



Contractors Association of West Virginia **LEGISLATIVE BULLETIN**



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SENATE PASSES MODIFIED PREVAILING WAGE BILL

The Senate Thursday evening passed [S.B. 361](#), the prevailing wage bill, by a vote of 23-11. All 18 Republicans and five Democrats voted yes on the bill. It does not repeal the state's prevailing wage, the bill's original intent. After weeks of negotiation between contractors, labor, Republican leadership and Democrat senators, the bill greatly modifies how the prevailing wage is calculated.

It now goes to the House of Delegates where we are getting mixed messages on the bill's future. It received a single reference to House Government Organization Committee. Some predict the House will not support S.B. 361 in its current form and will require modifications. Others predict the House will pass a straight repeal bill that will put the bills into a conference committee of the House and Senate. The CAWV will promote to House members they accept the many modifications to the current prevailing wage calculation and move forward with passage of the bill.

The compromise version of S.B. 361 takes prevailing determination out from under the WV Division of Labor and moves it Workforce West Virginia. Workforce West Virginia does wage surveys for many industries and some of their data is the source of the U.S. Department of Labor's Bureau of Labor Statistics figures. West Virginia University and Marshall University will be charged with helping Workforce develop the new methodology for determining prevailing wages.

There was much discussion on what the threshold should be on projects before prevailing wage requirements would apply. Supporters of total repeal thought projects \$5 million and under should be exempt. The other side set a much lower figure of \$250,000 for construction projects and \$100,000 for renovation projects. S.B. 361, as passed, sets the threshold at \$500,000 for all projects. The bill is effective from passage so the \$500,000 threshold for projects would go into effect immediately if the House passes the bill. The other parts of the bill become effective on the dates specified in the bill.

The bill passed but not without controversy. Some Democrat Senators charged that the negotiations were held behind closed doors and without press being included. An attempt was made to lie the bill over one day, usually a normal request to give senators time to review amendments. Sen. Craig Blair, R-Berkeley, chairman of the Senate Government Organization Committee and sponsor of the bill, objected. He noted that S.B. 361 was probably one of the most publicized and widely known pieces of legislation this session. He noted the press has widely commented on the actions surrounding the bill. The vote was along party lines to defeat the motion to lie over but the Senate did adjourn for five hours to give everyone time to digest the changes. The Senate reconvened at 5:00 p.m. and passed the bill after heated debate on both sides of the issue. It did pass 23-11.

Components of the Committee Substitute for S.B. 361 are as follows:

- Prevailing wage determination is taken out of the Division of Labor and moved to another agency, Workforce West Virginia.
- To assist Workforce Develop, the WVU Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall will be engaged to provide oversight and help with surveys and calculations. On or before June 1, 2015, these groups must determine the methodology for annually calculating the prevailing wage rates from a wide variety of economic data. The calculation methodology will be presented to the Joint Committee on Government and Finance who will review and recommend to the WV Legislature any statutory changes needed to clarify the method for determining prevailing wages.
- All contractors will be surveyed.
- An appeal process would be created to question and contest wage rates.
- Contractor's survey submissions for the purpose of determining the prevailing rates may not be used for any purpose other than the calculation of the prevailing wage rates to prevent contractors from being harassed or having their information be used against them in an enforcement proceeding.
- Collective bargaining agreements cannot be considered in wage determination.
- Instead of 55 counties, wages will be grouped into about six regions of the state.
- Prevailing rates would be determined on hours worked, not who's available to work.
- On or before July 1, 2015, Workforce West Virginia shall determine the prevailing wages for the remainder of 2015 (The CAWV does question how quickly Workforce West Virginia, WVU and Marshall can determine prevailing wages. This will be explored further).
- On or before September 30 of every year, Workforce West Virginia shall determine the prevailing hourly rate of wages for the following year.
- Prevailing wage rates will only apply to public improvements in excess of \$500,000. An amendment to create a \$150,000 threshold for renovation projects was rejected. Proponents of the bill wanted a threshold of \$1.5 million or higher and to exempt county and municipal government projects entirely. These issues will probably resurface once the bill goes to the House.

HIGHWAY FUNDING BILL INTRODUCED IN SENATE

S.B. 478 generates new revenue for the WV Division of Highways. The bill, introduced by Sen. Bob Plymale, D-Wayne. It is cosponsored by Sens. Kessler, Stollings, Snyder, Romano and Williams. It contains many of the recommendations of the Governor's Blue Ribbon Commission on Highways. Included in the bill is an increase in DMV fees, increasing the tax on diesel fuels, increasing the state's consumer sales tax from 6 cents to 7 cents and dedicated

to the State Road Fund, transferring the sales tax on motor vehicle repairs, parts and services from the state's general fund to the State Road Fund, increasing the sales tax on vehicles from five percent to six percent, placing a \$200 annual fee for alternative fuel motor vehicles, and creation of a Transportation Infrastructure Bank. If all of the measures were approved, approximately \$400 million in additional annual highway revenues would be generated. The bill is referred to the Senate Transportation and Infrastructure Committee then Finance. Getting action on the bill this session will be difficult but it does keep the issue of needed highway funding alive.

HIGHWAY DIVERSION BILL PASSES SENATE FINANCE COMMITTEE

S.B. 266, the governor's bill to divert \$11.5 million from the State Road Fund to help offset the state's general budget shortfall has passed the Senate Finance Committee and is on First Reading today. The State Road Fund shows it is \$32 million ahead through the first seven months of the current fiscal year but this is \$32 million over the Governor's Estimate, which was lowered this year due to an anticipated drop in revenues. Actual year-over-year numbers paint a much bleaker picture. Through the first seven months, revenues are down \$11.4 million over the same period last year. Motor Fuel Tax revenues are down \$23.9 million over the same period last year. Registration and Privilege Tax revenues are up which accounts for the \$11.4 million figure. These numbers do not take into consideration the state's wholesale gas tax dropped 1.1 cents per gallon on January 1, which will result in another \$15.5 million loss to the highway fund. Many legislators have questioned why the highway fund is being depleted of another \$11.5 million. If the bill passes the Senate, the CAWV will work to restore the funding in the House.

JOINT AND SEVERAL LIABILITY PASSES BOTH HOUSES

The joint and several liability bill, H.B. 2002, passed the House on January 27 and the Senate last week. A conference committee of House and Senate members has been formed to work out the differences in the two bills. The purpose of the bill is to ensure defendants will only held responsible for the share of damages a jury decides was their fault.

QUARRY RULES PASS HOUSE INDUSTRY AND LABOR COMMITTEE

The rules bill rewriting safety requirements for quarries, H.B. 2342, Thursday passed the House Industry and Labor Committee and now goes to House Judiciary Committee. The companion bill, S.B. 170, has already passed the Senate.

PROJECT LABOR AGREEMENT PROHIBITION BILL GOES TO SUBCOMMITTEE

S.B. 409, the bill to prohibit Project Labor Agreements (PLAs) on government contracts, was on the Senate Labor Committee agenda Friday. The bill has been sent to a subcommittee comprised of Sen. Ed Gaunch, Sen. Robert Karnes and Sen. Bill Laird.

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.

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Committees</i>
HB 2677	Creating a legislative commission to study the feasibility of the state entering into sponsorship agreements for transportation structures	Del. Hamrick	02/10/15 - Roads and Transportation then Judiciary
HB 2692	Supplementing, amending, decreasing, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways	Speaker Armstead and Del. Miley	02/11/15 - Finance
HB 2695	Relating to gasoline and fuel excise tax	Dels. Fast, Kessinger, Nelson, J., Blair, Hill, Kurcaba, Summers and Howell	02/11/15 - Roads and Transportation then Finance
HB 2699	Requiring that patching repair of hard surfaced roads, highways and streets be by use of mechanical rollers	Dels. Fast, Kessinger and Hill	02/11/15 - Roads and Transportation then Finance
HB 2704	Increasing sales and use taxes by one percent	Del. Morgan	02/12/15 - Finance
HB 2706	Providing a pay increase for certain employees of the Division of Highways	Dels. Phillips, L., Miley Guthrie, Smith, P., Perdue, Eldridge, Moore, Ferro, Trecost, Pethtel, and Moye	2/12/15 - Government Organization then Finance
HB 2710	Requiring the Public Service Commission to establish rates which ensure that the future customers to be served by the new project are solely responsible only for the debt costs associated for that specific project	Del. Skinner	2/12/15 - Judiciary
HB 2735	Changing the date the unemployment fund reaches a certain level to reduce the threshold wage	Dels. Householder, Blair Cadle, Cowles, Butler, Gearheart, Kurcaba, Statler, and Summers	2/13/15 - Finance
HB 2736	Relating to regulation of transportation network companies	Dels. Nelson, J., Howell, McGeehan, Householder, Hamrick, Ihle, Frich, Zatezalo, Moffatt, Reynolds and Sponaule	2/13/15 - Roads and Transportation then Judiciary
HB 2744	Preempting any local law, rule, regulation, ordinance, or policy regulating the environmental or operational aspects of any public utility within the jurisdiction of the Public Service Commission; providing exceptions	Dels. Howell, Sobonya, Westfall, White, H., Williams, Householder, Marcum and Cowles	2/13/15 - Government Organization then Judiciary
HB 2745	Requiring an exempt spending unit to obtain authorization from the director of	Dels. Howell, Faircloth, Hill, Ihle, Blair, Arvon, Stansbury,	2/13/15 - Government

	purchasing before entering into a contract for an amount equal to or exceeding ninety percent of the value of the largest contract	McGeehan, Hamrick, Phillips, R. and Kessinger	Organization then Finance
HB 2752	Deregulating persons who perform work on heating, ventilating and cooling systems and fire dampers	Dels. Householder, Blair, Espinosa, Folk, Faircloth, Border, Ihle, Hill, Cadle and Miller	2/16/15 - Industry and Labor then Judiciary
HB 2757	Supplementing, amending, decreasing, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways	Speaker Armstead and Del. Miley	2/16/15 - Finance

Senate Bills

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Committees</i>
SB 459	Relating to development of broadband middle mile infrastructure	Sens. Walters, Kessler, Nohe and Williams	2/12/15 - Transportation and Infrastructure then Finance
SB 461	Exempting railroad locomotive fuel from certain fuel excise taxes	Sens. Walters, D. Hall and Plymale	2/12/15 - Transportation and Infrastructure then Finance
SB 472	Making supplementary appropriation to DOT, DMV, Motor Vehicle Fees Fund	President Cole and Sen. Kessler	2/12/15 - Finance
SB 477	Supplementing, amending, decreasing and increasing appropriation from State Road Fund to DOT, DOH	President Cole and Sen. Kessler	2/12/15 - Finance
SB 478	Generating and maintaining revenue for road construction and maintenance and infrastructure	Sen. Plymale	2/12/15 - Transportation and Infrastructure then Finance



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