



Contractors Association of West Virginia LEGISLATIVE BULLETIN



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*TRIP Report
"Alarming,"
Transportation
Secretary Says*

*6th Annual
Transportation Day*

*Tax Reform
Committee Meets*

West Virginia's highway issues took center stage at the legislature last week. On Thursday, TRIP released a report, "West Virginia Transportation By The Numbers: Meeting the State's Need for Safe, Smooth and Efficient Mobility." This year's report shows that West Virginia now ranks fifth in the nation in the percentage of deficient bridges, up from 12 in 2014. The report also notes that an inadequate transportation system costs West Virginia motorists a total of \$1.4 billion every year in the form of additional vehicle operating costs (VOC), congestion-related delays and traffic crashes. TRIP says statewide, 29 percent of West Virginia's major roads are in poor condition. Fifty-five percent are in mediocre or fair condition and the remaining 17 percent are in good condition. (To see the full report, go to www.cawv.org or [click here](#)).

New Secretary of Transportation Tom Smith, speaking at the news conference Thursday in the Governor's Conference Room, called the numbers "alarming." He said, "Roads are getting worse. Bridges are getting worse. It makes the point Governor Justice has asked us to make."

The governor is expected to have legislation this week that he outlined in his State of the State address, a massive highways construction program through bond sales that would be financed through a \$20 increase in the annual license plant renewal fee, a 10-cent a gallon increase in the state gasoline tax, and a \$1 increase in tolls on the West Virginia Turnpike. The governor call the proposal the "800-pound gorilla" of his legislative agenda, saying it will create 48,000 jobs and cause an explosion in growth for the state's tourism industry.

To date, legislators have not roundly criticized the governor's proposal but at this point there is not much appetite for increasing fees or raising tolls.

The report was covered by various news outlets including:

- [The Dominion Post - Report evaluates cost of insufficient roads](#)
- [WV MetroNews – Justice's highways vision gets rolling](#)
- [Charleston Gazette-Mail | Transportation chief: WV roads report 'alarming'](#)
- [Report ranks West Virginia roads 5th worst in nation](#)
- [TRIP Report: W.Va. Roads in Bad Shape | West Virginia Public Broadcasting](#)
- [Nonprofit: Most West Virginia major roads in shoddy shape | WCHS](#)
- [Report: W.Va. Roads Cost Taxpayers \\$1.4 Billion Annually in Vehicle Maintenance, Lost Time | West Virginia Public Broadcasting](#)
- [New report says poor roads cost WV drivers \\$1.4 billion](#)

- [TRIP: Bad roads cost \\$1.4B](#)
- [Road and bridge report supports plan to fix roads](#)
- [Morgantown roads worst for costing drivers money according to report](#)

HUNDREDS ATTEND TRANSPORTATION DAY

Friday was the sixth Transportation Day at the Capitol. Governor Jim Justice kicked off the program by speaking to the hundreds of transportation supported to push his highways funding proposal. The governor was followed by Senate President Mitch Carmichael, R-Jackson, and House Speaker Tim Armstead, R-Kanawha, who said they were interested in funding highways but stopped short of talking about specific funding mechanisms. Transportation Secretary Tom Smith followed Governor Justice and legislative leaders. He referenced the TRIP report and again called West Virginia's highway system "alarming."

To see the governor's and Tom Smith's remarks, go to <https://www.youtube.com/watch?v=Ty4i9FLBZKq>

Transportation Day was covered by various news outlets including:

- [Governor Justice says he needs help persuading legislative 'knuckleheads'](#)
- [National Transportation Day at the Capitol](#)

BUDGET, TAXES DOMINATE LEGISLATIVE DISCUSSIONS

Changing West Virginia's tax structure from income tax to general consumption tax is officially up for consideration in the Legislature. Taxing the selling, purchasing or use of goods and services should replace the current outdated income tax, Senate President Mitch Carmichael told local government officials Sunday at the West Virginia Municipal League's Mid-Winter Conference.

"Most economists will tell you: 'Do not tax the productivity, tax the consumption,'" he said in favor of the proposed switch to the consumer sales tax-structure that's proposed in Senate Bill 355, which was introduced Thursday. "It incents jobs growth and opportunity for our citizens," he said.

On Sunday, Carmichael and House Speaker Tim Armstead stressed the importance of the bill in balancing the state's Fiscal Year 2018 budget, and making up for its anticipated \$400-\$450 million shortfall. Gov. Jim Justice, by contrast, has offered a solution that relies mostly on taxes and fee increases. The bill is the product of a legislative committee on tax reform that has been studying options for two years, Armstead said.

Generally, it repeals the state's personal income tax, in favor of a general consumption tax. Meanwhile, it also repeals the current consumer sales and service tax so that some current exemptions to the tax are eliminated. This includes professional services such as legal, architectural, engineering,

accounting and more.

It has 19 co-sponsors, including Carmichael, as well as its lead sponsor Sen. Robert Karnes, R-Upshur. The bill defines the proposed tax structure as *“the general consumption tax law.”* It’s based on the idea that *“in the free enterprise system, the best judge of a purchaser’s ability to pay, for the purchaser of goods and services, is the purchaser, and, thus a broad-based consumption tax is firmly based on that principle of sound and fair taxation,”* the bill states.

The bill adds a lengthy section to state code and makes changes to numerous other sections. It states that all vendors, purchasers and other people benefit from the government’s goods and services, and therefore they should pay for those services. But tax rates on each type of vendor, purchaser and others could vary based on their participation in the marketplace.

Exemptions would be government purchases; purchases for charitable, educational and public safety purposes; and *“purchases of goods and services by individuals for health care which are predominately paid or reimbursed by third parties — including the government,”* it states.

Some specific examples of exemptions in the proposed legislation include: school textbooks; most government purchases; certain sales to churches; sales to 501 C-3 non-profit or charitable groups; youth organizations; membership fees; prescription drugs and insulin; sales between related business entities; certain purchases of food, including by schools; and more.

COMMERCE SECRETARY THRASHER SEEKS \$105 MILLION FOR DEVELOPMENT OPPORTUNITIES

While members of the Legislature are struggling to figure out how to plug an estimated \$500 million hole in the upcoming state budget, state Commerce Secretary Woody Thrasher is trying to talk them into giving him \$105 million. Thrasher told members of the House of Delegates Finance Committee last week that the money he’s requesting would go to the state Development Office and tourism department. The funds would attract new business to the Mountain State and increase West Virginia’s tourism potential, he said. “We are not limited by opportunities; we are limited by capital and tools in our toolbox to take advantage of opportunities,” Thrasher told members of the Finance Committee.

The money is part of Gov. Jim Justice’s budget plan. Justice and Thrasher believe more investment is needed to attract new business and grow the state’s tourism industry. Thrasher said the \$105 million was needed to “jump start” a West Virginia economy that has been left in shambles by the decline of the coal industry. Much of the money would go to incentives to attract business to West Virginia.

But Thrasher took pains to say several times that the incentives were not “giving people money.” He said the money would be used for things like infrastructure improvements or site preparation to convince business owners to locate in West Virginia. “It’s not a giveaway,” Thrasher said. “It has to be an investment, not a

gift.”

But Thrasher couldn't give Finance Committee members a detailed breakdown of how the \$105 million would be used or how much would go to development and how much to tourism. Delegates on the committee were skeptical of the idea without more detailed plans. Finance Chairman Eric Nelson, R-Kanawha, said he wanted to see more details of how Thrasher intended to use the money.

HISTORIC PRESERVATION TAX CREDIT INCREASE SOUGHT

S.B. 323 and H.B. 2416 would increase the tax credit for qualified rehabilitated buildings investment from 10 percent to 25 percent. The bill sets a date after which the increase applies to new rehabilitation expenditures. The bill adjusts the tax credits with respect to both personal income tax and corporate net income tax. Proponents of the bill say states surrounding West Virginia have a 25 percent tax credit which generates rehabilitation of many buildings. The bill is referred to the Finance Committees. [Click here](#) to see the Sunday, February 19 *Gazette-Mail* article on historic tax credits.

HOUSE BILL 2409 CHANGES SBA FUNDING REQUIREMENTS

The stated purpose of H.B. 2409 is to change School Building Authority requirements to eliminate local participation in funding school construction projects and the associated limited funding reserve. The bill eliminates certain regional planning activities when evaluating proposed construction projects. The bill eliminates the requirement of a county board's efforts in school bond issues being a consideration when evaluating proposed projects. The bill eliminates the requirement that counties receive explanations detailing the authority's decision concerning the funding of projects. The bill also declares certain documents related to funding consideration to be public documents and available to the public upon request. The bill requires that funds awarded by the School Building Authority must be consistent with the evaluation report of the School Building Authority. The bill, sponsored by Del. Marty Gearheart, R-Mercer, is referred to the Education Committee then Finance.

S.B. 190 ELIMINATES BIDDERS PREFERENCE FOR IN-STATE VENDORS

S.B. 190 would eliminate the 5 percent preference for West Virginia firms supplying materials for state contracts. There is no vendors' preference for construction contracts but the preference for supplies and equipment has been in place for a number of years. The bill was pulled from the Senate Government Organization Committee last week after a number of West Virginia vendors objected.

HOUSE BILL TRANSFERS WV TURNPIKE TO WVDOH

House Roads and Transportation Committee Chairman Marty Gearheart, R-Mercer, is the major proponent of eliminating tolls on the West Virginia Turnpike once the WV Parkways pays off the outstanding bonds in 2019. Unless action is taken, and Gov. Jim Justice is introducing a bill to continue to tolls on the

Turnpike, tolls will be removed in 2019. H.B. 2027 is to push the transfer of ownership, operation and maintenance of certain assets of the West Virginia parkways authority, including the road now known as the West Virginia Turnpike to the Division of Highways. The bill also provides for the termination of the Parkways Authority after transfer of all of its assets to the Division of Highways on June 30, 2020. The bill is referred to the chairman's committee with a second reference to Finance.

TECHNICAL CORRECTIONS TO WORKPLACE FREEDON ACT APPROVED BY SENATE JUDICIARY COMMITTEE

The Senate Judiciary Committee approved SB 330. The bill makes technical changes to last year's Workplace Freedom Act (Right-to-Work). SB 330 deletes a definition of the word "state" from the Act, and also eliminates language from a portion of the Act which referred to collective bargaining agreements in the building and construction industry. The bill further clarifies that these changes are retroactive in nature, relating back to the original effective date of the Act (July 1, 2016). SB 330 was approved in the committee on a 10-6 vote and will be before the full Senate next week.

BILL ELIMINATES WAGE BOND REQUIREMENT

S.B. 224 eliminates the requirement for contractors and companies in the severance of minerals to post a bond equaling four weeks of payroll if they haven't been in business for five years. Sen. Mike Hall, R-Putnam, has been quoted saying the bond inhibits new businesses from starting up. Bonding companies have stated that most companies have no problem posting a bond. The bill goes to the Committee on Workforce and then the Judiciary.

HOUSE BILL SETS PERFORMANCE METRICS FOR WVDOH

According to an independent audit report submitted to the Joint Committee on Government and Finance on January 10, 2016, the West Virginia Division of Highways does not have a mechanism in place to develop performance standards or to measure the agency's progress toward reaching acceptable levels of performance. The same report recommends that the division should develop a wide performance monitoring platform to capture Headquarters and District management sourced data for internal use and the general public to view.

The stated purpose of H.B. 2340 is to require the West Virginia Division of Highways to develop performance standards and criteria to measure agency performance in all essential operations and to require the division to employ a management information system that will track the division's past and current progress toward meeting performance standards. The bill is referred to Roads and Transportation then Finance.

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 #	Sponsors	Proposal	Introduced/Committee
HB 2435	Del. Walters	Relating to the disqualification of an employee for unemployment benefits	2/14/17 - To Industry and Labor then the Judiciary
HB 2475	Del. Storch	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 (FN)	2/15/17 - To Government Organization then Finance
HB 2477	Del. Statler, Hill, Espinosa, Wagner, Higginbotham, Ward, Williams, Pyles, G. Foster, Frich and Hamrick	Developing a special hiring procedure for personnel positions in the Division of Highways	2/15/17 - To Roads and Transportation then Government Organization
HB 2487	Del. Storch	Reallocating and dedicating three percent of oil and gas severance tax revenues up to \$20 million annually to the oil and gas producing counties of origin (FN)	2/15/17 - To Energy then Finance Organization
HB 2506	Del. Zatezalo, G. Foster, Kessinger, Summers, Atkinson, Ambler, Phillips, Westfall and Miley	Relating to the implementation of water quality standards for the protection of drinking water -	2/16/17 - To the Judiciary
HB 2508	Del. Hicks	Creating tax credits for small businesses (FN)	2/16/17 - To Small Business, Entrepreneurship and Economic Development then Finance
HB 2511	Del. Fleischauer, Pushkin and Hornbuckle	Establishing an industrial water extraction fee (FN)	2/16/17 - To the Judiciary then Finance

HB 2534	Del. Walters	Authorizing local units of government to adopt local energy efficiency partnership programs	2/17/17 - To Energy then Finance
HB 2554	Del. G. Foster, Higginbotham, Frich, Cowles, Hamrick, Howell, Wilson, Harshbarger, Maynard and C. Miller	West Virginia Contractor Licensing Act	2/20/17 - To Government Organization
HB 2534	Del. G. Foster, Fast, Higginbotham, Howell, Frich, Zatezalo, Kelly, Summers, Cowles, Hamrick and Wilson	Relating to tax credits for apprenticeship training in construction trades (FN)	2/20/17 - To Industry and Labor then Finance To Energy then Finance
HB 2567	Del. Thompson	Relating to failure to maintain state and public roads	2/20/17 - To Roads and Transportation then the Judiciary
HB 2570	Del. Marcum, Rodighiero, Eldridge, Lovejoy, Westfall, White, Phillips, C. Lane and Frich	Creating tax credits for new and/or existing small businesses (FN)	2/20/17 - To Small Business, Entrepreneurship and Economic Development then Finance
HB 2575	Del. Cowles, Moore, Westfall, N. Foster and Marcum	Relating to disqualification for unemployment benefits (FN)	2/20/17 - To the Judiciary

SENATE BILLS

Bill #	Sponsors	Proposal	Introduced/Committee
SB 294	Sen. Miller	Providing increase in annual salary of employees in Division of Corrections (FN)	2/14/17 - Finance
SB 299	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH	2/14/17 - Finance
SB 316	Sen. Blair	Requiring individuals receiving unemployment compensation apply for and accept seasonal employment (FN)	2/14/17 – Workforce then Finance
SB 322	Sen. Karnes and Boso	Requiring DOH Commissioner and Division of Personnel Director develop special hiring procedure for personnel positions in DOH (FN)	2/15/17 - Transportation and Infrastructure then Finance

SB 323	Sen. Jeffries, Azinger, Cline, Facemire, Ojeda, Palumbo, Plymale, Romano, Smith, Sypolt and Woelfel	Increasing tax credit for qualified rehabilitated buildings investment (FN)	2/15/17 - Economic Development then Finance
SB 330	Sen. Trump	Relating to WV Workplace Freedom Act	2/16/17 - Judiciary
SB 331	Sen. Sypolt and Smith	Exempting heating oil for residential use from motor fuel excise tax (FN)	2/16/17 - Finance
SB 335	Sen. Karnes, Carmichael (Mr. President), Maroney, Mullins, Maynard, Weld, Clements, Ferns, Cline, Smith, Sypolt, Rucker, Azinger, Swope, Blair, Gaunch, Takubo, Boso, Mann and Trump	Repealing consumers sales and service tax, use tax and personal income tax (FN)	2/16/17 - Tax Reform then Finance
SB 356	Sen. Carmichael (Mr. President) and Prezioso [By Request of the Executive]	Allowing School Building Authority transfer funds to special revenue account in state Treasury (FN)	2/20/17 - Education then Finance