

THE ACT REPORT

VOLUME 16 NUMBER 8
AUGUST 2007



A PUBLICATION OF
THE AFFILIATED
CONSTRUCTION
TRADES FOUNDATION

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.

Charleston - (304) 345-7570
Toll Free - (800) 930-9675
www.actwv.org



INSIDE

Erect Fund	Pg. 2
Boilermakers	Pg. 2
WVU Alumni	Pg. 3
Dr. Parsons	Pg. 3
Ohio	Pg. 3
Rally	Pg. 4

TABLE GAMES MEASURE AHEAD BY 33 VOTES IN KANAWHA COUNTY

Voters in Kanawha County appear to have passed a measure to allow table games at the Tri-State Racetrack and Gaming Center in Cross Lanes.

The August 11 vote ended with only a 33 vote difference. 22,544 voting for the measure and 22,511 voting against.

As the ACT Report goes to press the outcome is still uncertain because of the high number of challenged ballots.

These approximately 586 challenged or provisional ballots are described mostly as ballots where the voter was not registered. In addition some voters went to the wrong precinct or to the correct precinct but had not updated a new address at the voter registration office.

These votes will be reviewed during the canvass, a process that reviews the count and certifies the vote, which should be complete by August 17.

After completion of the canvass a recount can be requested within 48 hours, but the request

will come with a \$5,000 to \$7,500 charge to cover costs.

Leading up to the election the Building Trades was mentioned as a key supporter of the measure in press reports more than once.

"We focused our efforts on letting our members know about the jobs they would get if the vote passed," said Mike Matthews,

Business Manager for the Charleston Building Trades Council.

The Council led a voter registration drive followed by an education and get-out-the-vote campaign for all union members in the county.

If passed, Tri-State Racing plans to spend \$250 million on new construction including a new

250 room hotel, a gaming area and a 5,000 seat arena.

The track has committed to use local union construction workers for the projects. The 18 month construction effort would have a payroll of more than \$50 million.

The expansion would also create 1000 full time positions.

Continued on p. 4



HOLDING A SIGN to support the vote in Kanawha County is Rick Barker, Business Manager for Iron Workers Local 302. Barker joined other building trades members during the last week of the campaign to help get the message out to voters with a "human billboard." Contractor members of the Kanawha Valley Builders Association also joined the effort.

POWERBALL WINNER WHITTAKER BROKE LAW SAYS NLRB

The National Labor Relations Board has ruled that Powerball winner Jack Whittaker illegally retaliated against employees organizing a union at his construction company.

In a July 27 decision, NLRB Administrative Law Judge Eric M. Fine cited Diversified Enter-

prises, Inc., its owner and management for violating, a series of labor laws. The ruling imposed a list of corrective actions and penalties including the payment of financial damages.

The case centered on Robert Hornsby, a carpenter foreman working at a sewage treatment plant construction project in Ghent.

In performing his job for nearly five years, Hornsby was

praised by his boss, Jack Whittaker, as a valued employee. He was rewarded for his performance with use of a company vehicle, a gas card and other benefits.

All that quickly changed on August 29, 2006 when Hornsby handed Whittaker a letter announcing he was a voluntary organizer for the Carpenters.

According to testimony from the May 29 trial, Hornsby's let-

ter certifying his status as a labor organizer led to a series of actions and statements by Whittaker and other supervisors that were illegal.

Among the violations cited by the NLRB were: demoting employees and giving them less favorable shifts, threatening employees with physical harm, lay-off, termination, transfer to a lower paying job and other un-

Continued on p. 2

UNION FUND INVESTS IN KANAWHA MALL

A major real estate investment by rank-and-file construction workers will create jobs in West Virginia.

A buyer's group that includes the Employee Real Estate Construction Trust Fund, known as the ERECT Fund, recently paid \$11 million for the Kanawha Mall in Charleston. A major renovation project is expected to

start early next year.

The Fund invests only in projects that will be built entirely by union building trades' labor.

According to Scott Brewer, Service Representative for Carpenters Local 1207 in Charleston, the ERECT Fund should be a reassuring name to West Virginia's union construction workers.

"Anytime ERECT is involved in a project, we know there will

maintained that Hornsby's use of a company truck, and other benefits, made Hornsby a supervisor and therefore ineligible to participate in union activity.

However, numerous company documents offered as evidence, as well as previous testimony by Whittaker, identified Hornsby as a "foreman" – an employee who can legally choose to organize a union.

Offering multiple examples of conflicting and ambiguous testimony, Fine noted that he "did not find Whittaker to be a very credible witness."

Fine's official Order requires Diversified Enterprises, Inc. to cease and desist from the illegal activity established in the trial, including threats of physical harm for engaging in union activities.

Additionally, Diversified must pay Hornsby the earnings and other benefits he lost as a result of being demoted.

Diversified must also post the details of Fine's Order in a prominent place where employees may read it.

According to May, Hornsby and three other former Diversified Enterprises employees have joined the Carpenters union and are working at good jobs in the southern West Virginia area.

The Operating Engineers and Bricklayers Unions also took in members.

be opportunity for our members," said Brewer. "It's a continuing cycle where union assets are invested where they will create more assets. I think it's great."

Although the project in itself is welcome news, the use of pension funds to boost the local economy may be the bigger story.

The ERECT Fund is based in Pittsburgh and over its 19 year history has invested over \$230 million in construction projects, according to media reports of the July 20 sale.

Typical fund investments support real estate projects like apartments, parking garages and shopping centers.

With their expansion into

West Virginia many local pension plans are looking with interest at the group.

"Our pension money must get the best return possible, but it shouldn't always go to the stock market or deals in other parts of the country," said Brewer.

West Virginia's building trades members own more than \$1 billion in pension fund assets.

A few years ago a number of West Virginia funds had looked to the ERECT Fund to invest in some projects but were unable to get the program started.

According to Brewer this new project might be just the thing needed to get the program going.

Construction plans announced with news of the sale

call for the facility to remain open throughout the redevelopment scheduled to begin early in 2008 with a completion date in time for back-to-school shopping.

Total cost of the renovation and construction has not been released but is estimated at around \$10 million.

"While we don't know exactly how many jobs will be created the fact that union funds are being invested to create jobs is very significant," explained Brewer.

"We've always emphasized that union workers are not just about benefiting themselves. They also invest in their local communities to improve opportunity for everyone."

WHITTAKER

CONTINUED FROM P. 1

specified reprisals for engaging in union activities.

"The Judge got it right," said Randall May, organizer for the Mid-Atlantic Regional Council of Carpenters and the union official who filed the charges.

"Whittaker acted like he was above the law, but this case shows that when workers stick together, and have a union backing them, they can find justice."

According to May the illegal behavior these workers faced on the job is all too common.

"Standing up for the right to join a union is never easy," said May.

"In working with Hornsby, we made sure he knew he was not alone – and as it turns out, several other Diversified employees signed on as organizers during this campaign."

Carpenter Representative Luke Begovich and ACT's Wayne Rebich were the first to get involved in the organizing effort. Representatives from the Operating Engineers and Bricklayers also got involved.

They met with Hornsby and other workers after they approached him about joining the union. Together they carefully documented their actions.

In trial testimony, Whittaker

BOILERMAKERS LOCAL 667 ACCEPTS NEW APPRENTICES



BOILERMAKERS 667 TOOK in 41 new apprentices last month to bring their total first year apprentices up to 160. According to Business Manager George Pinkerman the program expects to take in another 59 apprentices in August. "The demand for skilled workers is strong now and for the future," said Pinkerman. "Our Local is working hard to meet that demand." The Boilermakers now have approximately 320 apprentices in their four year program.

ACT QUESTIONS WVU ALUMNI PROJECT

JUDGE REJECTS INJUNCTION REQUEST

Monongalia Circuit Judge Russell Clawges denied the ACT Foundation request to stop construction at the WVU Alumni Center during court proceedings on August 6.

The request for a preliminary injunction came as ACT challenged the lack of open competitive bidding for the construction of the new \$12 million center.

ACT contends the use of millions in taxpayer dollars for site preparation and foundation work makes the project a public one, even though private contributions were included.

The case is scheduled to begin next month. ACT started its legal actions in December of 2006.

"We were disappointed with the ruling. But we still are looking forward to our day in court," said Roy Smith, Secretary-Treasurer of the WV State Building Trades.

ACT filed a similar suit against WVU and the WVU Foundation in 1999 over the building of a new university administration building.

When the case was decided by the State Supreme Court in

2001 the court agreed the project was public and should have followed bidding and prevailing wage laws.

"But the job was done, so our victory was only for future projects, or so we thought" said

Smith.

According to Smith open competitive bidding laws have existed for years and are one of the key protections taxpayers have to make sure their money is prudently spent.

OHIO VILLAGE ADOPTS UNAUTHORIZED WORKER LAW

Working from the text of a recent law passed in West Virginia the Village of Bellaire, Ohio recently passed an ordinance about unauthorized workers.

Bellaire is located on the Ohio River, just south of Wheeling.

Similar to Senate Bill 70 which passed in March in West Virginia, the ordinance defines unauthorized workers and put penalties in place for companies that hire them.

The similarities may be the result of some attentive members of Plumbers and Pipefitters Local 83 in Wheeling.

They let ACT Representative Walter "Fuzz" LaRue know about problems the county police were having with unautho-

riated workers.

LaRue contacted the police department and provided them a copy of the law passed in West Virginia that increased penalties against employers who hire unauthorized workers.

The Bellaire measure, passed on June 7, is already being used.

News reports from August 1 claim a Kentucky company was cited for having four unauthorized workers in their employment.

The company was erecting a metal building.

"The Chief of Police and the Village Administrator have really worked hard to make sure the law is followed and there is a level playing field in the community," said LaRue.

According to the report Bellaire is the first community in Ohio to pass such legislation.

TRI-STATE TRADES THANK MASON SUPERINTENDENT

Members of the Tri-State Building Trades Council presented Dr. Larry E. Parsons with their "Member of the Month" award in July.

Parsons is Superintendent of Schools in Mason County and he led the effort in 2004 to get voter support for more than \$30 million in school projects.

"Dr. Parsons is a leader who has made a difference for the kids of Mason County," said Steve

Burton, Business Manager for Tri-State. "And he has lived up to every commitment made to the members of the community who supported the bond vote."

Major renovations and new construction took place at three junior-senior high schools; Wahama, Hannan and Point Pleasant.

An additional \$4.3 million from the State School Building Authority enabled the county to renovate the Mason County Career Center which is currently under construction.

All projects have been built with local union building trades workers.

"I'm a stickler for accountability and the trades have lived up to all my expectations and more with quality and timely work," said Parsons.

"Our relationship with the Tri-State Building Trades has been invaluable from the bond idea through construction."

"And the ongoing commitment of the trades to insure young people will be trained for union jobs has been exemplary."



THANKING MASON COUNTY Superintendent Dr. Parsons are (from left) Les Ray, BBL-Carlton; Steve Burton; Ed Mullins, UA 521; Wanda Parsons, Dr. Parsons wife; Tom Bowen, Laborers 543; Dr. Larry Parson with 'Member of the Month' jacket; Jeff Clendenen, Carpenters 1159; Roger Richards, Millwrights 1755; Dave McComas, WV State Building Trades; Randy May, Carpenters 302 and Billy Steele, Bricklayers 5.

LABOR RALLY HELD IN HUNTINGTON

Hundreds of opponents to the anti-union Right-to-Work law showed up to let the West Virginia Republican Party officials know their feelings.

The Rally took place on July

14 at the same time the West Virginia Republican's held their statewide meeting.

The National Right-to-Work Committee had been invited to speak at the Republican event and was listed on the published agenda.

Apparently when they heard

about the opposition rally they canceled their appearance. In addition, some labor friendly members of the Republican party had refused to attend.

"We don't appreciate the attack on working families and the organizations they choose," said Kenny Perdue, President of the

WV AFL-CIO.

"Right-to-Work laws are like a wolf in sheep's clothing, they promise prosperity but deliver only misery."

After a rally at Huntington's Ritter Park the group marched to a nearby hotel where the conference was being held.

The rally and march was spon-

sored by the Southwestern District Labor Council and featured a number of speakers including Perdue and the head of the Kentucky AFL-CIO Bill Londrigan.

Workers in Kentucky were able to stop a state effort last year to enact the Right-to-Work law lead by Republican Governor Ernie Fletcher.



LEADING THE MARCH are members of IBEW Local 466 and Kenny Perdue, President of the WV AFL-CIO. Right behind them are members of Pipefitters Local 521. The Trades made up a good portion of the 500 people at the rally.

ACT Foundation
600 Leon Sullivan Way
Charleston, WV 25301
(304) 345-7570

Non-Profit Org.
U.S. Postage
PAID
Permit # 1374
Charleston, WV 25301

Union Trades
Federal Credit Union

Working Together works...Join the Credit Union and let us work for you.

SAVINGS SPECIAL
— 13 month Certificate 5.22% APY —
Minimum \$1000.00

LOAN SPECIALS
See a Loan Officer TODAY.

1925 Murdoch Avenue
Parkersburg, WV 26102
(304) 485-1421 fax 485-1487
toll free 1 888 524-1421
reception@uniontradesfcu.com

600 Leon Sullivan Way, Suite 101
Charleston, WV 25301
(304) 344-0194 fax 344-0195
toll free 1 800 450-8530
receptionchas@uniontradesfcu.com

If you like Football ... YOU'RE INVITED

2 Tailgate Parties for Building Trades Members

WVU vs Western Michigan

Labor Day Rally and Tailgate Event

Saturday, September 1

@Tent City, Alumni Field

Game starts at 3:30pm

Tailgate starts at 10:00am.

Refreshments and prizes provided by
North Central WV Building Trades.

Fund raising events to benefit WVU Children's Hospital.

Marshall vs WVU

Saturday, September 8

Corner of 2nd Avenue and 20th Street, Huntington

Game starts at 11:30am. Tailgate starts at 9:00 am.

Bring your family and friends, refreshments provided.

Compliments of Tri-State Building & Construction Trades Council

TABLE GAMES

CONTINUED FROM P. 1

Opposition to the measure came primarily from a variety of church groups.

Turnout was a record 36% for a special election. Early voting usage also hit a record with

10,200 voters taking advantage of the option.

Kanawha County was the fourth and final vote on table games. Earlier this year voters in Ohio and Hancock County passed a similar resolution while voters in Jefferson County rejected it.