

# 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.

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



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## UNION BIDS MEET BUDGET

# TRI-STATE BUILDING TRADES SIGN FIRST OHIO SCHOOL PLA

**A** new policy allowing Project Labor Agreements at Ohio means union members of the Tri-State Building Trades Council will soon be working on new school projects in the city of Ironton, Lawrence County, Ohio.

Bids were opened on October 2 for demolition work and new construction at the elementary, middle and high schools.

The total cost was just over \$21 million, and was a few thousand dollars below estimates.

The projects were let to a variety of union contractors who bid on demolition, basic trades, and mechanical packages.

Voters in Ironton passed an \$18 million bond in early 2006, after failing in two previous attempts, to fund the project.

According to Steve Burton,

time our members got excited about the projects and the bond," said Burton.

The Trades contributed both money and member support to

about using a PLA.

According to Burton some local business agents point out how a low-bid school contract in nearby Gallia County went to a contractor who is banned from working in West Virginia.

Those discussions led to the PLA.

Up until a few months ago PLA's were outlawed in Ohio.

Newly elected Governor Ted Strickland changed that when he made new appointments to the Ohio School Facilities Commission (OSFC) earlier this year.

The Commission rewrote their policy to allow school districts to enter into PLA's and to require "responsible contractor" language and the payment of prevailing wage rates in their

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*"PAYING A FAIR WAGE BRINGS SKILLED WORKERS AND CAPABLE CONTRACTORS WHICH RESULTS IN THE BEST DEAL FOR TAXPAYERS,"  
STEVE BURTON, BUSINESS MANAGER, TRI-STATE TRADES*

Business Manager of Tri-State one of the reasons the bond failed in prior tries is because of a lack of commitment to use local skilled craft workers on the project.

"When they committed to use responsible contractors this last

help the bond vote pass. The measure passed by only 115 votes.

At the time PLA's were not allowed.

However, when the project got ready to bid, trades members talked with school officials

## SUPPORT DRUG FREE WORKFORCE

# STATE TRADES TAKE STAND ON ASBESTOS - SILICA LEGISLATION

**T**wo resolutions recently adopted by the West Virginia State Building Trades focus on legislation around asbestos and silica law suits and illegal drug use.

The measures were considered at the annual convention of the State Building Trades held on September 18.

Legislation aimed at making it harder for workers poisoned by asbestos or silica to file a legal action has been a top agenda of the business community.

Business lobbyists claim it is  
*Continued on p. 3*



GOVERNOR JOE MANCHIN addresses delegates to the West Virginia State Building and Construction Trades Council annual Convention.

# COLLEGE DEGREE PARTNERSHIP PROGRAM AVAILABLE FOR CONSTRUCTION WORKERS

**Two and four year construction degree programs may be a little easier for West Virginia construction apprentices in the near future.**

The West Virginia State Building Trades is seeking state funding for a pilot project to see if more flexible classes and direct support will encourage those who are in apprenticeship programs, or who have completed their apprenticeship training, to go on for a two or four year college degree.

More emphasis on credentials is coming from both employers and government in recent years.

The effort seeks to revitalize a training and education partnership started many years ago by the State Building Trades.

Realizing building trades apprenticeships provide many high-level skills sought by employers, in the 1990's trades' representatives asked college officials to evaluate the trades apprentice programs and grant college credits accordingly.

The result of the evaluation was a series of "letters of articulation" that allows apprentices to

earn college credit towards an Associate in Applied Science (AAS) in Occupational Development at the majority of West Virginia's colleges.

According to State Building Trades Secretary-Treasurer Roy

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*"MOST OF OUR APPRENTICES CAN BE GRANTED NEARLY TWO YEARS OF CREDIT HOURS FOR THEIR APPRENTICESHIP," ROY SMITH, SECRETARY-TREASURER, STATE BUILDING TRADES*

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Smith, there are a number of similar programs around the United States, each a little different.

"Most of our apprentices can be granted nearly two years of credit hours for their apprenticeship," explained Smith. "And in most cases, a degree requires only a few more courses at the community college."

The degree program is the result of a partnership involving state colleges, the U.S. Department of Labor Bureau of Apprenticeship and Train-

ing, companies, and labor unions.

For more information, students can contact their local

community college.

"West Virginia's program has great potential," said Smith. "I've been talking with officials in higher education about developing a four-year degree in Construction Supervision that would be based on education and life-experience."

The grant proposal seeks to bring college classes to job sites on major projects. It would also pay for the costs of classes, much like the Promise Scholarship already does for many West Virginians.

"I feel we must continue to increase our skill level and education," concluded Smith. "Our ability to demand high wages is linked to increasing our skills."

## OHIO SCHOOL

*CONTINUED FROM P. 1*

The language adopted in Ohio is very similar to a long standing policy of the West Virginia School Building Authority that looks at a contractor's track record on quality, timeliness, paying benefits and following state laws and regulations.

The Ironton PLA was the first considered and approved under the new policy of the OSFC.

Newly elected member of the Ohio House of Representatives Matt Szollosi (D) from Toledo was one of the new appointees to the Commission and has led the effort to put in place the revised policies.

"Responsible contracting, PLA's and prevailing wage make sense for Ohio taxpayers and Ohio's kids because it focuses on cost effective and quality construction," said Szollosi. "I think our policy is a great starting point and we hope to

improve it as we go along."

According to Szollosi opponents to the new policy argued it would increase costs.

So the fact that the Ironton projects came in within budget proves the opponents are wrong.

And according to Burton one needs only to look a few miles down the road for additional proof that PLA's bring benefits to communities.

Only a week earlier a school project went to bid in nearby South Point, Ohio without a PLA, prevailing wage rates, or responsible contracting language.

Only nonunion contractors bid, and the results were dramatic - a whopping 24 percent over budget.

"Paying a fair wage brings skilled workers and capable contractors which results in the best deal for taxpayers," said Burton.

Below are some of the 17 points included in the Model Responsible Bidder Require-

ments adopted by the Ohio School Facilities Commission. The policy is optional for local school boards.

The bidder shall certify it:

3. will employ supervisory personnel on this project that have three (3) or more years in the specific trade and/or maintain the appropriate state license if any.

4. has not been penalized or debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.

5. has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three (3) times in a two-year period in the last ten years.

6. has implemented an OSHA compliant Safety Program and will provide evidence of such upon request.

7. is in compliance with Ohio's Drug-Free Workplace

requirements, including but not limited to, maintaining a substance abuse policy that is personnel are subject to on this project.

8. for a skilled trade contract or fire safety contract that Bidder is a state licensed heating ventilating and an air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor or hydronics contractor, or licensed by the State Fire Marshal.

9. has not had a professional license revoked in the past five years in Ohio or any other state.

10. has no final judgments against it that have not been satisfied at the time of award in the total amount of fifty percent (50%) of the bid amount of this project.

11. has complied with unemployment and workers compensation laws for at least the nine months preceding the date of bid submittal.

12. for a skilled contract (i.e., plumbing, electrical, HVAC, or

fire safety) that it will not subcontract greater than seventy-five percent (75%) of its awarded contract.

13. does not have an Experience Modification Rating of greater than 1.5 (a penalty rated employer) with respect to the Bureau of Workers Compensation risk assessment rating.

14. will provide a minimum health care medical plan for those employees working on this project.

15. will contribute to an employee pension or retirement program for those employees working on this project.

16. shall only use skilled trade personnel with three years (3) experience who were trained in a state or federally approved apprenticeship program, or workers who are currently enrolled in a state or federally approved apprenticeship program.

17. it has not been debarred from any public contract; federal state or local in the past five years.

## LEGISLATION DEBATED AT INTERIM SESSION

## WORKER FREEDOM BILL ADVANCES

During the October interim legislative session the Worker Freedom Bill passed out of a Joint Judiciary subcommittee.

Interim meeting votes do not carry the same force as those during the regular session but they can set the stage for quick action during next years' legislative session.

The measure, promoted by

the West Virginia AFL-CIO, is aimed at stopping "captive audience" meetings held by employers during union organizing drives.

According to an AFL-CIO notice "The Worker Freedom

workers for reasons unrelated to job performance.

"It does not ban any message and it does not ban workplace meetings.

"Rather, it prohibits employers from using their power to

compel employees to listen to – to be a forced audience for – their employers' efforts to impose religious and political beliefs and beliefs

about joining a union.

"It protects employee's rights

not to have their employer's beliefs forced on them through mandatory meetings by giving workers the freedom NOT to listen."

The vote passed with only one objection, Senate Minority Leader Don Caruth (R-Mercer).

At the November interim session the bill will be on the agenda of the Full Joint Standing Judi-

ciary Committee. Joint interim committees include legislators from both the House of Delegates and the Senate.

"If we can get approval in these interim sessions we will be well on our way to passing this bill in the 2008 session," said Larry Matheney, Secretary-Treasurer of the WV AFL-CIO.

*"IF WE CAN GET APPROVAL IN THESE INTERIM SESSIONS WE WILL BE WELL ON OUR WAY TO PASSING THIS BILL IN THE 2008 SESSION," LARRY MATHENEY, SECRETARY-TREASURER, WV AFL-CIO*

Bill is designed to eliminate mandatory, forced meetings for

## ASBESTOS

*CONTINUED FROM P. 1*

too easy for workers to sue in West Virginia courts and that unscrupulous lawyers are behind the claims rather than injured workers. They also claim their proposed legislation would make it easier for "truly injured" workers to bring their claim to court, rather than workers who may have been exposed to asbestos but do not have any medical problem.

ACT has fought off bills in the last two legislative sessions and proposed the resolution to show what would be required for Labor to support any changes to current law.

The resolution states - Any legislation must meet the following guidelines, called the "Asbestos-Silica Fairness Test."

Legislation must:

1. Put in place a serious plan to eliminate asbestos and silica exposure from the workplace.

2. Make it easier for injured workers, or families of those deceased, because of asbestos or silica exposure, to go through court system;

3. Prioritize cases so those who are the sickest go first;

4. Provide payments to workers when their exposure results in physical impairment, and preserve the rights without limitation of workers who have been ex-

posed but have no evidence of impairment;

5. Provide accurate data on the numbers of workers who die from asbestos and silica exposure, and on the number of suits filed;

6. Penalize companies, doctors or individual who defraud or attempt to defraud the system.

"When workers are exposed without proper protection to asbestos they are put in harms way.

Until we stop that from happening we have not addressed the real problems," said Steve Pigg, Business Manager for Insulators Local 80.

An additional resolution aimed at encouraging state government to require all contractors bidding on public construction projects to have a drug-free work force was passed.

The measure would call for legislation to require contractors to meet stringent standards showing they have a drug-free work force and their program is administered fairly.

Both resolutions were then sent to the WV AFL-CIO for consideration and adopted at their October 2 meeting.

The Trades convention was attended by 80 building trades delegates and featured Governor Joe Manchin and House Majority Leader Joe DeLong (D-Hancock) as speakers.

## SHOWING BUILDING TRADES SOLIDARITY WITH STRIKING NURSES IN RALEIGH COUNTY



WAYNE REBICH OF ACT (standing second from right) shows Building Trades support for striking Nurses in Raleigh County. More than 750 nurses in Kentucky and West Virginia walked out of Appalachian Regional Healthcare facilities after contract talks stalled over staffing and benefit issues. The nurses have been on strike since October 1 and are facing union busting tactics, according to Rebich.

## JESUIT PRIEST LEADS EFFORT TO LOWER CONSTRUCTION WAGES

# Beckley Attacks Prevailing Wage Rates Again

The City of Beckley has re-filed a lawsuit aimed at eliminating prevailing wage requirements for a series of tax funded construction projects.

A similar suit against the WV Division of Labor was dismissed earlier this year.

On September , ACT filed a motion to intervene in the suit which seeks a declaratory judgment to overturn a DOL ruling requiring prevailing wages be paid to workers. ACT cited numerous facts of case law as well as

legal precedent in asking to become a party to the case.

earlier hearing seemed to clearly establish that both federal and

state funds were being expended on the entire project.

One of ACT's stated motivations in

construction workers – the members of ACT – by failing to comply with this state's prevailing wage law." Trivelli also pointed out that a ruling regarding the payment of prevailing wages on the Neville Street Project would have far reaching effects on the construction industry.

### THE CASE CENTERS ON A PROJECT CALLED "BECKLEY UPTOWN REVITALIZATION: NEVILLE STREET"

The case centers on a project called "Beckley Uptown Revitalization: Neville Street" which is funded by both federal and state funds, and is therefore required to pay prevailing wages, according to both DOL and ACT.

However, the organization contracted to administer the project for the City, a group named Forward Southern West Virginia, attempted to avoid paying the prevailing wage by dividing the project into smaller "phases" and claiming that some of these project components would use federal funds, which would not require the prevailing wage, as stated in the Operative Fact portion of the City's motion.

Father Tom Acker, a Jesuit Priest, is the head of Forward Southern West Virginia and has been key in the effort to lower construction workers wages.

In January of 2007, after being asked by ACT, the Division of Labor issued a decision requiring prevailing wage to be paid on the Neville Street project.

The City of Beckley asked the DOL to reconsider, resulting in a second decision that prevailing wage be paid.

The August 30 lawsuit by the City of Beckley represents a continuation of an earlier filing which was tossed out by the Court on a technicality. Nevertheless, testimony during that

seeking to become involved is to



STEVE BRIGHTWELL/THE REGISTER-HERALD

The Raleigh County Building Commission is advertising bids from consulting architectural firms to renovate the former business structures along Neville Street.

## Facelift to rejuvenate uptown

By Mannix Porterfield  
REGISTER-HERALD REPORTER

Seven buildings in uptown Beckley are targeted for a major facelift.

them so they can be renovated for store space, libraries, shops, and

**Uptown fix-up plans proceeding**

By Mannix Porterfield  
REGISTER-HERALD REPORTER

The Raleigh County Commission moved Tuesday to accept \$300,000 to purchase and begin renovation work on the Covey and Thrifty buildings, two of seven targeted for a facelift in a project undertaken by Forward Southern West Virginia in uptown Beckley.

The idea is to link the seven structures via a common elevator and create a mall-like environment in a renewal project to create economic development in the city.

Wayne, Greenbrier and Nicholas counties. Plymale, director of the Raleigh Transportation Institute at Marshall University, said various entities, such as the 4-C Economic Development Authority, would have access to data on land that could be developed economically or for recreational purposes.

"In developing these plans, and you look at a whole county, you look at it from a county perspective, what's best for you for economic development," he said. For instance, he said, in creating a bypass, counties would look at the various potentials the site offers.

"You utilize where you're doing the bypass, use it for economic development while you're earth can be moved properly while you're using the transportation routes," he said. "You can do that for economic development and all the poses. It looks at infrastructure and all the aspects from a county perspective and looks at other counties and what they're doing so you make sure that what you do fits in."

— E-mail: mporterfield@register-herald.com

relationship signed up, and that will depend on where we can get funds from," Baker added.

— E-mail: mporterfield@register-herald.com

people have shown some interest in what we're doing," Baker said.

NUMEROUS NEWS ARTICLE detail the tax funding of projects in downtown Beckley. The City of Beckley is suing the State Division of Labor to stop them from enforcing the prevailing wage laws on these projects.

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

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Charleston, WV 25301  
(304) 344-0194 fax 344-0195  
toll free 1 800 450-8530  
receptionchas@uniontradesfcu.com

counter the potential of a negative precedent should the court rule in favor of the City.

In filing the motion, ACT attorney, Vincent Trivelli, wrote that the City's lawsuit was "an effort to undermine the wages, hours and working conditions of

The case represents another example, similar to the King Coal Highway and WVU Alumni cases, where government entities attempt to avoid bidding and/or wage laws put in place to protect not only construction workers but tax payers as well.