



Contractors Association of West Virginia LEGISLATIVE BULLETIN



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The West Virginia Legislature is entering its final week and lawmakers continue to meet daily in order to finalize their business by midnight on Saturday, March 14. There are a number of bills still in play that are important to the construction industry. However, funding for infrastructure are not among them. Last week, the CAWV released the report showing nearly 10,000 jobs and nearly \$1 billion in economic output would be created by investing an additional \$500 million annually in highway maintenance and construction projects. As Hoppy Kercheval, host of WV MetroNews' "Talkline" accurately noted, not only is there not any movement to invest in the state's infrastructure, the WV Division of Highways' budget is going backwards as [S.B. 581](#) puts the cost of operating the state's Courtesy Patrol Program back under the DOH's control, at a cost of about \$4.2 million annually.

The new legislative leadership has been successful in a host of legal reform measures that will benefit all businesses and industries across the state. Topics such as deliberate intent, caps on punitive damages, comparative fault, asbestos litigation reform, non-partisan election of judges and reinstatement of the "open and obvious" doctrine are either moving through the process, have completed their legislative action or been signed into law by Governor Tomblin.

Saturday saw thousands of workers at the State Capitol rallying against a number of issues that organized labor is opposing, including repeal of the state's prevailing wage, right-to-work legislation, charter schools, and **coal mining safety regulations**. Presidents of national labor groups spoke against a number of the legal reform bills as well.

PREVAILING WAGE BILL COMPLETES LEGISLATIVE ACTION; LEGISLATURE ENTERS FINAL WEEK

[S.B. 361](#), the prevailing wage reform bill, passed both the House and Senate and is now waiting the Governor's signature. The Senate made the bill effective from passage. The House, after nearly three hours of debate last Saturday, could not get the necessary two-thirds vote necessary to make the bill effective from passage, therefore making the effective 90 days from passage. Instead of putting the bill into conference, interested parties met with Senate and House leadership to hammer out an agreement. The final version makes the bill effective April 13, 2015. This means that beginning Monday, April 13, any governmental project \$500,000 and under will have no prevailing wage requirement. Between now and April 13, the CAWV will have to work with state, municipal and county agencies, along with other political subdivisions such as county boards of education, public service districts, park boards, etc., to implement S.B. 361 into bidding documents. Once the governor signs the bill (we assume he will since the legislature has

time to override his veto), Workforce West Virginia, WVU and Marshall will develop the methodology for calculating prevailing wage rates as of June 1, then determine the prevailing wage for the remainder of 2015 by July 1. The Senate accepted a House amendment allowing the Legislature to extend the deadline to September 30.

LEGISLATURE AMENDS FUNDING MECHANISM FOR BUILDING 3 PROJECT

Contractors will submit bids for the renovation of Building 3 (DMV) at the State Capitol Complex on March 26. The House of Delegates passed last week [H.B. 2916](#), the governor's bill to finance the project. The original bill would have taken \$9 million out of the state's general revenue fund and float the remaining \$11 million in bonds. The House changed the plan to allow the governor to take the entire \$20 million from the state's Rainy Day fund and pay it back later. Department of Administration Secretary Jason Pizatella said either way is fine with him. "Regardless of how they fund it, my job is to make sure it gets done timely and make sure it gets done on or under budget," the secretary said. The bill goes to the Senate Finance Committee.

COURTESY PATROL TO FALL BACK UNDER WVDOH

S.B. 581 transfers the cost of operating the Courtesy Patrol from the Tourism Division to the WVDOH, where it was before going to Tourism. The patrol has a budget of \$4.2 million although the operating costs this year are about \$3.6 million. The CAWV worked for years to get DOH out of the funding equation only to see the patrol revert back to the State Road Fund. The House Finance Committee amended the bill to allow for donations, contributions, advertising and other sources of revenue to offset the costs. The Tourism Division will use the freed up dollars for a marketing and advertising of the old "West Virginia: Wild and Wonderful" campaign and for improvements at state parks. The bill goes to the full House for approval. House Finance Committee members showed support of the Courtesy Patrol -- safety, valuable service, good public relations -- but expressed desire to look at future funding options separate from highway funds.

STORAGE TANK, PLA BILLS IN HOUSE JUDICIARY

[S.B. 423](#), making modifications to the above ground storage tank bill passed last year, is on the agenda today in House Judiciary Committee as is [S.B. 409](#), prohibiting government mandated Project Labor Agreements (PLA). The tank bill has the support of business while environmental groups say it rolls back water **protections** granted in last year's bill. The CAWV is supporting S.B. 423. The CAWV has worked with Judiciary Committee members noting that the CAWV is committed to full and open competition on all publicly funded construction projects. In a letter to committee members, the association stated, "CAWV strongly believes that the choice of whether to adopt a collective bargaining agreement should be left to the contractor-employers and their employees, and that such a choice should not be imposed as a condition to competing for, or performing on, a publicly funded project." Both bills will be up for a vote this afternoon.

DELIBERATE INTENT MOVES TO SENATE FLOOR

[H.B. 2011](#) has passed out of Senate Judiciary Committee and is on First Reading in the Senate. West Virginia has a no-fault workers' compensation system and employers receive immunity from lawsuits for work-related injuries. However, an employer loses that immunity from civil action if the workplace injury is the result of an employer's deliberate, intentional act. Recent court cases provide a liberal definition of "deliberate and intentional" and claimants are routinely filing deliberate intent cases which are typically settled to avoid the employer the cost of a full trial. H.B. 2011 makes significant modifications towards restoring the original purpose when employees can assert deliberate intent action.

S.B. 390 COULD ACCELERATE GAS UTILITY REPAIR WORK

[S.B. 390](#) gives the Public Service Commission the authority to approve expedited cost recovery of natural gas utility infrastructure projects. Gas utilities want the bill so they can repair and replace outdated utility lines and get quicker authority to pass the cost of the repair on to customers. Under current law, it can take years before a company could recoup their costs. The House Judiciary Committee approved the bill and goes to full House. The bill could provide future work for CAWV members in replacing gas lines.

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