



Contractors Association of West Virginia
LEGISLATIVE BULLETIN

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In a 12-11 vote, the House Finance Committee Friday night passed [H.B. 4168](#), the Buy American bill. Friday was the last day to get the bill out of committee for it to be considered this session. The bill was on and off the agenda numerous times during the day. The CAWV had hoped it would not get on the agenda but it was added at the last possible moment. There was a committee substitute offered in the committee but, for the most parts, it contains the onerous conditions the CAWV has opposed. These include: All public projects over \$500,000 must use products manufactured in the United States which means that the item is “produced in the United States, manufactured in the United States or assembled in the United States from component parts or materials regardless of origin”; the public entity accepting the public contact bids shall have the authority to request that vendors provide, within five business days of the request, any documentation that the contracting authority deems necessary to verify compliance with the act; no bid shall be approved that does not comply with the act; the WV Division of Labor will administer the Buy America Act; and any persons committing a violation of the act shall be suspended from bidding on projects for 90 days for the first offense and debarred after third offense.

The Division of Labor is directed to develop and publish a list of goods or equipment deemed to qualify as manufactured in the United States. Waivers of this requirement may be requested in three specific circumstances: 1. The specified goods and equipment are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements; 2. The item exceeds the cost of comparable foreign-made goods or equipment by more than ten percent of the cost of that item; and 3. In the case of a repair or maintenance project, the specified items or equipment have already been installed during a previous project and replacing those items with items manufactured in the United States would create “unreasonable hardship.” The public entity accepting the public contact bids has final authority to grant or deny waivers. The CAWV noted it will be very difficult for certain owners, such as a public service district whose commissioners may have no understanding of construction or the bidding process, to agree to grant a waiver to use products not manufactured in America.

H.B. 4168 was reported out of committee Friday night and is on Second

Reading today. The fight against the bill will go to the Senate following passage in the House of Delegates. Members who are opposed to the bill will have to work with their Senators to impress upon them the impact this will have on the bidding process on every project for the state, counties and municipalities.

CAWV members will receive more information on the future of H.B. 4168 this week. Everyone should be prepared to call or visit their legislators at the Capitol.

House Finance Committee members voting for H.B. 4168 include:

Brent Boggs, Chairman - Democrat, Braxton
Nancy Guthrie - Democrat, Kanawha
Charlene Marshall - Democrat, Monongalia
Richard Iaquina - Democrat, Harrison
David Pethel - Democrat, Wetzel
Ray Canterbury - Republican, Greenbrier
Allen Evans - Republican, Grant
Don Perdue - Democrat, Wayne
Larry Williams - Democrat, Preston
Ricky Moye - Democrat, Raleigh
Dan Poling - Democrat, Wood
Doug Reynolds - Democrat, Cabell

Committee members voting against the bill are:

Doug Skaff - Democrat, Kanawha
Eric Nelson - Republican, Kanawha
Rupie Phillips - Democrat, Logan
Daryl Cowles - Republican, Morgan
Carol Miller - Republican, Cabell
Kevin Craig - Democrat, Cabell
Troy Andes - Republican, Putnam
Ron Walters - Republican, Kanawha
Bob Ashley - Republican, Roane
Bill Anderson - Republican, Wood
Marty Gearheart - Republican, Mercer

BILLS NOT PASSED OUT OF COMMITTEE NO LONGER ACTIVE

All bills that did not pass out of committee this past Friday can no longer be considered this legislative session. Also, all bills must pass their house of origin by this Wednesday in order to stay active. One bill that probably is dead for this session (although any bill can be still be originated in a committee and acted upon until the session ends) is [S.B. 334](#), the governor's bill to divert \$13 million a year for two years from the State Road Fund to the state general fund to aid in the proposed \$150 million budget deficit. The Senate Transportation Committee defeated the bill and there are no plans at the moment to resurrect. However, [H.B. 4333](#), the lottery proceeds bill that defers revenue to horse and dog racing firms, counties and cities that have casinos, and the WV Infrastructure Fund is still moving. The bill diverts \$20 million of the annual \$40 million in lottery proceeds going

to the WV Infrastructure Fund to the general fund. This bill will still be in play as lawmakers try to address the general fund deficit, which includes dipping into the state's almost \$1 billion Rainy Day Fund.

[H.B. 4001](#), the False Claims Act, a bill opposed by every business organization in the state, is on Third Reading today in the House. The House yesterday, on a partisan 52-44 vote, passed [H.B. 4490](#) which placed limitations on the Attorney General's office as it relates to actions taken and appropriation of lawsuit settlements or awards. Democrats state the bill preserves the integrity of the attorney general's office and republicans state the bill is a "personal attack" against Attorney General Patrick Morrissey, a Republican.

Senate President Jeff Kessler's Future Fund bill, [S.B. 461](#), has passed. It would set aside any additional oil and gas revenues to a fund that would, maybe five to six years in the future, pay for infrastructure projects. [S.B. 376](#), the OSHA 10-Hour safety bill has passed the Senate and is House Judiciary Committee.

Bills that did not pass include [S.B. 358](#), requiring the state Purchasing Division to provide a report to legislators on all change orders over a certain percentage of a state contract. [H.B. 4303](#), a bill to require all contractors working on an oil or gas project to be union.

SEE BILLS THAT HAVE BEEN PASSED BY ONE CHAMBER

To see a complete list of bills that are still active for this session or to see bills that have passed their house of origin, click on the attached link. Click the House and Senate icons to see bills in both chambers.

http://www.legis.state.wv.us/Bill_Status/bills_passed_chamber.cfm?year=2014&sessiontype=RS&btype=bill

Anyone needing further information can contact Mike Clowser at (304) 342-1166 or email mclowser@cawv.org.

House Bills



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