



Contractors Association of West Virginia **LEGISLATIVE BULLETIN**



In This Issue

LB 2015 – 07

March 2, 2015

Courtesy Patrol to take money from Road Program

Highways = Jobs Press Conference March 3

House Passes Prevailing Wage Reform

The House and Senate worked Saturday and the Senate worked Sunday to advance legislation prior to Wednesday's deadline to have bills passed in their house of origin lest they die this legislative session. The House met late Friday and Saturday since a number of bills consumed hours with debate, including the prevailing wage bill, repealing the Common Core Standards, and the coal safety bill. The Senate had less controversial bills over the weekend but some still required debate, including reforming the above ground storage tank law passed last session that resulted in over 50,000 tanks having to be registered and inspected. The session is entering its final two weeks. Some of the bills affecting CAWV members and their status follow.

SENATE FINANCE COMMITTEE PUTS STATE COURTESY PATROL COSTS AGAIN ON STATE ROAD FUND

The Senate Finance Committee Saturday originated a bill, [S.B. 581](#) that transfers the state Courtesy Patrol from the Tourism Division back to the WV Division of Highways, at a cost of about \$4.6 million. The CAWV was successful a few years ago in getting the courtesy patrol out from under the DOH and into the Division of Tourism. With reduced lottery proceeds down, legislators have been trying to find additional funds to promote tourism. Representatives from Governor Tomblin's office were in the meeting to state that the administration supports the transfer of costs to the State Road Fund. They noted that the Courtesy Patrol's operational budget is \$3.5 million. The Finance Committee Saturday originated a Senate Joint Resolution that refinances the bonds from the Safe Roads Amendment of 1996 that will save the DOH about \$23 million, or \$2.4 million a year, in debt service on the bonds through 2025 (when the bonds will be repaid). Both bills passed out of committee and are on Second Reading today. At press time, the bill to divert \$11.5 million from the State Road Fund to help balance the state's general fund budget, [S.B. 266](#), is not going to pass but it could still be in play through Wednesday.

SENATORS COMPLAIN OF LACK OF ACTION ON ROAD FUNDING

After voting to saddle the highway department with the State Courtesy Patrol, senators questioned the governor's staff when the Governor's Blue Ribbon Commission on Highways final report will be released. "We've been promised the report for months and now we're going into March. I think this is irresponsible," said Sen. John Unger, D-Berkeley. He said he wanted a date today on when the report will be released. "There is a high level of frustration in the legislature that we are not addressing our road problems," stated Senate Minority Leader Jeff Kessler, D-Ohio. "We can't hide from the report and we can't hide from the truth our roads are getting worse." Finance Committee Chairman Mike Hall, R-Putnam, echoed his frustration and stated the administration can no longer delay bringing legislators a solution.

SENATE TRANSPORTATION COMMITTEE TO DISCUSS HIGHWAY

FUNDING BILL

The Senate Transportation and Infrastructure Committee Tuesday will take up [S.B. 478](#), a bill that identifies millions in new revenue for highway construction and maintenance. The bill includes many of the issues reviewed by the Governor's Blue Ribbon Commission on Highways, including increasing DMV fees, making the Privilege Tax 6% to match the state consumer sales tax, increasing the state CST 1% and dedicate it to highways, increase the tax on diesel tax 2 cents a year for three years, among other proposals. All told, the bill, if taken in its entirety, would generate about \$375 million annually in new funding. The bill does not have a chance for passage this year but Sen. Bob Plymale, D-Wayne, lead sponsor for the bill, plans to talk about the need for highway funding during Tuesday's meeting.

The Transportation Committee is meeting at 10:00 a.m. in Room 451. It will precede the CAWV's 1:00 p.m. press conference to release the report, "The Economic Impact of an Annual \$500 Million Increase in Highway and Bridge Construction in West Virginia." The press conference is in Room 252. CAWV members who are attending the press conference are invited to the Transportation meeting and the 11:00 a.m. Senate session.

HOUSE PASSES PREVAILING WAGE BILL 56-39 SATURDAY

The House spent almost three hours Saturday debating [S.B. 361](#), the prevailing wage bill, before passing it by a vote of 56-39-5. The bill was mostly along party lines with four Republicans voting against the measure. One Democrat voted for the bill. There were not enough votes to make the bill effective from passage, which the Senate version does. The bill will go back to the Senate to determine if they will accept the House changes or put the bill in a conference committee. Below is a synopsis of actions surrounding the bill:

House Government Organization Committee members Wednesday debated for two hours on S.B. 361 before amending it and sending it to the House floor for passage. A committee substitute was passed by a vote of 17-8, mostly along party lines. The com sub kept the July 1 implementation date for determining a new prevailing wage. The CAWV objected to a new provision that was added that states, "if the determination is not in place on July 1, 2015, for any reason, no prevailing hourly rate of wages shall be in effect until the determination is made." We have argued that having only 30 days between when the methodology is finalized (June 1, 2015) and the July 1 implementation date is not enough time. We were very much taken aback by this language that ceases prevailing wages requirements if a determination is not established by July 1. While the CAWV was asked to speak at Wednesday's hearing, we were relegated to giving only yes and no answers without being able to elaborate on our concerns. The CAWV's position is that the July 1, 2015 date should be moved to September 30 to give Workforce West Virginia and Marshall and WVU time to do a thorough wage recalculation.

We asked for, and received, a meeting with House Speaker Tim Armstead and his chief of staff, Dan Greear, to explain our concerns about the Government Organization Committee amendments, particularly that 30 days is not enough time to determine a true and accurate wage rate; and contractors' uncertainty in bidding if prevailing wage requirements are suspended for weeks, and maybe months, until new wage rates are established. The Speaker echoed the same concern raised by the Senate, and that is groups would challenge the process or file lawsuits that would drag out setting new rates for months, if not longer.

After hours of discussion between industry, labor, the Senate and the Governor's office, the following language was agreed upon Friday evening and amended into the bill on Second Reading. It keeps the July 1 date but gives the Joint Committee on Government and Finance the option to extend the deadline to September 30. The suspension applies only after no action by September 30, a date we think is acceptable to get the rates determined. The amendment passed on an overwhelming voice vote but there was opposition from some delegates who want the prevailing wage rate changes sooner.

"Provided, however, That in the event the determination is not in place on July 1, 2015, the Joint Committee on Government and Finance may extend the deadline to a date thereafter, but, in any event, no later than September 30, 2015. During the extension period only, the prevailing wage in place prior to July 1, 2015 shall remain the prevailing wage. Provided, further, That in the event the determination is not in place at the conclusion of such extension period, no prevailing hourly rate of wages shall be in effect until the determination is made."

The Senate version made the bill effective from passage, which means the \$500,000 threshold before prevailing wage rates would be required and begin as soon as the governor signed the bill. The House did not have enough votes to make it effective from passage so the bill will take effect in 90 days after passage. The bill is now pending in Senate to work out the differences. The Senate was expected to accept the September 30 language.

[Click here](#) for Roll Call 237 with the yeas and nays.

Passing of S.B. 361 was covered by a variety of news outlets:

[Prevailing wage bill passes in the House](#) (WV Public Broadcasting 2/28)

[After hours of debate, House passes prevailing wage revamp](#) (Charleston Gazette 2/28)

[W.Va. lawmakers OK proposal to scale back prevailing wage](#) (Charleston Daily Mail 3/1)

PROJECT LABOR AGREEMENT PASSES SENATE, ON TO HOUSE

The Senate Friday passed [S.B. 409](#), a bill to prohibit Project Labor Agreements (PLAs) from being mandatory on government funded construction projects, by a vote of 21-12-1. The bill was amended to cover all government funded construction, including boards of education, highways, county and city projects, public service districts and other political subdivisions. The original bill only covered projects advertised through the state Purchasing Division. The CAWV wanted the prohibition on all publicly-funded projects, not just those through the Purchasing Division. The House has been working on its own version. The Senate bill has been referred to the House Judiciary Committee.

S.B. 234 MOVING THROUGH SENATE

[S.B. 234](#) - passed the Senate Finance Committee late Wednesday evening. It is on Second Reading today in the Senate. The bill exempts municipal water and sewer utilities owned by political subdivisions from Public Service Commission ratemaking and certificate of need jurisdiction passed Senate Government Organization via a committee substitute which exempts all cities from the PSC

ratemaking and certificate of need jurisdiction; Public Service Districts with over \$3 million in annual revenues are also exempt from PSC ratemaking jurisdiction. Some of those PSD's include Berkeley County, Putnam, Logan and Raleigh County. These PSD's would now get their rates approved by the County Commissions; PSD's with under \$3 million in revenues annually, would still have to get rates through the Public Service Commission; however the need to get approval for loans engineering contracts and grants is eliminated.

H.B. 2820, MECHANICS LIEN BILL PASSES HOUSE

[H.B. 2820](#), modifying last year's mechanics lien law, passed the House of Delegates and has been referred to the Senate Judiciary Committee for further review.

SENATE REWORKS STORAGE TANK LAW

The Senate Saturday passed [S.B. 423](#) which makes significant changes to the above ground storage tank law that was passed last year in the wake of the chemical spill that shut down water supply in a nine county region for seven days last January. The Legislature passed a far-reaching bill that resulted in over 50,000 tanks being registered and potentially required to be inspected annually. S.B. 423 changes will reduce the tanks that must be inspected to about 10,000 by offering exemptions and creating zones delineating where tanks are located. Exempted tanks will include tanks for drinking water, tanks on barges or water where regulated by federal laws, tanks used for farming, tanks containing food products and empty tanks. Two new categories were developed. Level 1 will be tanks with hazardous materials or in a Zone of Critical Concern, which is defined as being with five hours upstream of a water intake. Level 2 tanks are in a Zone of Peripheral Concern, which is an area five to ten hours upstream of a water intake. The bill now goes to the House.

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>
HB 2916	Providing limited borrowing authority to the Governor for the completion of renovations to Capitol Complex Building 3	Dels. Nelson, E., Ashley, Anderson, Boggs, Bates, Williams, White, H., Storch, Gearheart, Espinosa and O'Neal	2/24/15 - Finance
HB 2919	Requiring the Library Commission to survey the libraries of the state and develop a ten year plan for construction and maintenance of public libraries	Dels. Rowe, Sponaugle, Pushkin, Miller, Skinner, Pasdon, Guthrie, Bates, Fluharty, Trecost and Sobonya	2/24/15 - Government Organization then Finance
HB 2921	Eliminating the courtesy patrol program	Del. Butler	2/24/15 - Government Organization then Finance

HB 2988	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	Dels. Storch, Anderson, Ashley, Duke, Evans, A., Pasdon and Pethtel	2/24/15 - Government Organization then Finance
HB 3005	Prohibiting blasting within six hundred twenty-five feet of an occupied dwelling	Dels. Fleischauer, Rowe, Pushkin, Guthrie, Lynch, Skinner and Longstreth	2/24/15 - Energy then Judiciary
HB 3010	Modifying definitions related to the one-call system	Dels. Fleischauer, Moye, Skinner, Manchin, Pethtel, Ferro, Lynch, Cooper and Butler	2/24/15 - Judiciary

Senate Bills

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Committees</i>
SB 581	Relating to Tourism Promotion Fund and Courtesy Patrol Fund	Sens. M. Hall, Walters, Blair, Boley, Boso, Facemire, Kessler, Laird, Mullins, Plymale, Stollings, Sypolt, Takubo, Unger, Yost	2/28/15 - Finance
SCR 50	Providing for issuance of refunding bonds pursuant to Safe Roads Amendment of 1966	Sens. M.Hall, Walters, Blair, Boley, Boso, Facemire, Kessler, Laird, Mullins, Plymale, Stollings, Sypolt, Takubo, Unger, Yost	2/28/15 - Finance



**Contractors
Association
of West Virginia**

2114 Kanawha Boulevard East
Charleston, West Virginia 25311
(304) 342-1166
(304) 342-1074 Fax
Email: cawv@cawv.org
Website: www.cawv.org

