



Contractors Association of West Virginia LEGISLATIVE BULLETIN



LB 2015-04

February 9, 2015

This Thursday, February 12, marks the halfway point in the 60-day legislative session. New Republican leaders have held to their promise that they will move quickly to get bills moved through the committee process and to their respective houses for action. This fast pace of the legislative session has led to action on many bills promoted by the business community, including those dealing with tort reform, workers' compensation and education reform. It has also prompted Senate Democrats to attempt a procedural move to slow down repeal of the state's prevailing wage law ([S.B. 361](#)). Democrats attempted to send the bill back to the Government Organization Committee, which voted it out of committee February 3. Their efforts were voted down 18 to 16 and the bill is on Second Reading in the Senate today.

The Government Organization Committee heard testimony Tuesday on the bill. CAWV members spoke both in favor of the bill and against the bill. Proponents of the bill contend that prevailing wage, which many contend is the union-scale for workers, overly inflates costs and limits the number of public works projects that can be funded in any given year. Opponents contend the bill will lower the wages of construction workers and that West Virginia contractors will be put in an uncompetitive situation with out-of-state companies who could underbid for contracts for state-funded construction projects. The CAWV Board of Directors met at length last week and reaffirmed its position on prevailing wage. That is, the prevailing wage calculation needs to be modified to guarantee that it is a fair and actual wage rate but the association is opposed to total repeal.

Stakeholders on S.B. 361 met Saturday with Senate leadership to see if there is a possible compromise that would modify the way prevailing wages are determined without an outright repeal of the statute. The group was comprised of contractors from ABC of WV, CAWV, WV Constructors Labor Council, Ohio Valley Constructors Employers Council, Kanawha Valley Builders Association (all contractors present were CAWV members) and organized labor. The group will continue to meet this week.

Among the other bills on the fast-track:

- Election bills, including bills for nonpartisan election of Supreme Court, circuit court and others ([H.B. 2010](#)), and to prohibit straight ticket voting on ballots ([S.B. 249](#)).
- Legal reform bills, including [H.B. 2002](#) dealing with joint and several liability. It has passed the House and is on Second Reading in the Senate today.
- [H.B. 2008](#) has passed the House and calls for a comprehensive audit of the WV Division of Highways and its ten districts. The last audit was in 2005. The report completion date was moved from February 1, 2016 to December 31, 2015. The February date would have precluded coming up with recommendations for the 2016 legislative session.
- [S.B. 318](#) changes time limit for final payment for a terminated employee from four days to the next pay period. Employers were being charged treble damages for not meeting the four day requirement. It has passed the Senate.
- [H.B. 2011](#), the deliberate intent rule for Workers' Compensation claims. It is on Third Reading today in the House.

SCHOOL BUILDING AUTHORITY FUNDING \$40 MILLION REDUCTION

The governor's budget proposes to help fund the state general fund deficit by cutting a number of programs, including highway, water and sewer, and school construction projects. [S.B. 303](#) and [H.B. 2462](#) cut the School Building Authority's budget by \$8 million a year for five years, for a total of \$40 million. The reduction of funds not only affects the SBA's construction program, it will reduce the amount of dollars counties can use for debt service on bonds or matching local share funding which, over time, will reduce the amount of school construction and major improvement projects counties can perform. The reduction will not only affect the quality of school facilities, it will impact jobs in the construction and material supply industries. The bills have been referred to the Education and Finance Committees.

S.B. 234 EXEMPTS PSDS FROM PSC JURISDICTION

[S.B. 234](#) eliminates Public Service Commission jurisdiction over utilities that are political subdivisions of the state. It gives local government the responsibilities and authority to manage its infrastructure as it deems most appropriate. This regulatory approach is used in about every other state. The bill's proponents say it has been effective in limiting and reducing customer costs and stimulating private investment in public utilities. They say the bill removes duplicative state bureaucracy and modernizes and makes more efficient the West Virginia regulatory process. Proponents comments include:

- Modernize and make more efficient the West Virginia utility regulatory program by doing away with our antiquated and obsolete regulatory model; Harvest lessons and mirror successes in public sector management used in 43 other states by removing unnecessary, and in some cases, duplicative, state bureaucracy.
- Continue Commission jurisdiction over political subdivision utilities with respect to customer service, submission and publication of utility management, accounting standards and financial information and inter-utility contracts.
- Allow and require local governing bodies to assume the responsibility necessary to manage the affairs of the political subdivision utility to protect the public health and provide sustainable infrastructure; Requires that the Commission provide technical support for these governing bodies.
- Allow citizens full and meaningful participation in utility management and ratemaking deliberations and decisions by elected and appointed officials.
- Remove the overly restrictive, unnecessarily expensive and counterproductive requirement for prior Public Service Commission approval of loans, receipt of grants, issuance of revenue bonds and engineering contracts for public service districts. Makes consistent regulation of municipal and public service district utilities.
- Remove the PSC certificate of convenience and necessity prerequisite for capital improvement projects. Eliminates regulatory time lag and expense, and places the responsibility for project approval upon citizens who will enjoy the improvement and pay the bill for these projects.

S.B. 234 is supported, in part, by the WV Municipal League, WV Rural Water Association and the West Virginia section of the American Water Works Association. The bill is referred to the Government Organization Committee with a second reference to Finance.

HIGHWAY BILLS SUPPORTIVE AND DETRIMENTAL TO STATE ROAD FUND

There are a number of bills introduced impacting the state's transportation system, both positive and negative. The Governor's bill, [S.B. 266](#), eliminates the \$11.5 million transfer of consumer sales tax from the state's general fund to the State Road Fund. Other bills include [S.B. 258](#), allowing counties to raise local funds for transportation projects, [S.B. 293](#), increasing fees for DMV services and documents, [S.B. 370](#), creating State Infrastructure Bank, [S.B. 417](#), removing certain tax discounts from motor fuel excise tax, [H.B. 2193](#), providing Parkways Authority with the power to issue \$500 million in bonds for construction projects (no funding provided for debt service on bonds), [H.B. 2007](#), establishing the list of priorities for construction and maintenance projects, [H.B. 2561](#), requiring commissioner of Highways to contract with private contractors for necessary emergency maintenance operations and [H.B. 2571](#), letting private businesses to sponsor pothole repairs. Members can view these bills by clicking on the link. The CAWV will be supporting or opposing bills as necessary and will advise members when to contact their legislators.

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>Committees</i>
HB2626	Relating to use of the Abandoned Land Reclamation Fund	Dels. Ashley and Ireland	2/5/15 - Finance
HB2643	Establishing the West Virginia Right to Work Law	Dels. Overington, Walters, Espinosa, Householder, Fast, Faircloth, Upson, Cadle, Foster, Westfall and Blair	2/6/15 - Judiciary

Senate Bills

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Committees</i>
SB 409	Creating Fair and Open Competition in Governmental Construction Act	Sens. Carmichael, Blair, Boso, Gaunch, M. Hall, Walters and Williams	2/4/15 – To Labor then Judiciary
SB 411	Creating Asbestos Bankruptcy Trust Claims Transparency Act and Asbestos and Silica Claims Priorities Act	Sens. Takubo, Carmichael, Ferns, Gaunch and Mullins	2/4/15 – To Judiciary
SB 417	Removing certain tax discounts from motor fuel excise tax	Sen. Snyder	2/5/15 – To Finance