

# THE ACT REPORT

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

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# National Building Trades Legislative Conference A Success

**Top presidential candidates came to the National Building Trades conference in Washington DC to ask for the support of trades members for the upcoming election.**

Front runners John Edwards, Hillary Clinton and Barack Obama and others like Joe Biden and Bill Richardson made speeches to a crowd of more than 3,000 trades members from around the country.

"They came to us, it was an impressive event and showed a lot of clout," said Steve Burton, Business Manager of the Tri-State Building Trades Council.

The annual conference reviews federal legislative issues and sends trades members to Capitol Hill to lobby their Senators and Congressmen.

Top issues this year were the "Employee Free Choice Act" which allows workers to unionize and skip the election process if they get a majority of union representation cards signed.

Thanking supporters of the Davis-Bacon Act was also on the agenda.

A recent attempt to remove Davis-Bacon protections from a \$12 billion water infrastructure bill failed, thanks to strong

Democratic support along with 50 Republican votes.

West Virginia's three congressional members voted to support Davis-Bacon.

The bill has been held up for years by opponents who claim it favored union workers.

The Davis-Bacon law makes sure federal projects use wage rates paid at the local level so federal projects won't push wages lower than the standards already set.

These "prevailing wages" help protect local contractors and workers from low wages and

protect the public from shoddy work.

Trades members attended legislative hearings on the abuses of independent contractor schemes and immigration reform.

Testimony was given by a number of general presidents. A rally was held on Capitol Hill.

"It was the best legislative conference I have attended in more than 30 years," said Burton.

"There was a willingness to try new things, like having delegates participate in congress-

sional hearings and attending a Capitol Hill rally."

A number of workshops were held on a variety of topics.

According to Burton, a program on drug testing policies showed just how far ahead of the nation West Virginia is in addressing the use of illegal drugs in the workplace.

A workshop on "Collectively Bargained Workers Compensation" made it clear the efforts of the ACT Foundation to work with contractors in this field can bring solid results for both workers and contractors.



**SOME OF THE West Virginia Building Trades contingent rallying at the West lawn of the U.S. Capitol are (from left) Bill Dean, Iron Workers Local 549, Wheeling; Roy Smith, WV State Building Trades; Sam Davis, Parkersburg-Marietta Building Trades; Keith Hughes, IW 549; and Dan Poling, Painters District Council 53.**

## Sprinkler Fitters Local 669 On Strike

**A national work stoppage is underway as contract negotiations between Road Sprinkler Fitters Local Union 669 and the National Fire Sprinkler Association broke down on**

**March 31.**

A key issue, according to Dave Ford, Business Agent for District 30, is language to stop companies from having both union and nonunion operations, often called Double-Breasting.

In addition wages and benefits have not yet been agreed upon.

Apparently the work stoppage will not affect most of West Virginia because of an agreement already worked out with the major company in the area.

The primary sprinkler company in West Virginia is Brewer & Company of WV based in Charleston.

According to Ford, Brewer

has signed an interim agreement which means they will agree to whatever the final outcome is.

As a result, workers at Brewer are not on strike and continue to work.

Negotiations resumed on April 10. As the ACT Report goes to press the outcome is still

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## LACK OF MEASURES LED TO SHODDY CONSTRUCTION

# Ohio Allows Prevailing Wage, Responsible Contracting And PLA's On Schools

**A February 15 resolution by the Ohio School Facilities Commission (OSFC) took a large step towards restoring fair contracting practices on school projects.**

According to building trades officials in Ohio the move will allow prevailing wage rates, responsible contracting and project labor agreement language in school building construction contracts.

Resolution 07-16 authorizes local school districts in Ohio to "establish criteria and qualifications standards" by which contractors are chosen and building projects are performed.

This authorization would permit, but not require, these measures on all projects.

"We've got some mixed feelings about the action taken by the Ohio Commissioners," said Sam Davis, Business Manager for the Parkersburg-Marietta Building and Construction Trades Council.

"It would have been much better if (the Commission) specifically required prevailing wages rather than leaving it up to each school district, on a project-by-project basis."

Davis's evaluation of the resolution focuses on the long-term implications for labor unions that will have to "constantly sell the idea of living wages and high standards for contractors" as projects are proposed for funding.

"The Commissioners have created an adversarial process from which they have eliminated

themselves," explained Davis.

"In other words they're saying to the school districts, "Now you deal with it."

The resolution was passed by Commissioners appointed by newly-elected Ohio Gov. Ted Strickland. The action reversed a policy established by

former Commissioners that eliminated prevailing wage requirements and project labor agreements on any Commission building project.

"This is progress in the sense that we now have a chance to make our point," said Davis.

In an attachment to the resolution, the Commission listed 17 "Model Responsible Bidder Requirements" that address such

issues as OSHA compliance, past performance and the credibility of low-bidders.

The requirements are similar

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to 18 points adopted by the West Virginia State School Building Authority defining a responsible contractor. Any WV county that uses State SBA funds must include the 18 points into their evaluation process.

"In Ohio it allows counties to use responsible contractor language but there's not a thing to actually require them to do it," said Davis.

The need for high standards in construction by local school districts has been a focal point for Bill Schneider, Business Agent

for Pipefitters Local 168 in Marietta, Ohio.

Schneider is a resident of the Frontier School District just north of Marietta.

For the past five years,

Schneider and other trades representatives have been documenting problems with school building construction performed under the previous OSFC regulations.

"Our list of problems with the new Frontier Local School District includes roofs that need to be repaired or replaced, brick not safely connected to the underlying block masonry, insula-

tion installed incorrectly or missing altogether, and inadequate metal lentsils around doors and windows," said Schneider.

Schneider's research includes engineering reports obtained through Freedom Of Information Act (FOIA) requests, some of which document serious problems identified while the construction was still ongoing in early 2002.

One report by Jerry Bartles, an engineer for Rooftec, Inc. of Willoughby, Ohio, warns against possible catastrophic failure of school buildings.

Bartles wrote, "In my opinion the structural decking is unsound, drainage is unacceptable and the (debris from previously installed roofing) will hasten structural failure. The debris also provides the fuel for fire."

Even though serious problems with the construction were identified in inspections as early as 2002, the local school board claims they remained unaware of the problems until relatively recently.

"When you've got over 36 active leaks in the roof of one elementary school, it's hard to remain uninformed for very long," said Schneider, referring to the conditions identified in a final report on March 13, 2006.

Schneider believes the facts demonstrate a fatal flaw in how the School District ensures quality construction.

"For the most part, the inspections get done, but you can't inspect quality into a job," said Schneider.

"That can only happen when quality contractors hire quality people to build quality buildings."



**THIS PICTURE SHOWS a lintels that is too short. It was installed by Lang Masonry and is just one of many examples of shoddy work found and documented at the Frontier High School.**

**FOUR LAWS BACKED BY ACT****Governor Signs Bills**

**Governor Joe Manchin signed four pieces of legislation backed by the ACT Foundation on Tuesday April 3<sup>rd</sup>.**

Bills about unauthorized workers, plumbing and sprinkler fitters licensing, defraud a drug test and a tax credit for hiring apprentices are all laws of the land.

Two of the bills ran into trouble after passage due to technical problems.

Upon review S.B. 70, the unauthorized worker bill, had to be vetoed by the Governor and repassed in an extended session of the legislature before it was signed.

The effect of the bill, to increase penalties against employers who hire unauthorized workers, will go into effect 90 days

from passage, which is June 18.

Another bill, S.B. 416 almost was vetoed for a similar technical problem.

The problem is called a title flaw, when the opening paragraph of a bill does not contain the key elements in the bill.

However Sen. Jeff Kessler, (D-Marshall), who is Chairman of the Senate Judiciary Committee and lead sponsor of the bill, was able to convince the Governor's legal staff that the title was properly written.

"We really appreciate Senator Kessler's efforts," said Sam Davis, Business Manager of the Parkersburg-Marietta Building Trades.

"We heard the bill had to be vetoed and there was no time to re-pass it, then Kessler jumped in and it was signed."

The bill goes into effect June 8, 2007 and makes the sale and use of products whose purpose is to defraud a drug test illegal in West Virginia.

The Plumber and Sprinkler Fitter licensing bill requires a set of rules to be written and approved by next years legislature before it goes into effect.

By July 1, 2008 people who can show they have sufficient experience working in the field can get their license, but it will not be required until six months later, January 1, 2009.

For another six months people will still be able to get a license without taking a test, until June 30, 2009.

The tax credit for employers who hire federally registered apprentices applies to any wages paid after January 1, 2008.

**Sprinkler**

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unknown.

Local 669 is part of the United Association of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, or UA for short.

The one local has the entire United States as its jurisdiction for sprinkler fitting work.

It has been ten years since the last strike of the local, which lasted four days in 1997.

The issue about double breasting is fueled by an arbitration case the union lost last year.

In the case a nonunion company based in Arizona, Firetrol

Fire Protection, was bought by Consolidated Fire Protection. Consolidated owns Cosco, a major union fire protection company. Gryphon Investors out of San Francisco owns Consolidated.

In 2004 the union filed a grievance against Consolidated and Cosco regarding the operation of the nonunion Firetrol.

Consolidated refused to follow the contract or let the issue go to arbitration but was forced to after the union took the case to court.

However the arbitrator ruled against the unions claim that Firetrol should be bound by their collective bargaining agreement with Cosco.

**LEAD Focus On Safety Training, Drug Screening**

**In 1991, the Labor Education and Development (LEAD) program was established.**

By all accounts the program has proved to be successful and an industry leader in the nation.

The LEAD program is actually two separate programs, one based in Charleston and the other in Ashland, Kentucky.

The Kanawha Valley Builders Association (KVBA) with the cooperation of the Charleston Building and Construction Trades Council designed LEAD as a joint Labor-Management program with a focus on hazard recognition, safety training and drug screening.

The LEAD copyright is shared with a sister LEAD program established at the same time by the neighboring Tri-State Contractors Association and the Tri-

State Building Trades Council, with each program governed by separate Boards of Trustees.

Reciprocity between the sister programs provides for coverage throughout the Charleston, Beckley, Huntington, WV; Ashland, KY; Portsmouth, Ironton, Ohio areas.

"Our job is to help our member contractors remain competitive" said Jim Cerra, Director of the KVBA.

"You could say that we wanted to lead the way with the LEAD program."

One of the most valuable resources an employer can have is peace of mind, the kind that comes from knowing employees are working safely in an environment free from the inherent dangers of illicit drug use.

Workers who can certify they are both safety trained and drug

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**WATCHING GOVERNOR MANCHIN sign four ACT backed bills are (from left) John Clarke, IBEW Local 141; Ronnie Burdette, Operating Engineers 132; Tim "Squirrel" Jividen, WV State Pipe Trades; Bill Dean, Upper Ohio Valley Building Trades; Gary Yarnell, Plumbers and Fitters Local 565; Larry Walker, WV Division of Labor; Randy Ferguson, Ferguson Brothers Heating & Plumbing; Jim Lewis, Training Coordinator for UA 545; Del. Orphy Klempa (D-Ohio) and member of the Carpenters; and Del. Jim Morgan, (D-Cabel) Chairman of the House Committee on Government Organizations. (Not pictured but present - Carl Reynolds, Training Coordinator for the Laborers District Council, Steve White ACT Foundation).**

# Target Funds Prove To Be Valuable Tools

**Targeting funds are designed to help signatory contractors compete fairly against non-union contractors who win jobs by undercutting wages.**

Building trades unions are utilizing a "targeting strategy" to help their signatory contractors by subsidizing bids on hard to get projects.

Representatives of the Laborers and the Carpenters in the Charleston area are working together to maximize the use of the Target Funds they've established.

Craig Harvey, Business Manager for Laborers Local 1353 in Charleston, explained that "targeting" is as it sounds—a way to focus resources on specific projects to stop non-union companies from winning contracts away from union companies.

Harvey uses the example of a non-union company whose bid is based on paying low wages and no benefits, a decided competitive disadvantage to the union contractor.

"We've put resources into a fund that allow us to essentially make up the difference by providing a payment to our signatory contractors based on man-hours worked on that project," ex-

side of union building trades workers for years by underbidding companies that pay fair wages and benefits," explained Harvey.

"My union's decision to target is based on the non-union competition, we look at contractors who constantly affect our market share in certain sectors," said Harvey. "By eliminating the wage disparity, we are

comfortable our union companies will be able to compete."

When the investment firm, A.G. Edwards, Inc., put out bids for reno-

vating office space in downtown Charleston's Laidley Tower, Harvey and Carpenters Local 1207 Business Agent, Scott Brewer, knew Jarrett Construction would bid on the job.

According to Harvey, he and Brewer decided to offer support from their respective Target

Fund to the two union companies who planned to bid the job in competition with Jarrett.

Their strategy worked as RC General Contracting, a union company, won the Laidley Tower job.

The second union company was also offered access to the same resource. Looking at bidders is not always the way targeting funds get used according

to Brewer. An example is a recent Carpenter focus on doctors who build offices using companies who fail to offer living wages and benefits like health coverage.

"From my perspective, industry segments can also be a focus of targeting," said Brewer. "It's an outrage for a doctor to take our insurance then build an office with uninsured workers.

**"THIS MAKES THE PLAYING FIELD FAIR, WITH COMPETITION BASED ON SOMETHING OTHER THAN CUTTING WAGES AND BENEFITS." CRAIG HARVEY, BUSINESS MANAGER, LABORERS LOCAL 1353**

plained Harvey. "This makes the playing field fair, with competition based on something other than cutting wages and benefits."

Harvey offered Jarrett Construction of Charleston as an example of a non-union company that's often a concern.

"They have been a thorn in the

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## LEAD

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free have a competitive advantage when it comes to obtaining work—a competitive advantage that is automatically transferred to the employer.

The LEAD program is comprehensive, offering instructors to teach courses such as OSHA 10-Hour, OSHA Refresher, First Aid, CPR, and Drug Free Awareness classes, as well as a list of drug screening options that can be adapted to the specific needs of the employer, or the employee.

"An important aspect of the LEAD approach is that we provide an opportunity for workers to be proactive on the issue by volunteering for drug screening," noted Cerra.

Workers can sign up for the testing on their own, or in response to a request from an employer. Once test results in-

dicating absence of drugs are returned, the worker can obtain a dated Drug Free Photo Certification Card that documents their drug free status. All completed training is also listed on the LEAD photo identification card.

"It says something to an employer when someone shows up certified drug free, with an ID card that proves it," noted Cerra.

LEAD will also set up programs in cases where screening is mandatory and done on a random basis. LEAD is funded through collective bargaining agreements.

"Whatever the contractor's need may be in the area of safety training and drug screening, we offer a service that meets that need," concluded Cerra.

For more information, employers and workers may phone (304) 346-1350 or toll free (866) 448-5323, or email to: [lead@leadwv.com](mailto:lead@leadwv.com).



**CRAIG HARVEY (right) and Scott Brewer (left) worked with Tom Reece of RC General Contracting and the Target Funds from both the Laborers and Carpenters to make sure union workers did not lose a Laidley Tower job because of low wage competition.**