

# THE ACT REPORT

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CONSTRUCTION  
TRADES FOUNDATION

The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council, with offices in Charleston and Clarksburg. Steve Burton, President; Roy Smith, Secretary-Treasurer; Steve White, Director.

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# Union Workers To Build \$12 Million Dog Track Expansion

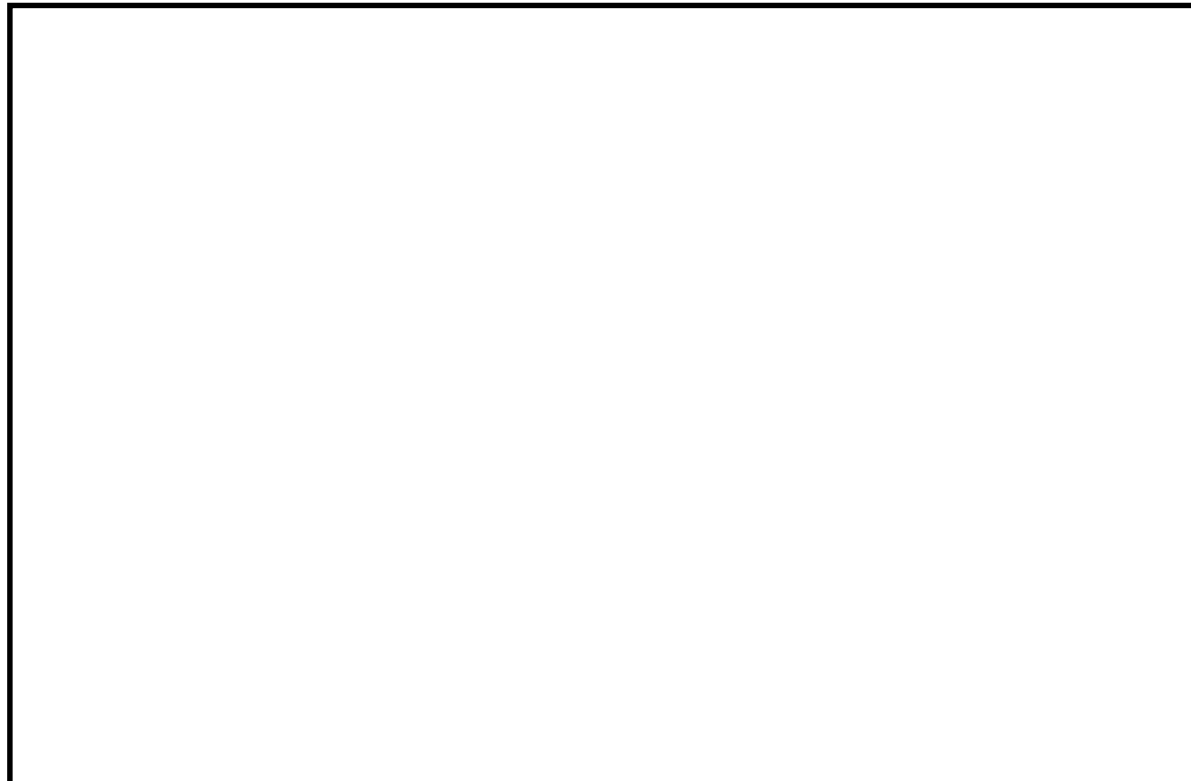
**E**fforts by Charleston area construction workers have paid off.

An agreement that local union members will build the \$12 million expansion at Tri-State Greyhound Park has been worked out.

A large week-long, day and night picket by hundreds of union construction workers and a newspaper ad campaign persuaded the company's owners to provide good jobs with decent pay and benefits.

Dozens of workers will have five months of work on the \$12 million dollar expansion at the dog track, according to Bill Thomas, ACT Representative.

"We were surprised when we first read in the newspaper about two anti-union general contractors getting the job," said Thomas.



Members of the Charleston Building Trades held rallies at the Cross Lanes Dog Track protesting the use of non-union contractors.

"Union workers built the dog track and organized labor has supported the gambling industry in the legislature. The least they

could have done was called us about the bid."

After reading the bad news, ACT and the Charleston Build-

ing Trades Council organized a picket that was scheduled to start on October 19. But the track's

*Continued on pg. 3*

## ACT, Local Authorities Working to Stop Use of Illegal Workers In W.Va.

**W**ith the help of ACT, illegal workers and their contractors have recently been caught on apartment projects in Fairmont, Philippi, and Morgantown.

ACT and the North Central Building trades also made sure the community was aware of the problem at the Fairmont Hills Apartments Site in Fairmont by having a local jobs for local workers demonstration.

About a dozen members of the North Central Trades Council participated in the rally.

Tipped off by House of Delegates member Mike Caputo, D-Marion, ACT started the investigation at a construction site

covered they were working at the apartment complex.

The INS later detained the three workers.

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**'ILLEGAL WORKERS ARE A BIG PROBLEM IN WEST VIRGINIA AND THEY ARE NOT JUST A UNION PROBLEM'**

KERRY DAVIS, ACT REPRESENTATIVE

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in Fairmont.

Local police called the DOL to investigate the job site after they arrested three illegal aliens for public intoxication and dis-

The Division of Labor (DOL) issued a cease and desist order on the Fairmont Hills Apartments construction project because the general contractor, Heritage

Company, of Cocoa Beach, Florida was cited for noncompliance of wage bonds.

Next ACT got a call from a concerned citizen in Philippi.

This action led to thirty illegal workers being arrested at the Maple Terrace Apartment job site in Philippi by local police.

In addition to the hiring of illegal aliens, Maple Terrace's general contractor, Summit Contracting of Montgomery, Alabama, has been cited for not obtaining a city contractor's license.

ACT's investigation also dis-

*Continued on pg. 3*

# Cogentrix Hearing Yields Important Data

**ACT's quest to ensure a power plant boom in West Virginia continued earlier this month as ACT lawyers participated in a public hearing before the Public Service Commission (PSC) on Cogentrix Power's proposed plant in Marshall County.**

ACT had also requested an evidentiary hearing to be held the same day. However both parties agreed to postpone that hearing until early December.

North Carolina based,

Cogentrix is proposing a \$600 million combined cycle, gas fired power plant.

ACT's early intervention resulted in the PSC granting ACT the right to review any information about jobs at this facility.

Because of this PSC ruling,

Cogentrix provided ACT with the first study about the economic impact the plant would have on the area.

"The study showed what we have been saying for months now. Hiring local construction work-

local workers would pump hundreds of millions of dollars into the economy over the first 20

years the plant is in operation.

"This statistic shows is it not true that construction jobs are temporary and not important to the overall economic picture,"

Trades Council concerning a labor agreement similar to the one between Tri-State Building and Construction Trades' agreement with Panda Energy in Cabell County.

"Without an agreement for local workers, we could end up with another project like Constellation in Wayne County," said Bill Dean, Business Manager of the Upper Ohio Valley Building Trades. "They promised local workers, but didn't deliver."

"We don't need imported workers, we have plenty of highly skilled local workers who want to do this work."

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**'WITHOUT AN AGREEMENT FOR LOCAL WORKERS, WE COULD END UP WITH ANOTHER PROJECT LIKE CONSTELLATION IN WAYNE COUNTY'**

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**BILL DEAN, UPPER OHIO VALLEY BUILDING TRADES**

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ers boosts the local economy tremendously," said ACT's Walter "Fuzz" LaRue.

According to the study, hiring

said LaRue.

Negotiations are taking place with the Upper Ohio Valley Building and Construction

## WANTS STATE TO PAY FOR DEFENDING ILLEGAL ACTIVITY

# Monroe County Commission Finally Votes To Pay Workers

**Workers on a court house renovation project in Monroe County will finally get the \$11,437 in back pay they deserved three years ago.**

With the help of ACT Representative Wayne Rebich, the workers filed a complaint

with the West Virginia Division of Labor claiming they should have been paid the prevailing wage.

The County Commission agreed to help the contractor contest the case because he asked if prevailing wage applied to this project and the commission said no.

Former Labor Commissioner

Steve Allred settled the case for half of the projected \$22,875 on behalf of the employees without their consent.

In January ACT stepped in, suing both the Monroe County

The commission didn't vote to pay the back pay until earlier this month.

"It's about time the Monroe County Commission voted to obey the law," said Rebich. "They

act like victims, when they were the ones who broke the law in the first place."

Along with the commission's motion to settle the case a mo-

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**'IT'S ABOUT TIME THE MONROE COUNTY COMMISSION VOTED TO OBEY THE LAW'**

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**WAYNE REBICH, ACT REPRESENTATIVE**

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Commission and Allred contending Allred had no authority to settle the case without the workers consent.

A Kanawha County Circuit Court Judge agreed with ACT, ordering new Labor Commissioner James Lewis to collect the remaining balance.

During the summer, Lewis tried to collect the balance via letters.

tion was also made to pass the \$9,000 legal bill spent to fight the Division of Labor to the state Board of Risk and Insurance Management.

"I hope the state doesn't foot the bill for the Monroe County Commission to defend its illegal action," said Rebich. "The Commission wasted \$9,000 on lawyers, that's their problem."

# Radford & Radford Fined \$5100 For Safety Violation

**Because it allowed a man to work in an unprotected eight-foot ditch, Radford and Radford, a non-union contractor, was fined \$5,100 by OSHA.**

The violation occurred last

Operating Engineers Local 132, took photos of the man working in the deadly trench.

"Everyone in the industry knows working in an unshored ditch is deadly," said Marsh.

Rebich and Marsh also gave the photos to the Wyoming

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**'EVERYONE IN THE INDUSTRY KNOWS WORKING IN AN UNSHORED DITCH IS DEADLY'**

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**RODNEY MARSH, IUOE LOCAL 132**

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May at the 8 million dollar Wyoming East High School job site. The problem was brought to OSHA's attention by ACT Representative Wayne Rebich.

According to OSHA, the unprotected trench put the man in an "imminent danger" situation.

Rodney Marsh, organizer for

County Board of Education.

"With the exception of board member Margaret Swimm the Wyoming County Board of Education seemed more concerned that we were trespassing on school property than for the worker's safety," said Rebich.

*Continued on pg. 4*

# New Study Shows \$900 Million Created Few Jobs

**A new study by the Department of Tax and Revenue indicates West Virginia's corporate welfare programs cost taxpayers \$900 million dollars from 1988 to 1997.**

The purpose of programs such as the Super Tax Credit was to make the Mountain State more appealing than surrounding states to new businesses.

Apparently the approach has not worked since West Virginia remains at the bottom of all economic indicators.

Over the ten years the study examined, the tax credits didn't

create a significant number of new jobs.

In fact, most of the money from the biggest corporate tax credit program, the Super Tax Credit, went to coal companies while they were replacing workers with machines.

Gov. Bob Wise asked for the study in his February State of the State Address.

According to an Oct. 31 story in the Charleston Gazette, Wise plans to use this data to formu-

late proposals for the new legislative session.

"It's good the governor wants to fix this problem but does he

natural resources are not included in the study.

"For example, the study doesn't include the \$25 million tax break disaster with Constel-

lation Power because the breaks were issued by the Wayne County Commission."

White estimates lost property taxes

may reach \$100 million each year. "And undervalued coal, timber and natural gas could be another lost \$100 million or more each year."

"I think the total lost to the public could be three billion dollars over ten years."

But White understands tax breaks are a part of government and will not likely be eliminated.

"We are not against making a deal, we just want to make sure workers benefit, not just corporations. The only way to improve our economy is to get more good jobs, we can't just give away tax funds."

Knowing where the money goes is important towards revising economic development efforts. ACT has promoted legislation designed to track tax breaks and identify if jobs are created, and what kind of jobs we get.

"People will support economic development incentives if they know where the money is going and whether or not it actually creates new jobs."

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**'WE ARE NOT AGAINST MAKING A DEAL, WE JUST WANT TO MAKE SURE WORKERS BENEFIT, NOT JUST CORPORATIONS'**

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STEVE WHITE, ACT DIRECTOR

have enough information to formulate a real solution?" asked Steve White, ACT Director.

White believes the problem may be three times larger than what this study reveals.

He points to the fact that property tax breaks and undervalued

## ILLEGAL WORKERS

FROM PG. 1

closed the Maple Terrace developer, Opportunity Builders from Oakdale California, has had numerous run-ins with authorities in its home state.

The company's former CEO Donald Ozenbaugh pleaded guilty to the theft of \$1.2 million from a loan company.

Ozenbaugh's son-in-law now runs the company.

And on a third nearby project in Morgantown the DOL issued a cease and desist order for D&M Contracting at a student housing project.

The Houston, Texas-based company was cited for non-compliant wage bonds and non-compliant payroll records.

In addition D&M Contracting is suspected of hiring more than 30 illegal workers for the project.

The INS has been notified of the situation, but has not taken action.

"Illegal workers are a big problem in West Virginia and they are

not just a union problem," said Kerry Davis, ACT representative.

"Not only do they take local workers' jobs, but the contractors who abuse these workers make it impossible for local contractors to get the work."

According to Davis, when the INS called about the illegal workers at the Philippi job site they were told "that was not a priority right now."

"It looks like all these projects had some sort of public funding through state or federal tax credits," said Davis.

Joe Hatfield of the Housing and Development fund said, in an article in the Clarksburg Telegram, a \$500,000 loan to Opportunity Builders has been suspended because of problems with licensing and because one of its subcontractors hired illegal aliens.

According to Hatfield the tax credits can not be suspended without a violation of federal law.

## DOG TRACK

FROM PG. 1

Director Daniel Adkins agreed to meet with union representatives if they would not picket.

At the October 23 meeting Adkins said 10 percent of the work had been done and prom-

ised the remaining 90 percent of the work to union contractors.

Yet Local Union officials soon learned more than 90 per-

cent had already been promised to anti-union contractors.

A key sticking point was the erection of the building shell, major work for the Ironworkers.

"We were told union workers couldn't do the project because of warranty problems," said Bubby Casto, Business Man-

ager of Iron Workers Local 301. "But we're putting up a building by the same company with union Iron Workers right down the road."

Left with more excuses and promises that could not be relied

Building Trades, saying he wanted an end to the pickets and ads.

An agreement was reached that included finishing the expansion and future construction and maintenance work.

"This is just another example of what we can do when we stick together and fight as one," said Casto.

"I would like to thank all of those who partic-

ipated for their effort at the dog track," said Mike Matthews, business manager for the Charleston Building and Construction Trades Council.

"It was great to see the plumber pipefitters, electricians and others getting their membership, including apprentices, out to support the unified effort."

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**'THIS IS JUST ANOTHER EXAMPLE OF WHAT WE CAN DO WHEN WE STICK TOGETHER AND FIGHT AS ONE'**

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BUBBY CASTO, BUS. MANAGER IRON WORKERS 301

upon, on October 29 ACT and the Charleston Building Trades Council organized a 200-person picket and launched a public relations campaign against Racing Corporation of West Virginia, the dog track's owners.

On Friday, November 2, Adkins called Casto, who is also president of the Charleston

## LAWS PROTECTING CONSTRUCTION WORKERS AND THE PUBLIC HANG IN THE BALANCE

# Supreme Court to Decide on WVU Case

**ACT squared off against the WVU Foundation before the West Virginia Supreme Court earlier this month to decide the legality of using a private foundation to build a public building for WVU.**

At stake may be the fate of all public construction and whether a loophole will be allowed to stand that destroys state prevailing wage and open bidding laws.

ACT lawyer Vince Trivelli argued, as he has from the beginning of this long court case, that the new administrative services building being constructed by the private WVU Foundation should be subject to the same laws as a building being built by a public entity.

"The building is being leased with public funds, will house public employees and will

be used by students attending a state-funded university," said Trivelli.

"It should be subject to prevailing wage laws and the work should have been put up for competitive bid."

**'LAWS ARE IN PLACE TO PROTECT THE PUBLIC AND CONSTRUCTION WORKERS FROM POLITICS IN TAX FUNDED CONTRACTING'**

**DARWIN SNYDER, PRES. NORTH CENTRAL WV BUILDING TRADES**

The WVU Foundation argued that it was a private organization building the structure for WVU to lease over the next 30 years. They claimed it was therefore not subject to the same laws as if the building were being built by WVU itself.

There are statutes in other states and on

the federal level, which can prevent public agencies from circumventing the law this way, according to Trivelli.

For example, in California several factors are considered, such as

whether or not the lease payments are applied to the construction costs and for what the building is going to be used.

"We would like to make sure that WVU Foundation's contractor pays prevailing for this project," said Trivelli.

"They say prevailing wage is in the contract but we don't know because this project is not subject to the certified payroll or freedom of information laws."

Instead of designing then bidding the project WVU officials, together with the WVU Foundation, picked a

development team. It just so happened they picked Platinum Properties, owned in part by Mike Pushkar who also sits as a member of the WVU Foundation Board.

"Laws are in place to protect the public and construction workers from politics in tax funded contracting," said Darwin Snyder, President of the North Central WV Building Trades. "This is a loophole in the law that needs to be closed."

"If the court doesn't rule in our favor it won't matter who has the best bid, it will only matter who you know and that will cost construction workers good wages and the taxpayers of West Virginia much more money."

The water is already being tested by another public agency.

The Department of Health and Human Resources is leasing a 10,000 square foot building from a private developer in Ripley.

However, the building is not yet built and the developer is constructing the building to the exact specifications of the agency.

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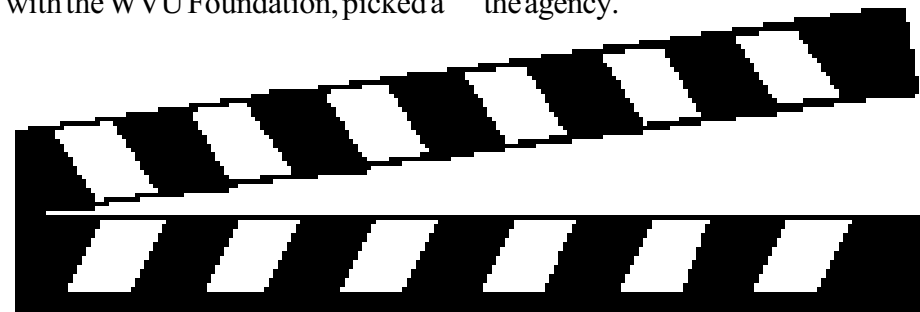
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## SAFETY

FROM PG. 1

"The large fine proves the severity of this offense."

"We would like to thank John Johnson of OSHA, and Board Member Swimm for taking this violation seriously and taking action to correct it," added Rebich.



### CABLE CHANNEL 9

Steubenville, Follansbee & Wellsburg  
Saturdays @ noon

### CABLE CHANNEL 10

Wheeling, St. Clairsville & Moundsville  
Saturdays @ noon

## WEST VIRGINIA WORKS SHOWTIMES

WOAY 4--New!  
Oak Hill  
Sundays @ 11:00am

FOX 11 Charleston,  
Huntington, Parkersburg,  
Beckley, Bluefield  
Sundays @ 11:30am

WDTV 5  
Clarksburg & Morgantown  
Saturdays @ noon