



THE ACT REPORT

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FOIA Used In Effort To Get Comp Info

Unions Rally For Workers Comp



FIRING UP THE CROWD is Cecil Roberts, UMWA President, addressing 2,000 union members from across the state. The majority of the crowd came from the building trades locals and councils.



PROTESTORS TAKE THE RALLY inside the capitol to make sure their message is heard by legislators. Doors to the House Chambers were closed as members approached, but their voices were heard anyway.

A Workers Compensation rally sponsored by the West Virginia AFL-CIO saw an estimated 2,000 people demonstrating their outrage at the consequences of the Legislature's Compensation "reform" last

session.

Several hundred ACT members waved signs that read "Give It Back!" and they sported lapel stickers urging the firing of Andy Richardson: "Fix Comp! Fire Andy!"

Joe Powell, president of the state AFL-CIO revved up the crowd and got them yelling their outrage over the cuts. Also addressing the assembly were Roy Smith, secretary treasurer of the West Virginia State Building &

Construction Trades Council.

ACT, along with the West Virginia AFL-CIO, continues to fight for a revision in the law which will protect workers' rights.

"We want everyone to know

that the new Workers' Compensation law shifts hundreds of millions of dollars in compensation and benefits for injured workers to taxpayers and away from employers, who are responsible for the injuries," said

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Braxton Food Bank Fights Prevailing Wage

Prevailing wage laws were enacted to stop government projects from driving down

wages in communities. Now some 65 years later these protections are under attack.

The site is a new Mountaineer Food Bank in Braxton County. "It's unbelievable but true," commented ACT's Steve Montoney.

"A food bank is being built to help folks, but at the same time this project is driving down living standards in our area."

The project is one of many funded by special purpose federal grants appropriated in 1992.

"They totalled \$13.25 million and are administered through the Department of Housing and Urban Development (HUD),"

Montoney said.

The most recent grant to emerge is for the Mountaineer Food Bank in Gassaway.

"There is no Davis-Bacon requirement attached to this grant but if its funds are joined with any state or local dollars, and it is in this case, then the state prevailing wage requirement kicks in," Montoney said.

He said the Regional Development Authority continues to tell him if there's only federal funds, then there is no wage rate.

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Jobs Act Progressing

The ACT-backed West Virginia Jobs Act is now Senate Bill #396 and House Bill #4358.

ACT has garnered support from a majority of county commissions for legislation in favor of hiring local workers for state tax-funded projects. The next step is getting legislation passed. Sponsors in the senate are:

David Grubb, D-Kanawha; Don Macnaughtan, D-Wetzel; Rebecca White, D-Harrison; Bill Wooton, D-Raleigh; Bill Sharpe, D-Lewis; Ed Bowman, D-Hancock; Billy Wayne Baily, Jr. D-Wyoming; and Randy Schoonover, D-Clay; Truman Chaffin, D-Mingo, Keith

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'We're On The Right Track!'

West Virginians Jobs Act Progressing

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Wagner, D-McDowell; Joe Manchin, D-Marion; and Leonard Anderson, D-Summers.

Those in the House of Delegates are: Larry Linch, D-Harrison; Gary Tillis, D-Putnam; Scott Varner, D-Marshall; Larry Williams, D-Preston; and David "O.B." Collins, D-Tucker.

There is still time for more legislators to come on board in support of the bill, according to Raymond "B.B." Smith, ACT legislative representative, but already there is a significant increase in the amount of supporters over last year.

"Last year we only had three Senate sponsors and a few House sponsors on the bill," he

said.

"Now with all these sponsors, we are pretty well represented in the various committees," Smith said.

Smith said getting the bill to committee and approved is next on its path to becoming a law.

On the House side the bill has been sent to the government organization

committee chaired by Del. Joe Martin, D-Randolph. In the Senate the bill was sent to the labor committee Chaired by Sen. Don Macnaughtan, D-Wetzel, and the Judiciary committee, chaired by Sen. Bill Wooton. Both Senate committee chairs

have signed on to the bill.

The bill requires 90 percent of the workers on state tax-funded construction projects to be hired

"We don't think it is right to bring in people from Texas or Alabama to build the projects funded by our tax dollars. Not when we have West Virginians ready, willing and able to do the work."

-B.B. Smith, ACT legislative representative

from the local workforce.

That includes workers living within West Virginia and all bordering counties of neighboring states.

Smith said some of the bill's detractors, like the Contractors Association of West Virginia,

the Manufacturers Association and the Chamber of Commerce, are claiming this bill is unconstitutional.

But Smith pointed to a recent deal between Indiana and Toyota.

As part of its \$29.8 million offer to the company, Indiana pledged up to \$15 million in state tax credits

which are only given if the company hires Indiana residents.

"Other states are using in-state hiring as an incentive to attract business, and we're giving our jobs away," Smith said. "We don't think it is right to bring in people from Texas or

Alabama to build the projects funded by our tax dollars. Not when we have West Virginians ready, willing and able to do the work."

Smith would like to encourage ACT members to call their senator and delegates and urge them to pass the West Virginia Jobs Act.

That number is 1-800-642-8650.

"The outlook for the Jobs Act is getting brighter every day," Smith said.

"But it can only help if legislators know their constituents are in favor of it."

He also said he would like to remind members to register and then vote for a labor endorsed candidate.

Licensing Is Protection For Flood Victims

The recent floods in northern West Virginia were a tragedy for many residents in more ways than one.

According to ACT northern representative Steve Montoney some unlicensed contractors are illegally bidding on flood relief projects, such as shoring up the stream banks and road repair.

Montoney said he attended pre-bid meetings at Petersburg and Onego for flood repair projects.

"The meeting at Petersburg brought out at least 60 contractors from all over the country including Georgia, Florida, and Tennessee," Montoney said. "Most of them are unlicensed. Are they trying to profit from our misfortune?"

Many of the contracts are government contracts through the National Resource Conservation Service.

"I brought up at both of the meetings that I thought these contractors were supposed to be licensed under West Virginia

law," he said.

"In order to stop the profiteering or even to follow laws under the West Virginia Contracting Act, these contractors should have a license before they even bid."

The law itself says no person after 1991 shall engage in this state in any act as a contractor as defined in this article unless such person holds a license, Montoney said, which includes bidding.

"Bidding without a license is a violation of that law," Montoney said.

"I keep raising that issue wherever I go."

Montoney said he contacted Bill Doer, the director of the

National Resource Conservation Service office in Morgantown, who said that contractors were encouraged to have a license but it isn't required on some of these projects because they're federally funded.

"So I checked with the West Virginia Division of Labor, and found that any projects funded through the General Services Administration, like these flood repair jobs, must follow the Federal Acquisition Regulations code of laws that the federal government follows.

"That means every contractor shall comply with any federal, state, or municipal laws or requirements."

"Which means they must have a contractors license before they bid," Montoney said.

"It is ACT's position," Montoney said, "that it is not fair to West Virginia contractors or other contractors who obey West Virginia laws, to compete with those that do not follow the law."

Involvement In Planning Commissions Key

ACT Employee Appointed To Region Council

Linda Daugherty, of ACT's Clarksburg office, was recently appointed to the Region Seven Planning and Development Council by the Barbour County Commission.

The Region covers Barbour, Braxton, Lewis, Upshur, Gilmer, Tucker and Randolph counties. Daugherty was appointed to the Council in early February.

She had attended a county commission meeting and heard they needed a representative for the private sector.

She applied but thought her connection with ACT would knock her out of the job.

"I attended several meetings with Steve and B.B. Smith, [ACT legislative representative] when they were proposing the jobs resolution," Daugherty said. "My ACT connection is clear."

Daugherty currently holds several other community positions: she is president of the Belington Visitors and Convention Bureau; is on the Barbour County Fair Board; is on the Barbour County Chamber of Commerce; and is a new member of the Phillip Board of Trade.

"I'm real active in the community and I stay informed," she said. "If I don't agree with something, then I don't hesitate to state my mind."

Montoney and Daugherty both think that upcoming Region Seven Development Authority Planning Council meetings will be very interesting.

"I can't wait to see what happens," Daugherty said.

'We Need More!'

Labor Unions Are Represented In This Legislative Session

Ask Delegate Gary Tillis what the major change he'd like to see in the West Virginia Legislature this year is and he doesn't mince words.

"We need more working people in the Legislature," Tillis, a Democrat from Putnam County, said during a break in this year's legislative session.

"I end up sitting in these committee rooms with lawyers and Chamber of Commerce members who have no idea what the average West Virginian who works for a living is going through."

Tillis is also ACT's Fair Contracting Representative and a member of Laborer's Local 1353.

He knows first-hand about the struggles union workers face everyday.

During the session, Tillis is often part of a small group of legislators speaking up for working people -- often to no avail.

"We just don't have the numbers to make a difference on legislation like Workers' Compensation," Tillis observed, "We can make some noise but we simply need more votes to be successful."

Delegate Larry Linch, a Democrat from Harrison County and Carpenters Union Representative, frequently works along with Tillis and a few other sympathetic

Delegates to fight for workers protection but they are often just

we'll just see more of the same."

Several other building trades' members, including two ACT staff members, are seeking election to the House of Delegates.

Stephen W. Montoney, ACT's Northern Representative, is challenging Delegates Joe Martin and William Proudfoot in Pocahontas and Randolph Counties in the Democratic Primary.

Bill Thomas, ACT's Industrial Representative, is seeking the Democratic nomination in Kanawha County's 32nd district.

That district is currently home of the "Four Horsemen" as the Republican incumbents are known. The picking up of at least one Democratic seat in the 32nd district is seen as a strong possibility this year.

Two others are David Walker, an Operating Engineer from Local 132, who is seeking a House of Delegates seat in Clay County's 33rd district. The seat is currently held by Clinton Nichols, and Kenny Livingston, a member of Boilermakers 667, is seeking the Democratic nomination to oppose incumbent Republican James Willison in the 6th district covering Doddridge, Tyler and parts of Wetzel Counties.

"We need to get behind these guys," Tillis said, noting, "We need the help here."



WORKING FOR WORKING PEOPLE, Gary Tillis, D-Putnam, sponsors important legislation.

a few voices in the wilderness.

"It's important we elect some of the other building trades' candidates this year," Tillis said, "Without greater representation

Food Bank Fight

Continued from page 1

"That's where we're coming into fights," Montoney said. "Bob Coit, Region Seven's director, told me he knows how to devise ways to keep state and local funds from kicking in and how to circumvent the state prevailing wage rate."

Suzanne Morgan, an apprentice with the Sheet Metal Workers Local 33 Youth to Youth program was checking into prevailing wage on the food bank project.

She received a response to her Freedom of Information Act request, which she turned over to Montoney.

"It just so happened it showed that state and local monies are involved in that project," he said.

"But when I asked him about it, Coit said he knew how to play the game to keep prevailing wage

out and to keep in mind that it was for a good cause."

Montoney said he wonders if it's such a good cause why don't those contractors donate their work.

"They will still make a tidy profit from this job," he said.

"By not paying prevailing wage it just gives the contractor leeway to set the wage scale anywhere they want.

"This drives up profits rather than lower the cost of a project.

Without prevailing rates, wage competition drives down the standard of living in the area," Montoney said.

"Why don't they give us a decent jobs and then maybe we wouldn't have to visit that food bank."

Montoney is looking for ways to pursue the case through legal channels.

Workers Comp Rally At Capitol

Continued from page 1

Smith about why the rally was held. "SB 250 is still a bad deal for injured workers AND taxpayers."

Legislative investigations have been thwarted by the administration's denial of information and records to legislators.

In order to get accurate information regarding the status of the comp fund's financial situation, worker-friendly delegates have been forced to use the Freedom of Information Act (FOIA).

Delegate Barbara Fleischauer, D-Monongalia, along with 13 other legislators resorted to a FOIA letter in early February after six previous attempts went unanswered.

Other charges against the new Workers' Compensation sys-

tem include a long list of items most legislators were unaware of last year.

The amount of unpaid premiums discovered continues to soar due to newspaper and other investigations.

The amount of debt due to

self insured companies is estimated at \$400 million.

And new changes in the premium structure lack guidelines and makes it easier to "play politics" and reward favorites, rather than rewarding safe companies and penalizing unsafe ones.

ACT Convention, Reception Boasts Largest Turn-Out Yet

ACT's annual Constitutional Convention and Legislative Reception was held at the Charleston House Holiday Inn in downtown Charleston on January 31.

The convention saw ACT members and officials preparing for the upcoming year and reviewing 1995's progress.

The reception that same evening allowed those same members to discuss current legislation with more than 50 legis-

lators as well as members of the Supreme Court.

The event, held in the Hotel's rooftop restaurant -- Windows on the River, boasted ACT's largest turn-out of legislators and government officials yet.

"This reception gives members the opportunity to rub shoulders with state legislators and to discuss issues important to construction workers," said Steve White, ACT director.

Cooperation Crucial To Heavy & Highway Success State Site Of Labor/Management First For Nation

Union Heavy and Highway construction contractors are afforded a unique opportunity when building in West Virginia - they can join the Constructors' Labor Council of West Virginia (CLC) and work under one union agreement rather than separate agreements with seven different unions.

The CLC is the leader in collective bargaining negotiations on a statewide basis with several unions for the Heavy and Highway contractors in West Virginia.

Until 1950, those contractors negotiated independently with Operating Engineers, Carpenters, Laborers, Cement Masons, and Teamsters.

According to the CLC, these requirements served to ultimately erode the union contractor's ability to compete effectively with

the non-union counterpart. Consequently, work for the contractor and unions declined.

Opportunities have improved significantly since then.

"In the last couple of years, seven out of 10 heavy and highway projects have been awarded to union contractors in West Virginia," said Jonathan Deutsch, CLC's executive secretary.

When the organization was formed, little did the union contractors realize they had taken a unique step in cooperative labor relations.

The CLC was one of the first organizations in the United States to form a multi-union bargaining agreement for Heavy and Highway contractors, and it has been

used as a model for other collective bargaining groups. It has also commanded national recognition for stabilizing the Heavy and Highway construction industry in West Virginia.

"Our goal is to connect union contractors to union construction in West Virginia," Deutsch said.

**-Jonathan Deutsch,
Constructors Labor Council of W. Va.
executive secretary**

The Council represents 210 contractors and claims to successfully resolve more than 98 percent of the disputes that arise between the contractors it represents and union representatives.

All contractors are signatory with Building and Construction Trades affiliates only.

The West Virginia Division of

Labor and the U.S. Department of Labor recognizes the pay rates negotiated under the three-year CLC agreements as the prevailing wage rate as well. The current contract expires in December of 1996.

"Our goal is to connect union contractors to union construction in West Virginia," Deutsch said.

"What we want ACT and other union members to understand is that while we do represent contractors, most of us have worked in the same place they have," he said. "In fact most of us come from the Building Trades -- including myself. I was a member of Laborers Local 1353."

Deutsch said the Council has a good working relationship with

ACT.

"ACT makes a significant contribution for finding and creating jobs in West Virginia, and I feel it benefits contractors as well as crafts," he said. "In a nutshell, Steve [White, ACT director] does a hell of a good job."

"We're here not only to come up with contracts, but also to work with the idea that our contractors are involved with the crafts for safety and training," Deutsch said.

"In having better trained labor, we benefit by being better able to complete our projects."

The council provides information regarding prevailing wage rates, schedules, pre-bids, or anything else a contractor may need to know about working in West Virginia. Call 342-6107 for more information.

State DOL Needs More Enforcement Power

Resolution Urges Expanded Prevailing Wage

This is the last in a series of resolutions adopted at the 20th Constitutional Convention of the West Virginia AFL-CIO in October, 1995.

Resolutions become the foundation of the AFL-CIO's legislative agenda.

Any AFL-CIO affiliated local or council can propose a resolution for consideration.

Provisions of Chapter 21 of the West Virginia Code, commonly known as the Prevailing Wage Rate Law, have been frustrated by appeals and obstruction. Since that statute's last revision in 1961, there have been numerous practical experiences which demonstrate the legal deficiencies in that law.

The statute began as a laudable effort to protect wage scales

within the construction industry by establishing minimum wage rates which would be paid on the construction of all public improvements in West Virginia. This legislation also protected West Virginia contractors from out-of-state competitors who would slash wages to obtain an edge in bidding for public agency contracts. For many years, in most areas of the state, these worthy goals were accomplished.

Since 1978, however, attacks launched against this system have been increasing. It became painfully apparent that the law was vulnerable to circumvention. A series of protests and appeals, many without basis, have voided wage rates in some areas of the state and have hampered the enforcement efforts of the West Virginia Department of Labor. The wage rates are determined and applied on an annual basis. The problem is caused by a statutory appeal process which is protracted and assures that the chal-

lenged rates will never go into effect during the year for which the rates were determined. Foes of the prevailing wage system threaten to again tie up the rates in a series of appeals.

It is clear that the legislature never intended that the rate process be bottled up in a fashion which guarantees that rates will not go into effect. Exploitation of this law, uncovered by the experience of recent years, is an affront to the Legislature and the citizens of West Virginia.

Traditionally, the law has been interpreted as affecting the awarding of contracts involving public monies; i.e., tax revenues. However, within recent years, the financing of various construction projects through the use of industrial bonds has been increasing, particularly on the county and local level. The law should be expanded to include such projects. Therefore, be it

RESOLVED, That this 20th Constitutional Convention of the

West Virginia AFL-CIO urges that immediate legislative action be taken to streamline the appeals process and enhance the enforcement powers of the West Virginia Department of Labor with regard to the prevailing wage rate law; and, be it further

RESOLVED, That other monies derived or obtained by means other than taxation, such as industrial bonds, be considered as being subjected to the provisions of the Prevailing Wage Rate Law as such construction projects are undertaken under the authority of a public agency.

The ACT Report

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