



# Contractors Association of West Virginia **LEGISLATIVE BULLETIN**

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### **GOV. JUSTICE ANNOUNCES PASSAGE OF SIX BILLS DURING SPECIAL SESSION OF WEST VIRGINIA LEGISLATURE**

Gov. Jim Justice announced that the West Virginia Legislature has passed six bills he had presented during a special session that concluded late Tuesday.

"It is gratifying to know that our lawmakers have come together to enact laws that will continue to move West Virginia forward," said Gov. Justice. "During the last few months as I've traveled across the state and listened to our citizens, these pieces of legislation were critical for us to do the will of the people-which is to put West Virginians back to work as quickly as possible, to take care of our Veterans and to provide incentives to those who will preserve and redevelop our historical areas."

- Lawmakers passed legislation presented by the Governor that:
- Strengthens enforcement of the West Virginia Jobs Act by requiring employers to hire at least 75% of its employees from West Virginia and enhances civil penalties.
- Shortens the time period for hiring personnel for the Division of Highways and Tax Division.
- Permits the sharing of information between the Division of Highways and Tax Division to ensure compliance with all state laws.
- Exempts military retirement income from personal income tax.
- Increases tax credits for rehabilitation of certified historic structures.
- Approved technical corrections to State Court of Claims payments.

Gov. Justice gave more details on the results of the special session today during a press conference at 10:30 a.m. in the Governor's Reception Room at the State Capitol. The CAWV was pleased to stand with the Governor as he thanked legislators and others for their work on the \$2.8 billion highway funding bill passed in June, the \$1.6 billion road bond amendment and bills in this week's special session. To see the full press conference, [click here](#).

A synopsis of the bills impacting CAWV members follows.

### **HISTORIC BUILDINGS TAX CREDIT BILL**

Engrossed H.B.203 relating to the historic tax credits has passed the legislature by a vote of 91-2 in the House Delegates and 33-0 in the Senate. It's on its way for the Governor's signature. This bill increases the State Historic Tax Credit from 10% to 25% and will spur an increase in investment as developers take on projects in cities and towns across the state. Language was also amended in to assure that all local taxes including those administered by the state as well as property taxes are up to date before the credit is granted.

### **AMENDMENTS TO WEST VIRGINIA JOBS ACT**

H.B. 205 modifies the current West Virginia Jobs Act. The act, in effect since 2001, requires contractors to hire at least 75% of his employees on public improvement construction projects exclusively by state funds that are domiciled in West Virginia or within a county within 50 miles of the West Virginia border. The act has worked fairly well over the years but the administration says with the passage of the \$1.6 billion road bond amendment, the current Jobs Act is inadequate to maximize employment opportunities for West Virginians on public improvement construction projects.

Currently, contractors can get a waiver of the 75% requirement if they cannot find a qualified job applicant in the area after making a request for assistance from Workforce West Virginia to find qualified applicants. Proponents of the bill state that employers have no monetary incentive to follow the Jobs Act, and have also found loopholes to avoid complying (example: providing for a job description with bogus out-of-state certifications or requirements or hiring out-of-state employees who do not meet the qualifications for which a waiver was granted).

Lawmakers were less enthusiastic about this bill but talks with House and Senate leadership and the Justice administration produced a compromise prior to the bill's introduction. The bill enhances civil penalties but deleted an earlier version which had criminal penalties. The bill passed 33-0-1 in the Senate and in the House, 94-1.

- Increasing the penalties for violating the Act from \$100 per

day per violation to \$250 per employee per day of violation for the first 14 days after notice of violation;

- \$500 per employee per day of violation continuing more than 14 days after notice of violation;
- Defines domicile so that a person residing in temporary or transient housing such as hotels, motels, dormitories or similar lodging does not qualify as a resident of the local labor market.

### **TAX INFORMATION BILL PASSED**

H.B. 202 / S.B. 2002 passed both the House and Senate with a 31-0 vote in the Senate and 94-0 in the House. The bill allows a written agreement between the WV Division of Highways and Tax Department to share confidential tax information about bidders on WVDOH contracts and WVDOH contractors and their subcontractors to ensure everyone is paying all applicable state taxes and are in good standing with the Tax Department. The bill is effective from passage. Currently, the Tax Department could not share confidential tax information with WVDOH, even though they can with other state agencies. The bill attempts to put all bidders on a level playing field.

Information to be shared includes:

- The status of current business registration certificate (good standing, revoked, suspended or no longer in good standing);
- Whether a cease and desist order has been issued to an entity working on a current road construction or repair project for failure to comply with Business Tax requirements;
- Whether a DOH bidder, contractor, or subcontractor of a DOH contractor appears to be in compliance with the employer withholding tax requirements of this state based on information in Tax Division databases;
- Whether a contractor is in good standing with the Tax Department. "Good standing" is defined for the purposes of this subdivision only to mean a contractor has (a) filed all required tax returns; (b) paid all taxes shown to be due on such tax returns; and (c) is not contesting a tax assessment issues by the Tax Department.

### **SPECIAL HIRING PROCEDURES BILL**

S.B. 2003 implements special hiring procedures for personnel positions in the WVDOH and Tax Department. Transportation Secretary Tom Smith told legislators Sunday that WVDOH has 500 vacancies throughout all levels of the WVDOH, including environmental, human resources, auditing, accounting, engineering and construction. He noted that the current hiring procedures are so cumbersome that the agency has only hired 18 people in the past nine months.

The governor's bill proposes to provide an efficient, fast and fair merit based system of hiring new employees and retaining current employees while maintaining the current protections afforded under the classified service. It shortens timeframes for completing personnel actions by the Division of Highways, the Tax Division and the Division of Personnel and reduces the duplicative multi-level approvals of personnel decisions but retains due process protections.

It passed the Senate in a 33-0 vote but the House approved, after much debate, 59-31.



Contractors  
Association  
of West Virginia

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



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Association