

IMPROVED JOBS ACT, PENALTIES FOR UNAUTHORIZED WORKERS **TRADES PASS TWO NEW LAWS**

ACT and the State Building Trades were able to pass two key pieces of legislation and help a number of other important measures (see story page 2) become law during the 2010 legislative session.

An update to the West Virginia Jobs Act, first passed in 2001, received final approval on Thursday, March 11 when it passed the State Senate unanimously.

The new bill, H.B. 4359, will go into effect June 9 of this year and will improve the Jobs Act two ways.

Under current law only projects valued at more than \$1 million are covered, the new law will now include all jobs worth more than \$500,000.

The Jobs Act requires contractors to hire 75 percent local workers on state and local tax funded projects. The new

bill defines a local worker as anyone who lives in West Virginia or lives in a county

that is within 50 miles of our borders.

The current law includes

counties as far away as 75 miles from our border.

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MEMBERS OF THE House of Delegates and of Building Trades Unions pose with Dave Efaw, Secretary-Treasurer of the WV State Building Trades Council and Speaker of the House Rick Thompson (D-Wayne) in the House Chamber on the next to last day of the 2010 legislative session. From left Greg Butcher (D-Logan) and member of Operating Engineers Local 132; Efaw; Dan Poling (D-Wood) and member of Painters District Council 53; Thompson; Orphy Klempa (D-Ohio) and member of the Mid-Atlantic Regional Council of Carpenters; and Dave Walker (D-Clay) also a member of Operating Engineers 132.

ROOFING CONTRACTOR AGREES TO PAY \$113,407 IN BACK WAGES

Frye Roofing Inc. has agreed to pay \$113,407 in back wages outlined in a February 10 settlement agreement with the West Virginia Division of Labor.

The company, based in Bluefield, WV, reached the settlement after more than a year of investigation by the WV Division of Labor.

About \$35,000 will be paid right away from funds held by various County agencies and the remainder must be paid no later than December

21, 2011.

The company must make quarterly payments of approximately \$10,000 starting March 31 of this year.

As part of the settlement Frye does not admit to any liability for the claims. In addition Frye has no liability to any employee or former employee for any taxes or tax forms related to the payments.

Roofers Local 185 and the Affiliated Construction Trades have filed numerous protests and complaints regarding the company.

“We suspected Frye was not paying the correct wages, and this settlement confirms our suspicions” said Dale Rose, Business Agent for Roofers Local 185.

“We appreciate the work Wayne Rebich and ACT have done, as well as the Division of Labor.”

Rebich collected payroll documents that showed what appeared to be an unusual number of Frye employees paid at a Laborers rate rather than a Roofers rate for roofing work. In addition, payroll records ACT was able to col-

lect showed possible overtime violations and raised questions about Frye’s compliance with payroll taxes such as State and Federal income tax, social security and unemployment.

The majority of Frye employees listed on the payroll live in North Carolina.

Rebich had also uncovered documents showing Frye had at least two roofing projects that were completed hundreds of days past the agreed upon completion date.

ACT has written to the

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

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ROUND-UP OF 2010 LEGISLATIVE SESSION

A number of bills of interest to the Trades passed the 2010 legislative session.

A bill promoted by Governor Joe Manchin to increase bond levels to \$500 million for the State School Building Authority, S.B. 229 passed. This will mean the SBA can refinance some existing bonds and get more money for school construction projects.

A similar bill, S.B. 612, aimed at more University construction funding sponsored by Sen. Bob Plymale

(D-Wayne) provides \$5 million more per year to the Higher Education Improvement Fund.

The money comes from lottery proceeds and when pledged to a bond could bring another \$70 million to \$75 million in Higher Education projects.

Another Governor's bill S.B. 427 to expand the Parkways Authority passed. The purpose for the change was to provide for a new way to use

valid drivers license or immigration work permit, then the employer has 72 hours to produce those records.

According to the DOL 215 employers never produced records last year, and 81% of non-compliant employers were from out-of-state.

H.B. 3301 creates a penalty of \$100 per worker per day for an employer who does not produce the records requested.

"Basically out-of-state employers were ignoring the DOL's request for documents and they had no way to enforce the law," said White.

Del. Ricky Moye (D-Raleigh) led the effort on the bill.

Both bill now go to Governor Joe Manchin for his signature and should go into effect on 90 days from passage.

ACT Report Address Corrections Wanted

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tolls for road funding.

Route 35 is the most likely candidate for tolls that will

contributions passed.

The measure was aimed at the increased use of big special interest funding of candidates.

A bill to track Macellus Shale water usage passed. Increasingly

people want to know what benefits and costs the Marcellus Shale gas fields bring to West Virginia.

Governor Manchin's proposal for a Constitutional Amendment H.J.R. 101 failed to pass on the final day.

The Amendment, if passed by voters, would have allowed Counties to eliminate personal property taxes on

businesses.

The Trades did not push legislation aimed at requiring workers on public projects have health care this year because of the national health care legislation pending before congress.

Bills the Trades opposed that failed included numerous bills attacking prevailing wage laws.

Prevailing wage laws aim to protect local workers and companies from unfair low wage competition on public projects.

Similarly a bill to allow private companies to design, build, finance and maintain public schools was introduced but was never placed on a committee agenda.

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JOBS ACT

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"More projects covered and a tighter definition of local workers - that is what we argued for and that is what the bill does," said Steve White, ACT Director.

Also passed was a bill to give the WV Division of Labor more enforcement tools when dealing with unauthorized workers.

H.B. 3301 provides penalties to employers who do not produce records on their employees.

The DOL has the responsibility to enforce many workplace laws such as overtime, prevailing wage, minimum wage, and contractor licensing.

When performing job site audits the first thing they must know is the identity of workers on the job and who they are employed by.

Employers are responsible for keeping records on who their employees are, and if they do not have identity records on the job, such as a

TRADES SUPPORT RELIABLE POWER AT PRESS CONFERENCE



MEMBER OF THE legislature and industry look on as Dave Efav, Secretary-Treasurer of the WV State Building Trades, makes comments in support of investing in electric transmission infrastructure at a press conference held at the Capitol last month.

Efav stresses the importance of local construction jobs and the additional jobs created by the electric power industry when reliable transmission lines are in place.

WEST VIRGINIA AFL-CIO COPE ENDORSEMENTS FINALIZED FOR THE MAY 11, 2010 PRIMARY ELECTION

The West Virginia AFL-CIO's Committee on Political Education (COPE) met February 27th in Charleston finalizing candidate endorsements for the 2010 Primary Election.

The WV AFL-CIO State COPE committee is comprised of representatives from every affiliated International Union in West Virginia, representatives from Trade and Industrial Councils, Central Labor Councils and West Virginia AFL-CIO Executive Board Members.

An endorsement by the West Virginia AFL-CIO State COPE follows recommendations from Central Labor Councils located in 13 cities around the state.

Labor Council members review incumbent's voting records, (on issues concerning working families), followed by an interview of candidates who have successfully completed the WV AFL-CIO questionnaire.

In addition the WV State Building Trades endorsed two members who are running for local School Board races.

Steve Wedge, Assistant Business Manager of Boilermakers 667 is running for re-election to the Jackson County School Board, a position he has held for 16 years.

Jason Hershman, Business Agent for Laborers Local 379 is running for the Preston County Board of Education.

Supreme Court of Appeals

Thomas E. McHugh

U.S. House of Representatives

1st Congressional District: Alan Mollohan

3rd Congressional District: Nick Joe Rahall

State Senate

1st Orphy Klempa

2nd Larry Edgell

5th John Cummings

6th H. Truman Chafin

7th Jeff Eldridge

8th Richie Robb

9th Mike Green

10th Ronald Miller

11th C. Randy White

12th Joe Minard

13th Ron Justice

14th Steven Shaffer

16th John Unger

17th Brooks McCabe

House of Delegates

1st Marilyn Boyd, Randy Swartzmiller

2nd Roy Givens, Alan Klein

3rd Shawn Fluharty, Erikka Storch

4th Michael Ferro, Scott Varner

5th Dave Pethtel

9th Jim Marion

10th Dan Poling, John Ellem

12th Jo Boggess Phillips

13th Dale Martin, Brady Paxton

14th Darrell Black, Cathy Larck

15th Carl Eastham, Jim Morgan, Matthew Woelfel

16th Doug Reynolds, Dale Stephens

17th Don Perdue, Richard Thompson

18th Larry Barker

19th Greg Butcher, Ted Ellis, Ralph Rodighiero, Josh

Stowers

21st Harry Keith White

22nd Daniel J. Hall, Linda Goode Phillips

23rd Clif Moore

25th John Frazier

27th Mel Kessler, Virginia Mahan, Ricky Moye, Sally Susman, Bill Wooton

28th Thomas Campbell, Ray Canterbury

29th David Perry, Margaret Stagers

30th Bonnie Brown, Nancy Guthrie, Bobbie Hatfield, Mark Hunt, Doug Skaff Jr., Sharon Spencer, Danny Wells

31st Meshea Poore

32nd Scott Lavigne

33rd David Walker

34th Brent Boggs

35th Sam Argento

36th Joe Talbott

37th Paul "PJ" Louk

39th Bill Hamilton

40th Mary Poling

41st Frank "Chunki" Angotti Jr., Ron Fragale, Richard Iaquina, Tim Miley

42nd Michael Manypenny

43rd Mike Caputo, Linda Longstreth, Tim Manchin

44th Stephen L. Cook, Barbara Fleischauer, Charlene Marshall

45th Larry Williams

46th Stan Shaver

49th Charles Messick

50th Ruth Rowan

52nd Mike Roberts

53rd Robert V. Mills

54th Walter Duke*

55th Donn E. Marshall

56th Terry L. Walker

57th Lorraine M. Rea

58th Tiffany Lawrence

County School Boards

Jackson County Board of Education – Steve Wedge*

Preston County Board of Education – Jason Hershman*

*No action was taken by COPE, however the Building Trades have endorsed.



WV AFL-CIO PRESIDENT Kenny Perdue leads the discussion about COPE endorsements before a group of Labor Council and Union representatives at a Saturday, February 27 meeting.

LEGISLATIVE

CONTINUED FROM P. 2

Questions about how bidding would take place in a fair way remain to be detailed in the bill.

A bill to create a severance

tax on Wind Power projects never got out of committee. The bill was promoted by the coal industry and would have killed wind projects.

An insurance industry bill to make it harder for workers poisoned by asbestosis to

get their case heard in court died after a compromise was reached between various lawyer groups.

Details on all these bills can be found at the Legislative web site www.legis.state.wv.us.

PREVAILING WAGE VICTORY IN OHIO

The Ohio Supreme Court ruled contractors who cheat workers on prevailing wage projects must pay back not only lost wages but penalties as well.

The March 2 ruling in Bergman v. Monarch Construction Co., reversed a lower court ruling that said courts have discretion in the assessment of penalties.

The Ohio Supreme Court disagreed with the Court of Appeals saying the penalties are mandatory and must be assessed in but exceptional cases.

Under Ohio state law em-

ployers must pay a 25 percent penalty on the unpaid wages and a 75 percent penalty to the Ohio Department of Commerce which uses the fines for enforcement.

The case started when a masonry sub-contractor Don Salyers Masonry was charged by the Department of Commerce in 2006 for not paying 36 workers the proper wages on a Miami University student housing project.

Salyers went out of business and the general contractor Monarch Construction

was called on to pay the bill. The amount for unpaid

*...PREVAILING WAGE PENALTIES
HELP SMALL BUSINESSES AS WELL
AS CONSTRUCTION WORKERS BY
CREATING A LEVEL PLAYING FIELD
FOR FAIR COMPETITION.*

wages was \$368,266 and the penalty added up to an equal amount.

Monarch protested the penalties for both the workers and the Department of Commerce. A trial court had agreed.

Workers in Ohio who believe they have not been paid the proper prevailing wages

can file a private lawsuit against their employer or file a complaint with the Department of Commerce.

In West Virginia workers usually go through the WV Division of Labor or the U.S. Department of Labor for

prevailing wage claims.

Ohio Attorney General Richard Cordray, whose office filed a brief in support of the workers' position, issued a statement in support of the ruling saying prevailing wage penalties help small businesses as well as construction workers by creating a level playing field for fair competition.

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CONGRESSMAN MOLLOHAN MEETS WITH TRADES



CONGRESSMAN ALAN MOLLOHAN meets with members of the Trades while on the campaign trail. Mollohan represents the 1st Congressional District, is Chairman of the House Appropriations Sub-Committee on Commerce, Justice, Science & Related Agencies. Pictured from left are members of Operating Engineers Local 132 Gary Burgess, Tom Plymale, Commissioner of Labor Dave Mullins, Mollohan, Business Manager Ronnie Burdette, and Chuck Parker and from the Mid-Atlantic Regional Council of Carpenters, Mark Estlack, District Manager.

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ROOFING

CONTINUED FROM P. 1

WV School Building Authority asking them to review Frye's record and determine whether or not they comply with the Responsible Bidder

policy adopted by the SBA.

In December the Kanawha County Board of Education rejected Frye's low bid on a project and went with the second bidder based in part on information about Frye's track record.