



Contractors Association of West Virginia **LEGISLATIVE BULLETIN**



In This Issue

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January 15, 2018

*Governor Gives
Optimistic State of
the State*

Starting today and running through the 60-day legislative session, members will receive, via e-mail, the CAWV Legislative Bulletin every Monday morning. The bulletin contains up-to-the-minute information on issues affecting the contracting industry and association members. In addition to the Monday morning Legislative Bulletins, the CAWV will be sending out Legislative Alerts throughout the coming weeks to members via email.

*State Revenue
Picture Brighter*

*Transportation Day
at the Capitol -
January 19*

Members will be asked to contact their legislators on issues affecting the industry and member companies through the CAWV Legislative Action Center. When necessary, the CAWV will provide members with a letter template, and with just a few clicks, a personalized letter or email can be sent. The CAWV legislative page on the CAWV website is currently undergoing an upgrade. Member can use the current CAWV legislative page or visit the West Virginia Legislature's website at www.wvlegislature.gov to see agendas, listen to committee meetings and get legislator's addresses and phone numbers. CAWV members will receive information on the revised CAWV legislative page next week.

*List of Introduced
Bills Starts Today*

*CAWV Legislative
Page Being
Upgraded*

GOVERNOR'S SECOND ADDRESS MORE OPTIMISTIC

Governor Jim Justice Wednesday gave his second State of the State address and outlined his proposal to provide teacher and public employee pay raises, increase funding for the Department of Commerce as well as the Division of Tourism, and devote about \$7 million to subsidize community and technical college education in West Virginia.

The governor proposes investing an additional \$35 million for commerce to help the agency do more to attract new business to West Virginia. The increase would be used in four main areas including sales and marketing (\$4.3 million), site readiness (\$8.5 million), strategic investment (\$17.2 million) and infrastructure (\$5 million). The Department of Administration plans to spend \$23 million to renovate state buildings.

Governor Justice said he doesn't plan to raise taxes since West Virginia's revenues are coming in \$106 million ahead of last year's revenues and are above revenue estimates. The increased revenue is due to an improved coal and oil and gas market and increased jobs, including the construction sector.

The Justice Administration, like legislative leadership, wants to eliminate property taxes on industrial companies over time. State development officials describe the tax as an impediment to growing and maintaining businesses in West Virginia. The tax represents \$134 million, but state officials want to phase out over a seven-year period.

GOVERNOR'S BUDGET PRESENTED TO SENATE FINANCE COMMITTEE

The Governor's Budget was presented to the Senate Finance Committee. Below are some of the highlights that were presented:

- Proposed FY 2018-19 budget is "cautious" and the Governor doesn't want to "over-spend"
- Revenues have been as expected during the first six months of FY 2017-18
- No mid-year budget cuts are needed
- Six-year budget plan projects surpluses in each of the next six years.
- No use of Rainy Day Funds to balance proposed FY 2018-19 Budget
- Rainy Day Fund balances combined is \$709 million - equals 16% of General Revenue Budget
- General Revenue Fund's cash flow is strong and the state is paying its bills timely
- WV Investment Management had a 15.8% return (best in nation) on state investments in 2017.
- Workers' Comp "Old Fund" liabilities will be fully funded soon.
- Teachers Retirement Fund is now 67% actuarially funded.
- PERS (Public Employees Retirement System) is now 90% actuarially funded.
- Budget contains full contributions for all retirement funds

- Budget proposes an average one percent pay raise for all state employees (including teachers)
- New General Revenue Spending in Governor's Proposed FY 2018-19 Budget includes:
 - \$20 million Social Services and Foster Care
 - \$30 million State Institutions & Mental Health Facilities
 - \$23 million Deferred Maintenance for state buildings & prisons
 - \$19 million in pay raises (\$12 million for teachers, \$7 million for public employees)
 - \$14 million Tourism Advertising (Increased from \$6 million to \$20 million)
 - \$35 million Economic Development Office (marketing & site readiness programs)
 - \$7 million tuition subsidies for community and technical college
 - \$4 million for a new State Police cadets class (train 60 troopers)

(reprinted from West Virginia Chamber of Commerce legislative briefing)

STATE REVENUES INCREASE

One reason for the governor's optimism is that for the first time since 2012, West Virginia is above its revenue projection at the halfway mark of the fiscal year. State Revenue Secretary Dave Hardy t said the state collected \$2.7 million above estimates for the month of December 2017 and nearly \$106 million ahead of where the state was last year. "This is the third month in a row that we've seen what I would call 'cautiously optimistic' that at this point in the fiscal year, half way through, things are continuing to trend upward," Hardy said.

In October, the state collected 99.4 percent of estimates and in November the state met 99.2 percent of estimates. Hardy called December's numbers "encouraging." This past month, general revenue fund collections of \$367. 5 million exceeded estimates by \$16.8 million and were 11.5 percent above prior year receipts. Personal income tax collections were up as well by about 5.6 percent ahead of last year, exceeding estimates by \$21.5 million.

December State Road Fund collections of \$44.9 million were \$4 million below estimate, but 14.9 percent above last year's receipts. Cumulative State Road Fund collections were \$9.6 million above estimate. However, December ended on a Sunday and January's figures should include December gas tax revenue. The Privilege Tax on the sale of vehicles is underperforming even though the sales tax was raised July 1 from 5 percent to 6 percent.

According to a news release, December saw shortfalls in the following: Consumer Sales and Use (-\$4.6 million), Severance (-\$1.2 million below estimate, but still 30.2 percent higher than last year), B&O (-\$0.3 million), and Tobacco (-\$0.9 million). The severance tax was 30.2 percent higher than it was a year ago. Hardy said 60 percent of West Virginia's severance tax is coal, 30 percent in natural gas and 10 percent is other.

"Even though natural gas production is clearly up and clearly part of West Virginia's future, 60 percent of our severance tax is still related to the mining of coal," he said. Hardy said he expects there to be an uptick in natural gas and coal severance taxes this year.

With state revenues increasing, funding for infrastructure projects such as schools, higher education, parks, water and sewer, should be funded at their scheduled amounts. When revenue is below estimates, there is always the possibility that funding for these projects could be reduced in a budget balancing measure.

NEW LEGISLATORS TO SERVE THIS TERM

Legislators taking new positions, some moving to the Senate and some resigning their seats have resulted in new faces in this year's Legislature.

Jeff Pack, a Cool Ridge resident and Air Force veteran, was named to a House of Delegates seat and sworn in on the first day of the legislative session. Pack takes the seat that was vacated by Delegate John O'Neal, who left the Legislature to join Gov. Jim Justice's staff as a liaison to legislators. Pack has been working as a pest control technician.

Since Governor Justice switched from Democrat to Republican this past summer, he has drawn from the legislative ranks to fill a few positions. Chief of Staff Mike Hall, a Republican, had been the Senate Finance chairman. Senator Ron Miller, a Democrat from Greenbrier County, took a role as agriculture liaison for the governor.

Delegate Stephen Baldwin, D-Greenbrier, was named to fill Miller's Senate seat representing the 10th District. In late October, Governor Justice appointed Jeff

Campbell of Lewisburg to a seat vacated by Delegate Stephen Baldwin.

In October, Governor Justice named Buck Jennings of Preston County to a House of Delegates seat that was vacated after the death of Delegate Tony Lewis. Earlier that month, the governor announced the selection of Dianna Graves to represent District 38, which includes parts of Kanawha and Putnam counties, after the resignation of Delegate Nancy Foster. In September, Governor Justice selected Mark Drennan to fill the Senate seat that was vacated by Hall.

Friday, Senator Jeff Mullins, a Republican state senator from Beckley, resigned his position. Those who know Senator Mullins say he has been challenged to balance his legislative work with his own business. He is the president of Employers' Innovative Network, which provides human resources services to small businesses. His district covers Raleigh, Wyoming, and McDowell counties. Potential replacements for Mullins will be named by local Republican executive committee members, and Governor Justice will make a final decision shortly.

GOVERNOR CALLING FOR MORATORIUM ON REVIEW OF STATE RULES AND REGULATIONS

Governor Jim Justice issued two executive orders last week dealing with state government rules and regulations. One of the orders puts a moratorium on implementation of new administrative rules, while the other one calls for full agency regulatory review "Outmoded, ineffective, excessively burdensome and unnecessary rules have created a heavy regulatory burden on West Virginians," according to one of the orders. With that order, all executive agencies with rule-making authority are being instructed to review rules under their jurisdiction.

Regulatory review reports detailing existing rules and determinations of whether those rules should continue, be modified or be repealed are due to Justice and the Legislative Ruling Making Review Committee on or before Nov. 1. In conjunction with that order, the additional measure suspends rule-making actions not filed with the Secretary of State's office prior to Jan. 10, the date both orders were filed.

There are possible exceptions to the moratorium for cases that include updates to state rules to comply with federal law requirements, job creation, repealing existing rules or reducing spending. Those seeking exemptions must provide written explanations to Governor Justice for consideration. "All agencies shall cooperate with and provide assistance in the implementation of this Regulatory Moratorium Executive Order to the fullest extent permitted by law," the order read.

WVBT TO HOLD TRANSPORTATION DAY AT CAPITOL THIS WEEK

The 7th annual Transportation Day at the Capitol will be held Friday, January 19, beginning at 10:00 a.m. WVBT invites supporters and contributors to the State Capitol on Friday, January 19, to celebrate the successful campaign leading to last year's historic road funding package and passage of the "Roads to Prosperity" road bond amendment.

"This will be the seventh year WVBT has organized this gathering and the first one since passage of a \$2.8 billion highway funding program," said WVBT Chair Carol Fulks. "We have invited Governor Jim Justice, Senate and House leadership, and West Virginia Department of Commerce and Transportation officials to celebrate this monumental achievement. We hope to share with legislators the WVDOH's highway and bridge program for 2018," said Chairwoman Fulks.

Companies and organizations wishing to exhibit will have prime space outside the Senate chamber. There is no cost to exhibit, but pre-registration is required (these are available on a first-come, first reserve basis). A registration form and agenda are attached to this week's Newsletter for those interested in attending or exhibiting. For additional information, call the CAWV at (304) 342-1166.

Below is a list of bills that have been introduced this week that have an impact on the construction industry or some CAWV members. A large number of House bills below are carryover bills from last year's legislative session. Delegates can request a bill to be brought up this year if no action was taken during the first session of the 83rd Legislative Session. Any bill that is not acted upon is dead at the end of this year's session. Anyone needing further information can contact Mike Clowser at (304) 342-1166 or email mclowser@cawv.org.

HOUSE BILLS			
Bill #	Sponsors	Proposal	Introduced/Committee
HB 2010	Del. Folk and McGeehan	Requiring authorization from the Legislature before submitting an application for an MS-4 permit to the United States Environmental Protection Agency	01/10/18 - To Political Subdivisions then the Judiciary
HB 2027	Del. Gearheart	Providing for the transfer of ownership, operation and maintenance of certain assets of the West Virginia Parkways Authority to the Division of Highways (FN)	01/10/18 - To Roads and Transportation then Finance
HB 2067	Del. McGeehan	Relating to the transfer of certain revenues derived from lottery activities generally, restoring distribution to the West Virginia Infrastructure Fund to 2013 rates and decreasing the funds available for grants therefrom	01/10/18 - Finance

HB 2087	Del. Fleischauer	Prohibiting blasting within six hundred twenty five feet of an occupied dwelling	<i>01/10/18 - To Energy then the Judiciary</i>
HB 2103	Del. Eldridge and Hicks	Making changes to the definition of contractor for purposes of the West Virginia Contractor Licensing Act	<i>01/10/18 - To Industry and Labor then Government Organization</i>
HB 2123	Del. Rowan	Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority	<i>01/10/18 - To Education then Finance</i>
HB 2146	Del. Fast	Allowing a home improvement transaction to be performed under an oral contract	<i>01/10/18 - To the Judiciary</i>
HB 2161	Del. Statler and Rohrbach	Relating to purchasing requirements for the Division of Highways	<i>01/10/18 - To Government Organization then Finance</i>
HB 2171	Del. Eldridge	Permitting contractors to perform work on a construction project without having a contractor's license under certain circumstances (FN)	<i>01/10/18 - To Industry and Labor then the Judiciary</i>
HB 2205	Del. Gearheart, Cooper and Ambler	Exempting heating oil for residential use from the Motor Fuel Excise Tax (FN)	<i>01/10/18 - To the Judiciary then Finance</i>
HB 2304	Del. Fast and Overington	Relating to gasoline and fuel excise tax (FN)	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 2324	Del. Fast	Requiring that patching repair of hard surfaced roads, highways and streets be by use of mechanical rollers	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 2353	Del. Statler, Maynard, Espinosa, Upson, Hill, Higginbotham, Ward and Williams	Requiring the Commissioner of Highways to develop a formula for allocating road funds among districts (FN)	<i>01/10/18 - To Roads and Transportation then</i>
HB 2354	Del. Statler, Maynard, Upson, Hill, Kessinger, Higginbotham, Ward and Williams	Requiring the Commissioner of Highways to develop a statewide communications plan known as the Comprehensive Public Involvement Plan (FN)	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 2355	Del. Fleischauer, Pyles, Canestraro, Lovejoy, Thompson, Hicks, Robinson, Isner, E. Evans and Fluharty	Repealing the West Virginia Workplace Freedom Act and restoring prior law	<i>01/10/18 - To Industry and Labor then the Judiciary</i>

HB 2372	Del. Fleischauer, Pyles, Canestraro, Lovejoy, Thompson, Hicks, Robinson, Isner, E. Evans and Fluharty	Reestablishing prevailing wages for certain state government contracts (FN)	<i>01/10/18 - To Industry and Labor then the Judiciary</i>
HB 2410	Del. Folk	Relating to public sewage services	<i>01/10/18 - To Political Subdivisions then the Judiciary</i>
HB 2477	Del. Statler, Hill, Higginbotham, Williams, Pyles and Foster	Developing a special hiring procedure for personnel positions in the Division of Highways	<i>01/10/18 - To Roads and Transportation then Government Organization</i>
HB 2481	Del. Hicks	Creating tax credits for new and/or existing small businesses (FN)	<i>01/10/18 - To Small Business, Entrepreneurship and Economic Development then Finance</i>
HB 2534	Del. Walters	Authorizing local units of government to adopt local energy efficiency partnership programs	<i>01/10/18 - To Energy then Finance</i>
HB 2554	Del. Foster, Higginbotham, Frich, Cowles, Wilson, Harshbarger and Maynard	West Virginia Contractor Licensing Act	<i>01/10/18 - To Government Organization</i>
HB 2567	Del. Thompson	Relating to failure to maintain state and public roads	<i>01/10/18 - To Roads and Transportation then the Judiciary</i>
HB 2608	Del. Statler	Requiring the Commissioner of Highways to contract with private providers or contractors for certain emergency maintenance operations (FN)	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 2615	Del. Pushkin, Rowe, Caputo and Robinson	Providing a tax credit for obtaining certain certifications by the United States Green Building Council Leadership in Energy and Environmental Design green building rating system	<i>01/10/18 - To Government Organization then the Judiciary</i>
HB 2659	Del. Brewer, Diserio, Pethel, Ferro, Iaquina, R. Miller, Boggs, Rodighiero, Caputo, Miley and Moye	Reestablishing prevailing wages for certain state government contracts (FN)	<i>01/10/18 - To Industry and Labor then the Judiciary</i>
HB 2694	Del. Hamrick, Gearheart, Zatezalo, Howell, Atkinson, Ward, Williams, Statler, Moye, Sobonya and Butler	Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas (FN)	<i>01/10/18 - To Roads and Transportation then Finance</i>

HB 2772	Del. Brewer, Storch, Diserio, Ferro, R. Miller, Lovejoy, Caputo, Eldridge, Maynard and Robinson	Requiring welders working in the State of West Virginia to meet certain certification requirements	<i>01/10/18 - To Industry and Labor</i>
HB 2890	Del. Lovejoy, Sobonya, C. Romine, Rohrbach, Hornbuckle, Canestraro, Thompson, Hicks and Isner	Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects	<i>01/10/18 - To Finance</i>
HB 2923	Del. Boggs, A. Evans, Miley, Cowles and Caputo	Requiring the Commissioner of Highways to verify legal employment status of contractors and vendor's employees for certain road and bridge contracts	<i>01/10/18 - To Roads and Transportation</i>
HB 2924	Del. Walters, Boggs, Miley, Ambler, Blair, Queen, Fast, Hill and Moore	Relating to installation of conduit for fiber optic cable on state highway construction projects (FN)	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 2957	Del. Walters	Relating to labor; employer's bond for wages (FN)	<i>01/10/18 - To the Judiciary then Finance</i>
HB 2958	Del. Walters, Boggs and Phillips	Relating generally to development of infrastructure in the state	<i>01/10/18 - To Government Organization then Finance</i>
HB 2977	Del. Williams, Barrett, Lynch, Sponaugle, Iaquina and Frich	Pothole app and map	<i>01/10/18 - To Roads and Transportation then Government Organization</i>
HB 3007	Del. Rowe	Requiring paving contracts for state highways to have special requirements to prevent potholes	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 3013	Del. Hamrick, Howell, Butler, Blair, Gearheart, Queen, Maynard, C. Miller and Storch	Requiring an inspection or inspections of any building prior to purchase or major renovation by the state	<i>01/10/18 - To Government Organization</i>
HB 3054	Del. Sponaugle, Williams, Hartman and Lynch	Relating to a five percent bid preference on certain state contracts for businesses owned fifty one percent by honorably discharged resident veterans (FN)	<i>01/10/18 - To Veterans' Affairs and Homeland Security then Finance</i>
HB 3081	Del. Walters, Boggs, Bates, Westfall, Caputo, Howell, R. Romine, Phillips, Lane, Byrd and Anderson	Conducting a study to determine the amount of revenue to be derived from instituting tolls on I-70 and I-81	<i>01/10/18 - To Roads and Transportation then Finance</i>
HB 3086	Del. Walters, Frich, Rohrbach, Lovejoy and Rowe	Relating to the West Virginia Economic Development Authority	<i>01/10/18 - To Government Organization then Finance</i>

HB 4030	Del. Summers	Requiring recycling of metal if cost effective (FN)	<i>01/11/18 - To Roads and Transportation then Finance</i>
HB 4034	Del. Hanshaw, Ambler, Kessinger, Mr. Speaker (Mr. Armstead), Lynch and Pethtel	Exempting the renewal of certain contracts entered into during a declared state of emergency from purchasing requirements	<i>01/12/18 - To Government Organization then the Judiciary</i>

SENATE BILLS			
Bill #	Sponsors	Proposal	Introduced/Committee
SB 7	Sen. Trump	Requiring employee to provide written notice to employer of nonpayment of wages	<i>01/10/18 - Government Organization</i>
SB 10	Sen. Sypolt, Clements, Rucker and Smith	Relating generally to PSC jurisdiction	<i>01/10/18 - Economic Development then Finance</i>
SB 12	Sen. Stollings	Creating 5-year tax credits for businesses on post-coal mine sites (FN)	<i>01/10/18 - Economic Development then Finance</i>
SB 21	Sen. Maynard	Requiring DMV create special registration plates for full-size special purpose off-road vehicles (FN)	<i>01/10/18 - Finance</i>
SB 22	Sen. Maynard	Adjusting tax on electric-generating capacity of wind turbines (FN)	<i>01/10/18 - Energy, Industry and Mining then Finance</i>
SB 24	Sen. Maynard	Requiring DNR study use of nonemployee workforce to perform improvements	<i>01/10/18 - Transportation and Infrastructure then Finance</i>
SB 27	Sen. Maynard	Relating generally to School Building Authority's disbursement of funds	<i>01/10/18 - Tax Reform then Finance</i>
SB 31	Sen. Maynard	Providing special obligation notes to finance completion of I-73 and I-74 in WV	<i>01/10/18 - Natural Resources then Government Organization</i>
SB 64	Sen. Prezioso	Requiring minimum standards of universal design for disabled persons in certain newly constructed buildings	<i>01/10/18 - Education then Finance</i>

SB 68	Sen. Ojeda	Creating Returning Veterans and Displaced Miners Jobs Act	<i>01/10/18 - Transportation and Infrastructure then Finance</i>
SB 85	Sen. Karnes	Allowing local governments to offset personal property tax rates with local sales tax	<i>01/10/18 - Government Organization</i>
SB 119	Sen. Ferns	Establishing WV business growth in low-income communities tax credit (FN)	<i>01/10/18 - Workforce then Finance</i>
SB 138	Sen. Sypolt	Exempting heating oil for residential use from motor fuel excise tax (FN)	<i>01/10/18 - Judiciary</i>
SB 150	Sen. Smith	Relating to wind power projects (FN)	<i>01/10/18 - Government Organization then Finance</i>
SB 225	Sen. Maynard	Division of Labor rule relating to employer wage bonds	<i>01/11/18 - Judiciary</i>
SB 256	Sen. Cline	Requiring motor vehicles, trailers or semitrailers having hydraulically operated bed have warning device to alert driver	<i>01/12/18 - Transportation and Infrastructure</i>
SB 259	Sen. Jeffries	Clarifying process to assess lowest qualified bidder in government construction contracts	<i>01/12/18 - Government Organization then Judiciary</i>
SB 264	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Eliminating refundable exemption for road construction contractors (FN)	<i>01/12/18 - Finance</i>
SB 265	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Updating meaning of certain terms in WV Corporation Net Income Tax Act	<i>01/12/18 - Finance</i>
SB 266	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Updating meaning of certain terms used in WV Personal Income Tax Act	<i>01/12/18 - Finance</i>
SB 269	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Establishing 2018 Regulatory Reform Act	<i>01/12/18 - Government Organization then Judiciary</i>

SB 282	Sen. Gaunch, Baldwin, Blair, Jeffries and Swope	Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery (IB)	<i>01/15/18 - Government Organization</i>
SB 283	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Relating generally to procurement by state agencies (FN)	<i>01/15/18 - Government Organization then Finance</i>
SB 286	Sen. Gaunch, Baldwin, Blair, Jeffries and Swope	Granting State Conservation Committee authority to contract for flood response and related stream restoration work	<i>01/15/18 - Government Organization</i>
SJR 2	Sen. Karnes	Fair and Simple Tax Reform or FASTR Amendment	<i>01/10/18 - Tax Reform then Finance</i>
SJR 8	Sen. Boso	County Economic Development Amendment	<i>01/15/18 - Judiciary then Finance</i>