

# THE ACT REPORT



## Tenth Anniversary Edition

A TEN YEAR REVIEW OF ACT'S ACCOMPLISHMENTS -- SEE COMMENTARY P. 4

# ACT Foundation Born Of Necessity

A wise man once said good inventions are born out of necessity.

That is exactly how the Affiliated Construction Trades Foundation (ACT) came into being in December of 1991.

When members of West Virginia building trades locals and councils realized traditional ways of fighting anti-union companies were not working they knew something had to be done.

Adding to the pressure were two key events.

First was the 1989 invasion of anti-union giant Brown & Root into Charleston area chemical plants. Second was the likelihood an out-of-state non-union contractor would build a proposed billion-dollar Apple Grove pulp mill project in Mason County.

"Something had to be done, but our old methods were just not effective," said Jim McCormick, former Business Manager for Boilermakers 667 and now an International Representative.

"We lacked focus and a direction but not commitment. ACT grew from our need to try something new."

ACT is modeled after Pipe Trades District 51 in Northern California.

The Pipe Trades were fighting battles similar to West Virginia's building and con-



*THE FIRST ANNUAL ACT FOUNDATION Leadership Conference was held on Sept. 15, 1992. It was there ACT's course was charted.*

struction trades workers -- but they were winning.

Along with traditional organizing methods, the Pipe

Trades used labor and environmental law to its advan-

tage.

With this in mind, Allen Fisher, former Secretary-Treasurer for the State Building Trades, got the ball rolling to develop the ACT Foundation.

Fisher enlisted the help of ACT's Bill Thomas, attorney Stuart Calwell, and Tom Knight, of Knight Phillips Associates, to make presentations to local unions around the state.

"This was a fly by the seat of your pants experiment at first," said Bill Thomas, ACT Representative.

"Bruce Tarpley summed it up best in his acceptance speech as the first ACT President when he said ACT was like a speeding train and locals could either stand beside the tracks and watch it go by or jump on

*CONTINUED ON P. 7*

## Big Coal Pays \$56.6 Million

After a dogged pursuit by the ACT Foundation, the state has now collected a total of \$56.6 million dollars in workers' compensation debt from delinquent coal operators.

As of May 2002, the state settled with four more companies for an additional \$8.4 million.

Just before he announced the original settlement of almost

\$50 million between the state and the majority of the coal companies during his State of the State address, Gov. Bob Wise first thanked the ACT Foundation for its involvement in court suits seeking to recover workers' compensation debts owed by several large coal operators.

The struggle over workers' compensation debt has raged since 1996.

"It was very important that ACT pursued this debt for the

working people of West Virginia," said Randy Atkins, Secretary Treasurer for Teamsters Local 175.

"We took it on the chin in 1995 when they cut benefits and blamed workers for the debt. ACT's persistence has made the real cheaters pay."

When Gov. Cecil Underwood took office in 1997, his chief of Workers' Compensation, William Vieweg, soon led the effort to drop a complete range of suits

aimed at collecting unpaid premiums. These suits targeted big coal companies who used contractors to mine coal.

Island Creek Coal Company has the largest debt due to contractors, estimated at more than \$30 million.

Both Vieweg and Underwood worked for Island Creek at one time. Vieweg was a vice president in charge of Workers' Compensation in the 1980s - the same time pe-

*CONTINUED ON P. 3*

# Power Plants Create Job Opportunities

**B**illion dollar boom or bust?

A recent surge in proposed power plant construction in West Virginia may be a billion-dollar boom, but ACT is there to make certain it doesn't turn into a billion-dollar bust.

"Look at the economic benefit to our communities from having local construction workers build these new facilities," points out Walter "Fuzz" LaRue, ACT representative.

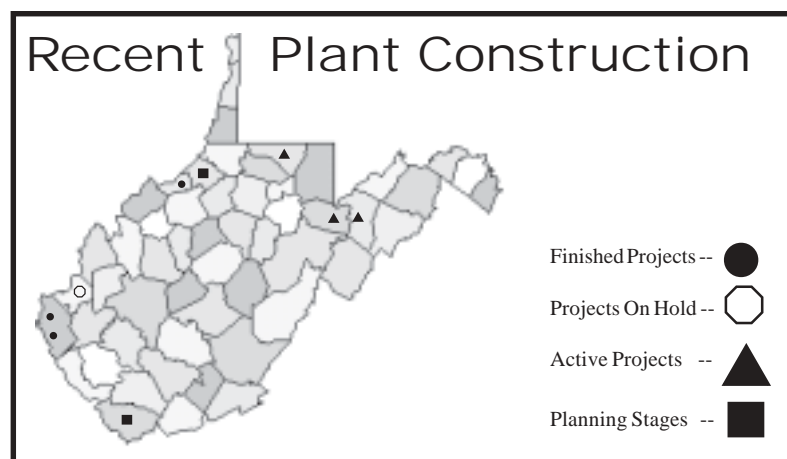
Jim Arnett, Business Manager of Plumbers and Pipefitters 521, agrees. "Construction wages make a huge impact on local communities only if local union workers are used," said Arnett.

ACT representatives and building trades leaders have been traveling to local county commissions and economic de-

velopment groups trying to get the word out about how power plants can benefit communities.

ing a tremendous economic impact," said LaRue.

This 'multiplier effect' can be used to show a \$150 million



The most important benefit is wages -- on a \$500 million power plant wages are in the range of \$50 million.

"When local workers spend their paychecks in the local community, that money circulates and is spent again creat-

ing a tremendous economic impact from a \$50 million payroll.

While two companies, Panda Energy and Cogentrix, have put major projects on hold, both companies have agreed to use local union labor if the plants are built.

And plans are underway for a \$150 million windmill project in Grant County and a \$800 million coal fired plant in Monongalia County. Both have agreed to hire contractors that use local union labor.

New Jersey-based LS Power has announced plans to build a coal-fired plant in Tyler County. Talks with the Trades have already begun.

"Basically any work done to build these plants should be done by local union construction workers," said Sam Davis, Business Manager of the Parkersburg-Marietta Building Trades.

But the story about power plants is not always so good. The worst example is Constellation Power, which got more than \$20 million dollars in tax breaks from the Wayne County

Commission at the expense of taxpayers and local workers.

"We saw people from Tennessee, Texas, Minnesota, California and just about everywhere except West Virginia, Kentucky or Ohio," said Randy May, Business Agent for Carpenters Local 302.

May helped man the Tri-State Building Trades picket line for months at the Constellation site.

ACT lawyers took action against the Wayne County Commission for unlawfully issuing industrial revenue bonds.

However the State Supreme Court voted not to hear the case.

"These companies promise to boost local economies and alleviate local unemployment," said ACT attorney Vince

*CONTINUED ON P. 6*

## NEW BATTLEGROUND OVER RATES

# Studies Clear Comp Misconceptions

**I**n 1995 business kept claiming the workers' compensation crisis was due to workers cheating the fund -- when in fact the truth was, and continues to be, big coal companies not paying their fair share.

Today the fight is over rates, and the business community has again begun a campaign of misinformation aimed directly at taking away benefits.

"The West Virginia Chamber of Commerce insists our workers' compensation rates are the highest in the nation," said ACT Director Steve White.

"But the truth is they are

not."

The Chamber has been caught misusing statistics from the National Academy of Social Insurance (NASI).

But a letter from NASI to White claims "This interpretation of our report is wrong."

ACT has also provided numerous studies that prove the chamber's claim is false.

A 1998 study conducted by Oregon's Department of Consumer and Business Services ranks West Virginia's workers' compensation rates 39th.

"This means that even though West Virginia has one

of the highest worker death rates in the country, the comp rates are below average in most industries," said White.

According to a newer study in the Regional Economic Re-

view published by Marshall University, compensation rates are not a major factor when a business is deciding whether to locate in a certain area.

view published by Marshall University, compensation rates are not a major factor when a business is deciding whether to locate in a certain area.

may be little more than a smoke screen to cover up the huge debt coal has tried to dump on the system.

"It's not fair that injured workers and honest companies have to foot the bill for a few big coal companies that don't want to take responsibility for their sub-contractors' actions," said Mark Estlack, Business Manager for Millwrights Local 1755.

Some serious issues about rates aren't being discussed.

"Workers' compensation rates, which are payroll taxes, punish high wage employers

because they are a flat tax -- the more a company pays workers the more comp it pays," said Steve Pigg, Business Manager for the Heat & Frost Insulators & Asbestos Workers Local Union 80.

"We need ACT to help us find ways to stop penalizing high wage employers and to stop subsidizing low wage ones.

"Compensation rates should be based on accident rates instead of payroll," said Pigg.

"That way safe companies don't have to foot the bill for dangerous ones.

"ACT's involvement has been priceless," said Pigg.

"We've done a lot, but we still have a long way to go."

**'ACT'S INVOLVEMENT HAS BEEN PRICELESS.'**

STEVE PIGG, ASBESTOS WORKERS LOCAL 80

# Workers Voices Heard in Legislature

ACT's lobbying efforts have paid off for working families by posting significant wins in the West Virginia Legislature.

The most recent victories include provisions requiring prevailing wage and competitive bidding in two major economic development bills.

One bill, which requires voter approval this fall, will allow local governments to redirect property taxes as an incentive for certain new projects.

ACT opposed this measure four years ago when it was put to the voters in a different form. That measure didn't include prevailing wage protection.

"Gov. Wise addressed our concerns with this new bill so we supported it," said Roy Smith, Secretary Treasurer for the State Building Trades.

Another important bill passed in 2002 created a mechanism to fund projects such as a Victorian Outlet Mall in Wheeling or a new ball park in Charleston.

## Coal Pays

*CONTINUED FROM P. 1*

period when contract mining operations were taking off.

Cases that began in 1996 were within weeks of going to trial, yet Vieweg argued these suits were no good.

ACT tried in 1998 to stop Vieweg's efforts at the West Virginia Supreme Court but failed.

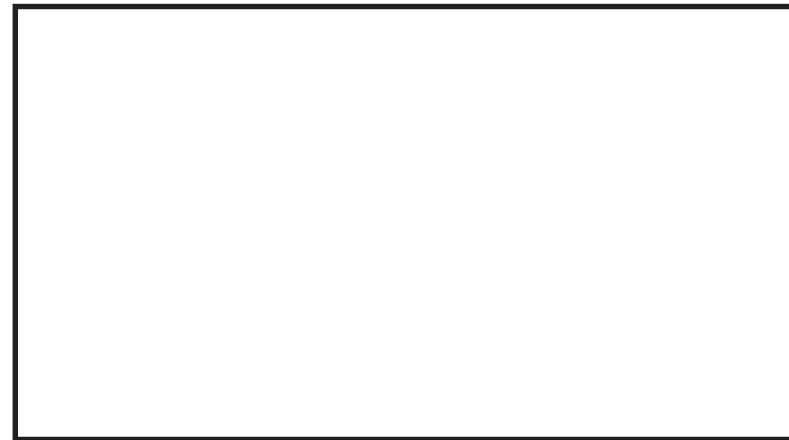
"The Court ignored the evidence produced by ACT and reached an erroneous conclusion," said Stuart Calwell, ACT's chief attorney.

Despite the setbacks, ACT kept fighting for injured work-

The bill includes a requirement that projects must adhere to prevailing wage and competitive bid laws, even when

private funds are mixed in. include passage of the West Virginia Jobs Act and the Crane Operator Certification law.

The West Virginia Jobs Act



***Crane Operator Certification was aimed at making construction sites like this one safer.***

Making sure construction workers called up by the National Guard don't lose unemployment benefits was also a recent accomplishment.

"The bill is important to construction workers because they often don't have a job to come back to," said Smith. "They need their Guard earnings on their unemployment record."

Some of the biggest accomplishments from past years in-

had been a major goal of ACT.

"We've seen too many tax-funded projects built with workers from Texas, New York or Mexico," said Leroy Hunter, Business Manager for Bricklayers District Council. "We need those jobs to go to local workers."

Jobs created with tax dollars in the name of economic development should go to local workers.

"When Illegal workers were

caught working on the WVU Coliseum Gov. Underwood didn't see the problem," said Smith. "ACT took the problem to the air waves and he's no longer governor."

The new law requires 75 percent of the work force on a publicly-funded job to be local workers. Anyone from West Virginia, or within 75 miles of West Virginia's borders, qualifies as a local worker.

Organized labor realized a victory in 2000 with the Crane Operator Certification law.

As of September 1, 2001, all crane operators in the state must be certified.

"This law has made construction sites safer for workers and

sign-Build Board. The position is now held by Roy Smith.

Sometimes victories can be measured in what doesn't pass. The best example is the defeat of the 'Cancer Creek' bill.

"The Cancer Creek victory showed big business that workers had a voice in West Virginia politics," said Steve Burton, Business Manger of the Tri-State Building Trades.

The victory came after a hard-fought battle with big business and former Gov. Gaston Caperton spanning the 1992-1995 legislative sessions.

The bill was part of a big government give-away designed to please a multi-national paper maker who pro-

***' WE'VE SEEN TOO MANY TAX-FUNDED PROJECTS BUILT WITH WORKERS FROM TEXAS, NEW YORK OR MEXICO, '***

**LEROY HUNTER, BUS. MANAGER, BRICKLAYERS DC**

the public. And it gives contractors another good reason to hire certified, well trained union crane operators," said Ronnie Burdette, Business Manager for the Operating Engineers Local 132.

Other legislation passed includes a vendor debarment law allowing companies which are severe law breakers to be prohibited from bidding on any construction work.

Along the same lines, contractors caught knowingly hiring illegal aliens can now lose their West Virginia contractor's license.

And a law allowing public agencies to use design-build bidding has a requirement for a labor representative on the De-

posed building a paper mill in Mason County.

Investigations by Tri-State and ACT revealed the state would allow cancer causing dioxin to be dumped in the Ohio River and give huge tax breaks in return for out-of-state workers.

Whether ACT is passing or stopping bills, the influence of union construction workers is felt in the legislature.

"With the stroke of a pen we could lose the rights we've gained over the years," said ACT legislative representative Raymond "BB" Smith.

"ACT can get the facts and tell the story. But the support of members makes the difference."

ers and honest companies.

ACT caught the break it needed in December, 2000, when McDowell County Circuit Court Judge Booker T. Stephens ruled ACT could intervene in the suit against Blue-stone Coal.

And, with the new Wise administration in charge, the position of the state changed.

Proceedings in the suit brought to light what went on while Vieweg and Underwood were in control.

From depositions taken it appears that coal company lawyers were running the show.

• A coal company lawyer drafted the resolution passed by the Performance Council, which recommended dropping the suits.

• The lawyers Vieweg consulted about the cases were coal company lawyers.

• A document detailing why not to drop the suits was never given to the Performance Council or the public, even though it was asked for.

"It was clear the Performance Council, the legislature and the public were misled by Vieweg and the Underwood Administration," said Calwell.

MEMBERS MAKE IT POSSIBLE**The Fight Continues**

By Steve Burton, President, WV State Building Trades

A little more than ten years ago, you, the members of local construction unions making up the West Virginia State Building Trades decided enough was enough.

It was time for action, and so ACT was formed.

Let's look at what we have accomplished.

The assistance you gave the Tri-State Building Trades in the pulp mill battle was the start. You helped take on a huge multi-national company, that was backed by state leaders, and you stopped them. It was the right thing to do.

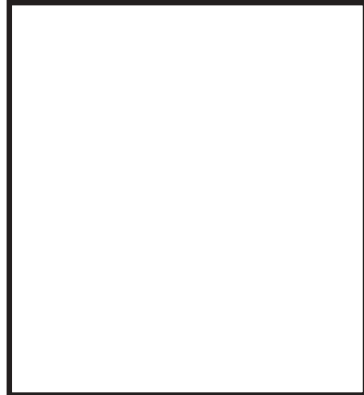
And you have racked up a number of important victories, not only for union construction workers but for all working families.

This tenth anniversary issue tries to list some of those victories, like protecting prevailing wage and workers' compensation.

We have had our defeats, but the bottom line is your twenty-five cents has waged an effective fight to protect you and your family. And that's the promise of ACT.

When ACT was formed we did not know exactly what to do. We simply knew our old tactics were not working and we had to come up with new tools.

**To the members who have paid their quarters and stuck with ACT and the State Building Trades I thank you.** Your courage and commitment makes our



labor movement strong.

There are those who doubt the strength of ACT, but the facts prove otherwise.

What have those who do not pay into ACT and the State Building Trades have to show for their contribution to the labor movement? Nothing.

Taking on Labor Ready, Brown & Root, coal companies, or power plant developers isn't easy and it isn't cheap.

Your investment in ACT has proven results and has earned you the respect of the labor movement, the business community and elected leaders.

The most serious attacks have come from within our own ranks. But attempts to destroy ACT and the Building Trades have failed.

Another achievement I'm happy to announce is the pay off of the mortgage for our new State Building Trades and ACT headquarters. Today we are stronger than ever.

I'm proud of ACT and the Building Trades. You should be, too.

There will be many more accomplishments to come.

Let's not waste time looking back. We must look forward to improve our efforts and continue our successes.

**Database & Research Tools Catch Cheating Contractors**

"You can't win the game if you don't know your opponent," says Dan Poling, Business Representative for Painters District Council 53.

"Without ACT's research and database, organizing would be a lot more difficult."

Over the years ACT's routine checks on construction companies and projects have bagged millions in back pay, taxes and license fees, as well as uncovered many violations of labor and environmental laws.

ACT's role is to assist the agents, organizers and members of local unions who are out there every day trying to improve their communities.

For example, in 1996 an ACT member suspected a church razing, performed by SAK Environmental, was contaminating his neighborhood with deadly asbestos. With ACT's help, the EPA was alerted and conducted an investigation.

ACT also took samples that showed high asbestos content at the site.

The EPA investigation led to a federal indictment of SAK on two counts of violating the Clean Air Act.

A partial list of agencies and permits ACT checks on projects and contractors includes:

- Workers' compensation -

to be sure contractors are registered and payments are current

- Department of Labor - to verify contractor's license, wage bonds, crane operators certification, WV Jobs ACT

- Occupation Safety and Health Administration - to

database of construction projects and contractors in the state.

The database is an invaluable tool for finding cheaters, and ACT routinely turns them in.

"ACT helps police the industry," said Dick Ullum, Assistant Executive Secretary of the Mid-

Atlantic Regional Council of Carpenters. "Their job is to level the playing field for honest contractors and all workers."

This "behind-the-scenes" work has saved the taxpayers a lot of money, too.

When Florida-based Haskell Construction built a postal facility in Charleston, the late Pauline Hanson, ACT research analyst, discovered they never paid B&O taxes on

the project. Her actions resulted in a \$437,000 payment to the city.

When ACT heard illegal immigrants might be working at the WVU Coliseum, it was Hanson, again, who got the INS to check the job. The Virginia contractor, USA Remediation, got caught with 28 illegal workers.

And it was Hanson who discovered Mountain Enterprises of Kentucky owed \$2.5 million in Workers' Compensation yet was winning awards from the Division of Highways.

"With ACT you have someone watching the details, every

**ACT'S CHECKLIST**

- Contractors License
- Wage Bond
- Secretary of State
- Workers' compensation
- Unemployment
- Crane Operator Certification
- Vendor License
- OSHA Violations
- Law Suits
- Liens
- Environmental permits
- Building Permits
- Public Service Commission

check for safety violations

- Secretary of State's Office - to make sure contractors are properly registered and up-to-date

- Department of Administration - to verify vendor license for public works jobs

- County Court Houses - Real estate ownership

- Federal or County liens or lawsuits

- Project/Contractor database - to check for track record

- Building Permits

- Environmental Permits

- Immigration and Naturalization Service (INS) - illegal workers review.

In addition, ACT keeps a

*CONTINUED ON P. 8*

## Fair Contracting Levels Playing Field

Do you have to cheat to compete?

ACT's Fair Contracting program makes certain that companies which don't follow the law pay for it.

ACT is a 'watchdog' for prevailing wage laws as well as a host of other state and federal requirements.

During the past 10 years ACT's prevailing wage monitoring has recovered millions in back pay for workers who were cheated.

However, ACT proved these workers were not in any training or welfare program.

"We had to protest at the Capitol and embarrass Governor Underwood before the workers got their money, but we got the job done," said Wayne Rebich, ACT Representative.

Contractors often pay workers at a lower rate than the job they are performing.

"We watched rebar getting tied for cassions on a school job in Wyoming County," said

**' CHEATING COMPANIES FIND OUT WITH ACT AROUND THEY CAN'T IGNORE PREVAILING WAGE LAWS.'**

BUBBY CASTO, BUS. MGR, IRON WORKERS LOCAL 301

"We want to make sure companies pay prevailing wages in order to protect the wages and living standards of all construction workers," said Larry Young, ACT's representative in the Eastern Panhandle.

Prevailing wages must be paid to workers on all tax-funded projects.

As a 'watchdog' of public works projects, ACT tries to level the playing field so dishonest contractors don't get a competitive advantage.

With the help of ACT, the Wage and Hour Division of the West Virginia Division of Labor collected the state's largest back pay sum ever in 1999.

The record-setting \$623,000 was collected for workers of West Virginia CCC.

The company claimed their workers were in a welfare-to-work training program.

Rebich. "But no iron workers were found on the payroll.

"As a result of our investigation Radford & Radford paid seven workers \$1,264 in back pay because they were doing iron workers' duties at a laborers' rates."

Contractors also often try to beat the system by paying fewer fringe benefits.

For example, in April 2000 Holley Brothers Construction was forced to pay 66 workers \$29,726 because it wasn't paying benefits.

In May of 2002 Holley Brothers lost their insurance and defaulted on a series of projects across the state.

"Cheating companies find out with ACT around they can't ignore prevailing wage laws," said Bubby Casto, Business Manager, Iron Workers Local 301.

## Who Pays, Who Doesn't Locals Who Pay

Asbestos 80, Winfield  
Boilermakers 667, Winfield  
Bricklayers 1, Wheeling  
Bricklayers 5 & 9, St. Albans  
Bricklayers 6, Wellsburg  
Bricklayers 15, Fairmont  
Bricklayers Dist. Coun. of WV  
Carpenters 302, Huntington  
Carpenters 476, Clarksburg  
Carpenters 604, Morgantown  
Carpenters 899, Parkersburg  
Carpenters 1024, Cumberland, MD  
Carpenters 1207, Charleston  
Carpenters 1911, Beckley  
Cement Masons 39, Middlebourne  
Cement Masons 887, Charleston  
Charleston Building & Construction Trades Council  
IBEW 596, Clarksburg

IBEW 968, Parkersburg  
Operating Engineers 132, Charleston  
Iron Workers 301, Charleston  
Iron Workers 568, Cumberland, MD  
Iron Workers 697, Roanoke VA  
Iron Workers 769, Ashland, KY  
Iron Workers 787, Parkersburg  
Mid-Atlantic Regional Council of Carpenters, WV  
Millwrights 1755, Parkersburg  
North Central WV Building & Construction Trades Council  
Painters 813, Huntington  
Painters 1144, Parkersburg  
Parkersburg-Marietta Build-

ing Trades Council  
Plumbers & Steamfitters 486, Baltimore, MD  
Plumbers & Fitters 83, Wheeling  
Plumbers & Fitters 152, Morgantown  
Plumbers & Fitters 521, Huntington  
Plumbers & Fitters 565, Parkersburg  
Plumbers & Fitters 625, Charleston  
Roofers 185, Clendenin  
Roofers 242, Parkersburg  
Sprinklerfitters 669, Mason, OH  
Teamsters 175, Charleston  
Teamsters 505, Huntington  
Tri-State Building and Construction Trades Council

## Locals Who Don't Pay

### WV Locals

Carpenters 3, Wheeling  
Elevators Constructors 48, Charleston  
Glaziers 1195, Charleston  
IBEW 141, Wheeling  
IBEW 317, Huntington  
IBEW 466, Charleston  
Iron Workers 549, Wheeling  
Laborers 379, Morgantown  
Laborers 453, Beckley  
Laborers 543, Huntington  
Laborers 679, Martinsburg  
Laborers 984, Clarksburg  
Laborers 1085, Parkersburg  
Laborers 1149, Wheeling  
Laborers 1353, Charleston  
Laborers DC of WV  
Painters 91, Wheeling

Painters 804, Shinnston  
Painters 947, Ridgeley  
Painters 970, Charleston  
Sheet Metal Workers 33, Clarksburg District  
Sheet Metal Workers 33, Charleston District  
Sheet Metal Workers 33, Wheeling District  
Sheet Metal Workers 33, Parkersburg District  
Teamsters 697, Wheeling  
**Out-of-state Locals with Some WV Jurisdiction**  
Asbestos 2, Clinton, PA  
Boilermakers 45, Richmond, VA  
IBEW 26, Manassas, VA  
IBEW 246, Steubenville, OH

IBEW 307, Cumberland, MD  
IBEW 637, Roanoke, VA  
Laborers 809, Steubenville, OH  
Millwrights 1871, Youngstown, OH  
Plumbers & Steamfitters 491, Roanoke, VA  
Roofers 34, Cumberland, MD  
Sheet Metal Workers 24, Dayton, OH  
Sheet Metal Workers 100, Cumberland, MD  
Teamsters 453, Cumberland, MD  
Teamsters 992, Hagerstown, MD

# Organized Labor Fights Labor Ready

Temporary employment firms have moved into the construction industry in a big way. And that's bad news for construction workers and their families who depend on the industry for their living.

One of the temp leaders is Labor Ready, a Seattle, Washington-based company with local offices in Charleston, Huntington, Parkersburg, and Steubenville, Ohio.

"Temporary construction companies are attacking construction workers and their families," said Mark Smithson, Business Manager, Plasterers and Cement Masons Local 887.

"If they succeed, all construction workers will be faced with minimum wage jobs, no benefits, and more dangerous working conditions."

The Tri-State Building Trades, together with ACT,

## Power Plants

*CONTINUED FROM P. 2*

Trivelli. "Constellation didn't do that,"

"The commission gave up \$20 million in tax dollars to create three permanent jobs which the company admitted will not go to local people."

Recently the Court ruled in ACT's favor on one issue. The Public Service Commission had denied ACT the ability to challenge Constellation's permit.

ACT wanted to show that Constellation is not living up to its application to the PSC because the company claimed it would use local workers and private financing.



*There are more than 700 Labor Ready offices like this one in South Charleston, in the United States and Canada.*

have set national legal precedents in the fight for temporary workers rights.

Led by former ACT representative Donald Huff and Tri-State's Tom Williams, a series of organizing drives were un-

dertaken starting in 1996.

"We've taken them on in West Virginia," said Huff, now Organizing Director for Operating Engineers 132.

Through it all there have been several court cases involving ACT, the Tri-State Building Trades, Labor Ready and the National Labor Relations Board (NLRB).

Most recently resolved is a case that had already gone to the 4th U.S. Circuit Court, considered the most unfriendly court to workers in the nation.

The Court granted the NLRB the right to enforce its remedies on Labor Ready for violating Huff's rights to solicit union membership.

Huff was illegally videotaped in the lobby of the South Charleston Labor Ready office and then removed by the police for violating Labor Ready's unlawful 'no solicitation' policy.

The remedies include

\$40,000 back pay for Huff and two other workers, and a nationwide posting notifying Labor Ready employees that the company will not interfere with their right to organize for the purpose of mutual protection and collective bargaining.

"This victory is for all temporary workers across the country," said Huff.

"Labor Ready learned the hard way that you can't infringe on workers' rights to organize."

Labor Ready filed a civil suit against the Tri-State Building Trades, the ACT Foundation and numerous locals and individuals, accusing them of a secondary boycott, in January 1999. The suit also asked the court to stop the union's organizing efforts.

In response to the lawsuit, Tri-State lawyer Lafe Chafin filed a "Bill Johnson" complaint with the NLRB saying Labor Ready filed the lawsuit to strip

workers of their organizing rights guaranteed by the National Labor Relations Act.

In the NLRB's complaint dated July 31, 2000, the Board agreed with the union, saying Labor Ready officials were interfering with the exercise of workers' rights guaranteed by federal law.

The NLRB complaint also alleged Labor Ready's suit lacked a basis in fact and law, and was retaliatory in its inception and prosecution.

In a highly unusual move the NLRB filed motions to get involved on behalf of the union members. Eventually the civil suit was settled out of court. "In the end we feel we came out on top," said Chafin.

Labor Ready's troubles have yet to end. Recently, serious questions have been raised about their payment of workers' compensation premiums.

"The fight against this fast-growing threat to working families was begun by ACT and Donald Huff in 1996, and we will continue to fight as long as the threat exists," said Dave Carte, Business Agent for Bricklayers Locals 5 and 9.

### A PUBLICATION OF THE AFFILIATED CONSTRUCTION TRADES FOUNDATION

The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council, with offices in Charleston and Clarksburg. Steve Burton, President; Roy Smith, Secretary-Treasurer; Steve White, Director.

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Clarksburg - (304) 624-0682

[WWW.ACTWV.ORG](http://WWW.ACTWV.ORG)

## ACT Formation

*CONTINUED FROM P. 1*  
and see where it takes them.”

The founding convention was held in December of 1991.

By June of 1992 ACT hired its first employee, Cathy Rodes, as office manager. In July, the Board named Steve White as Director.

At the first annual Leadership Conference on Sept. 15,

years and averages approximately \$2 million per year.

The largest ACT expenditures are for advertising and public relations totaling around \$600,000 per year.

Other major expenditures include legal and environmental experts.

In 1999 ACT became a division of the West Virginia State

**' WE REMAIN THE STRONGEST  
LABOR ORGANIZATION IN THE  
STATE.'**

JOHN HICKEY, BUS. MANAGER, UA LOCAL 83

1992, the Foundation's course was charted.

Following are the highlights of ACT's basic mission:

- The main objective is to get more jobs for members;
- Inform the public and companies of why it makes sense to hire union workers;
- Use prevailing wage monitoring to level the playing field for union contractors;
- Track all projects and contractors in West Virginia to better understand what is needed to increase job opportunities for union workers;
- To be pro-active with early involvement in regulatory oversight of the construction process;
- Use labor and environmental laws as well as the Freedom of Information Act to keep companies honest;

From this basic mission ACT's approach has evolved to what it is today.

Seven ACT representatives cover the state from Wheeling to Martinsburg to Beckley.

Income from member contributions has grown over the

Building Trades.

The move brought in more locals from across the state.

But ACT has had its share of problems, too -- the most difficult being internal issues.

A number of locals have joined and dropped out over the years. There have been a variety of reasons ranging from financial difficulties to challenges of leadership.

In 2000 the Sheet Metal Workers dropped out. So, too, did the Laborers.

"I'm tired of the freeloaders, it's time everyone came on board and paid their fair share," said Ronnie Burdette, Business Manager for Operating Engineers 132.

As with any aggressive organization, the future is never guaranteed.

"We remain the strongest labor organization in the state, and the envy of many building trades across the country," said John Hickey, Business Manager for Plumbers and Pipefitters 83, Wheeling.

"As long as we stick together our success will continue."

## ACT Ads Show Workers View

Since its creation, ACT's mission has been to get out the message of union construction workers. And the number one tool has been TV.

"Our members knew their story wasn't being told by the media," said George Pinkerman, Business Manager for Boilermakers Local 667. "The only way to get our message out was to put up the money and do it ourselves.

"If we don't tell our story who will?"

Advertising is ACT's top expenditure and TV leads the way.

Approximately 1,500 ads are run each year on TV. That means more than 15,000 positive union messages have been sent to hundreds of thousands of viewers.

Radio, newspaper and billboards account for a significant number of messages as well.

"We see what the business community does, they use a constant barrage of TV to tell their story," said Jim Ross of IBEW Local 968, Parkersburg. "If we don't tell our side no one will"

A computer search through the Charleston newspapers found more than 700 news stories mentioning ACT. That's

more than a story a week for ten years just in the Charleston papers!

ACT's media presence has evolved over its 10-year history, from full-page newspaper ads to a weekly half-hour TV show that began in 1999.

ACT's promotion of the la-

bor movement hasn't gone unnoticed or unappreciated by the rest of the labor movement.

"ACT's TV presence has been a real plus for all working men and women," commented WV AFL-CIO president Jim Bowen.

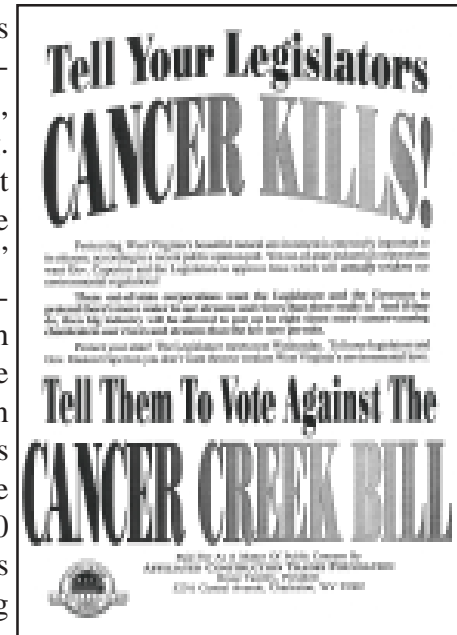
"That's why the AFL-CIO has joined in with the West Vir-

ginia Works program. We want to be partners and help sell the positive message of unions in this state."

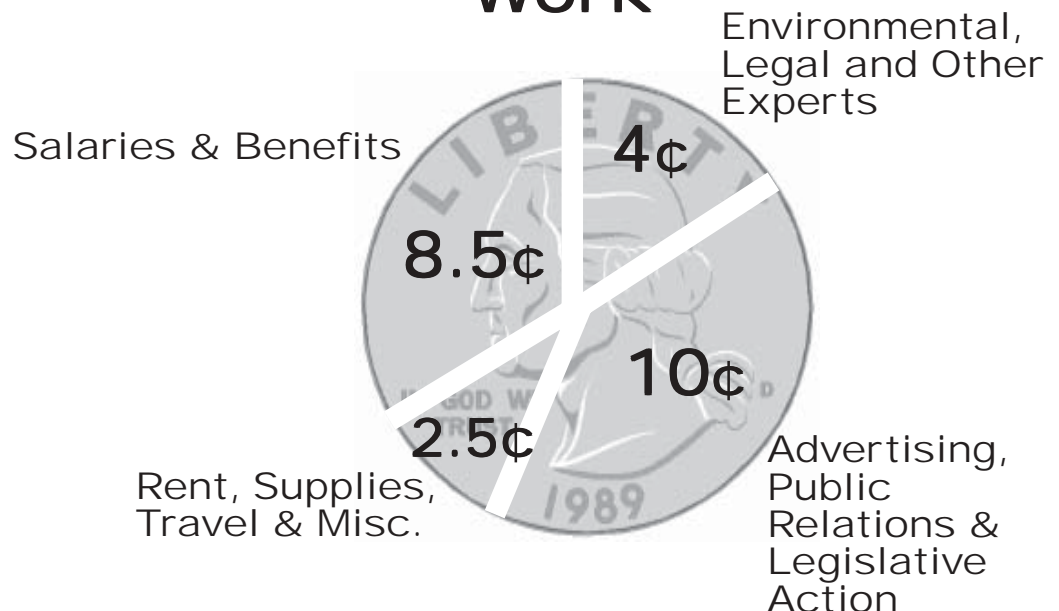
Five of ACT's TV ads have won national Telly awards for excellence.

"ACT's advertising has two

*CONTINUED ON P. 8*



## A Decade of Quarters Hard at Work



# WV Supreme Court Agrees With ACT On WVU Foundation Lease Agreement

Using leases with private developers to avoid state wage and bidding laws had been a growing problem until ACT went on the attack.

project but private one.

ACT claimed the agreement was reached solely to skirt prevailing wage and competitive bid laws.

And, after years of fighting, the State Supreme Court of

public agencies will not be able to shortchange workers or overcharge the taxpayers."

The 5-0 opinion written by Justice Joe Albright said although it was too late to do anything about the administrative building at WVU, in the future lower courts should consider the following criteria when deciding whether or not a project is subject to prevailing wage laws:

- Whether a public entity initiated the project

- The extent of control retained by the public entity

- The extent to which the project will be used for a public purpose

- Whether public funds are used directly or indirectly

- Whether a lease contract is written solely to evade the prevailing wage act

- Any other relevant factors not listed above that may be relevant as to whether the project is private or public.

"This is a bittersweet victory," said Darwin Snyder, Business Manager for IBEW 596 and president of the North Central West Virginia Building Trades.

"WVU still got away with a crime, but the ruling closes loopholes and should prevent this from happening again."

ACT filed numerous Freedom of Information Act (FOIA) requests to force the release of important documents. ACT's FOIA requests were denied because the WVU Foundation was a private organization.

Ultimately ACT learned the location for the new building was part of a larger develop-

**' WVU STILL GOT AWAY WITH A CRIME, BUT THE RULING CLOSES LOOPHOLES AND SHOULD PREVENT THIS FROM HAPPENING AGAIN.'**

**DARWIN SNYDER, BUS. MANAGER IBEW 596**

ACT has a mandate to fight unlawful schemes aimed at cheating workers from their prevailing wages.

ACT believed such a scheme was occurring when WVU and its Foundation decided to build a new administration building in Morgantown.

An elaborate lease agreement was drawn up so WVU could claim the \$23 million project was no longer a state

Appeals agreed with ACT in December, 2001.

"I'm grateful for ACT's persistence in this case," said Ed Boone, Business Manager, Plumbers and Fitters Local 152, Morgantown. "If it had gone the other way it would have been the same as taking the prevailing wage and competitive bid laws off the books."

"Now that the Supreme Court has clarified the law,

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Charleston, WV 25301

This case began in 1999 when ACT tried to find information regarding plans to build the new administration building.

After getting the runaround,

ment proposed by Platinum Properties. Mike Puskar, a partner in Platinum was also a member of the WVU Foundation Board.

## Database

*CONTINUED FROM P. 4*

day, and making sure everyone is playing by the same rules," said Ray Parr, Cement Masons Local 39.

Relying on the Freedom of Information Act (FOIA), ACT hasn't been afraid to go to court to make sure public documents are made available.

ACT took the FBI to court after it ignored repeated FOIA requests for information on the Clarksburg FBI Center project. ACT suspected wage violations after talking with workers on the job. In the end, the FBI found out that even they were not above the law.

ACT also has the resources

to hire experts when research projects get complicated.

One such ACT study was done on a plan to rewrite the tax code proposed by former Gov. Cecil Underwood.

ACT hired an economist whose 1999 study revealed working families would pay \$246 dollars more in taxes per year while those in the top income bracket would save \$12,500 per year.

"Having the money to do this kind of research in order to inform working families is what makes ACT a force in the community," said Carl Harper, Business Manager, Roofers Local 185, Charleston.

ACT has had numerous successful media campaigns, but the first success was the "Cancer Creek" blitz.

It spanned the 1993 and 1994 legislative sessions and included many newspaper ads and bold TV commercials challenging elected officials to make sure the proposed construction of a paper pulp mill at Apple Grove in Mason County used local workers and modern technology.

Twice during the campaign a half-hour show was aired to get the public's attention about

the costs of the mill including secret tax deals, imported labor and the danger of dioxin, which the mill would produce.

ACT spent close to \$1 million on this campaign but it got the job done.

"Alone no local could take on a battle like the pulp mill," said Dale McCorkle of Iron Workers Local 769, Ashland, Ky. "By joining together we were able to take on a billion dollar, multi-national corporation which had the backing of state leaders. That's an accomplishment in itself."

## Advertising

*CONTINUED FROM P. 7*

goals," said Mike Matthews, Business Manager of the Charleston Building Trades.

"One is to promote the positive contributions of local union construction workers and their families. Second, we let the public know about issues that affect our communities whether it's illegal aliens at WVU or workers' compensation cheaters.

"We've stopped letting others tell our story and by doing so we're changing the way the public thinks about unions."