



# Contractors Association of West Virginia **LEGISLATIVE BULLETIN**



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### **LEGISLATURE CONCLUDES FIRST FULL WEEK ON A HIGH NOTE**

The 7<sup>th</sup> annual Transportation Day at the Capitol saw over 100 CAWV members and West Virginians for Better Transportation supporters come to the Capitol Friday to celebrate passage of a \$2.8 billion highway funding packaged passed last year by the West Virginia Legislature. Governor Jim Justice, who made highway funding the centerpiece of his jobs and economic development package during last year's State of the State address, was invited to speak but was unable to attend. Speaking on the governor's behalf was Deputy Chief of Staff Ann Urling. Also speaking were Senate President Mitch Carmichael, Senate Transportation and Infrastructure Chair Greg Boso, WVDOT Secretary Tom Smith, and Commerce Secretary Woody Thrasher.

"This past October, voters in West Virginia participated in the most historic vote in the history of our state, where we overwhelmingly approved the Roads to Prosperity road bond," said Deputy Chief of Staff Ann Urling. "The citizens in our state have spoken loudly. They want jobs. They want opportunity. They want change. They want hope. Hope that we can take a stand and do something about this terrible drug epidemic. This program is the pathway to do something about it. This is going to jumpstart our economy."

"So many people said we couldn't get Roads to Prosperity to cross the finish line, but we did," Urling stated. "The governor appreciates everyone's efforts. The governor says this will be our starting point. We will build on this. Now is the time to roll up our sleeves and get to work. We will have new roads, new jobs, and new hope on the horizon."

Senate President Mitch Carmichael said this year's legislative session feels much different than last year.

"We came in the legislature last year confronting a \$500 million deficit and now we are sitting on a surplus," President Carmichael stated. "We have passed the Roads to Prosperity amendment. We worked together as Republican and Democrat to achieve this objective - as business and labor - as all West Virginia citizens - to come together to put our state first. To build a modern transportation infrastructure system that's required for a 21<sup>st</sup> century economy."

“We’re going to use West Virginia citizens to make projects and build the confidence of our state with the money, prosperity, opportunity and jobs that are inherent with a big vision, with an optimistic hope for the future,” said the President. “I *feel* that in the state, I see it in your eyes.”

“I’m thankful to be a part of this. You have helped to push this thing forward. There are many more great things to come. Let’s work together to not only continue this path of progress but to deliver on the confidence that the people of West Virginia have placed in us by approving this bond. Let’s keep this state marching forward,” President Carmichael concluded.

“Wow. What a difference a year makes,” said WVDOT Secretary Tom Smith. “When I think back to this event last year, a couple of us were holding up the TRIP report. Our deficient bridges were going in the wrong direction. Our highway conditions were going in the wrong direction.”

“In just seven months, the DOH has worked with our partners to get over \$350 million worth of contracts out on the street. 2018 is going to be a landmark year,” stated the Secretary. “If you look at what’s going out the door in the next four months, by June, the one-year anniversary of the Roads to Prosperity program, we will be over a billion dollars in additional work on the streets. In the next four months we will be starting to have the first big projects out the door. The middle of May is going to be the first installment of general obligation bonds to be sold, \$800 million”

This was the seventh WVBT Transportation Day event and the first one after passage of the highway funding legislation and the Roads to Prosperity road bond amendment. WVBT members thanked Governor Jim Justice for introducing the highway funding bills and his vision that jobs and economic development could be created through highway construction and maintenance projects. WVBT also thanked Senate and House leaders who pushed the highway bills through both houses of the legislature.

“We thought about not having a transportation day this year,” said Carol Fulks, WVBT chair, “but we decided to use this year’s forum to thank our partners. For six years we have worked to talk about the need for highway funding. We wanted to celebrate. We weren’t sure how many would attend this year’s event, but we had a great and enthusiastic crowd. Everyone was glad to be there and to celebrate our achievements. It was a great day to be at the Capitol,” she said.

The day’s program was broadcast live on Governor Justice’s website. To view the event, [click here](#). To view various news accounts click the links below:

[Different outlook at annual transportation rally](#) (WV MetroNews)

[Transportation advocacy group hears kudos at Capitol](#) (*The State Journal*)

### **HOUSE SPEAKER ANNOUNCES HE WILL NOT SEEK REELECTION**

House of Delegates Speaker Tim Armstead announced Friday on MetroNews' *Talkline* that he will not seek re-election to his House seat in 2018. Armstead has held his Kanawha County seat for 20 years, being appointed in September 1998 and re-elected to a full term later that year. He has led the House Republican Caucus since the 2006 elections, and was elected Speaker of the House in January 2015 after the Republican Party gained its first majority in 83 years when it won 64 of 100 seats in the House of Delegates.

Speaker Armstead told MetroNews' *Talkline* that he is seriously contemplating a run for the West Virginia Supreme Court of Appeals in 2020. The seats currently held by Justices Menis Ketchum and Margaret Workman will both be up at that time.

### **BILL CLARIFIES SELECTION OF ALTERNATES**

S.B. 259 has been introduced to clarify legislation passed last year on how a public contracting agency or political subdivision solicits bid alternates and awards contracts based on the selection of alternates. Last year's bill attempted to put into state code that alternates must be selected in the order they appear in the bid documents. Final language allowed agencies to take alternates out of order provided the selection did not alter the selection of the apparent low bidder.

S.B. 259 clarifies the requirement by adding the following language: "The solicitation shall include the total budget for the project, so that a bidder may obtain a sufficient bid bond or other surety. If the solicitation contains a request for any alternates, the alternates shall be listed numerically in the order of preference in the solicitation, such that if funds are available in the project, based on bids received, the state and its subdivisions shall include the alternates as part of the lowest bid analysis in the order in which they are listed." The bill also includes language that says: "Following the solicitation of bids, the construction contract shall be awarded to the lowest qualified responsible bidder who shall furnish a sufficient performance and payment bond. If a solicitation contains a request for alternates, determination of the lowest qualified responsible bidder shall be based on the sum of the base bid plus each alternate in order, such that the lowest qualified responsible bidder is the bidder whose bid includes the most alternates, in order of preference, for the lowest bid that remains within the total budget for the project as contained in the solicitation."

The bill is referred to the Committee on Government Organization then Judiciary.

### **BILL SPECIFIES VENDOR DEBARMENT PROCEDURES**

S.B. 303 specifies additional grounds for the debarment of a vendor to the state or its subdivision, to clarify that vendors may be subject to debarment for the actions of individuals acting on behalf of the vendors, to broaden the scope of persons and business entities that may be subject to debarment, and to further define the duties of the Director of Purchasing. The bill is referred to the Committee on Government Organization then Judiciary.

### **BILL REQUIRES COMPETITIVE BIDDING ON A/E SERVICES**

S.B. 314 makes significant changes to State Code 5G which deals with the selection process for architectural and engineering services. The bill changes the process from a selection based system to a system that includes estimated costs. The bill is referred to the Committee on Transportation and Infrastructure then Finance.

### **BILL CAPS HIGHWAY MATERIALS SALES TAX TRANSFER AT \$12.5 MILLION**

S.B. 264 deals with consumer sales tax paid by contractors working on WV Division of Highways contract. Under the current law that the CAWV was successful in passing in 2006, contractors pay the state's 6% CST on material included in a highway project. At the end of the fiscal year, the WVDOH and state Tax Department estimate how much CST was paid by contractors. This amount – usually between \$10 and \$12 million annually -- is then transferred from the state's general fund to the State Road Fund. This was done to help shore up the WVDOH's financial problems. There was discussion after last year's highway funding bills being passed to eliminate the annual transfer.

Given the WVDOH's continued need for funding, S.B. 264 will make permanent a transfer of \$12.5 million to the State Road Fund. Any additional CST expected by the increase in additional highway and bridge work this year will go into the state's general fund to help balance the state's budget. The bill is referred to the Committee on Finance.

### **RESOLUTION ELIMINATES INVENTORY TAX**

On Thursday, members of the West Virginia Senate introduced Senate Joint Resolution 9, the first step in passing a constitutional amendment to do away with business property taxes on inventory, machinery and equipment. Governor Jim Justice called for removing the equipment and inventory tax during his State of the State address, and removing the tax is one of the top priorities of Senate President Mitch Carmichael, R-Jackson and House Speaker Tim Armstead, R-Kanawha. "This tax has been identified as a job-killing tax that is placed on the

capital equipment necessary for creating jobs,” said Carmichael.

According to state Commerce Secretary Woody Thrasher, the equipment and inventory taxes are one of the biggest roadblocks to attracting manufacturers to the Mountain State. “Most states who can afford to eliminate this (tax) are,” said Mike Hall, Justice’s chief of staff. Eliminating the taxes “is bringing people in and keeping people from moving out,” he said. Carmichael said state development officials have come up with a convoluted way to work around equipment and inventory taxes for major manufacturers like the Toyota engine and transmission plant in Buffalo. He said the state buys the equipment from the manufacturer, and then leases it back to the company to avoid the taxes. “There’s this hodgepodge of gyrations that government goes through to help them get out of this tax,” Carmichael said. “It’s a mechanism that should not be in place. We should just fix our laws. But business property taxes on inventory, equipment and machinery provide the state with about \$140 million a year in revenue. Carmichael said cutting that money out of the budget all at once would hurt the cities, counties, and school systems that count on state tax revenue. As presented to the Legislature on Jan. 18, the tax plan would phase out inventory, machinery and equipment taxes over a seven-year period, starting in 2020.

But because West Virginia’s tax laws are set down in the state constitution, changing them will require a constitutional amendment that would go before state voters for approval.

Running a constitutional amendment requires the approval of two-thirds of both the House and Senate before the amendment could be put on the ballot. If approved by the Legislature, Carmichael said the amendment could go on the ballot for the 2018 general election.

### **HOUSE TO VOTE ON SINGLE MEMBER DISTRICTS**

HB 4002, a bill that requires 100-single member House of Delegates districts following the 2020 census is up for passage in the House of Delegates today. West Virginia is one of only ten states that currently use multi-member legislative districts, and one of only two (New Hampshire being the other) that has districts in excess of three members. The West Virginia Chamber of Commerce supports requiring 100 single-member districts for the House of Delegates, saying these districts increase government accountability and enhance the principle of 'one person one vote.'

While HB 4002 would eliminate multi-member House districts in the state, a separate bill that would create an independent commission to draw district lines after the 2020 census is receiving additional attention in a House Judiciary Subcommittee.

HB 2383, which is sponsored by Berkeley County Delegate John Overington,

would end the practice of legislators drawing their own district lines following each census. House Judiciary Chairman John Shott has appointed Delegates John Overington (R - Berkeley), Kayla Kessinger (R - Fayette), Mark Zatezalo (R - Hancock), Mike Pushkin (D - Kanawha), and Chad Lovejoy (D - Cabell) to the subcommittee that will formulate HB 2383.

**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](mailto:mclowser@cawv.org).**

HOUSE BILLS			
Bill #	Sponsors	Proposal	Introduced/Committee
<a href="#">HB 4098</a>	Del. Sobonya and Frich	State Fire Commission, rule relating to electrician licensing	<i>01/15/18 - To Government Organization then the Judiciary</i>
<a href="#">HB 4099</a>	Del. Sobonya and Frich	Division of Highways, rule relating to disposal, lease and management of real property and appurtenant structures and relocation assistance	<i>01/15/18 - To Roads and Transportation then the Judiciary</i>
<a href="#">HB 4113</a>	Del. Sobonya	Division of Labor, rule relating to registration of weighing and measuring devices used by businesses in commercial transactions	<i>01/15/18 - To Industry and Labor then the Judiciary</i>
<a href="#">HB 4115</a>	Del. Sobonya and Frich	Division of Labor, rule relating to employer wage bonds	<i>01/15/18 - To Industry and Labor then the Judiciary</i>
<a href="#">HB 4116</a>	Del. Sobonya and Frich	Division of Labor, rule relating to elevator safety act	<i>01/15/18 - To Industry and Labor then the Judiciary</i>
<a href="#">HB 4127</a>	Del. Sobonya and Frich	Department of Health and Human Resources, rule relating to public water systems	<i>01/15/18 - To Health and Human Resources then the Judiciary</i>
<a href="#">HB 4135</a>	Del. Mr. Speaker (Mr. Armstead) and Miley [By Request of the Executive]	Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act	<i>01/16/18 - To Finance</i>
<a href="#">HB 4141</a>	Del. Foster, Fast, Cowles, Higginbotham, Moore, Blair, Summers, Wilson, Kessinger, Criss and	Allowing replacement costs of employer - provided property to be deducted from an employee's final paycheck	<i>01/16/18 - To the Judiciary</i>

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<a href="#">HB 4146</a>	Del. Mr. Speaker (Mr. Armstead) and Miley [By Request of the Executive]	Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act	<i>01/16/18 - To Finance</i>
<a href="#">HB 4154</a>	Del. Mr. Speaker (Mr. Armstead) and Miley [By Request of the Executive]	Establishing the 2018 Regulatory Reform Act	<i>01/16/18 - To Government Organization then the Judiciary</i>
<a href="#">HB 4157</a>	Del. Mr. Speaker (Mr. Armstead) and Miley [By Request of the Executive]	Eliminating the refundable exemption for road construction contractors (FN)	<i>01/16/18 - To Finance</i>
<a href="#">HB 4161</a>	Del. Hanshaw, Ambler, Kessinger, Lynch, Pethtel and Mr. Speaker (Mr. Armstead)	Exempting the State Conservation Committee and the Conservation Agency from the requirements of the Purchasing Division for contracts related to flood recovery	<i>1/17/18 - To Government Organization then the Judiciary</i>
<a href="#">HB 4162</a>	Del. Hanshaw, Ambler, Kessinger, Lynch, Pethtel and Mr. Speaker (Mr. Armstead)	Granting authority to the State Conservation Committee to contract for flood response	<i>1/17/18 - To Government Organization then the Judiciary</i>
<a href="#">HB 4166</a>	Del. Westfall, Kessinger, Paynter, Foster, Hamrick, Butler, Statler and Summers	Establishing a special revenue fund to be known as the "Capital Improvements Fund	<i>1/17/18 - Department of Agriculture Facilities" (FN) - To Agriculture and Natural Resources then Finance</i>
<a href="#">HB 4190</a>	Del. Howell, Walters, Hamrick, Zatezalo, Kelly, laquinta, Hollen, Atkinson, Kessinger, Jennings and Sypolt	Relating to the debarment of vendors providing goods and services to the state and its subdivisions	<i>1/18/18 - To Government Organization then the Judiciary</i>
<a href="#">HB 4210</a>	Del. Marcum, Thompson, Hicks, Isner, Rodighiero, Eldridge, R. Miller, Robinson and Williams	Creating tax credits for new and/or existing small businesses in this state (FN)	<i>1/19/18 - To Small Business, Entrepreneurship and Economic Development then Finance</i>
<a href="#">HB 4228</a>	Del. Brewer, Sponaule, Robinson, Isner, Canestraro, Williams, E. Evans, R. Miller, Ferro, Caputo and Diserio	Requiring available materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States (FN)	<i>01/19/18 To Industry and Labor then the Judiciary</i>

<a href="#">HB 4229</a>	Del. Mr. Speaker (Mr. Armstead) and Miley	Relating to debarment of vendors seeking to provide goods and services to the state and its subdivisions (FN)	<i>01/19/18 To Government Organization then Finance</i>
<a href="#">HB 4243</a>	Del. Kessinger, Hill, Paynter, Howell and Moore	Requiring county boards of education to conduct regular structural inspections of school facilities and structures	<i>01/22/18 To Education then Finance</i>
<a href="#">HB 4244</a>	Del. Ward, Howell, Hollen, Paynter, Moore, Lane, Frich, Longstreth, Sobonya, Martin and Hamrick	Granting business tax credits to businesses that financially support students enrolled in the state's community and technical colleges (FN)	<i>01/22/18 To Education then Finance</i>

<b>SENATE BILLS</b>			
<b>Bill #</b>	<b>Sponsors</b>	<b>Proposal</b>	<b>Introduced/Committee</b>
<a href="#">SB 289</a>	Sen. Smith	Entitling natural resource producers to economic opportunity tax credit (FN)	<i>01/16/18 - Finance</i>
<a href="#">SB 290</a>	Sen. Smith, Azinger, Boso and Clements	Relating to DEP standards of water quality and effluent limitations	<i>01/16/18 - Energy, Industry and Mining then Judiciary</i>
<a href="#">SB 295</a>	Sen. Boso	Relating to Local Powers Act	<i>01/16/18 - Transportation and Infrastructure then Finance</i>
<a href="#">SB 300</a>	Sen. Stollings, Blair, Boley, Boso, Drennan, Facemire, Ferns, Gaunch, Maroney, Palumbo, Plymale, Prezioso	Creating five-year tax credits for businesses locating on post-coal mine sites	<i>01/18/18 - Finance</i>
<a href="#">SB 303</a>	By Sen. Carmichael (Mr. President), Prezioso and Gaunch	Relating to debarment of vendors seeking to provide goods and services to state and its subdivisions (IB)	<i>1/17/18 - Government Organization then Judiciary</i>
<a href="#">SB 305</a>	By Sen. Smith and Jeffries	Requiring DHHR provide long-term care and substance abuse treatment facilities (FN)	<i>1/17/18 - Health and Human Resources then Finance</i>
<a href="#">SB 314</a>	Sen. Romano, Baldwin, Clements, Facemire, Karnes, Ojeda, Swope, Trump and Woelfel	Modifying procedure certain public agencies use to contract for architectural and engineering services (FN)	<i>1/18/18 - Government Organization then Finance</i>

<a href="#">SB 325</a>	Sen. Beach	Creating County Home Rule Pilot Program (FN)	<i>1/19/18 - Government Organization then Finance</i>
<a href="#">SJR 9</a>	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Just Cut Taxes and Win or JCTAW Amendment	<i>1/18/18 - Judiciary then Finance</i>