



Contractors Association of West Virginia **LEGISLATIVE BULLETIN**



In This Issue

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State of the State Address

BREAKING NEWS:

Budget Cuts Include Infrastructure Funds

Today is “Transportation Day at the Capitol.” Representatives of West Virginians for Better Transportation will be interviewed by *Talkline* host Hoppy Kercheval starting at 11:05 a.m. Member should tune in on their local MetroNews station.

Prevailing Wage Hearing Held

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.

Members will be asked to contact their legislators on issues affecting the industry and member companies through the CAWV Legislative Action Center, powered by BIPAC. 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. BIPAC also provides a [“Find Your Legislator”](#) feature, [election information](#) and a [refresher on government](#). Members will be encouraged to contact their senators and delegates on key legislative issues, and instructions on how to do so through BIPAC will be included in future Legislative Alerts. Hundreds of individual email messages voicing support or opposition to pending legislation were sent to legislators last year, making the CAWV Legislative Action Center a very effective tool when communicating with legislators.

For a complete listing of this year’s committees, see below:

Senate committee www.legis.state.wv.us/committees/senate/main.cfm

House of Delegate committees www.legis.state.wv.us/committees/house/main.cfm

GOVERNOR TOMBLIN GIVES FINAL STATE OF THE STATE ADDRESS

Governor Earl Ray Tomblin presented his sixth and final State of the State Address Wednesday by emphasizing the positive while acknowledging the current tough times in West Virginia. He highlighted accomplishments in economic development, workforce training, education, juvenile justice and fighting the state’s substance abuse problems. Facing state budget deficits totaling \$800 million in the current and upcoming budget year, the governor called for “new ways to ensure our tax base is both more stable and more diverse.” He proposed to do this by increasing

the state tax on cigarettes by 45 cents a pack and placing a new 6 percent sales tax on cellphone and landline use. Combined, those taxes would raise \$131.5 million in new revenue. The governor's proposed budget recommends withdrawing \$52 million from the state's Rainy Day Fund to make up a portion of the expected revenue shortfall this year.

Not discussed in the State of the State Address was any mention of investment in infrastructure and the governor did not propose any additional funding for highways. The governor's budget actually reduces funding for infrastructure projects. To make up the general fund deficit, this year's budget proposes to divert \$4 million from the School Building Authority, \$10 million from the West Virginia Infrastructure Council and about \$10 million from the State Road Fund. For more on this year's budget and how it impacts construction programs, see the January 18 CAWV Legislative Bulletin.

GOVERNOR'S BUDGET CUTS SCHOOL, HIGHWAYS AND WATER/SEWER FUNDING

For the second straight year, the governor's budget, which the Senate Finance Committee reviewed Thursday, cuts construction programs to balance next year's fiscal budget. State Deputy Revenue Secretary Mark Muchow told committee members the governor proposes suspending for one year the annual \$11.5 million allocation from the general revenue fund to the state Road fund and reducing the annual \$8 million in sales tax revenue which goes to the state School Building Authority. Other shifts include \$10 million from the Infrastructure Development fund and \$4.3 million from the Public Port Authority. Bills will be introduced by the governor to reflect the proposed changes. The governor's budget for the second straight year takes money from the Rainy Day Fund to balance the budget, about \$86 million.

While the CAWV understands the governor's budget constraints, funding for roads, schools and water and sewer infrastructure are all dwindling and this is having an impact on construction jobs in West Virginia (see West Virginia construction unemployment article in this Legislative Bulletin). The WV Division of Highways is losing money since actual gas tax revenue for the period of July 1 to December 31, 2014 is down \$8.7 million from the same period in 2013. Also, the wholesale gas tax, which is calculated on the average wholesale price of gas, dropped 1.1 cents January 1, 2015, which will cost the WVDOH \$15 million this year. Last year the budget proposed eliminating the \$11.5 million transfer to the WVDOH and \$10 million from SBA's budget. In working with the Tomblin administration, WVDOH's and SBA's budgets were not reduced. The CAWV did agree to an amendment to last year's bill to cut \$20 million for three years, or \$60 million, from the Infrastructure Fund's budget to a one-time \$20 million cut. The governor's budget this year proposes to cut all three agencies again, as well as a \$4.3 million cut to the Port Authority.

The governor will have to introduce legislation to make these budget revisions. The CAWV will be working with the administration and legislative leaders to find alternate measures to balance the budget without taking funds from these crucial infrastructure programs.

2016 LEGISLATIVE SESSION BEGINS; ELIMINATION OF PREVAILING WAGE

LAW AGAIN HIGH ON LIST OF LEGISLATIVE PRIORITIES

The 2016 session of the West Virginia Legislature began Wednesday and Republican leaders in both the House and Senate vow they will “hit the ground” running to make West Virginia more business friendly. Senate President Bill Cole and House Speaker Tim Armstead have stated jobs and economic development will be high on their priority list. The Senate Judiciary Committee today voted 9-8 along party lines to make West Virginia a Right-to-Work state. The bill goes to the full Senate next week.

Prevailing wage is still a topic this year despite the compromise bill passed in last year’s session. WorkForce West Virginia was charged with developing a new methodology to establish the state’s prevailing wage. Legislators have expressed their displeasure with the new wage calculations and H.B. 4005 was introduced Wednesday to totally repeal West Virginia’s prevailing wage requirements. A public hearing was held in the House Chamber Friday morning. The bill is expected to be placed on the House Government Organization Committee meeting agenda next week. In a related issue, the Kentucky Senate Friday voted 26-to-11 to approve [S.B. 9](#), a bill that exempts school and university construction from Kentucky’s prevailing wage law.

BILL LIMITS TERMS OF SBA BOARD MEMBERS

[H.B. 4026](#) limits to two, three-year terms the appointment of members serving on the School Building Authority of West Virginia. Members could only serve a maximum of six year with passage of the bill, which has a single reference to the House Education Committee. The bill was introduced after certain lawmakers became upset with a SBA decision not to support funding a school consolidation plan proposed by Fayette County.

HOUSE COMMITTEE TO LEARN MORE ON HIGHWAY DIVISION AUDIT

Legislators got their first glance last Sunday of a performance audit of the West Virginia Division of Highways. The legislature passed [H.B. 2008](#) last year to conduct an audit on the WVDOH’s operations to see what efficiencies and savings could be gained. The \$500,000 plus audit, conducted by Deloitte Consulting LLP, shows between \$25 million and \$50 million a year in savings if the audit’s recommendations are implemented. The CAWV has reviewed the audit’s recommendations and has questioned the correlation of one dollar in perceived efficiencies to one new, additional dollar for road maintenance or construction. More information will follow on the 98-page document. Click [here](#) to view the report online (audit begins on page 19).

The House Roads and Transportation Committee today will learn more about the performance audit and to begin thinking about what the next steps will be to determine how to implement the recommendations. The committee also has on its agenda [H.B. 2677](#) which would give the state the ability to enter into sponsorship agreements for naming rights for transportation structures such as bridges, overpasses and rest areas.

SJR 6 PUTS \$2 BILLION BOND ISSUE BEFORE VOTERS

Senators Charles Trump, Bob Plymale, Ron Stollings and Bob Williams have introduced Senate Joint Resolution 6 which would offer voters in November the option to issue and sell \$2 billion in highway bonds. The bonds would be sold over a five year period of \$400 million each year. The proceeds of the bonds would be used for “1/ Matching available federal funds for highway construction in the state; and 2/ General highway construction or improvements in each of the fifty-five counties.”

Repayment of the bonds is addressed differently than in past highway bond amendments. [SJR 6](#), if voters ratify the amendment, gives the Legislature the authorization to provide for the collection of an annual state tax sufficient to pay the interest and principal on the bonds over a 25 year period. All previous road bond amendments have been repaid with state road fund revenues. When the last road bond amendment was passed in 1996, the WVDOH had to transfer \$50 million a year from their maintenance program to pay debt service on the bonds. The DOH is currently paying about \$35 million annually through 2025 to repay the 1996 bonds.

The legislation has been referred to the Judiciary Committee, chaired by Sen. Trump, with a second reference to the Finance Committee. The CAWV has not supported bond amendment proposals that did not have a dedicated revenue source other than taken existing, limited highway dollars and transferring them to debt service on the bonds. [SJR 6](#), as drafted, does provide a funding repayment with new, additional revenue.

LOCAL POWERS ACT BILLS INTRODUCED IN BOTH HOUSES

[S.B. 12](#), County Local Powers Act, introduced by Sen. Kent Leonhardt, R-Monongalia, and [H. B. 4009](#), Letting Our Counties Act Locally Act, authored by Del. Joe Statler, R-Monongalia, and sponsored by a number of delegates, would give local county commissions the ability to accelerate highway and infrastructure projects in their county. The bills are similar to legislation last supported by business groups in the Morgantown area to address congestion and capacity concerns. One of the main differences is that last year’s bills gave county commissions the ability to increase fees or enact taxes to pay debt service on any bonds issues. This year’s bills provide for a referendum of voters on any highway or infrastructure proposals before a funding payment plan is approved.

BUY AMERICA BILL RISES AGAIN

West Virginia construction projects would be forced to use all products made in America under [S.B. 91](#), a bill introduced by Sen. Jack Yost, D-Hancock. This is about the sixth straight year the bill has been introduced. The CAWV has opposed the legislation because of its impracticality and the costs associated with such a measure. CAWV has also opposed because the burden of administration and the penalties associated with noncompliance is placed on the contractor. The CAWV will continue to oppose the legislation. It has been referred to the Senate Government Organization Committee with a second reference to Finance.

[Highway funding left out of Tomblin's State of the State speech](#)

(WV Gazette Mail 1/14)

[Debate on prevailing wage repeal starts](#)

(WV Gazette Mail 1/15)

WEST VIRGINIA LEGISLATURE BILL INFORMATION

House and Senate bills can be accessed from the CAWV's Legislative home page at www.cawv.org/legislative. 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

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Introduced/ Committee</i>
HB 2028	Relating generally to purchasing	Del. Shott	01/13/16 - Government Organization
HB 2041	Establishing requirements for prior review of all privatization proposals	Del. Guthrie, Skinner, P. Smith	01/13/16 - Industry and Labor
HB 2049	Requiring the Parkways Authority to provide free daily toll passes for veterans under certain circumstances	Del. Shott, Cooper, Gearheart and Ambler	01/13/16 - Veterans' Affairs and Homeland Security
HB 2052	Relating to the labor-management relations act for the private sector	Del. Shott	01/13/16 - Industry and Labor
HB 2062	Establishing the Legislative Oversight Commission on Energy Workers Safety	Del. Caputo and Manchin	01/13/16 - Industry and Labor
HB 2192	Exempting heating oil for residential use from the Motor Fuel Excise Tax	Del. Gearheart, Cooper, Ambler, Householder, R. Smith, Faircloth, Espinosa and Storch	01/13/16 - Energy
HB 2193	Providing the Parkways Authority with the power to issue \$500 million worth of bonds	Del. Gearheart, Householder, R. Smith and Faircloth	01/13/16 - Roads and Transportation
HB 2194	Relating to the School Building Authority	Del. Gearheart, R. Smith and Storch	01/13/16 - Education
HB 2195	Making changes to the definition of electrical contractor	Del. Gearheart, Cooper, Householder, R. Smith and Faircloth	01/13/16 - Industry and Labor
HB 2204	Eliminating the motor fuels tax on heating oil for residential use by eligible seniors	Del. Howell, Walters, Storch, Hill, J. Nelson, Kelly, Wagner, Canterbury, Stansbury, Zatezalo and Butler	01/13/16 - Senior Citizen Issues
HB 2206	Repealing the requirement of paying prevailing hourly rate of wages for construction of public improvements	Del. Overington, Blair, Folk, Householder, McCuskey, Cowles, Espinosa, Foster, Gearheart, Walters, and Azinger	01/13/16 - Industry and Labor
HB 2238	Relating to appointment of Public Service Commissioners	Del. Hamilton, Frich, Guthrie, Longstreth, Sobonya and Romine	01/13/16 - Government Organization
HB 2269	Requiring rules of the Department of Environmental Protection, Department of Health and Human Resources, Division of Natural Resources and Department of Commerce be no more stringent than corresponding federal laws	Del. Walters, R. Phillips, Storch, Ihle and Foster	01/13/16 - Judiciary
HB 2488	Requiring the construction of new public buildings and when an entrance of an existing public building is renovated to be compliant with the federal Americans With Disabilities Act by having automatic doors	Del. Campbell, Eldridge, Householder, Rodighiero, Marcum and Ellington	01/13/16 - Judiciary
HB 2530	Establishing a Library Facilities Improvement Fund	Del. Morgan, Perdue, Boggs, Pethel, Rohrbach, Sobonya Hornbuckle, and Miller	01/13/16 - Education
HB 2561	Requiring the Commissioner of Highways to contract with private providers or contractors for necessary emergency maintenance	Del. Statler, Kurcaba, Blair Stansbury, Rohrbach, Frich, Summers, Waxman, and Ihle	01/13/16 - Roads and Transportation

	operations		
HB 2580	Creating the Economic Fairness Act of 2015	Del. Walters	01/13/16 - Small Business, Entrepreneurship and Economic Development
HB 2643	Establishing the West Virginia Right to Work Law	Del. Overington, Walters, Householder, Faircloth, Fast, Espinosa, Upson, Cadle, Foster, Westfall and Blair	01/13/16 - Judiciary
HB 2677	Creating a legislative commission to study the feasibility of the state entering into sponsorship agreements for transportation structures	Del. Hamrick	01/13/16 - Roads and Transportation
HB 2695	Relating to gasoline and fuel excise tax	Del. Fast, Kessinger, Blair, J. Nelson, Hill, Kurcaba and Summers	01/13/16 - Roads and Transportation
HB 2699	Requiring that patching repair of hard surfaced roads, highways and streets be by use of mechanical rollers	Del. Fast, Kessinger and Hill	01/13/16 - Roads and Transportation
HB 2725	Permitting playground facilities to be part of a school construction project	Del. Miller, Sobonya, Border, Rowan, Rohrbach, Folk, Ferro, Eldridge, and Hornbuckle	01/13/16 - Education
HB 2794	Making changes to the definition of contractor for purposes of the West Virginia Contractor Licensing Act	Del. Eldridge and Hicks	01/13/16 - Industry and Labor
HB 2802	Relating to public sewage services	Del. Folk, Faircloth, Rowe and Reynolds	01/13/16 - Judiciary
HB 2820	Relating to affirmative defenses against mechanics' liens	Del. Shott, Manchin and Foster	01/13/16 - Judiciary
HB 2832	Reducing the motor fuel excise tax	Del. Ellington, Householder, Faircloth, Storch, Gearheart, Rowan, Folk Border, Cooper and Shott	01/13/16 - Finance
HB 2864	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	Del. McGeehan	01/13/16 - Finance
HB 2921	Eliminating the courtesy patrol program	Del. Butler	01/13/16 - Government Organization
HB 2936	Relating to the West Virginia Economic Development Authority	Del. Miley, Miller, Skinner, Bates, Sponaule, Storch, Hamilton and Kessinger	01/13/16 - Small Business, Entrepreneurship and Economic Development
HB 2988	Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents	Del. Storch, Anderson, Duke, A. Evans and Pethel	01/13/16 - Government Organization
HB 3005	Prohibiting blasting within six hundred twenty-five feet of an occupied dwelling	Del. Fleischauer, Pushkin, Guthrie, Lynch, Rowe, Skinner and Longstreth	01/13/16 - Energy
HB 3010	Modifying definitions related to the	Del. Fleischauer, Moye, Skinner,	01/13/16 - Judiciary

	one-call system	Manchin, Ferro, Lynch, Cooper and Butler	
HB 4003	Expiring certain severance taxes that are dedicated to the Workers' Compensation Debt Reduction Fund	Del. E. Nelson, Shott, Hanshaw, Ireland, R. Smith, Storch, R. Phillips, B. White, McCuskey, Waxman and Summers	01/13/16 - Finance
HB 4005	Repealing prevailing hourly rate of wages requirements	Del. Householder, Cowles, Duke, Foster, Gearheart, Miller, Shott, Overington, Walters, Waxman and Westfall	01/13/16 - Government Organization
HB 4006	West Virginia Workplace Freedom Act	Del. Overington, Blair, Butler, Cowles, Gearheart, Hamrick, Householder, E. Nelson, Espinosa, Waxman and Zatezalo	01/13/16 - Judiciary
HB 4009	Letting Our Counties Act Locally Act	Del. Statler, Ambler, Cooper, Ellington, D. Evans, Moffatt, Romine, Storch, Wagner, Weld and Zatezalo	01/13/16 - Roads and Transportation
HB 4022	Providing a discount program for certain workers and students who purchase West Virginia EZ Pass transponders	Del. Rowe	01/14/16 - Roads and Transportation
HB 4026	Limiting terms of citizen members of the School Building Authority	Del. Perry, Morgan, Kessinger, Wagner, Kurcaba, Stataler, Romine, Campbell Fast, Rowe and Moye	01/15/16 - Education
HB 4030	Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act	Speaker Armstead and Del. Miley	01/15/16 - Finance
HB 4031	Requiring agencies to respond to public comments received during the rule-making process	Speaker Armstead, Del. Frich, Sobonya, Howell, Moffatt, Hanshaw, McCuskey, Shott, Overington, Rowe and Fleischauer	01/15/16 – Government Organization

SENATE BILLS

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Introduced/Committee</i>
SB 1	Establishing WV Workplace Freedom Act	Sen. Cole (Mr. President), Blair, Boso, Ferns, Gaunch and Trump	01/13/16 - Judiciary
SB 2	Requiring public authorities pay prevailing hourly rate of wages	Sen. Blair, Boso and Trump	1/13/16- Government Organization
SJR 6	WV Better Roads Amendment of 2016		01/13/16 - Judiciary
SB 9	Creating Intermediate Court of Appeals	Sen. Blair and Carmichael	01/13/16 -Judiciary
SB 12	County Local Powers Act	Sen. Leonhardt	01/13/16 -Transportation and Infrastructure
SB 14	Limiting successor corporation asbestos-related liabilities	Sen. Trump, Boso, Ferns, Leonhardt	01/13/16 - Judiciary
SB 28	County commission and municipality agreements in demolishing buildings unfit for habitation	Sen. Kirkendoll	01/13/16 - Government Organization
SB 60	Modifying workers' compensation guidelines for reasonable and necessary medical treatment	Sen. Yost	01/13/16 - Banking and Insurance
SB 61	Relating to weighing of evidence in	Sen. Yost	01/13/16 - Banking and

	workers' compensation claims		Insurance
SB 66	Certification requirements for state bridge paint applicators	Sen. Yost	01/13/16 - Transportation and Infrastructure
SB 67	Keep Jobs in West Virginia Act	Sen. Yost	01/13/16 - Government Organization
SB 72	Relating generally to workers' compensation benefits	Sen. Yost	01/13/16 - Banking and Insurance
SB 91	Requiring state-purchased materials, supplies and equipment be manufactured in US	Sen. Yost	01/13/16 - Government Organization
SB 111	Prohibiting discrimination based on age or sexual orientation	Sen. Kessler	01/13/16 -Judiciary
SB 112	Relating generally to WV Future Fund	Sen. Kessler	01/13/16 - Energy, Industry and Mining
SB 121	Increasing certain motor vehicle fees	Sen. Beach	01/13/16 - Government Organization
SB 135	Relating generally to roles of county commissions and Commissioner of Highways in regard to road and bridge projects	Sen. Beach	01/13/16 - Transportation and Infrastructure
SB 141	Removing CDL requirement when towing vehicle is below certain gross vehicle weight rating	Sen. Trump	01/13/16 -Transportation and Infrastructure
SB 149	Department of Administration rule relating to purchasing division	Sen. Maynard	01/13/16 - Judiciary
SB 174	DEP, Air Quality rule relating to control of pollution from hazardous waste treatment, storage and disposal facilities	Sen. Maynard	01/13/16 - Energy, Industry and Mining
SB 175	DEP, Air Quality rule relating to emission standards for hazardous air pollutants	Sen. Maynard	01/13/16 - Energy, Industry and Mining
SB 181	DEP, Water and Waste Management rule relating to above ground storage tanks	Sen. Maynard	01/13/16 - Energy, Industry and Mining
SB 182	DEP, Water and Waste Management rule relating to surface mining reclamation	Sen. Maynard	01/13/16 - Energy, Industry and Mining
SB 184	DEP, Water and Waste Management rule relating to above ground storage tank fee assessments	Sen. Maynard	01/13/16 - Energy, Industry and Mining
SB 185	DEP, Water and Waste Management rule relating to above ground storage tank administrative proceedings and civil penalty assessment	Sen. Maynard	01/13/16 - Energy, Industry and Mining
SB 209	State Board of Registration for Professional Engineers rule relating to examination, licensure and practice of professional engineers	Sen. Maynard	01/13/16 - Judiciary
SB 211	State Fire Commission rule relating to fire code	Sen. Maynard	01/13/16 - Judiciary
SB 212	State Fire Commission rule relating to state building code	Sen. Maynard	01/13/16 - Judiciary
SB 213	State Fire Commission rule relating	Sen. Maynard	01/13/16 - Judiciary

to standards for certification of continuing education of municipal, county and other public sector building code officials, inspectors and plans examiners

SB 215	DOH rule relating to state transportation infrastructure fund program	Sen. Maynard	01/13/16 - Judiciary
SB 217	Division of Labor rule relating to wage payment and collection	Sen. Maynard	01/13/16 - Judiciary
SB 218	Division of Labor rule relating to minimum wage and maximum hours	Sen. Maynard	01/13/16 - Judiciary
SB 220	Division of Labor rule relating to licensing of elevator mechanics and registration of apprentices	Sen. Maynard	01/13/16 - Judiciary
SB 222	Workforce West Virginia rule relating to Prevailing Wage Act	Sen. Maynard	01/13/16 - Judiciary
SB 287	Creating West Virginia Safer Workplaces Act	Sen. Boso and Trump	01/14/16 - Labor
SB 293	Neighborhood Investment Program Act	Sen. Walters, Boso and Sypolt	01/14/16 - Economic Development