

**THE
ACT
REPORT**

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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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INSIDE

WV Jobs Act	Pg. 2
Electricians	Pg. 2
Comp Study	Pg. 3
Roofers	Pg. 3
Operators	Pg. 4

Kentucky Company Responsible for 3 Deaths, \$2.5 M Comp Debt

How low will the State of West Virginia go?

Mountain Enterprises, a Lexington, Kentucky paving company, was recently held liable for their trucking subcontractor who was working on a paving job on Route 10. With an overloaded dump truck and bald front tires, the 32-ton truck slammed into a car in Lincoln County killing a Chapmanville woman and her two children, ages 8 and 11.

The family was awarded a judgement of \$18 million.

In addition, Mountain Enterprises owes millions to the West

Virginia Workers Compensation Fund, but they are still doing business in the state.

Mountain has racked up a \$2.5 million debt because of alleged misclassification of its workers compensation rate.

The paving company claimed it was an asphalt maker, which requires a 2.5 percent payroll premium. Paving roads requires a 10 percent payroll premium.

The company is disputing the state's claim.

While the case is in litigation the state's Workers Compensation Division is allowing Mountain Enterprises to continue to

do business in West Virginia with month-to-month extensions. This allows them to continue bidding against companies that follow the law.

In a letter to state Secretary of Transportation Fred VanKirk, ACT's Steve White pointed out "it is within your discretion to prohibit Mountain from getting any new awards given their precarious status with workers compensation."

White asked, "Is a company that can only provide month to month coverage considered responsible?"

Mountain Enterprises is the

largest paving company in Kentucky and the second largest in West Virginia. The Louisville Courier-Journal reported a federal grand jury, under the supervision of the U.S. Department of Justice antitrust division, is investigating the lack of competition for state paving contracts in Kentucky.

Of the 495 paving contracts Mountain successfully bid on between 1988 and 1994, 471 had no other bidders.

Mountain's President Leonard Lawson and officers and family members of Moun-

CONTINUED ON PAGE 4

Court To Hear ACT Complaint

The West Virginia State Supreme Court has agreed to hear ACT's complaint against Constellation Power and the Public Service Commission.

The Court voted 3-2, with Justices Robin Davis and Elliott "Spike" Maynard dissenting, to hear the case.

ACT petitioned the high court because the PSC refused to hear its complaints against Constellation's Big Sandy Peaker Plant in Wayne County.

ACT claims Constellation did not live up to its PSC application.

Constellation said they would purchase goods and services locally and would finance the project internally.

Instead Constellation imported H & M Construction from Ten-

CONTINUED ON PAGE 3

Building Trades Donates \$10,000 to Willow Island Memorial Fund

AT THE GROUND BREAKING ceremony Sam Davis (left) of the Parkersburg-Marietta Building Trades presents a \$10,000 check from the West Virginia State Building Trades to Anthony Lauer, who is leading the effort to build the Willow Island Memorial. Lauer's grandfather, Gale Steele, was among the 51 killed in the 1978 accident. Steele was a member of Iron Workers Local 787, Parkersburg.

"Anthony has done a tremendous job pulling this project together," said Davis. "His enthusiasm has been an inspiration for all of us." Contributions to the Willow Island Memorial Fund can be sent to Davis at 1406 1/2 13th St., Parkersburg, 26101.

WV Jobs Act & Crane Certification Take Effect

After years of persistence, the West Virginia Jobs Act and the Crane Operators Certification law became effective September 1.

The Jobs Act mandates local workers will get the construction jobs created by publicly funded state projects costing more than \$500,000.

"The bill is not as good as it could be, but it is better than not having anything at all to protect local workers," said former Delegate Larry Linch (D-Harrison) who currently serves as Director of Organizing for the West Virginia Division of the Mid-Atlan-

tic Council of Carpenters.

Linch introduced an earlier version of the bill in 1993.

"It is great that West Virginia workers will benefit from their own tax dollars."

The Crane Operators Certi-

time," said Ronald Burdette, Business Manager for the Operating Engineers Local 132.

"Our members are required to take both the state and the national crane certification before they are sent out to work. It

promotes safety for all construction workers and the public."

Enforcement for both laws will be the responsibility of the West Virginia Divi-

sion of Labor and its Commissioner Jim Lewis.

"We have been working hard to make sure all agencies, contractors and workers are aware of these new laws and know how to comply with them," said Lewis.

fication will improve safety for workers and the public by requiring all crane operators to pass both a written and hands-on test to receive a certificate.

"I think crane certification will prove to be one of the best safety initiatives passed for some

' I THINK CRANE CERTIFICATION WILL PROVE TO BE ONE OF THE BEST SAFETY INITIATIVES PASSED FOR SOME TIME.'

RONALD BURDETTE, BUSINESS MANAGER, OPERATING ENGINEERS LOCAL 132

ACT Legislative Rep. Appointed to WV AFL-CIO Executive Board

ACT Legislative Representative B.B. Smith has been appointed to the West Virginia AFL-CIO Executive Board.

Smith was recommended by the West Virginia State Building Trades to take a seat vacated by Carpenter representative Larry Linch. Linch resigned because of the recent split of the United Brotherhood of Carpenters from the AFL-CIO.

"I am honored to have the opportunity to serve on the executive board," said Smith.

"I look forward to working with the AFL-CIO for the bet-

terment of the union movement."

Smith's appointment to the executive board follows several years of devotion to the labor movement.

He was the Chairman of the legislative committee for the Boilermakers Local 667 for eight years before working with ACT where he has been for the past eight years.

Smith is currently President of the Marshall-Wetzel-Tyler Labor Council and an executive board member of the State AFL-CIO Committee On Political Education. Smith has been a member of Local 667 for 24 years.

To remain a Vice-President Smith must run for election at the upcoming AFL-CIO Convention in October.

"I hope to promote unity and get more people involved in the union activities," said Smith.

LICENSE PROMOTES SAFETY AND QUALITY

Electricians' License Levels Playing Field

The International Brotherhood of Electrical Workers (IBEW) has had great success using the state's electricians licensing requirement to create a level playing field for local contractors and workers.

"Many people have doubted the value of the electricians licenses in West Virginia," said Ken Winter, Organizer for Parkersburg IBEW Local 968.

"From an organizing standpoint it has proved invaluable."

By getting involved early in the

construction process, confirming the contractors have valid West Virginia contractors licenses and ensuring that all of the electricians are licensed,

IBEW 968 has been able to oust some out-of-state, non-union contractors, thereby providing jobs for union contractors.

A recent success came at a Sears remodeling job in Vienna.

Sturzenbecker Construction

of North Myrtle Beach, South Carolina was hired to do the job, but the company ignored the licensing requirements in West Virginia.

contractor.

"Just doing a little bit of investigation got 1,800 man-hours of work for our members," said Winter.

' FROM AN ORGANIZING STANDPOINT IT [ELECTRICIANS LICENSING] HAS PROVED INVALUABLE'

KEN WINTER, ORGANIZER, IBEW 968

When the requirements were brought to their attention, the company agreed to subcontract the electrical work to a union

Passed in 1994 the Electrician Licensing law requires anyone in the state doing electrical work to hold a valid license.

Controversy over the perceived inaction by enforcement officials in the State Fire Marshall's office has led to leg-

islative attempts to move enforcement to the Division of Labor.

Currently the Division of Labor handles both contractors licensing and the new crane operators certification enforcement.

Presently the electricians' locals are working with the state Fire Marshal looking into ways to improve enforcement of licensing, according to Winter.

"This is a great step for union electricians and a great step toward ensuring quality work and consumer safety in West Virginia," said Winter.

Study Nails Chamber Again

A new study of workers' compensation by Marshall University has confirmed our rates are not a factor in hurting or helping economic development in West Virginia.

"For most industries, workers' comp base rates are below both the regional and national averages," wrote Calvin Kent, dean of Marshall's Lewis College of Business.

The study finds that workers compensation rates have no significant impact on economic growth in West Virginia.

The study's critics, such as the state Chamber of Commerce, have been saying for years that West Virginia's dis-

maleconomic situation is due to high workers' comp rates.

"It's time the Chamber stop blaming comp for our states lack of economic growth," said Roy Smith, State Building Trades secretary-treasurer.

"In fact by spreading the 'highest rate in the nation' lie for years they have contributed to West Virginia's economic woes."

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

In a letter to the Charleston Daily Mail, NASI asserts "This interpretation of our report is wrong."

In a prior publication of the Regional Economic Review, published by Marshall, the claim

that state compensation rates were the highest in the nation was challenged.

Criticism prompted further study and led to this most recent report.

"We feel that our conclusions are supported by the data and our analysis is correct," said Kent.

The real story is Workers Compensation rates are good news for most industries and new companies in West Virginia. The critics should be welcoming this revelation, Kent said in the article.

Average state compensation costs are inflated by the coal mining industry, said Kent.

Total benefits paid in mining accounted for 28.8 percent of

all benefits paid in 2000.

Last month coal jobs only accounted for 2.2 percent of all jobs in West Virginia.

"This study also shows there is room to restore benefits to injured workers without harming economic growth any further," said Smith.

"That is, if coal companies pay the debt they owe the workers comp fund."

"The Chamber should join with us in promoting safer work places and collecting the workers compensation debt owed by 'big coal.'" Smith said.

"Instead the Chamber stands silent while its honest members and West Virginia workers are footing the bill for these dead-beat coal companies."

Tmaro Pays \$25,000 EEOC Settlement

Debbi Johnson, a member of Carpenters Local 604, Morgantown, has won a \$25,000 settlement from Tmaro Corporation.

Backed by the Equal Employment Opportunity Commission (EEOC), Johnson filed suit because, as a qualified carpenter, she was not hired at the Seneca Rocks Visitor center in 1997.

As a federal project Tmaro had a requirement to hire females.

With the help of ACT, Johnson gained access to certified payrolls that helped show Tmaro

CONTINUED ON PAGE 4

COURT

FROM PG. 1
nessee and got Wayne County to give them a huge tax break and issue Industrial Revenue Bonds.

The PSC contends that ACT has no standing to complain now because it was not involved in the certification process.

"It is absurd that members of

ing goods and services locally," said Trivelli.

Steve Burton, of the Tri-State Building Trades adds, "They didn't live up to their promises. We plan to hold them accountable."

Granting the petition is just the first step in a long process.

Now that the hearing has been

Parkersburg Roofers Join ACT/Trades

Roofers Local 242 of Parkersburg has joined the West Virginia State Building Trades and the ACT Foundation.

The 130 member Local covers north central West Virginia and five counties in Ohio.

"Being one of the smallest unions in the state we need the services ACT provides because we do not have the money to finance them ourselves," said Kenneth P. Downie, Business Manager for Local 242.

"The fact is, united we stand and divided we fall and the State Building Trades main goal is to strengthen the union movement for the construction industry and all workers in West Virginia."

Downie said his union has been active in the past with politics and support picketing and it will continue to help the cause in any way it can.

"I have faith that our membership in the State Building Trades will help this local grow," added Downie.

"I'm Glad to have more Roofers supporting ACT and the State Building Trades," said Carl

Harper, Business Manager, Roofers Local 185.

"One hundred and thirty new members will help strengthen ACT and help to organize the roofing industry in West Virginia."

' THEY DIDN'T LIVE UP TO THEIR PROMISES. WE PLAN TO HOLD THEM ACCOUNTABLE. '

STEVE BURTON, TRI-STATE BUILDING TRADES

the local community have no right to complain about a project being built in their backyards," said Vincent Trivelli, ACT Lawyer.

"We didn't get involved in the certification process because Constellation promised they would benefit the local economy in their application by purchas-

granted each side has 30 days to submit briefs.

A date for the Supreme Court hearing has yet to be set.

"This may take months to resolve, but ACT will fight for as long as it takes to stop Constellation from taking advantage of Wayne County," said Trivelli.

WV AFL-CIO
23rd Constitutional
Convention

October 17- 19
at the
Charleston House Holiday Inn

It is important your voice is heard. Make sure your local sends a full delegation.

Operating Engineers Await Election

Operating Engineers Local 132 and workers on the \$19 million Bluestone Dam project in Hinton are awaiting a decision from the National Labor Relations Board (NLRB) on their request for a union election.

The company, ASIRCC, contends the operators are a 'composite crew' who do other tasks besides running heavy equipment. They don't want a unit of operators.

"We are confident we will get an election," said Rodney Marsh, Organizer for Local 132.

"The NLRB has consistently ruled craft unions can 'split up' a work force to represent those who perform specific tasks."

The petition for election was filed and picketing began after ASIRCC, of Buena Vista, Colorado, refused to voluntarily recognize

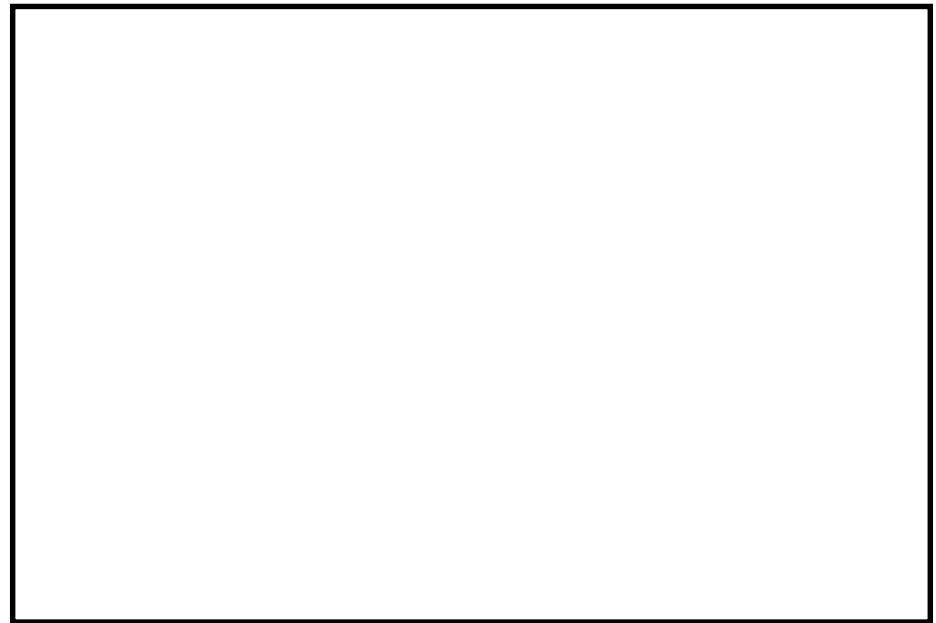
Local 132 as the bargaining agent for the majority of the operators on the job.

Earlier that same day three employees of ASI — Donald Carter, Ricky Meadows, and Nat Carter — identified themselves as voluntary union organizers to Robert Long, ASI superintendent. The three organizers reported their working conditions changed and their work was being scrutinized after the meeting with Long.

In just a day and a half in August, the Operators had announced an organizing campaign, filed for a union election, set up a picket and shortly thereafter filed unfair labor practice charges against ASI.

"It's very important for us to organize ASI," said Marsh.

"Along with Bluestone the company is going to bid on the Marmet locks and dam project. That could mean two or three years worth of work for our members."



Picketing ASI are Local 132 members (from left) Joe Sexton, Aaron Amick, James Phillips, Frank Carter and Rodney Marsh.

EEOC

FROM PG. 3
discriminated.

The payrolls showed five men were hired after Johnson applied.

In his deposition, Mark Owen, president of Tmaro claimed he didn't hire her because he could not use her the way "we use carpenters."

According to Johnson this meant carpenters worked in their craft a few

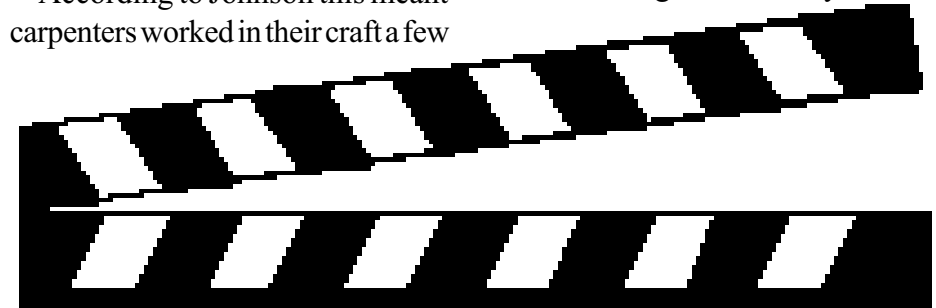
hours then as laborers or finishers.

"He should have hired me, I've been a carpenter for 12 years," said Johnson.

Tmaro settled the case out of court for \$25,000 and no admission of guilt.

"It's a step toward equality for women construction workers," Johnson said.

"After a long battle I finally won".



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FOX 11

Charleston,
Huntington, Parkersburg
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MOUNTAIN

FROM PG. 1

tain and related companies are heavy campaign contributors in Kentucky and West Virginia. The West Virginia based Peoples Election Reform Coalition (PERC) has compiled campaign contribution records for the 2000 election. PERC data shows Lawson and others associated with his company gave a total of \$9,000 to former Gov. Cecil Underwood's campaign and \$7,000 to

Gov. Bob Wise's campaign, plus \$5,000 to the Wise inauguration.

According to the September 3 Sunday Gazette-Mail, Sam Beverage, former Underwood Highways Commissioner recently accepted a position with Mountain.

The company won 49 paving contracts totaling \$12.3 million in 2000 from the Division of Highways while Beverage was commissioner.