidiary were not disclosed.

The PSC said Hope can continue to hedge but must defend their actions and cannot rely on the old stipulation.

The PSC stopped short of upholding all of ACT's points and refused to relieve rate payers from paying for the hedging losses from prior years. The PSC also refused to fault Hope for buying the hedging contracts from their sister company.

However the PSC will set a hearing to discuss rates for 2012 and will review any evidence that demonstrates that Hope's hedging decisions were imprudent. ■

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Skills USA Competition



Bricklayer representatives Steve Ruble (left) and Brian Greynolds (holding clipboard) judge vocational students at the annual Skills USA competition held in Putnam County on March 22 and 23.

Vocational school students competed for top honors in 50 different categories including masonry, carpentry, electrical and welding. Individuals and teams competed from across the state.

A number of union craft representatives participated in the event.

"It's always great to be involved with helping young people," said Ruble, Business Representative for the Bricklayers District Council. "I hope that we can provide them with the knowledge and opportunities to make their lives and decisions just a little bit easier."

Building Trades representatives have been working with Vocational Education leaders to improve communication between apprenticeship programs and vocational programs.

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