



# Contractors Association of West Virginia LEGISLATIVE BULLETIN



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Legislature Repeals West Virginia's Prevailing Wage Law

Governor Says He Will Veto Right-To-Work

Senate Finance Chairman Commits To Finding Highway Funds

### **PREVAILING WAGE REPEAL BILL GOES TO GOVERNOR; VETO AND VETO OVERRIDE EXPECTED**

The Senate Thursday passed [H.B. 4005](#), the bill eliminating prevailing wage in West Virginia. The House approved the bill earlier, so the bill goes to the Governor for his signature. It is expected he will veto the bill, followed by a legislative override since West Virginia only requires a simple majority to override. The Senate's 18-16 vote was along party lines and came after two hours of debate for those for and against repeal. Supporters of prevailing wage argued that it provides a living wage for workers, while keeping out-of-state contractors from undercutting West Virginia construction companies. Opponents argued that prevailing artificially inflates the cost of public projects, thus costing taxpayers more money. CAWV members have expressed their own thoughts to their legislators on the bill, both in favor and opposition of full repeal of prevailing wage.

Thursday's action culminates nearly 15 months of study and debate on prevailing wage. The Legislature was poised to eliminate prevailing wage in the 2015 legislative session but a compromise was struck by developing a new method to calculate prevailing wage. WorkForce West Virginia was charged with developing a new methodology to be presented to legislators June 1, 2015. The new method was immediately rejected which resulted in a temporary suspension of prevailing wage requirements. When WorkForce published the new rates effective October 1, 2015 that were very close to previous rates, lawmakers expressed concern that the process was flawed. Legislative leaders have said since October that full repeal would be high on their agenda in the 2016 session.

### **WEST VIRGINIA BECOMES 26<sup>TH</sup> RIGHT-TO-WORK STATE; GOVERNOR MAKES VETO PROMISE**

Right-to-work legislation was the top legislative agenda and West Virginia is poised to be the 26<sup>th</sup> right-to-work state in the nation. The House Thursday, after five hours of debate, passed [S.B. 1](#) the Workplace Freedom Act. The House passed the bill 54-46 with no Democrats voting against with 10 Republicans joining them. The House Judiciary Committee amended the Senate bill and the bill went back to the Senate where the House amendment was approved. Gov. Tomblin issued a statement that he will veto the bill, which is also expected to be overridden. In closing debate on the bill, House Judiciary Chairman John Shott, R-Mercer, summed up support for right-to-work by saying, "We can't live in the past, it's not working. [West Virginia is] going down the tubes fast." Both H.B. 4005 and S.B. 1 will be sent to the governor his approval. He has five days after receipt of the bill to take action.

## **CONSTRUCTION CHANGE ORDER RULE GETS COMPANION BILL**

The House Government Organization Committee Friday amended the bill [H.B. 2028](#) to codify the rule that restores the change order process for construction contracts. The House Judiciary Committee approved the change order rule late Friday evening. In other construction contracts issues, [S.B. 474](#) would give the WV Division of Environmental Protection the authority to contract direct, without going through the state Purchasing Division, for construction and reclamation projects.

## **NEW FEDERAL-AID HIGHWAY BILL NOT A FUNDING SOLUTION FOR STATE'S HIGHWAY PROGRAM**

In the West Virginia Department of Transportation's budget presentation last week to the House and Senate Finance committees, Secretary Paul Mattox told lawmakers the WVDOH has identified \$16 billion worth of highway projects planned that he says will never go to construction without additional funding. He noted that the FAST ACT provides states the ability to plan federal-aid construction projects but that the new five-year authorization bill does not help the WVDOH's funding problems. "Over the last ten years, West Virginia averaged \$456 million a year in federal funds," Secretary Mattox told committee members. "Over the next five years, the WVDOH will average \$462 million, or \$6 million a year more. This will not go very far."

The secretary said the division's focus will be on system preservation since few dollars are available for expansion projects. He did note that the \$100 million plus Wellsburg Bridge will be the last public private partnership project scheduled until new, additional highway revenue is found. SJR 6, introduced by Sen. Charles Trump, R-Morgan, would put on the November ballot a constitutional amendment that, if approved by voters, would provide \$2 billion for highway improvement projects. Secretary Mattox was asked to provide a list of projects that would be built if voters approved the measure.

Senate Finance Committee members discussed at length declining revenues to the State Road Fund. Chairman Mike Hall, R-Putnam, told committee members, "I will make this commitment. This committee will do something about [WVDOH's budget problems.] If it goes no further than this committee, so be it. But [this committee] will bring something forward."

A bill was introduced in the Senate today, S.B. 555 by Majority Leader Mitch Carmichael, R-Jackson, and Ed Gaunch, R-Kanawha, that provides for a 5-cent tax increase on sale of fuel when the cost is less than \$2 per gallon. At press time, a copy of the bill was not available for review. Other highway funding bills are in the final stage of drafting and should be introduced this week.

## **BILL ELIMINATES RESIDENT VENDOR PREFERENCE**

[S.B. 527](#), introduced by Sen. Craig Blair, R-Berkeley, would eliminate the current 5 percent preference for resident West Virginia vendors bidding on public procurement contracts. The current preference only applies to products and services. There is no bidders' preference for construction contracts. The CAWV has opposed efforts to restore a preference after a four-year pilot program to give contractors a 5 percent preference resulted in few West Virginia contractors being low bidder due to the preference. Conversely, West Virginia's law resulted in bid protests and claims and retaliation from surrounding states who applied preference

against West Virginia contractors bidding in their state. S. B. 527 is referred to the Senate Government Organization Committee chaired by Senator Blair.

## **WEST VIRGINIA LEGISLATURE BILL INFORMATION**

House and Senate bills can be accessed from the CAWV's Legislative home page at [www.cawv.org/legislative](http://www.cawv.org/legislative). Members can view status updates on bills of interest to the construction industry and see what legislation is introduced that affects the construction industry. A summary of each day's activities will be uploaded each afternoon.

**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>Introduced/ Committee</i>
<a href="#">HB 4363</a>	The Healthy and Safe Workplace Act	Del. Fleischauer, Moore, Morgan, Manchin, Longstreth, Caputo, Hornbuckle, P. White and Lynch	2/2/16 – Industry and Labor then Judiciary
<a href="#">HB 4382</a>	Prohibiting fuel surcharges in certain instances	Del. Reynolds, Faircloth, Fluharty, Hicks, Moffatt, Folk, Skinner, Byrd, Phillips, Eldridge and Blackwell	2/3/16 - Judiciary
<a href="#">HB 4392</a>	Establishing a special fund to be used for minor road repair within the county	Del. Walters, Canterbury, Hanshaw, Skinner, Ireland, Gearheart, Fleischauer, Rowe and Storch	2/3/16 - Political Subdivisions then Finance

### **SENATE BILLS**

<i>Bill #</i>	<i>Proposal</i>	<i>Sponsors</i>	<i>Introduced/Committee</i>
<a href="#">SB 457</a>	Authorizing information sharing by Workforce West Virginia with certain state agencies	Sen. Cole (Mr. President) and Kessler [By Request of the Executive]	2/2/16 – Government Organization then Finance
<a href="#">SB 462</a>	Reducing deposit of excess lottery proceeds into WV Infrastructure Fund	Sen. Cole (Mr. President) and Kessler [By Request of the Executive]	2/2/16 - Finance
<a href="#">SB 463</a>	Reducing amount of sales tax proceeds to School Major Improvement Fund	Sen. Cole (Mr. President) and Kessler [By Request of the Executive]	2/2/16 – Education then Finance
<a href="#">SB 474</a>	Exempting DEP construction and reclamation contracts from review and approval	Sen. Boso, Ashley, Facemire, Miller, Snyder, Takubo and Trump	2/2/16 - Government Organization
<a href="#">SB 505</a>	Exempting certain uses of field gas from motor fuel excise taxes	Sen. Hall	2/4/16 - Finance
<a href="#">SB 513</a>	Relating to composition of School Building Authority	Sen. Laird	2/4/16 - Education then Government Organization
<a href="#">SB 522</a>	Relating to public service districts	Sen. Snyder and Unger	2/5/16 – Government Organization

<a href="#"><u>SB 527</u></a>	Eliminating preference for resident vendors bidding on state contracts	Sen. Blair	2/5/16 – Government Organization
<a href="#"><u>SB 545</u></a>	Relating to asbestos abatement on pipes	Sen. Boso	2/8/16 - Judiciary
<a href="#"><u>SB 555</u></a>	Providing for 5-cent tax increase on sale of fuel when cost is less than \$2 per gallon	Sen. Carmichael and Gaunch	2/8/16 - Finance
<a href="#"><u>SB 557</u></a>	Eliminating sunset provisions on DOH public-private partnership agreements	Sen. Sypolt	2/8/16 – Transportation and Infrastructure



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