



A PUBLICATION OF THE AFFILIATED CONSTRUCTION TRADES

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

# Republicans to Control State House and Senate

What to expect? Expect the worst. With republican control of both the House of Delegates and the Senate in West Virginia many people are wondering what to expect in the upcoming session.

“Expect the worst,” said Dave Efaw, Secretary-Treasurer of the WV State Building Trades.

“We will try to work with republican leaders to find compromises but I feel tough times are ahead.”

Efaw notes that, in prior legislative sessions, bills aimed at attacking labor usually did not get voted on because committee chairs knew it was wasted time.

“Not this time,” said Efaw. “We expect to see votes on the so-called Right-to-Work legislation which is aimed directly at destroying labor unions.”

In addition Efaw predicts the state’s prevailing wage law will come under attack in many ways.

“We will likely see bills to completely repeal the law, and perhaps some bills to change how wages are calculated or to limit the projects where the law applies,” said Efaw.

In each case the result, if legislation passes, will be lower wages for construction workers for the near future.

The passages of so-called Right-to-Work laws undermine a union’s ability to exist.

In essence a person has the right to enjoy all the benefits of a union contract but does not have to pay dues.

The effect in every state where it has passed is to erode union strength over time which leads to lower wages and benefits.

Prevailing wage laws protect both workers and contractors from facing unfair competition on tax funded projects.

The law basically requires contractors to pay the ‘going rate’ in the

area for construction wages and benefits and prevents low wage competition.

Numerous studies show taxpayers benefit from the system because the end price for projects remains the same with or without prevailing wage laws.

Workers in prevailing wage states becomes more productive, have a better safety record, provide more training opportunities and pay their own way for health care and pensions.

The legislative session starts on January 14 and lasts for 60 days plus a usual extension for budget matters. ■

## Dominion Commits to Use Union Labor for \$5 Billion Pipeline

In an October 17 letter to Sean McGarvey, President of the Building and Construction Trades Department (BCTD) of the AFL-CIO, Dominion Energy has committed to use a union workforce to build their \$5 billion Atlantic Coast Pipeline.

The project is to stretch 550 miles from Harrison County, West Virginia to endpoints in both Virginia and North Carolina.

The large size line, 42 inches for at least half the distance, will carry 1.5 billion cubic feet per day of natural gas from Marcellus shale production.

Dominion Resources along with partners Duke Energy, Piedmont Gas and Atlantic Gas Resources need to get regulatory approval from the

Federal Energy Regulatory Commission before the line can begin.

A number of additional federal state and local agencies will also have jurisdiction over aspects of the project.

Construction of the line is estimated to start at mid-2016 with a two year construction schedule.

“(S)ecuring an ample, skilled workforce, capable of installing large-scale infrastructure safely, efficiently and in full compliance with all regulatory obligations, will be of the utmost importance,” wrote Dominion Energy President Diane Leopold.

“I would like to take this opportunity to state our intention of noti-

**Continued on p. 2>>**



Union crews working on pipelines like this one have been common and plentiful in shale related areas of West Virginia. The proposed 42 inch line will be about three times as big as the one here and require large amounts of workers to build.

# Wage Case Wins at State Supreme Court

The West Virginia Supreme Court ruled a Kanawha County Circuit Court Judge acted too soon when he tossed out a case involving prevailing wage rates.

The case concerned nonunion workers employed by Eastern Electric LLC who were working on public construction projects including the West Virginia State Capital and the Governor's mansion.

The company claims state representatives told them they need not follow the prevailing wage laws for the work because it was maintenance rather than construction.

The employees hired ACT attorney Vince Trivelli who argued the work was construction and the prevailing wage rates applied.

Circuit Court Judge Paul Zakaib dismissed the case in October of 2013 agreeing with a company argument that they made "an honest mistake" by not paying the proper wages and that the case was brought too late

after the alleged violation.

Eastern entered into a contract with the state in 2007, and then renewed the contract in 2008 and 2009.

In February of 2009 the West Virginia DOL was called in to audit a project where Eastern was performing work. The audit concluded Eastern should have been paying prevailing wages on the project and Eastern was sent a letter to that effect on August 6, 2009 saying employees were owed \$135,330 for work performed.

In court Eastern Electric argued they made an 'honest mistake.' Under state law an honest mistake or error is a defense. Eastern Electric argued the contract did not specify prevailing wage rates had to be paid and a representative of the Department of Administration told Eastern the rates were not required.

However Trivelli argued they made no mistake at all, were very well informed about the prevailing wage law, paid prevailing wages for

the same work on other public projects and should have known the wages were to be paid. The contract required Eastern to "observe State and Federal laws, including but not limited to labor and wage laws." Trivelli argued that the type of work controls whether prevailing wage applies.

The Supreme Court ruled Judge Zakaib erred when he dismissed the case before hearing the facts in the 'honest mistake' dispute.

Also at issue was whether the case was filed in time. Both a two and five year statute of limitations was argued. For a two year limit to apply the case would be considered a personal injury and for the five year limit it would

need to be a contract dispute.

The Supreme Court ruled that a five year limitation was the correct one because the construction work was performed on a public project that was let to contract and the injury was economic not personal injury.

The case was sent back to the Circuit court for trial.

However the Supreme Court rejected an argument by the workers that the Wage Payment and Collection Act should apply. The Court found that the Wage Payment and Collection Act to be for separate types of cases.

Justice Robin Davis issued a dissenting opinion on this point. ■

## SMW-33 Screening

From October 6 to 16 members of Sheet Metal Workers Local 33 were able to get a free medical screening thanks to a program sponsored by both labor and management.

The screenings, which focused on asbestosis, took place at eight locations in Ohio and West Virginia.

The testing for effects of asbestos is part of a continuing program conducted in the United States and Canada by the Sheet Metal Occupational Health Institute Trust, a joint activity of the Sheet Metal Union and the Sheet Metal and Air Conditioning National Association (SMACNA).

About 50,000 members of the union and contractors have been tested during the past several years.

The goal is to ensure every member of the union with 20 years' service in the trade has the opportunity to be examined.

It normally requires about 20

years after exposure to asbestos before scarring of the lungs or other manifestations may be detected.

Under the testing procedures, each volunteering member receives an examination consisting of a chest X-ray, breathing test, fecal test, drawing a blood sample to check for diabetes, high cholesterol and PSA, and a simple physical exam for vital statistics, examination of the chest and examination for clubbing, and an interview about the members' health, industry and vocational history.

A follow-up report is issued at a later date.

"Over the years we have heard one in six of our older members have some sort of abnormality," said Jim King, Business Agent for the Charleston District of Local 33.

"We hope that number goes to zero but in the mean time our members need to be screened." ■

## Charleston Trades Get Zero Injury Safety Award



Charleston Building Trades Business Manager Paul Breedlove holds a Zero Injury Safety Award earned by the Council for a 2013 project by StructSure Scaffold & Insulation, LLC at AEP's John Amos Power plant.

The award was made by the National Maintenance Agreements Policy Committee.

The project had 113,275 hours worked by union building trades' members without a recordable injury.

## Dominion

*Continued from Page 1*

fying the pipeline construction contractors that they will be required to use a union workforce..."

The project will travel through Harrison, Lewis, Upshur, Randolph and Pocahontas counties in West Virginia.

North America's Building Trades

Unions have worked hard at building a relationship with Dominion, which was critical in the project discussions.

"We also got a commitment they would work with us on getting bidders for the three compressor stations that will be built with the project," said Brent Booker, Secretary-Treasurer of the BCTD.

One of those compressor stations will be in West Virginia at the Harrison County start of the line. ■

# Five Building Trades Candidates Lose for House of Delegates

All five members of the Trades lost election to the House of Delegates.

Incumbents Dan Poling (D-Wood), Phil Diserio (D-Brooke) and Dave Walker (D-Clay) lost their reelection and were part of a 17 seat loss by democrats overall.

That means republicans control the House by a 64 – 36 margin.

Denzil “Buddy” Malone ran unsuccessfully in the 8th District which covers part of Wood County and Gary McCallister lost his election for the 22nd district which covers most of Lincoln and parts of Putnam, Boone and Logan Counties.

The losses were part of a national trend that favored republicans over democrats.

Numerous reasons for the swing have been noted by observers but one of the factors is less regulation on political spending leading to more dollars being spent.

Most candidates were attacked by a variety of groups in one of the most expensive campaigns on record.

At least three groups were behind the attacks on democrats, and while some of the expenses are known, many of the ultimate funders are still not disclosed.

One group called Grow WV Inc., was created as a SuperPac under federal laws and total expenditures will not be known till well after the election.

Recent Supreme Court rulings have made it easy for groups to spend unlimited amounts on elections and very little disclosure on where the funds come from.

Early reports show a strange mix of funders including the company that owns Reynolds Tobacco Company, the president of the baseball team the Arizona Diamondbacks, a realty company with ties to Dutch Miller Chevrolet and other car dealerships in the Huntington/Charles-

ton area, a Wall Street hedge fund manager, and two Florida companies tied to a lobbyist for mineral rights owners.

“What brought this group together is a good question but they spent a ton of money that has yet to be disclosed,” said Steve White, ACT Director.

In addition a group called West Virginia Citizens Against Law Suit Abuse spent hundreds of thousands of dollars in funds that nobody knows the origin of.

“Ironically they claim to be a citizens group but will not say where their money comes from,” said White. “We believe funding comes from big corporations, like tobacco, insurance and other sectors, not citizens from our state as their name implies.”

The West Virginia Republican State Executive Committee also got in on the action as did a group called Moving West Virginia Forward BICPAC which was funded almost entirely by a \$250,000 contribution from Murray Energy.

Of course there were groups that supported labor candidates as well.

Honest West Virginia’s was a labor backed SuperPac that got into the game when it was clear the out-of-state money would be overwhelming without some sort of response.

“We disclosed everything we did, where the money came from and what it was spent on, even though other groups did not,” said Josh Sword, Secretary-Treasurer of the WV AFL-CIO and part of the Honest WV effort.

In addition groups called Protect WV and WV First filed reports with the Secretary of State’s office in support of many labor backed candidates.

Funding for these groups came from lawyers, gaming industry and Democratic Party sources.

“In the end what happened in West Virginia happened in many parts of the country, Republicans

won and Democrats lost, now we need to figure out how to survive,” said White. ■

## Results for 2014 General Election

### U.S. Senate

Natalie Tennant

### U. S. House of Representatives

David McKinley – 1st District

Nick Casey – 2nd District

Nick J. Rahall II – 3rd District

### State Senate

1st Rocky Fitzsimmons

2nd Larry Edgell

3rd Robert “Robin” Wilson Jr.

5th Mike Woelfel ✓

6th Truman Chafin

7th Ron Stollings ✓

8th Erik Wells

9th Mike Green

10th Ronald “Ron” Miller ✓

11th Gregory A. Tucker

12th Mike Romano ✓

13th Bob Beach ✓

14th Stan Shaver

15th Donald H. Cookman

16th John Unger ✓

17th Doug Skaff Jr.

### House of Delegates

1st Randy Swartzmiller,  
Ronnie D. Jones

2nd Phil Diserio

3rd Holli Smith, Erikka Storch ✓

4th Mike Ferro ✓, Dave Hall

5th Dave Pethel ✓

8th Denzil “Buddy” Malone

9th Jim Marion

10th Dan Poling

12th Michael “Mike” Bright

13th Joshua Martin, Josh McGrath

14th Johnny Roach

16th Jim Morgan ✓, Sean  
Hornbuckle ✓, Lauren Plymale

17th Doug Reynolds ✓,  
Dale Stephens

19th Don Perdue ✓, Ken Hicks ✓

20th Justin J. Marcum ✓

21st Harry Keith White ✓

22nd Jeff Eldridge ✓,  
Gary McCallister

23rd Barry L. Brown

24th Ralph Rodighiero ✓

25th Linda Goode Phillips ✓

26th Clif Moore ✓

27th Carol B. Bailey

28th James “Jim” Brown

29th Ricky Moye ✓

30th Mick Bates ✓

31st Clyde D. McKnight Jr.

32nd Dave Perry ✓,  
Margaret Anne Staggers,  
John Pino

33rd David A. Walker

34th Brent Boggs ✓

35th “Bobbie” Hatfield,  
Andrew D. Byrd ✓,  
Sherri Wong,  
Thornton Cooper

36th Nancy Guthrie ✓,  
Danny Wells, Larry Rowe ✓

37th Mike Pushkin ✓

39th Sally Shepherd

41st Adam R. Young

42nd Ray Canterbury ✓,  
Coy A. Flowers

43rd Denise L. Campbell ✓

44th Dana L. Lynch ✓

45th Bill Hamilton ✓

46th Peggy Donaldson Smith ✓

47th “Tammy” Stemple

48th Richard J. Jaquinta,  
Tim Miley ✓, Joe Shaffer,  
Patsy Samuel Trecoast II ✓

49th Mike Manypenny

50th Mike Caputo ✓,  
Linda Longstreth ✓,  
Tim Manchin ✓

51st Barbara E. Fleischauer ✓,  
Charlene Marshall,  
Anthony “Tony” Barill,  
Nancy Jamison,  
John Williams

52nd Larry Williams ✓

55th Isaac Sponaugle ✓

57th Ruth Rowan ✓

59th Layne Diehl

61st Jason Barrett

62nd Kristin Loken

63rd Heather Marshall

65th Tiffany Lawrence

66th Daniel P. Lutz Jr.

67th Stephen Skinner ✓ ■

# Report Documents 72 Million Man-hours in Marcellus Construction in Six Years

More than 72.6 million man-hours were generated by shale related construction projects in a five state region over the last six years.

These numbers come from a recently released report, "A Study of Construction Employment in Marcellus Shale Related Oil and Gas Industry", which was commissioned by the Institute for Construction Economics Research (ICERES) on behalf of the Oil and Natural Gas Industry Labor-Management Committee.

"Simply put, the development of our nation's domestic energy resources is the single biggest contributing factor for job growth in the U.S. construction industry today," said Sean McGarvey, President of North America's Building Trades Unions and the Chairman of the Oil and Natural Gas Industry Labor-Management Committee.

University of Illinois at Chicago Labor Studies Director Robert Bruno was the author of the report, which was released in October. Bruno used a number of sources for project and employment data, including Industrial Information Resources, the

National Maintenance Agreement (NMA) and employment data from Building Trades affiliate unions.

The report's job numbers were based on data from 1,326 projects in five states in the Marcellus region. Many of the projects built in West Virginia are under the NMA; other states included in the report are Ohio, Pennsylvania, Maryland and Virginia.

"We were surprised at the large numbers we found," said Bruno. "And we used conservative numbers; with more study we would likely find more projects."

Using a wage and benefit package of \$50 per hour, the 72.6 million man hours equates to more than \$3.6 billion in payroll over the six year period.

The majority of pipeline and processing plant projects in West Virginia are now using union construction labor. The work related to drilling, and not covered in the study, including hauling water and sand, is mostly nonunion, and much of it manned by out-of-state workers.

"The report is not talking about

drilling and fracking, it's about construction and those numbers are huge," said Dave Efav, Secretary-Treasurer of the West Virginia State Building Trades Council. According to Efav the construction work in West Virginia is going primarily to union contractors and workers and they are getting billions of dollars in projects done on-time and within

budget.

"We have a great success story that needs to be told," said Efav. "ACT will be producing more commercials that tell our story of getting the job done with highly skilled, local union workers who are drug free."

To find a full copy of the report go to the ICERES web site: [www.ICERES.org](http://www.ICERES.org). ■

**Affiliated Construction Trades**  
600 Leon Sullivan Way  
Charleston, WV 25301  
Charleston - (304) 345-7570  
Toll Free - (800) 930-9675  
[www.actwv.org](http://www.actwv.org)



Non-Profit Org.  
U.S. Postage  
**PAID**  
Permit # 1374  
Charleston, WV 25301

## North Central WV Trades 2nd Annual Clay Shoot



65 Member of the North Central WV Building Trades Council attended the 2nd annual Darwin L. Snyder Memorial Sporting Clay event held on October 18 at Hunting Hills in Dillner, PA.

## Tri-State Building Trades Holds Marshall Tailgate



Around 500 building trades' members, family and friends attended Tri-State Building Trades' tailgate event in Huntington on Saturday, October 25.

To make the day even more enjoyable Marshall's Thundering Herd defeated the Florida Atlantic Owls.

"I sincerely appreciate all the volunteers who made this event a success, especially the Operating Engineers Local 132 cooking team headed up by Dave Plymale," said Mark Johnson, Business Manager for Tri-State.