



**In This Issue**

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**Tank Leak  
Legislation**

The tank leak that caused a nine-county region to go without water for over a week has spawned numerous bills to regulate above ground storage tanks. Gov. Earl Ray Tomblin held a press conference this week to introduce his bill, [S.B. 417](#), which gives the WV Department of Environmental Protection the authority to regulate the construction and maintenance of above ground tanks. In addition, the bill requires water utilities to have contingency plans for emergencies. Sen. John Unger, D-Berkeley, introduced last week [S.B. 373](#), which covers the regulation of a number of tanks. The Senate Natural Resources Committee Monday combined many of the elements in both bills into one. The Senate Judiciary Committee yesterday further amended the bill and sent it to the Senate floor with a recommendation for passage. The CAWV reviewed the governor's bill to see if tanks associated with contractors' and suppliers' fixed and temporary construction-related tanks fall under the original bill's exemptions since many of CAWV members' tanks are regulated and inspected on a regular basis. The current bill is under review to see what, if any, additional regulatory requirements are anticipated.

**OSHA-10 Hour  
Passes Senate**

**Infrastructure  
Funding**

**Buy American**

**SENATE LABOR PASSES OSHA 10-HOUR SAFETY BILL**

The Senate Labor Committee Wednesday passed [S.B. 376](#), the OSHA 10-Hour safety program bill. The state Building Trades, major supporters of the bill, filled the committee room to listen to the proceeding. S.B. 376 requires every worker on a public construction contract to complete the OSHA 10-Hour Safety training program. This is the fourth straight year the bill had been introduced. It has been defeated in House Government Organization or the Senate Judiciary Committee. The Labor and Workers' Safety Committee, formed last year to look at just such legislation, developed the language for the bill. The language addresses some of the issues raised by the CAWV. If the bill passes this session, contractors for one year can have their employees on the job 90 days before they have to complete the OSHA 10-Hour. This is to give contractors time to phase in the legislation. The bill also provides that, going forward, employees must complete the OSHA 10-Hour within ten days of employment on the site. In previous bills, workers had to complete the 10-Hour Course prior to beginning work on the site. Many CAWV members have their employees complete the 10-Hour Safety Course. Other members choose to do more construction specific safety training in lieu of the OSHA 10-Hour. The bill now goes to the Senate Judiciary Committee.

**BILLS DIVERT INFRASTRUCTURE FUNDING**

Funding for highways and water and sewer projects would be diverted

to help shore up shortfalls in the general fund if legislators approve bills introduced by the Governor. The bills caught the CAWV and other infrastructure supporters by surprise, especially since the Governor mentioned water and sewer infrastructure investment in his State of the State address. [S. B. 385](#) reduces by 15 percent all statutory transfers that are made outside of the budget process and redirects those funds to the State Excess Lottery Fund. For three years, the State Excess Lottery Revenue Fund would reduce the amount of annual appropriations to the West Virginia Infrastructure Fund 50 percent, from \$40 million to \$20 million. This would result in a \$60 million loss of funds over the next three years for water, sewer and economic development grants and loans. The IF Fund has received the annual allocation since the approval of lottery and video gaming in West Virginia.

Under current statute, the \$40 million is split 80/20, with 80 percent going to water and sewer projects and 20 percent to economic development projects. The IF fund then provides the state match for the U.S. EPA's clean water program, about \$8 million annually. The money is then divided between grants and loans, and is split between West Virginia's three congressional districts. The CAWV will be doing a synopsis of the impact the reduction on future projects. Probably a major hit will be in the funds available to provide grant money to water and sewer projects. The IF Fund usually has enough funds to provide low interest loans to cities, counties and public service districts, but many of these entities need grant funds to keep utility rates low and to make the projects feasible.

S.B. 385, in addition to the IF Fund account, cuts thoroughbred and greyhound racing purses, and payment to cities and counties with racetrack casinos. Revenue Secretary Bob Kiss, who created the WV Infrastructure and Jobs Development Council when he was House Finance Chairman, and supported it while serving as House Speaker, was quoted in the *Charleston Gazette* as saying, at a time when many state agencies are being asked to make back-to-back 7.5 percent budget cuts, it makes sense to look at rolling back these appropriations, which are set in state code as percentages of Lottery profits. "Some of the logic here is everyone else is being asked to tighten their belts in excess of 15 percent," Kiss said. Jason Pizatella, the governor's chief counsel, stated, "The governor's thinks is that everyone shares a little bit of pain as we try to balance the (fiscal) 2015 budget and the 2015 budget. The administration is anticipating a \$146 million funding gap in the new budget. The bill is referred to the Committee on the Judiciary then to Finance.

[S. B. 334](#) reduces funding for the State Road Fund for two years. It puts a moratorium on the Consumer Sales Tax paid on highway construction materials from being transferred from the state's general fund to the State Road Fund. This is about \$13 million annually. The bill was debated at the January 21 Senate Transportation and Infrastructure Committee. Senators questioned the impact on the state's secondary road maintenance program if \$26 million in highway funds are diverted to the general fund. CAWV Executive Director Mike Clowser spoke at the committee meeting and noted that prior to 1990, construction material was exempt from sales tax. With the state in a financial bind, the exemption was eliminated and contractors started

paying 6 percent CST on all material in a highway project. With highway funds declining, in 2008 the CAWV was successful in getting the CST restored to the State Road Fund. Contractors continue to pay the sales tax, but the revenue is transferred annually back into the road fund. This allocation is about \$11 million to \$14 million on any given year. S.B. 334 was referred to a subcommittee that met Thursday. The subcommittee noted The State Road Fund needs more revenue. The bill is going to be studied further.

The governor also proposed [S.B. 329](#), which proposes the same moratorium on dollars going to the Special Railroad and Intermodal Enhancement Fund during the fiscal years 2015 and 2016. S.B. 329 suspends the transfer, whose purpose is for construction, reconstruction, maintenance and repairs of railways. Senate Transportation members noted that the Prichard Intermodal Facility in Wayne County became a reality because it was able to move quickly on securing a Federal Highway Administration TIGER grant since the state funds were available to match the federal dollars. They noted that other intermodal projects could become a reality in Martinsburg and in the Northern Panhandle. This bill was also sent to a subcommittee for further review.

**BUY AMERICAN NOT ON HOUSE COMMITTEE AGENDA**

[H.B. 4168](#), the Buy American bill, was not on Wednesday’s agenda of the House Energy, Industry & Labor/Economic Development & Small Business Committee due to scheduling issues. It is anticipated the bill will surface soon. For details on the aspects of this year’s version, see the [January 13 CAWV Legislative Bulletin](#).

**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](mailto:mclowser@cawv.org).**

**House Bills**

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Committees</i>
<a href="#">HB 4242</a>	Increasing gross weight limitations on certain roads in Brooke County	Dels. Diserio, Jones, Swartzmiller, Ferro, Fleischauer, Perdue, Poore, Storch, D. Poling, Eldridge, L. Phillips	1/21/14 - Political Subdivisions then Judiciary
<a href="#">HB 4247</a>	Permitting the Ohio County Commission to levy a special district excise tax	Dels. Storch, Ferro, Marshall, Diserio, Pasdon, Raines, Swartzmiller, D. Evans, Gearheart, Espinosa, O’Neal	1/21/14 - Small Business, Entrepreneurship and Economic Development then Finance
<a href="#">HB 4255</a>	Water Resources Protection and Management Act	Dels. Manypenny, Barrett, Perdue, Ambler, Hamilton	1/22/14 - Judiciary
<a href="#">HB 4258</a>	Creating a source water protection	Speaker Miley, Del.	1/22/14 – Judiciary

	program and an industrial aboveground storage tank program to protect source water supplies and systems	Armstead	then Finance
<a href="#">HB 4260</a>	Eliminating unnecessary boards	Speaker Miley, Del. Armstead	1/22/14 – Govt. Organization
<a href="#">HB 4263</a>	Providing for the transfer of ownership, operation and maintenance of certain assets of the West Virginia Parkways Authority to the Division of Highways	Dels. Gearheart, Arvon, Shott, White, Moore, Staggers, Ambler, Cooper, Hamrick, Canterbury, Ellington	1/22/14 - Roads and Transportation then Finance
<a href="#">HB 4266</a>	Relating to the redirection of certain Lottery revenues to the State Excess Lottery Revenue Fund	Speaker Miley, Del. Armstead	1/23/14 - Judiciary then Finance
<a href="#">HB 4275</a>	Making West Virginia's Water Pollution Control Act consistent with the federal Water Pollution Act	Dels. R. Phillips, Barker, Caputo, Craig, Marcum, Moore, Skaff, R. Smith, Sumner, Tomblin, White	1/23/14 - Judiciary
<a href="#">HB 4277</a>	Requiring registration and inventory of existing above-ground storage tanks	Dels. Lane, Armstead, McCuskey, Raines	1/23/14 - Judiciary then Finance
<a href="#">HB 4282</a>	Relating to levels of funding to the Revenue Shortfall Reserve Fund	Speaker Miley, Del. Armstead	1/23/14 - Finance
<a href="#">HB 4291</a>	Relating to civil penalties and civil administrative penalties for violations of the Water Pollution Control Act by coal mining	Dels. R. Phillips, Barker, Caputo, Craig, Marcum, Skaff, R. Smith, Sumner, Tomblin, White	1/24/14 - Energy then Judiciary
<a href="#">HB 4303</a>	Oil and Gas Drilling Workplace Safety Act	Dels. Manypenny, Longstreth, Caputo, Diserio, D. Poling	1/24/14 - Industry and Labor then Judiciary
<a href="#">HB 4305</a>	Relating to the requirements of members of a building commission board be from the same political party	Dels. Fragale, laquinta, Diserio, Jones	1/24/14 - Political Subdivisions then Government Organization
<a href="#">HB 4317</a>	Relating to state procurement	Dels. Morgan, Stephens, Hartman, Kinsey, P. Smith, Caputo, Romine	1/24/14 - To Government Organization then Judiciary
<a href="#">HB 4333</a>	Relating to the redirection of certain Lottery revenues to the State Excess Lottery Revenue Fund	Speaker Miley, Del. Armstead	1/24/14 - Finance

<a href="#">HB 4339</a>	Ensuring that moneys from the Solid Waste Authority Closure Cost Assistance Fund are available to facilitate the closure of the Elkins-Randolph County Landfill and the Webster County Landfill	By Dels. Campbell, Hartman, Sponaugle, Manchin, White, Hamilton	1-27-14 – Judiciary then Finance
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**Senate Bills**

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Committees</i>
<a href="#">SB 393</a>	Amending funding levels and date Governor may borrow from Revenue Shortfall Reserve Fund	President Kessler, Sen. M. Hall	1/21/14 - Government Organization then Finance
<a href="#">SB 411</a>	Raising minimum wage	Sens. Yost, Miller, Cookman	1/22/14 – Labor than Finance
<a href="#">SB 417</a>	Creating Source Water Protection Act	President Kessler, Sen. M. Hall	1/22/14 - Natural Resources then Judiciary
<a href="#">SB 421</a>	Removing certain discounts from motor fuel excise tax	Sens. Snyder, Beach	1/23/14 - Transportation and Infrastructure then Finance
<a href="#">SB 439</a>	Permitting Ohio County Commission to levy special district excise tax for Fort Henry	Sens. Fitzsimmons, President Kessler, Beach, Edgell, Yost	1/24/14 – Govt. Organization then Finance
<a href="#">SR 9</a>	Urging construction of state veterans' nursing home in Beckley	Sens. Green, D. Hall, Laird, Miller, Tucker	



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