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

\$1.6 Billion Road Bond Win

By a large margin West Virginia voters approved a ballot measure which will allow the state to sell bonds worth \$1.6 billion for road construction.

The vote was a major part of Governor Jim Justice's road building campaign to invest more than \$3 billion in highway projects in the next few years.

A broad array of supporters including labor, contractors, the business community and others ended up seeing 73 percent of voters approve the bond.

Turnout was low as expected at 11 percent.

Not all the funds will be available at once. Legislation already in place says up to \$800 million may be sold in the first year, \$400 million the second year and \$200 million the following two years.

These funds will be in addition to two types of bonds already approved

by the legislature that did not need voter approval.

GARVEE bonds are a way to get

federal funds ahead of schedule, and bonds paid back with turnpike tolls are both in the plan. Together the

two bonding methods may bring in another \$1 billion for roads over the

Cont. on p. 2 >>



Governor Jim Justice speaks about the road bond just a few days before the vote at the combined Apprenticeship-Construction Coalition Conference in Wheeling on October 2.

WV Supreme Court Rules 3-2 Against Labor

In a three to two decision, with Justice Menis Ketchum writing the majority opinion, the West Virginia Supreme Court of Appeals dissolved a preliminary injunction and thereby imposed the so-called Right-to-Work law on West Virginia.

The decision was issued on September 15 following a hearing held on September 7 in Charleston.

Justices Robin Davis and Margaret Workman both wrote strong dissenting opinions.

Justice Davis wrote in her dissent that unions established their right to a preliminary injunction to prevent enforcement of SB1 (the RTW law) because they demonstrated a likelihood of success on the merits of their

underlying complaint.

Unions challenged the RTW law as being a violation of the state constitution on a number of points.

One key argument is referred to as a taking, where the government forces private citizens, in this case union members, to pay for the representation guaranteed to nonunion members.

Justice Davis also wrote "... because the majority has complicitly condoned these legislative efforts to trammel the rights of unions and union members throughout this State, I respectfully dissent."

Justice Workman concurred with the majority that the case should be returned to the Circuit Court for a

full decision and dissented from the decision due to the "Court's stunning failure to recognize our jurisdictional limits in explicitly resolving constitutional issues in the context of a review of a preliminary injunction with no entry of an order below capable of review."

The ruling came as a shock to labor leaders who had expected the court to wait until Kanawha County Circuit Judge Jennifer Bailey had issued a decision on the case.

"The Supreme Court did not have the full case before them," said Dave Efaw, Secretary-Treasurer of the WV State Building Trades Council. "But they ruled like it was, and that is unfortunate."

Instead of waiting for Judge Bailey to rule, West Virginia's Attorney General asked the Supreme Court to overturn the preliminary injunction.

Although the preliminary injunction is lifted and RTW is now the law of the state Judge Bailey still must make a ruling whether to issue a permanent injunction or not

"All that was decided was regarding the preliminary injunction, but the case is still pending and we are eager for a ruling," said ACT attorney Vince Trivelli.

"We still believe the facts are on our side, that a fair reading of our state constitution will not force a group such as labor unions and union members to fund services for free." ■

Bids on Wetzel Project Rejected

Painters Protest Florida Contractor – Ask Where Payroll Taxes and Jobs Are

Members of Painter District Council 53 and supporters took to the streets near a highway bridge painting project in Kanawha County to question whether a Florida contractor has ever paid state payroll taxes.

The protest took place on September 28 in South Charleston where Seminole Equipment is repainting an Interstate 64 bridge over the Kanawha Turnpike.

At issue are payrolls documents that appear to show no state income taxes are being withheld on the project or prior projects dating back to perhaps 2006.

Also at issue is the West Virginia Division of Highways lack of noticeable action

to address the issue. But a recent rejection of bid from a Wetzel County bridge painting project signal DOH may in fact be listening.

An investigation by the Painters and ACT into possible violations of the West Virginia Jobs Act at the Kanawha County bridge project led to payroll documents where no state income tax withholdings are identified.

A review of past projects and payrolls show the same since 2006, that no state income tax withholdings appear on the payroll documents from Seminole.

The West Virginia Division of Highways says current law requires then to routinely ask the Tax Department before making a final payment to any contractor whether or not the

contractor had paid all of their taxes. The document from Tax is called a ‘Certificate of Release of Final Payment’ and contains the phrase “This is to certify that, as of this date, all taxes levied or accrued against the here named taxpayer have been paid based on the tax returns filed by the taxpayer.”

However further research shows the law only covers a review of corporate income tax, business and occupation tax (B&O) and the business franchise tax which no longer exists.

Withholding taxes for federal and state income taxes are not reviewed, nor are sales or use taxes, property taxes, or city fees other than the B&O tax.

ACT has pointed out these issues

to DOH who in turn requested a clarification from the Tax Department.

However the Tax Department believes state law regarding the confidentiality of tax returns prevents them from releasing any information other than the certificate.

“Frankly this is a huge problem where it appears thousands if not millions of dollars in state taxes and fees are not being collected from these out-of-area companies,” said Dan Poling, Business Manager of Painters District Council 53.

However efforts to draw attention to these issues may be paying off.

Seminole Equipment was the low bidder on a bridge painting project in Wetzel County last month. A question has been raised about whether

they were the lowest responsible bidder if they had not been withholding state income taxes for many years.

According to DOH all bids have been rejected on the project because they all were over budget. That means Seminole will not be awarded the \$6.9 million job.

Further, according to news reports’ following passage of the road bond the Justice administration is

proposing ways to improve both the WV Jobs Act and Tax collection. Poling would like to see the details but remains hopeful.

“We must focus on creating a level playing field for fair competition,” said Poling. “It is critical to not only collect the back taxes owed but to fix the problem in the future so I hope the Tax Department and Highways are working on a solution.” ■

‘Certificate of Release of Final Payment’... contains the phrase “This is to certify that, as of this date, all taxes levied or accrued against the here named taxpayer have been paid based on the tax returns filed by the taxpayer.”



Members of Painters District Council 53 and supporters protest near a \$1.25 million bridge painting project awarded to Florida based Seminole Equipment. Alleged violations of the WV Jobs Act and nonpayment of state income tax withholdings were at issue.

Road Bond Win

Continued from Page 1

next year or so.

With the road bond passed Governor Justice has called a special session of the legislature which may address a number of issues related to the bond and his road building plan as well as some tax code changes for veterans and for historic building renovations.

(Note: This ACT Report is being written before the Session starts so many of the details are not yet known.)

Also being discussed is strength-

ening the West Virginia Jobs Act to make sure local workers and contractors have a fair chance at the projects the new money will create.

“We have yet to see the details but are told there is draft legislation to strengthen the Jobs Act with better reports, more enforcement and clearer definitions,” said ACT Director Steve White.

“We would certainly be for anything that helps more West Virginia workers and contractors get the jobs created with our tax dollars.” ■

Four Building Trades VP's

WV AFL-CIO Delegates Elect Sword, Walters

Delegates to the West Virginia AFL-CIO elected Josh Sword as President and Andy Walters as Secretary-Treasurer to the organization at an October 12 convention.

Sword had been appointed as President last year after Kenny Perdue retired.

Sword had been a staff representative for the West Virginia Federation of Teachers for a number of years prior to being elected as Secretary-Treasurer of the WV AFL-CIO.

He is a member of the Communications Workers of America.

Walters is a business agent with Painters District Council 53 and is based in Wheeling.

He completed his apprenticeship in 2006 and has held a number of positions within the union including

Recording Secretary, and trustee for Apprenticeship and Health & Welfare funds.

Walters also serves as a board member of Project BEST and the Upper Ohio Valley United Way.

All 13 positions for Vice-Presidents were up for election as well. Re-elected from the Trades were Chuck Parker, Business Manager for Operating Engineers Local 132; Dan Poling, Business Manager of Painter DC 53; and Dave Efaw, Secretary-Treasurer of the WV State Building Trades.

Also newly elected from the Trades was Craig Harvey, Business Manager of the WV Laborers District Council.

All elected offices are four for year terms. ■



Josh Sword (left) and Andy Walters were elected to the offices of President and Secretary-Treasurer at the WV AFL-CIO convention on October 12 in Charleston.

Combined Apprenticeship & Construction Coalition Conference Held in Wheeling

A combined conference of Apprenticeship coordinators and construction industry leaders took place in Wheeling on October 2 – 3.

The overall theme was to identify the craft challenges and opportunities for the region.

The first half day focused on apprenticeship issues such as federal regulations and funding issues, recruiting, working with community colleges and becoming a community college, and the industrial construction management training program.

The second day of the conference focused on the three main perspectives of the construction industry; users, contractors, and craft unions; with a common goal of cost-effective construction.

A panel on current and proposed major industrial projects included the Shell Cracker in Monaca, PA; gas-fired electric power projects proposed in Marshall, Harrison and Brooke Counties; and major interstate pipeline projects for the region.

Also discussed was a major initiative called the Appalachian Storage Hub which aims to build hundreds

of miles of pipeline within the region to make the gas by-products like ethane and propane available for local

industrial use; an analysis of regional construction costs; and the changing technology of drug testing. ■



Professor Sam White, from the Institute for Labor Research at West Virginia University leads a panel about an industrial construction management training which included (from left) Mary Welgs, Director of Corporate Business Development, Stevens Engineers and Constructors; Keith Hughes, Business Development, JD&E; Lance Lucarelli, IBEW Local 246; and Dave Efaw, Secretary Treasurer, West Virginia State Building and Construction Trades.

Trades Help Raise \$6,500 for HospiceCare

Continuing a tradition of many years the Charleston Building Trades teamed up with the Kanawha Valley Builders Association to raise money



Paul Breedlove (left), Business Manager of the Charleston Building Trades and Luther Lasure (right), Executive Director of the Kanawha Valley Builders Association present a check in the amount of \$6,500 to Larry Robertson of HospiceCare.

for HospiceCare.

\$6,500 was raised at a charitable golf outing held last month where representatives from construction industry labor and management participated.

"We thank the many volunteers who help put this event together and the generous contributions from the union construction industry," said

Breedlove.

HospiceCare serves 16 counties in central and southern West Virginia with a variety of services aimed at improving care for those who have terminal or life ending illness.

The organization has been in existence since 1979.

For more information go to www.hospicecarewv.org. ■



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WV State Building Trades Conference



Senator Mike Romano (D-Harrison) was a guest speaker at the annual WV State Building Trades Conference held on September 13 in Roanoke, WV.

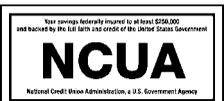
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