



Legislative bulletin

Contractors Association of West Virginia

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LB 2010-5
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Last week marked the mid-point of the 2010 legislative session. While there have not been a lot of bills introduced that directly affect the construction industry, the association has been busy this week dealing with bills that have unintended consequences which could impact contractors. These bills are being worked on in committees and legislative staff will be working to get all bills introduced by the February 22 deadline.

Young Contractor members participated in “Young Contractors Day at the Capitol” on Wednesday. Despite the snow storm that blanketed most of West Virginia Tuesday night, about 12 members came to Charleston and the State Capitol to see first-hand the legislative process. They were briefed on issues by Del. Harry Keith White, chairman of the House Finance Committee, and Sen. John Unger, chairman of the Senate Transportation and Infrastructure Committee. The Young Contractors are planning to become more involved in the CAWV’s legislative activities. (*See the February 12 CAWV Newsletter article attached at the bottom of this week’s bills.*)

MEMBERS RESPOND TO GREEN BUILDINGS LEGISLATIVE ALERT

CAWV Building Division members have very definite opinions on legislation that would mandate the adoption of green building standards for the construction and renovation of public buildings over 50,000 square feet. [S.B. 474](#) has passed out of the Senate Transportation and Infrastructure Committee and now goes to the Senate Finance Committee. A CAWV Legislative Alert went to members February 10, 2010 seeking comments and suggestions on whether all public buildings should meet standards of the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) silver standard where “practical and financially affordable.”

Nearly all respondents indicated support for green building and construction methods, noting that the West Virginia construction market has already started to embrace some of the products and techniques. However, the responses overwhelmingly opposed mandating a rating system. As noted in last week’s CAWV Legislative Bulletin, LEED printed material notes that Silver Certification adds about two percent to a project’s total construction cost. All members responding to the alert noted that construction costs on LEED projects are elevated in the 7 percent to 20 percent range. Part of this cost is due to the need for more project overhead to administer the LEED certification process.

A major concern is the bill’s basis on the U.S. Green Building Council’s point system. In October 2009, a different certification organization filed a complaint with the Federal Trade Commission alleging anti-competitive behavior by the U.S. Green Building Council and the Forest Stewardship Council. The Coalition for Fair Forest Certification is arguing that federal agencies are improperly requiring LEED certification for the design and construction of federal buildings. Until this complaint is resolved, it is probably premature for state agencies to mandate a particular certification process over another.

The CAWV thanks all members who responded to the Legislative Alert. The association will communicate their comments to senators. Members are asked to respond to future Legislative Alerts so the CAWV can respond quickly with facts and figures on legislation affecting the membership and the construction industry.

ENGINE IDLING PROHIBITION BILL MAY IMPACT CONSTRUCTION EQUIPMENT

[S.B. 183](#), introduced by Senator Doug Facemire, D-Braxton, prohibits diesel powered motor vehicles from idling for more than 15 minutes in any continuous 60-minute period. The purpose of the bill is to set a statewide standard for idling equipment rather than allowing each municipality in the state to set individual standards. The bill is being promoted by the trucking industry. There is a question as to whether the bill affects only motor vehicles or any diesel powered engine, including construction equipment.

The CAWV talked to a number of members last week who run equipment fleets. Many members have a “no idling” policy when equipment is not working. Other members, because of the work they perform or due to weather conditions, see starting and stopping equipment excessively during work as impractical or harmful to the engine. The CAWV has spoken with supporters of the legislation to discuss an exemption for construction equipment if it is determined the bill impacts more than motor vehicles.

WEST VIRGINIA LEGISLATURE BILL INFORMATION

House and Senate bills can be accessed from the CAWV’s Legislative home page at www.cawv.org/legislative.html. Members can view status updates on bills of interest to the construction industry and see what legislation is introduced that affects the construction industry. A summary of each day’s activities will be uploaded each afternoon.

Below is a list of bills that have been introduced this week that have an impact on the construction industry or some CAWV members. Anyone needing further information can contact Mike Clowser at (304) 342-1166 or email mclowser@cawv.org.

HOUSE BILLS

- [HB 4409](#) Del. Louisos-Creating the Workers’ Lifetime Total Disability Fund and the Supplemental Personal Needs Allowance Trust Fund-To Finance
- [HB 4417](#) Del. Andes-Abolishing the West Virginia Board of Landscape Architects-To Government Organization then Judiciary
- [HB 4420](#) Del. Miley, Craig, Morgan, Michael, Ross, Kominar and Cann-Asbestos Claims Transparency Act-To Judiciary
- [HB 4441](#) Del. Martin and Klempa-Authorizing the President of the Senate and the Speaker of the House of Delegates to approve the public partnering agreement-To Roads and Transportation then Judiciary
- [HB 4450](#) Del. Fragale, Boggs, Hartman, Hatfield, Morgan, Stephens and Walker, T.-Relating to land surveyors-To Government Organization then Judiciary
- [HB 4458](#) Del. Campbell and Klempa-Lottery Revenue Bond Act-To Political Subdivisions then Finance
- [HB 4459](#) Del. Caputo, Perdue, Fleischauer, Butcher, Eldridge, Guthrie, Mahan, Longstreth, Manchin, Marshall and Boggs-Increasing the time in which a dependent may apply for Workers Compensation death benefits where occupational pneumoconiosis is determined to be a cause of death-To Judiciary
- [HB 4463](#) Del. Iaquina, Fragale, Miley, Cann, Mahan, Crosier and Klempa-Imposing an additional levy on property within the county for the sole purpose of funding public libraries (FN)-To Political Subdivisions then Finance

- [HB 4492](#) Del. Fleischauer, Beach, Staggers, Hatfield, Moore, Talbott, Brown and Wells-Renewable Portfolio Standards Sustainable Energy Act-To Energy, Industry and Labor, Economic Development and Small Business then Judiciary
- [HB 4493](#) Del Poling, M. And Paxton-Authorizing a rule for the Higher Education Policy Commission regarding the Energy and Water Savings Revolving Loan Fund Program-To Education then Judiciary
- [HB 4494](#) Del. Phillips, Skaff and Hall-Allowing the Environmental Protection Advisory Council to review, adopt and eliminate rules exceeding applicable federal standards-To Energy, Industry and Labor, Economic Development and Small Business then Judiciary
- [HB 4495](#) Del. Poore, Doyle, Fragale, Hatfield, Marshall, Moore, Moye, Shott, Skaff, Spencer and Walker, D.-Relating to special demonstration professional development school projects-To Education

SENATE BILLS

- [SB 525](#) Sen. Minard and D. Facemire-Issuing revenue bonds to keep state parks in compliance with Americans with Disabilities Act-To natural resources then Finance
- [SB 527](#) Sen. Unger-Requiring State Rail Authority establish transportation and local rail service plan-To Transportation and Infrastructure then Finance
- [SB 576](#) Sen. Unger-Requiring public service districts obtain county commission support for certain projects-To Government Organization

SEN. UNGER AND DEL. WHITE LIFT THE LEGISLATIVE CURTAIN FOR CAWV'S YOUNG CONTRACTORS

Senator John Unger II, chairman of the Senate Transportation and Infrastructure Committee, and Delegate Harry Keith White, chairman of the House Finance Committee, took time out of their busy legislative schedules to meet with the CAWV Young Contractors on Wednesday, February 10. Senator Unger discussed the efforts his committee is undertaking to broaden the funding available for infrastructure investment, likening the gas tax to an old horse, saying, "It won't be able to carry us like it used to." The senator reviewed the provisions of the Community Empowerment Transportation Act (CETA), which is gaining traction this year. "CETA allows everyone to participate in the infrastructure process which will generate more activity," he noted. "Taking the local communities out of the road business has created a dependency culture where people expect "the Great Oz" to take care of their infrastructure issues." Senator Unger said the bill allows a community to take the lead for infrastructure investment, create a plan and present a funding source for a project. "We are providing local people with the ability to make a plan for financing a project, present it to the state for approval and then to the voters. By getting people involved in the infrastructure equation, we will provide more opportunity to focus on infrastructure development."

Chairman White agreed, stating that "there is never enough money for all the state's infrastructure needs, but our goal is to balance our needs to maximize the impact of the available funding." Chairman White, a Mingo County Democrat, said his number one call from constituents is with regard to road issues. "The legislature is the buffer between residents and state agencies," he said. "Everybody thinks their project is the best." The chairman discussed the strides the state has made in creating a business-friendly environment and stabilizing cash flow, crediting improvements to the leadership of Governor Manchin. "We are doing a lot of things that other states are not which has given us a great cash flow, rating West Virginia number two behind North Dakota," he said. "Our tax reform bills are leading the state in a positive direction, with the goal of bringing more business to West Virginia."

Chris Ferro, attorney with Steptoe and Johnson and counsel for the Senate Judiciary Committee, joined the Young Contractors just prior to the Senate Floor Session to discuss getting involved in the legislative process. “We need input from all of a bill’s stakeholders in order to craft effective legislation,” he said. “It is my job to make sure all the I’s are dotted and T’s are crossed and to make sure everyone has had input into legislation.” Ferro, a member of the Young Contractors, has been working with the Legislature for two years. “Every bill has the potential for unintended consequences,” he noted. “I evaluate the bills which are referred to the Judiciary Committee from a technical perspective and seek out input from all the stakeholders in order to see the full range of a bill’s language.”

The Young Contractors then attended a Senate Floor Session where they had their photo taken with Senate President Earl Ray Tomblin, D-Logan. They then toured the newly renovated State Museum. “I, and every other Young Contractor member I spoke to, thoroughly enjoyed the legislature, our meetings with Senator Unger and Chairman White, and our trip to the WV Museum,” said Robert Williams, Vecellio & Grogan, Inc., Beckley. All Young Contractor members noted they would like to come back to the Capitol again to meet one-on-one with their legislators. *(Reprinted from the Feb. 12 CAWV Newsletter)*