



Contractors Association of West Virginia **LEGISLATIVE BULLETIN**



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January 19, 2015

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.

With Republicans taking control of the House and Senate, the first time in 83 years, the entire committee leadership structure is changed. Republicans will control the Chair and Vice Chair positions and Democrats will compose of the Minority Chair and Vice Chair positions. Republicans will have the majority on each committee as well. In the House, many of the new chairs are long serving House Republican members. In the Senate, many first-time Senators are committee chairs and vice chairs. For a complete listing of this year's committees, see below:

Senate committees

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

House of Delegate committees

www.legis.state.wv.us/committees/house/main.cfm

GOVERNOR'S STATE OF THE STATE ADDRESS: WHAT WAS SAID, WHAT WASN'T

Gov. Earl Ray Tomblin gave his State of the State address Wednesday to start the 2015 legislative session. The Governor began his remarks by calling on legislators to set aside political differences and work together for the greater good of the Mountain State. “We must work together, not as Democrats or Republicans, but as West Virginians united for the common good,” the governor said. With 43 new legislators, and the House and Senate in Republican control for the first time in 83 years, Gov. Tomblin addressed a decidedly changed Legislature in his fifth State of the State.

The governor did note the critical need for additional highway funding and to complete U.S. Route 35 as a four-lane highway but he did not promote any proposals to provide additional funds. Rather, he said would work with West Virginia's Congressional delegation of find a stable funding source, a goal that Washington has yet to accomplish. He did say he wants to keep tolls on the West Virginia Turnpike but he will have to introduce legislation since tolls are set to come off when turnpike bonds are retired in 2019. The governor's comments on highways are as follows:

"Economic investments, as well as those we are making to improve our infrastructure, are important to all of us, but they come at a cost. Our state's highways and bridges are critical to our continued economic growth. This year, the Division of Highways spent an additional \$48 million on resurfacing projects and bridge work compared to what was spent in 2014. We are making progress, but we must find ways to do more. With the help of legislation we passed together, our Division of Highways is now able to use more innovative financing options to build and maintain our roads and bridges. And tonight, I've directed the Division of Highways to include the completion of U.S. 35 as part of its six year plan.

In recent years, inaction at the federal level has put construction at a standstill and new highway projects have been difficult to complete. I will continue to work with our Congressional delegation to identify a stable federal funding source for our much-needed road improvements. When highway funding is hard to come by, eliminating more than \$85 million in dedicated revenues to maintain our state's highways is irresponsible. This year, 84 percent of all tolls collected on the West Virginia Turnpike were collected from out-of-state drivers and commercial vehicles. Instead of eliminating tolls, we need to work together to identify alternative ways to minimize the impact on our residents who travel the Turnpike each and every day."

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.

SUMMERSVILLE ENGINEER GREG BOSEO APPOINTED TO STATE SENATE

Gov. Earl Ray Tomblin has appointed Gregory L. Boso to represent residents of the 11th District in the West Virginia Senate. Boso's appointment fills the vacancy created when Senator Clark Barnes resigned earlier last week to serve as Senate clerk. He will be sworn in at 10:00 a.m. today. A 1980 graduate of the West Virginia Institute of Technology, is president of the Summersville engineering company, G.L.Boso & Associates. He also is president of the construction firm Boso & Boso, Inc. The new senator is a member of the National Society of Professional Engineers, National Academy of Forensic Engineers, American Society of Civil Engineers and the West Virginia Society of Professional Engineers.

CONSTRUCTION IN THE MEDIA

West Virginia's ranking as first in the nation with the largest percentage decline in construction jobs in a year, was front page news in the January 12 *Charleston Gazette*. West Virginia construction employment dropped 11.3% (3,800 jobs) from November 2013 to November 2014. The article equates the loss of jobs with dwindling funds for highways, schools and water and sewer projects.

A follow up editorial, "Signs of Decay," in the January 17 *Gazette* notes that "America's highway, bridges and other infrastructure are sinking into disrepair, but available federal funds are evaporating. Bad effects are spreading," the editorial notes. The paper asks the new Republican leadership: "Will you do anything about America's deteriorating infrastructure and fading construction jobs? Will you raise enough revenue to handle this problem? You're in charge, so you must perform."

In the January 18 *Charleston Sunday Gazette-Mail*, Statehouse Beat columnist Phil Kabler noted Gov. Tomblin's State of the State comment, that tolls on the WV Turnpike should not be removed. He wrote, "Tomblin's point that the state cannot absorb the loss of \$85 million in toll revenues was well taken. If someone devised a new tax that would bring in that kind of revenue with out-of-state residents paying the majority of that total, he'd be hailed as a fiscal genius." To view Kabler's comments and the other two articles, [click here](#).

S.B. 245 ELIMINATES STATE PREVAILING WAGE STATUTE

To follow through with a legislative priority, Senators Charles Trump, Craig Blair and Chris Walters have introduced S.B. 245 which eliminates West Virginia's prevailing wage statute. The bill is referred to the Labor and Judiciary committees. Proponents of the bill, of which there are many, claim wages paid on government construction contracts are high and definitely not prevailing for the area. Claims are being made that construction costs for schools, highways and other public projects can be cut up to 30 percent by abolishing the prevailing wage law and letting contractors and workers establish their own wage levels.

Many CAWV members have voiced their concerns with their lawmakers about what impact completely abolishing a wage scale would have on their employees, on attracting younger people to the industry, and on their competitiveness with out-of-state firms that might bring in unqualified workers to bid projects. The CAWV has met with the new leadership to request that these bills be full and open debate in committee in order to give all sides the opportunity to present arguments and recommendations for future action. The association has been given assurances this will occur. The CAWV and other groups have met with Senate President Bill Cole, Senate Majority Leader Mitch Carmichael and other senators who have expressed support for S.B. 245 to present concerns and options. Members will receive a status of the bill and future action required in an upcoming CAWV Legislative Alert.

HOUSE COMMITTEE ADVANCES BILL FOR WVDOH PERFORMANCE AND EFFICIENCY AUDIT

The House Government Organization Committee Friday passed H.B. 2008, a bill to require a performance and efficiency audit of the WV Division of Highways. The report, which will put out for competitive bidding by auditing firms, is not to exceed \$500,000 which will be paid from the departmental budget's employee account reserve due to unfilled positions. An amendment was made and approved, to study each of the ten districts to perform a similar audit. Some Republican candidates ran on a platform to find more funding for highways by "eliminating waste and bureaucracy" in the highway department. The final report is due before February 1, 2016. The bill goes to Finance for review and approval. While there are benefits for review of any organization or operation, the CAWV will be concerned that the bill could be used as an excuse to not provide new and additional highway funding until an efficiency audit is completed. More information will follow in future Legislative Bulletins. There is a companion Senate bill, S.B. 2.

VARIOUS LABOR BILLS INTRODUCED

There are a number of labor-backed bills that have been introduced. One of the most notable is H.B. 2091, the False Claims Act, again introduced by Del. Tim Manchin, D-Marion. This is the bill that created much controversy last session within the business community. The bill was introduced on the first day last year and passed out of committee on the second day. The bill was recommitted to committee and the bill was finally defeated when conservative Democrats joined Republican members in the House. Senate Jack Yost, D-Hancock, former Senate Labor chair, has introduced the following: S.B. 44 which lowers from \$250,000 to \$100,000 the size of contracts before the prime contractor has to list his subcontractors, S.B. 49 which allows the liberal weighing of evidence in a workers' compensation claim, and S.B. 54, the bill that has been introduced the last few years to require the certification of state bridge paint contractors. The CAWV will oppose these bills.

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

Bill	Title	Sponsor	Committee Assignment
HB 2008	Auditing the Division of Highways	Dels. Summers, Evans, D., Hamrick, Ashley, Ireland, Stansbury, Gearheart, Nelson, E., Howell, Blair and Kurcaba	01/14/15 - To Govt. Organization then Finance
HB 2012	Relating to the payment of wages by employers and when final wages are required to be paid	Dels. White, B., Nelson, E., Storch, Zatezalo, Pasdon, Ashley, Duke, Westfall, McCuskey and Cowles	01/14/15 - To Industry and Labor the Finance
HB 2028	Relating generally to purchasing	Del. Shott	01/14/15 - To Govt. Organization then Finance
HB 2035	Reducing the wholesale tax on heating fuel, off road fuels, kerosene and propane used for home heating purposes or off road use	Del. Williams	01/14/15 - To Finance
HB 2049	Requiring the Parkways Authority to provide free daily toll passes for veterans under certain circumstances	Dels. Shott, Cooper, Gearheart and Ambler	01/14/15 - To Veterans' Affairs and Homeland Security then Finance
HB 2052	Relating to the labor-management relations act for the private sector	Del. Shott	01/14/15 - To Industry and Labor then Judiciary
HB 2062	Establishing the Legislative Oversight Commission on Energy Workers Safety	Dels. Caputo and Manchin	01/15/15 - To Industry and Labor then Judiciary
HB 2088	Relating to limitations of actions and suits	Dels. Manchin and Walters	01/16/15 - To Judiciary
HB 2091	False Claims Act	Del. Manchin	01/16/15 - To Judiciary then Finance

SENATE BILLS

SB 4	Relating to development of state plan under Clean Air Act	Sens. Mullins, Boley, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt and Sypolt	01/14/15 - To Energy, Industry and Mining
SB 8	Providing for DOH performance and	Sens. Blair, Boley, Carmichael,	01/14/15 - To Govt.

	efficiency audit	Ferns, Gaunch, Karnes, Leonhardt, Maynard, Nohe, Sypolt, Trump and Walters	Organization
SB 12	Relating to payment of separated employee's outstanding wages	Sens. Carmichael, Boley, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Mullins, and Sypolt	01/14/15 - To Judiciary
SB 44	Lowering threshold for low bidder's duty to submit subcontractors on government contracts	Sen. Yost	01/14/15 - To Labor
SB 49	Providing liberal weighing of evidence in workers' compensation claims	Sen. Yost	01/14/15 - To Banking and Insurance
SB 54	Requiring certification of state bridge paint applicators	Sen. Yost	01/14/15 - To Labor
SB 55	Creating Keep Jobs in WV Act	Sen. Yost	01/14/15 - To Govt. Organization
SB 56	Declaring remedial component of workers' compensation laws receive liberal construction	Sen. Yost	01/14/15 - To Banking and Insurance
SB 80	Creating State Labor Relations Act	Sen. Yost	01/14/15 - To Labor
SB 100	Establishing prevailing hourly rates for construction of public improvements	Sen. Carmichael	01/14/15 - To Judiciary
SB 102	Extending period that terminated employees' wages must be paid	Sen. Carmichael	01/14/15 - To Judiciary
SB 103	Establishing comparative fault standard	Sen. Carmichael	01/14/15 - To Judiciary
SB 106	Excepting professional engineer member from sanitary board when project engineer under contract	Sen. Carmichael	01/14/15 - To Govt. Organization
SB 108	Creating loser-pays civil justice system	Sen. Carmichael	01/14/15 - To Judiciary

SB 112	Requiring legislative rule establishing level for higher education capital project spending project approval	Sen. Laird	01/14/15 - To Education
SB 116	Relating to solar renewable energy credits	Sen. Miller	01/14/15 - To Energy, Industry and Mining
SB 123	Exempting motor fuel sales from unfair trade practices	Sen. Snyder	01/14/15 - To Transportation and Infrastructure
SB 130	Reinstating residential solar energy tax credit	Sen. Miller	01/14/15 - To Energy, Industry and Mining
SB 142	Authorizing Department of Administration promulgate legislative rule relating to Purchasing Division	Sen. Snyder	01/14/15 - To Finance
SB 155	Authorizing Division of Labor promulgate legislative rule relating to supervision of plumbing work	Sen. Snyder	01/14/15 - To Labor
SB 157	Authorizing Division of Labor promulgate legislative rule relating to regulation of heating, venting and cooling work	Sen. Snyder	01/14/15 - To Labor
SB 164	Authorizing DEP promulgate legislative rule relating to permits for construction and major modification of major stationary sources for prevention of significant deterioration of air quality	Sen. Snyder	01/14/15 - To Energy, Industry and Mining
SB 167	Authorizing DEP promulgate legislative rule relating to requirements governing water quality standards	Sen. Snyder	01/14/15 - To Natural Resources
SB 170	Authorizing OMHST promulgate legislative rule relating to employee safety in and around quarries	Sen. Snyder	01/14/15 - To Energy, Industry and Mining
SB 175	Authorizing DHHR promulgate legislative rule relating to public water systems	Sen. Snyder	01/14/15 - To Health and Human Resources

SB 199	Authorizing Board of Registration for Professional Engineers promulgate legislative rule relating to examination, licensure and practice	Sen. Snyder	01/14/15 - To Govt. Organization
SB 234	Exempting water and sewer utilities owned by political subdivisions from PSC jurisdiction	Sens. Trump and M. Hall	01/15/15 – Govt. Organization then Finance
SB 235	Creating Hatfield-McCoy Regional Recreation Authority Fund	Sens. Kessler, M. Hall and Prezioso	01/15/15 - Natural Resources then Finance
SB245	Repealing requirement for prevailing wage payment for public improvement construction	Sens. Trump and Blair	01/16/15 - Labor then Judiciary
SB251	Modifying private cause of action for deliberate intention workers' compensation claims	Sens. Mullins, Karnes and Leonhardt	01/16/15 - Judiciary
SCR 8	Urging US EPA withdraw and/or rescind proposed definition of "waters of the United States"	Sens. Trump, Blair, M. Hall, Leonhardt, Mullins, Unger and Williams	01/16/15
SJR 2	Proposing constitutional amendment designated School Board Election Amendment	Sen. Kessler	01/14/15 – To Judiciary then Finance