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A Division of the WV State Building Trades, AFL-CIO | Chuck Parker, *President* | Dave Efaw, *Secretary-Treasurer* | Steve White, *Director*

# Licensing Laws Attacked by Legislative Leaders

Some are calling the 2020 Legislative session slow but for the Trades it has been another series of constant attacks.

The focus this year is on weakening licensing laws and the attack comes from the House of Delegates.

Electrician licensing came under fire first with bills to create an exemption for no license for the first \$2,500 of electrical work and to lower the standards for a person to qualify as a Journeyman or a Master.

The House Industry and Labor Committee passed such a bill, HB 4358, but it was first amended to remove the \$2,500 exemption and to add a drug testing requirement.

While that bill sits to be taken up by the next committee another seemingly innocent bill to exempt low voltage electrical work from requiring a license, HB 4185, came before the House Government Organization Committee.

"The bill showed up with new language in it that tried to do the same thing as HB 4358, exempt \$2,500 of

electrical work and lower the time needed to work independently or supervise others to two years," said Joe Samples, a representative of Electricians Local 466 Charleston.

With only a few moments notice Samples was able to alert committee members to the changes.

Delegate Phil Diserio (D-Brooke), a licensed electrician himself, led the fight and with bipartisan support was able to defeat the bill on a tie vote.

The next attack was against the Sprinklerfitters license, known in code as a Fire Protection Worker. HB 4352 again appeared to be harmless stating the purpose was to allow those who had a prior criminal conviction unrelated to the purpose of the license to be considered for a license. But stuck in the fine print was language slashing the time it took to become a fully licensed Fire Protection Worker to only six months.

"It's outrageous to say a person who has been on the job for only six months is capable of running a sprinklerfitting job and supervising others,"

said Bob Supe, Business Agent for Sprinklerfitters Local 669.

Again, with bipartisan support the bill was amended to increase the hours to 5,000.

Even after the compromise was passed in the committee another attack was launched when the bill came before the full House by Del. Jeff

Foster (R-Putnam) to try and lower the hours to 3,000. That amendment failed 50-48.

"We need to get both democrat and republican legislators on our side to win any vote," said Supe. "We work hard on both sides of the aisle to find compromises that make sense."

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At the Capitol members of the Carpenters talk with Del. Tony Paynter (R-Wyoming) (right) who has proven himself a true friend of the Trades and working families.

## SMART 33 Wins Labor Board Ruling

SMART Local 33 won a major victory representing workers at Appalachian Heating before an Administrative Law Judge at the National Labor Relations Board (NLRB).

S & S Enterprises LLC, which goes by the name of Appalachian Heating, was found guilty of numerous unfair labor practice charges that took place throughout 2019.

The January 15, 2020 Decision by

U.S. Administrative Law Judge David I. Goldman ordered the reinstatement of two workers with full backpay plus a reimbursement for any negative tax consequences of receiving the lumpsum backpay.

According to Goldman one worker was illegally fired and the other illegally laid off because of their lawful union activities.

In addition, Goldman gave the

company a long list of illegal acts Appalachian must notify all employees it will no longer do.

Goldman went further by imposing a cease-and-desist order against the company – something that is rarely done.

In November of 2018 Local 33 began talking to Appalachian employees about a union.

Starting in February of 2019 and

continuing thru July of 2019, Local 33 filed numerous allegations of Unfair Labor Practices (ULP's) with Region Nine and Six of the NLRB.

When ULP charges are filed at the NLRB they are investigated by the Regional Director.

If the investigation shows the charges appear to be true, then a complaint is issued by the Region

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# Charleston Project Getting Tax Breaks

## Asbestos Found in Atlas Building

Loose asbestos was found by workers at a Charleston renovation project leading to a series of calls for action.

The Atlas Building in downtown Charleston is undergoing a major renovation.

Contractors at the project have a mix of union and nonunion workers.

The General Contractor is nonunion Persinger & Associates who is still in lawsuits over the Chapmanville Elementary School project in Logan County.

When the project first was underway in November nonunion workers were concerned there was asbestos in the building.

ACT contacted both the State DEP Air Quality Division and the DHHR Health Department about suspicious material onsite.

Both agencies reported the proper pre-demolition inspections had taken place and except for some floor

tile to be abated on a weekend there was no asbestos present where work was underway.

However, in mid-January workers again reached out, this time to Scott

Brewer a representative of the Carpenters who was monitoring the project.

They gave Brewer five samples, taken from debris in the building near where they worked, which Brewer had tested.

Two of the samples came up with high asbestos content.

Again, the State agencies were contacted but it took almost a week before anyone came to the site.

During that time ACT called OSHA because the delay was causing much concern.

When inspectors from the DEP did show up, they said they couldn't see any loose asbestos but did say the project had been shut down earlier in the month for asbestos issues.

"I was told by onsite workers they

**"I was told by onsite workers they observed a demo crew stripping what looked like asbestos off pipe to salvage the copper, then threw the asbestos into a chute that went to the dumpster"**

**Scott Brewer**

*Carpenters Representative*

observed a demo crew stripping what looked like asbestos off pipe to salvage the copper, then threw the asbestos into a chute that went to the dumpster," said Brewer. "These allegations are hard to document but

they are very concerning to anyone in the industry."

The project is being paid for with the help of significant federal and state tax credits and a freeze on county property taxes. ■

Charleston, WV 25311		Analysis Date: 1/23/2020	
RE:			
CLIENT ID #:	LAB ID #:	LOCATION:	COLOR:
1	20B-01276		White/Grey
Texture/Description: Solid/Mortar		Chrysotile: 0 %	Tremolite: 0% Anthophyllite: 0%
TOTAL ASBESTOS: 0 %		Amosite: 0%	Actinolite: 0% Crocidolite: 0%
Cellulose: 0 %	Fiber Glass: 0%	Others: 5%	Filler/Binder: 95 %
CLIENT ID #:	LAB ID #:	LOCATION:	COLOR:
2	20B-01277		White
Texture/Description: Fibrous/Insulation Wrap		Chrysotile: 75%	Tremolite: 0% Anthophyllite: 0%
TOTAL ASBESTOS: 75 %		Amosite: 0%	Actinolite: 0% Crocidolite: 0%
Cellulose: 0 %	Fiber Glass: 0%	Others: 0%	Filler/Binder: 25 %
CLIENT ID #:	LAB ID #:	LOCATION:	COLOR:
3	20B-01278		Brown/White
Texture/Description: Solid/Plaster		Chrysotile: 0 %	Tremolite: 0% Anthophyllite: 0%
TOTAL ASBESTOS: 0 %		Amosite: 0%	Actinolite: 0% Crocidolite: 0%
Cellulose: 0 %	Fiber Glass: 0%	Others: 8%	Filler/Binder: 92 %
CLIENT ID #:	LAB ID #:	LOCATION:	COLOR:
4	20B-01279		Brown/White
Texture/Description: Solid/Plaster		Chrysotile: 0 %	Tremolite: 0% Anthophyllite: 0%
TOTAL ASBESTOS: 0 %		Amosite: 0%	Actinolite: 0% Crocidolite: 0%
Cellulose: 0 %	Fiber Glass: 0%	Others: 6%	Filler/Binder: 94 %
CLIENT ID #:	LAB ID #:	LOCATION:	COLOR:
5	20B-01280		White
Texture/Description: Fibrous/Pipe Insulation		Chrysotile: 70%	Tremolite: 0% Anthophyllite: 0%
TOTAL ASBESTOS: 70 %		Amosite: 0%	Actinolite: 0% Crocidolite: 0%
Cellulose: 0 %	Fiber Glass: 0%	Others: 0%	Filler/Binder: 30 %
Analytical Method: Polarized light microscopy using dispersion staining (EPA-600/M4-82-020). PLM should not be used to demonstrate the absence of asbestos in floor tiles. All samples will be held for sixty (60) days unless otherwise requested. This report relates only to items tested and makes no statement as to the contents of surrounding materials and apply to the sample as received. Multi-layered material which have distinct and separable layers shall be reported separately. This report shall not be reproduced, except in full, without written permission. The results of this report should not be used by the client to claim product certification, approval, or endorsement by NVLAP, NIST, or any agency of the U.S. Government.			

This report of five samples tested from the Atlas Building in Charleston shows two have high concentrations of asbestos.

## Efforts to Weaken WV Jobs Act Fails Again

For the third year in a row legislative leaders have tried and failed to weaken the WV Jobs Act.

With encouragement from the anti-union Associated Builders and Contractors a bill to eliminate payroll data was quickly put on the House Industry and Labor agenda.

Thanks to efforts by the West Virginia Press Association and ACT the bill was defeated in committee by a one vote margin.

The WV Jobs Act requires local construction workers get a chance at

jobs created with tax dollars.

The law has been in place for many years but is increasingly important now that the prevailing wage law has been repealed.

The WV Press Association expressed their opposition to the elimination of any data related to taxpayer expenditures that is currently available to the public.

ACT's Steve White testified that eliminating the payroll data would create a huge loophole in the enforcement process.

White gave an example of Elite Contractors Inc. from Campbell Ohio who had been fined by the West Virginia Division of Labor for a Jobs Act violation because they imported workers at a much higher pay rate than was offered local workers.

"Without the payroll data we would have not known they offered well qualified West Virginia workers significantly lower pay than the workers they imported from far away," said White.

"And with the payroll data we

have also helped the state collect hundreds of thousands of dollars in unpaid payroll taxes."

An attack on the West Virginia Jobs Act failed by a one vote margin in committee.

The effort to weaken the Jobs Act by making payrolls secret was tried the last few years and has failed.

Unfortunately legislative leaders can bring the bill up at almost anytime so ACT and the Trades must keep a constant watch on all committee agendas. ■

# WV AFL-CIO Conference in Charleston

The WV AFL-CIO held their legislative conference, reception and an early COPE meeting on January 29 and 30 in Charleston.

The conference took the morning of Wednesday the 29th to update delegates on legislative issues from a Labor perspective.

After two years of strikes by teachers and school service personnel, and with an election pending, there was not the anticipation of a big fight.

However, many concerns exist about state budget issues, corporate tax break proposals, elimination of dog racing and the jobs associated with it, and more.

Delegates then went to the capitol to meet with legislators first at the Cultural Center and then at the Capitol.

The full endorsement process is set to be completed on March 14 but early interviews and endorsements

were made in a few statewide races.

Long time supported candidate John Perdue was endorsed for reelection as State Treasurer.

Natalie Tennant was endorsed for the position of Secretary of State. Mary Ann Claytor was endorsed for State Auditor. And Bob Beach received the endorsement for the Agriculture Commissioner.

In addition, three Supreme Court candidates got the Labor endorsement, Joanna Tabit, currently a Kanawha County Circuit Judge; John Hutchison, who was appointed to the Supreme Court, and Richard Neely who served on the Court years ago.

The election of Supreme Court Judges is nonpartisan so the vote during the primary in May is the final vote for the offices. There are three positions on the ballot.

All other endorsement will take place after local labor councils review

candidate questionnaires, hold candidate interviews and present their

suggestions to the State COPE meeting in March. ■



WV AFL-CIO President Josh Sword makes it a point before a group of labor delegates to thank the many members of the Legislature who fight tirelessly for working families. "Too often we paint all politicians with one brush, but I am here to tell you these are the kind of people you want making laws and fighting for you, we just need more" said Sword.

## Licensing Laws

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Next was HB 4155, a bill to weaken the Plumbers license. In the House Government Organization Committee an amendment passed to increase the hours needed to be a Master or Journeyman to 5,000, the bill had them at 2,000 and 1,000 hours respectively.

"We don't like these compromises, but we work hard to get them because the alternatives are terrible," said Diserio.

Key to these successes or partial successes for the crafts is the effort made by many Local Unions to bring their members to the Capitol to educate legislators on how important licensing and the Jobs Act are.

"Our enemies, like Del. Buck Jennings (R-Preston), say electrical work is unskilled and try to convince other legislators this is all about installing a fanlight or outlet," said Samples. "So we need to explain how complex things can get and how these changes not only will put the public at risk, they could end up killing workers

who are told to perform tasks they are not prepared for."

Reaching out to nonunion contractors and workers also helps because many legislators try to make licensing a union issue.

Nonunion electrical contractors, workers and the Home Builders Association have also questioned the licensing bills and has worked with the Trades to oppose them.

The attack on the crafts is not the only aim of the legislature but appears to be the first phase.

A bill to eliminate all professional licensing has been introduced and if passed would make licenses for occupations like engineer, physical therapist, real estate agent, barber, and many others optional.

Anyone could perform the tasks in many licensed areas without any training or knowledge.

"Occupational licenses are the steppingstones to good careers and efforts to destroy these careers will hurt many people," said Samples. ■

## McKinley Meets with Building Trades



Congressman David McKinley (R-1st District) meets with members of the Trades at the office of the WV State Building Trades and ACT during a January 21 visit to Charleston. Earlier that day he was in Wheeling at the Upper Ohio Valley Building Trades. McKinley has been an outstanding supporter of the trades, especially on issues like preserving the Davis-Bacon Act, protecting apprenticeship regulations, defending collective bargaining rights and supporting project labor agreements.

# PSC Concludes Hearings on Longview - 2

The WV State Public Service Commission, as part of the siting certificate application process, completed their evidentiary hearing in Charleston, on Thursday, January 30 regarding the proposed billion-dollar expansion of Longview Power near Morgantown.

Included in the evidence collected by the PSC was a Memorandum of Agreement between Longview and the North Central WV Building Trades which commits to using local union construction workers to build

the project.

Along with the agreement the Trades commissioned a study through Marshall University to look at the economic impact created by the construction and local workers.

The report showed wages of around \$100 million just for the construction workers, not counting supervision and others on the project such as engineers, deliveries, clerical and security.

The impact on the community when that much is earned locally was

estimated at \$177 million. Additional economic impact from other parts of the project such as the full-time employees and the purchase of local equipment and supplies increase the effect even more.

ACT's Steve White also submitted testimony about the availability of local skilled labor to perform the work.

ACT attorney Vince Trivelli rep-

resented the Trades who intervened in support of the project. The Sierra Club intervened to oppose the plant.

Longview Power 2 will be a \$900 million 1200-megawatt gas-fired electric generating facility adjacent to its existing coal-fired plant at Maidsville plus a gas supply pipeline and a

50-megawatt solar field located primarily in Pennsylvania. Leaders of various crafts affiliated with the North Central WV Building Trades Council attend the hearing to show support.

"We have yet to see a combined-cycle gas plant like this one built in West Virginia and we are thankful Longview is developing this project,"

## SMART 33

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and a hearing is scheduled before an Administrative Law Judge.

Most of the illegal activity by Appalachian took place at the Crossings, a large assisted living facility being built in Charleston.

The illegal company activity included many things such as interrogating workers about their union activity or discussions about unions, reassigning employees because of their union activity, and illegal language in the company's employee handbook.

In February of 2019 some of the workers went on a two-week strike because of the illegal activity.

A trial was held August 12-14, 2019 in Charleston.

The order is more than a simple posting, it includes a broad cease and

desist order requested by the union.

Judge Goldman wrote "A broad order is appropriate when a respondent has been shown either to 'have a proclivity to violate the Act' or to have 'engaged in such egregious or widespread misconduct as to demonstrate a general disregard for the employees' fundamental statutory rights.'"

Goldman continued "The record shows that the Respondent engaged in persistent attempts, by varying methods, to interfere with its employees' protected rights.

"The Respondent's aggressive, broad, and unlawful effort to undermine the union only grew more egregious over time and demonstrated a general disregard for employee rights." ■



Workers at Appalachian Heating are joined on the picket line in Charleston by legislators and Local 33 Representatives during a two-week strike over unfair labor practices in February 2019.

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Longview Power 2 will be a \$900 million 1200-megawatt gas-fired electric generating facility adjacent to its existing coal-fired plant at Maidsville plus a gas supply pipeline and a

said Natalie Stone, Executive Director of the North Central WV Building Trades.

"We see projects like this going up in Pennsylvania and Ohio, it's past time for one in West Virginia."

Construction hopefully will start later this year. ■



Representatives of the North Central WV Building Trades Council talk with Longview plant manager Jeff Keefer (center-right) and Longview Chief Operating Officer Stephen Nelson (to right of Keefer) at the Public Service Commission hearing room in Charleston before the start of the January 30 hearing.