



# PROGRESS REPORT

## West Virginia Chamber of Commerce

FALL 2005

## W.Va. Chamber To Continue Driving Multi-Year Effort For Legal, Court Reforms

The West Virginia Chamber of Commerce will continue spearheading a multi-year effort to enact legal reforms in West Virginia and to focus new activities designed to bring about judicial reforms.

"The state's employer community has made important strides over the past few years in achieving reforms in civil justice, insurance laws, medical malpractice and Workers' Compensation," said Steve Roberts, Chamber President.

"United efforts also have achieved major victories in the last election cycle with the election of a new justice on the state Supreme Court and the election of pro-employer officials and legislators."

Roberts noted while solid progress has been achieved, more work needs to be done to make the Mountain State truly competitive. "No where is this more imperative than in our state's court system," he said. "The judicial branch of government in West Virginia is the genesis of much 'out of balance' law."

The West Virginia Chamber will be expanding its legal and judicial reform efforts to include:

1) broadening the highly acclaimed CourtWatch analysis and annual report



to cover the various judicial circuits in West Virginia,

2) undertaking candidate (legislative and judicial) election and recruitment efforts for the upcoming 2006 and 2008 elections,

3) developing legislative proposals that will advance legal reforms and help to modify certain out of step practices and policies within the state, and

4) reviewing and analyzing the decisions of

the members of the West Virginia Supreme Court of Appeals.

"These deliberations will be useful as we finalize our 2006 policy agenda and the West Virginia Chamber's 2006-2008 strategic plan," Roberts said.

The West Virginia Chamber will kick off these efforts with a two-part forum in early December. The "West Virginia Legal and Court Reform Forums" will be held December 1 and 13 at the Charleston Marriott, and will review past accomplishments, outline future needs and work to develop consensus among the business community and other interested sectors.

"This forum series will enable interested members to discuss these activities, develop strategic plans and provide input as we finalize our 2006 policy agenda and the West Virginia Chamber's 2006-2008 strategic plan," Roberts said. ■

## Rate Reductions Of 15 Percent Pending Workers' Comp Privatization Set To Begin

West Virginia's transformation from a state-run Workers' Compensation system to a private market of competitive carriers will begin at the first of the year.

Starting January 1, the Workers' Comp program will begin a three-year transition period to a private system.

The privatization process was approved by Governor Manchin and lawmakers earlier this year. Among the benefits of the privatization plan will be an expected 15 percent reduction in Workers' Comp premiums for most employers.

As part of this change, employers will be subject to a new payment plan regarding Workers' Compensation premiums. Under the new Workers' Comp law, premium payments for the first six months of 2006 will be due beginning Jan. 31. They can be paid in one installment or in two, with payments due by January 31 and March 31.

Policyholders will receive a six-month policy declarations page for coverage from Jan. 1, 2006 through June 30, 2006.

Any employer who fails to pay the first premium installment by the deadlines will be subject to new enforcement provisions, including a \$10,000 fine, and be personally liable for any awarded injuries/claims. This represents a major shift away from the current schedule of quarterly payments made for coverage previously provided. It is of the utmost importance to budget for this now and to pay on time.

The West Virginia Chamber, with local chambers, has hosted regional meetings (see page 3) as a way to educate the state's business community about the changes related to Workers' Compensation. Information about these changes also was mailed to business managers and owners all across the state. The mailing was an educational effort of the West Virginia Chamber and the state Workers' Compensation Commission. ■

# Chamber's Chairman Outlines 2005-06 Goals

**D**avid Flannery, a member of Jackson Kelly PLLC and head of the firm's environmental group, is the 2005-06 Chairman of the West Virginia Chamber of Commerce. He succeeded Mark Dempsey, Vice President of External Affairs at AEP-Appalachian Power. Flannery was elected Chairman during the Annual Business Meeting, which was held August 31 during the Chamber's Annual Meeting.

The members also approved the election of a new Board of Directors and new officers. Other new W.Va. Chamber officers elected for 2005-06 include Vice Chairman: Linda Kay Wellings, MPL Corporation; Treasurer: Ron Thompson, Century Aluminum; and Secretary: Clarence "CEM" Martin III, Martin & Seibert, L.C. (see photo of officers to the right).

During the Business Meeting portion of the luncheon, Flannery provided an overview of the significant business climate improvements achieved during the past year and highlighted a number of major policy issues that will be addressed in the coming year. These include additional legal reforms, health care changes, expedited environmental regulatory permits, business tax reductions, enhanced outcomes from the state's education system and a variety of economic development initiatives. Flannery noted that while the state has made great strides in the past couple of years, more is needed to further improve the state's business climate and job creation environment.

Chairman Flannery outlined the following priorities for the coming



LEADERSHIP TEAM – (left to right) Mark Dempsey, David Flannery, Linda Kay Wellings, CEM Martin, Ron Thompson and Steve Roberts.

year:

- Promote and encourage the committee system including the formation of a new committee to address the critically important issues of energy.
- Continue the efforts of Mark Dempsey to solidify close working relationships with other state and federal trade associations with common interests and common memberships.
- Secure the critical resources necessary to ensure the W.Va. Chamber's effectiveness in communicating the business community's message to the public.
- Personally meet with the leadership of W.Va. Chamber members to be sure that we have a clear picture of what the membership expects out of the organization. ■

## Energy Committee Formed

**T**he West Virginia Chamber of Commerce has formed a new policy committee to focus on the state's energy industry.

Chairman David Flannery said he wants this new committee to examine and address the critically important issues of energy. "Energy ranks among the most significant issues facing not only this state, but also the entire nation," Flannery said. "If we are going to have a successful business environment, West Virginia must find more ways to grow and thrive in the current energy climate."



Charles Bayless

Leading this new committee is Charles Bayless, who is President of West Virginia University Institute of Technology. Bayless has had an extensive background in the energy industry, including serving as Chairman, President, and Chief Executive Officer of Illinova Corporation, and its wholly owned subsidiary, Illinois Power Company.

"President Bayless has a message regarding energy that emphasizes why West Virginia will play a dominant role in the nation's and world's energy future," Flannery said. "The research he has conducted on the future of our natural resources is a very impressive and provides the cornerstone for the work of the committee," he added. "Clearly, President Bayless has the insight and experience to lead us as we formulate the Chamber's position on energy."

Committee members have been appointed, and meetings for the 2005-06 Chamber year have been set.

The committee held its first meeting on November 21, and discussed several key issues to address energy infrastructure and employment needs. ■



## Health Care Committee Examines Pending Issues

**M**embers of the West Virginia Chamber's Health Care Committee gathered in Charleston November 22 to discuss and examine health care and health insurance related issues. A major item of discussion focused on what health care proposals may be coming in the near future from the Manchin Administration. Governor Joe Manchin has indicated that health care will be among his top priorities in 2006. The committee also reviewed what impact that proposed federal Medicaid changes may have on state health care providers and state benefit programs.

Among other items of discussion were Medicaid restructuring/cost shift, health insurance incentives for businesses that provide health care coverage and the Pharmaceutical Cost Control Council. The next meeting of the 's Health Care Committee will be March 23.

# Regional Meetings Highlight Business Concerns, Needs

The West Virginia Chamber of Commerce has held a series of regional meetings across the state to discuss key issues with employers. The meetings, hosted with local chambers of commerce, were well attended and generated substantial discussion on key issues. "We covered a wide range of key topics and helped to inform employers about many positive business climate changes that have taken place recently," said Steve Roberts, Chamber President. "We also received terrific input about the views and concerns of employers."

"The many positive steps that have been made over the past several years to correct major problems in our state are being well received by the state's business community," Roberts wrote in a November 1 letter to legislators. "Thanks to the actions taken over the past several years, I am pleased to report to you that a new sense of optimism is taking hold. Business activity is picking up, and a turnaround of our state's economy seems to be in the making," he continued.

Here are summaries of the key issues that Roberts provided to lawmakers:

## Workers' Compensation

One of the most pressing topics we have been discussing with employers involves the state's Workers' Compensation program. We have been providing an overview of recent changes and an outline of other upcoming changes. In particular, attendees are being advised of a pending change in the way Workers' Comp premium payments will be handled starting in 2006. The meetings also have enabled Workers' Comp officials, who accompanied us, to hear directly from employers. Business owners and managers continue to speak out and say that, while they are pleased with ongoing changes, the state's high Workers' Comp costs still are a huge burden and abuses need to be addressed aggressively. We must continue to work to lower the state's Workers' Comp costs if we want to make our state's businesses more competitive.

## Insurance Rates/Reforms

The second bit of good news that we have been sharing with employers involves statutory reforms that have been made to improve the state's insurance situation. The enactment of much-needed insurance reforms has helped ease the state's insurance crisis and has brought premium relief for businesses, homeowners and automobile policy holders. As reported recently, insurance rates in West Virginia are coming down thanks to the recent legislative actions. Jane Cline, the state's Insurance Commissioner reported in early October that auto insurers have asked for \$63 million in rate decreases and homeowner insurers have requested another \$3 million in reductions. Commissioner Cline credited the rate reductions to the Legislature's actions. The other benefit from this is that insurance carriers have resumed writing homeowners policies and commercial insurance policies, which will help to expand insurance options and keep rates more competitive.



## Legal Reform

Employers are pleased with the unprecedented strides that have been made regarding meaningful legal reforms in several areas: deliberate intent, limited joint-and-several liability, insurance reforms, medical malpractice and Workers' Compensation. While the changes so far are good first steps, we still have much more work to do before we can say our state's legal climate is "balanced and fair." West Virginia continues to be one of only a very small number of states that in no way makes punitive or "punishing" damage awards relate to the severity of damage caused. And West Virginia continues as one of only seven states that puts up with partisan political contests for its entire court system. Additionally, we appear to be one of only a tiny number of states that allow "pre-judgment" interest to be collected after a lawsuit is settled. These and other oddities cause West Virginia to be "out of step" with our neighboring states. The result hurts West Virginia's efforts to grow its business base, attract new industries and diversify its economy.

## Tax Reduction

Tax reduction for West Virginia's business community is another priority item that is needed to make West Virginia "open for business." West Virginia's overall tax burden is one of the highest in the nation, both on businesses and individuals. For businesses, West Virginia has one of the highest business tax rates for its Corporate Net Income Tax, and may be the only state that also imposes a Business Franchise Tax. Reductions in these taxes would go a long way to make our state more competitive for new investment and job growth.

## Health Care

Health care remains one of the top issues of concern to employers. Many are struggling with how to maintain health care benefits for employees, given that the costs continue to increase at double-digit rates. Governor Manchin plans to address this issue in the upcoming session, and the West Virginia Chamber stands ready to assist in the careful examination of this critical issue. One note of good news involves the progress that has been made on the medical malpractice front. Throughout our communities doctors are getting back to the practice of medicine without the constant fear of frivolous lawsuit attacks or ever-escalating medical malpractice premiums. Recent news stories showcase just how much our state's environment has improved since the enactment of comprehensive medical malpractice reforms back in 2002. According to David Rader, an insurance expert and head of the West Virginia Physicians Mutual Insurance Company, "we're seeing the frequency and severity of [malpractice] suits going down. I think that speaks well for the direction West Virginia is heading." The story, which appeared in an August 20 state newspaper, declared, "West Virginia is shedding its nefarious reputation as a 'judicial hellhole' in terms of malpractice suits and is beginning to

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# Chamber Leaders Meet With Canadian Consulate Officials

Twenty people attended a luncheon on Monday, October 17 at the Chamber headquarters to meet and talk with members of the Buffalo, N.Y., Canadian Consulate. Tom Bearss, Consul & Senior Trade Commissioner, and Marcia Grove, Trade Commissioner, spoke about trade opportunities between the United States and Canada. The Buffalo Canadian Consulate is one of 22 located in the United States and one of more than 145 located globally.

Among those in attendance included Steve Spence, Director of the West Virginia Development Office, Betty Carver, Commissioner of Tourism for the West Virginia Division of Tourism, and Betty Cutlip, International Marketing Representative for the West Virginia Division of Tourism.

“This was an excellent opportunity for business people from around the state to hear how important the Canadian Consulate General is to both West Virginia and the United States,” said Steve Roberts, West Virginia Chamber President. ■



## HR Conference Outlines Issues Facing Today's Workforce



More than 160 people attended a recent Employment Law & Human Resources Conference of the West Virginia Chamber of Commerce and the West Virginia chapter of the Society For Human Resource Management (SHRM). The statewide conference was held Oct. 11-12, 2005 at the Charleston Embassy Suites. The two-day conference provided human resources professionals with strategies to help them meet the challenges of today's workplace.

The Conference provided large and small employers, managers, lawyers, and/or those persons responsible for human resources in their organizations with a concise look at several employee and job-related issues facing the workplace. The conference brought together a diverse group of legal professionals and expert human resource practitioners to discuss key employment law and HR issues facing businesses in the Mountain State. Among the presentations were:

- The Honorable Peter Schaumber, Member, National Labor Relations Board;
- Greg Burton, Executive Director, West Virginia Workers' Compensation Commission;
- The Honorable Judge Andy McQueen, Kanawha County Circuit Court; and
- Mike Lutz, Toyota Motor.

“This was a highly successful conference, and it provided attendees with a complete overview of the human resources and employment law issues facing the state's employer community,” said Jim Dissen, Chairman of the Chamber's HR Committee. ■

### Regional Meetings, Issues *(continued from previous page)*

attract doctors.” Other reports indicate that doctors are returning to practice in our state.

#### Asbestos/Silica Reform

One key legal issue in West Virginia that is in need of legislative action involves asbestos/silica litigation reform. Employers in our state, including small employers, are being crushed by an explosion of asbestos lawsuits. Unless corrected, this will only further enrich a tiny number of millionaire plaintiff lawyers and provide less than optimum results for society as a whole. Typically, claimants in these cases receive only 43 cents per dollar of awards. Additionally, 60 percent of monies paid go to non-malignant claims. These suits are not the answer. Worst still, asbestos litigation has cost tens of thousands of jobs nationally, with more jobs being in peril.

#### Unemployment Comp

One other area of perennial concern to many business people in our state is West Virginia's unemployment compensation program. It was a welcome bit of good news to have heard recently that the financial condition of the program's trust fund is solid and growing. Just a year ago there was concern about the trust fund moving toward bankruptcy in four to five years. Part of this turnaround is the continued strength in state employment and our “lower than national average” unemployment rate. While we are in these “good times,” we should look at targeted changes that could be made with this program, particularly regarding what can be done to help our state's manufacturers. In the meantime, we are relieved to note that the Unemployment comp trust fund has grown by nearly 50 percent since March of 2004. ■

# West Virginia Chamber's Membership Growth Accelerates

## New Members since Sept. 1, 2005

### West Virginia

Agsten Construction Company (Charleston)

Alderson Family Medicine (Alderson)

Appalachian Fasteners & Supply, Inc. (Beckley)

Aviagen/Nicholas Turkeys, Inc. (Lewisburg)

beBetter Networks, Inc. (Charleston)

Bluefield Daily Telegraph (Bluefield)

Blues BBQ (Charleston)

Carbonneau Kennels LLC (Hurricane)

Carpet Gallery (Charleston)

Chris Miller Furniture (Wheeling)

Country Kids DayCare (Belle)

Custard Stand Hot Dog Chili (Webster Springs)

Dynasty Hydraulic & Machine, LTD. (Glen Daniel)

Energysystems, Inc. (Fairmont)

Fasloc, Inc. (Martinsburg)

Ferguson Enterprises (Charleston)

Harmac Inc. (Winifrede)

High Performance Heat Treating, Inc. (Huntington)

HMS Technologies (Martinsburg)

Holden Machine & Fabrication (Holden)

Imperial Hydraulic Service Inc. (Sissonville)

J & C Manufacturing Inc. (Fraziers Bottom)

Jim Schaad Assemblies Inc. of WV (Sutton)

Kanawha Blvd. Animal Hospital (Charleston)

Kanawha Stone Company, Inc. (Nitro)

Lisa Godwin Insurance Agency, Inc. (Charleston)

Lou Wendell Marine Sales (Saint Albans)

Mac's Cycle Supply, Inc. (Madison)

Mercer Co. Tech. Education Ctr. (Princeton)

Merrick Engineering, Inc. (Clarksburg)

Mineral Co. Chamber of Commerce (Keyser)

Mountain View Millworks, Inc. (Hedgesville)

New River Jet Boats (Thurmond)

Nitro Sunroom & Window Mfg. (Nitro)

Partners In Corporate Health, LLC (Charleston)

Paxar Labels (Weston)

Pocahontas County Chamber of Commerce (Buckeye)

Primary Care Systems, Inc. (Clay)

Quality Metal Roof Mfg & Sales, Inc. (Lenore)

S&A Homes, Inc. (Martinsburg)

Saminco (Lavalette)

SGS North American Minerals (Charleston)

Silverstein & Maddox Ins., Inc. (Charleston)

Southland Billards Mfg. (Charleston)

State Farm Insurance-Scott Whorton (Charleston)

Sunshine Home Services, Inc. (Rowlesburg)

Thorpe, Reed & Armstrong, LLP (Wheeling)

Tom's Super Value (Charleston)

Weekenders, USA (Charleston)

Wells Media Group LLC (Charleston)

Western Greenbrier Co-Generation, LLC (Rainelle)

WV Land & Mineral Owners Council (Charleston)

Workplace Solutions LLC (Oak Hill)

### Maryland

NewPage Corporation (Luke)

### Pennsylvania

Comcast Cable Communications (Pittsburgh)

# Searchable Technology Vendor Database Launched

The West Virginia Chamber of Commerce and the West Virginia High Technology Consortium Foundation have created a searchable on-line database system designed to help aid small businesses in the use of leading-edge technologies and tech services. The database is a new feature added to the web site of the West Virginia Small Business Technology Education and Competitiveness Initiative [www.wvconnectivity.net](http://www.wvconnectivity.net). It contains listings of companies and firms that provide hardware, software and technology services to businesses in West Virginia.



WVConnectivity.net is a web portal for an ongoing statewide program to encourage small business people to use broadband and Web-based technologies to improve business performance, expand market opportunities and enhance competitiveness.

"This database is designed to provide a convenient way for businesses to search for technology services and tech vendor companies," said Steve Roberts, President of the West Virginia Chamber. "If a business person needs web and technology services or equipment, he or she now can search for providers either by reviewing the company index listings or by selecting parameters in the search feature," he continued.

The database system was developed by the West Virginia High Technology Consortium, and is available to any company that provides technology hardware or software vendor, or any company that provides technology services, Roberts noted. There is no charge for a company to add its listing to the database. ■



The West Virginia Chamber of Commerce and First Lady Gayle Manchin hosted a four-location video conference session on Friday morning, October 28. More than 70 business men and women participated. The session ran from 9:30 a.m. to 11:30 a.m. and involved an interactive video conference hook-up with these four locations: Wheeling, Charles Town, Fairmont and Charleston. The session started with short welcomes from the First Lady, who is a proponent of distance learning and video connectivity, and Steve Roberts, Chamber President. Then, two West Virginia business leaders discussed how they use broadband and video technologies in their businesses: Ralph Baxter, CEO of Orrick Law Firm and Wally Boston, President and CEO, American Public University System. Similar events will be planned in the coming year.

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