



THE READY-MIXER



Enriching • Inspiring • Empowering

Virginia Ready-Mixed Concrete Association Newsletter

January 2009



NRMCA Picks Driver of the Year

The National Ready Mixed Concrete Association has named Winfred "David" Brooks of producer member Titan Virginia Ready Mix LLC as the 13th Annual NRMCA Mixer Truck Driver of the Year. Brooks was honored for his career achievements, safety record, professionalism, driving competency and customer service skills. He works for Titan Virginia's New Post Plant outside Fredericksburg.

Brooks has been accident free for 45 years and has usually been at the top of his plant's monthly yards-per-driver hour productivity report. He was chosen over two finalists who were also praised by NRMCA's selection panel, Ricardo Jimenez of Redi-Mix Concrete, a US Concrete Company, Euless, TX, with 25 years driving a truck mixer and R.L. Jordan, Southern Concrete Materials, Asheville, NC, a 44-year mixer driving veteran.

NRMCA's Driver of the Year Award

program began in 1996 to acknowledge the significant contribution of ready mixed concrete truck drivers to the growth and success of individual companies and the concrete industry at large. Judges review and grade applicants based on years of service to their company and the industry, driving record, yardage hauled, and any certifications and other special recognition they have received. The judges also heavily weigh their decisions on supervisors' comments and customer testimonial letters.

As the winner of the 2008 Driver of the Year award, Brooks will receive a \$5,000 check from the Truck Mixer Manufacturers Bureau. Jimenez and Jordan will each receive \$500 from TMMB. The Driver of the Year and the two finalists will be honored at the NRMCA Annual Convention on March 17 in Orlando.

Concrete Products magazine is a co-sponsor of the Driver of the Year program. ❖

Stimulus Bill

The House Democratic leadership has unveiled an \$825 billion economic stimulus package stretched over two years. The bill includes \$550 billion in spending and another \$275 billion in tax cuts. The package, titled the American Recovery and Reinvestment Plan, would invest \$90 billion for infrastructure, \$14 billion for school construction and roughly \$55 billion for building projects.

NRMCA estimates that for every \$5 billion invested in infrastructure, 1 million yards of concrete is placed and 150,000 jobs are created. A stimulus bill with \$90 billion dedicated for infrastructure could result in the sale of roughly 18 million yards of concrete and the creation of nearly 2.7 million jobs.

The package contains targeted efforts in:

- Clean, Efficient, American Energy
- Transforming our Economy with Science and Technology
- Modernizing Roads, Bridges, Transit and Waterways
- Education for the 21st Century
- Tax Cuts to Make Work Pay and Create Jobs
- Lowering Healthcare Costs
- Helping Workers Hurt by the Economy
- Saving Public Sector Jobs and Protecting Vital Services

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Stimulus Bill

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Portland Cement Association chief economist Edward J. Sullivan testified before the U.S. House of Representatives Transportation and Infrastructure Committee that the United States cement industry has more than enough supply potential to feed even the most optimistic infrastructure spending program.

Underscoring his commitment to an infrastructure stimulus plan that will deliver jobs and deliver contracts within 90 days, Chairman James L. Oberstar (D-Minn.) convened a full committee hearing entitled "Infrastructure Investment: Ensuring an Effective Economic Recovery Package." During the hearing, members of the Transportation and Infrastructure Committee explored the ability of government agencies and administrations to initiate infrastructure projects quickly, and the ability of private enterprise to meet the demand

that will be quickly actualized by a swift and aggressive infrastructure stimulus program.

"The United States economy faces severe near term challenges," stated Sullivan. "A stimulus plan with emphasis on infrastructure will go far in brightening our economic outlook. With an estimated domestic cement capacity of 102 million metric tons and an aggressive capacity expansion underway, the cement industry is well-positioned to help recharge America's economy through important infrastructure projects."

Concrete is a requirement in virtually every type of infrastructure construction: roads and highways, bridges and dams, schools and other public buildings. Roughly half of all cement consumed in the United States is used by the public sector. Concrete is also one of the most sustainable and economical building materials for the construction of America's infrastructure. ❖



Visit the Virginia Ready-Mixed Concrete Association Website at www.vrmca.com



VRMCA Reaches ACI Certification Class Milestone

Twenty-five years is a long time for any program to be offered continuously, and even more unusual is for that program to be still growing in size, scope and importance. The VRMCA-sponsored ACI Field Technician Grade 1 Testing classes have reached that milestone, and show little sign of slowing down.

Not many Association members recall the early days of this program, and some may be surprised to learn that the initial suggestions of sponsorship came nearly 30 years ago. In late 1979, Bob Neal submitted a proposal to the VRMCA Board of Directors that the Association consider a certification process that would ensure the proper testing of ready-mixed concrete at the job site.

"As you are all aware, our industry continues to be plagued by the problem of improper concrete testing," wrote Neal. "In order for any significant impact to be made toward improving this situation, it will require action from an organization such as the Virginia Ready-Mixed Concrete Association." Eventually Neal would prepare a more specific recommendation that the board adopt the American Concrete Institute's Certification Program in its entirety, to be sponsored by the VRMCA. "ACI was just starting out," says Neal. "They developed the exam, and would grade it and keep the records."

It took over three years for the proposal to become reality. "After another of many meetings," recalls Neal, "Peter Easter [then VRMCA Executive Director]

came up to me and said, 'Is there any way you can make up your mind?'"

Finally, after considerable organizational work by Neal and Bill Brooks, the first certification class was held at John Tyler Community College in 1983. All of the testing equipment was borrowed from members, and local ready-mixed producers donated sample concrete.

Were you involved with those first classes? Old documentation suggests that the first class was jointly instructed by Neal, Brooks, Bill Alcoke, and Chuck Starnes; Sammy Davis recalls being one of the first students. All of the work was done by volunteer members, and only about four classes were offered annually at the Community College. In 1985 the program was slightly expanded, offering sessions in Lexington and Norfolk. The instruction and practical exam were very similar to those offered today, with the exception of the C 1064 Temperature of Ready-Mixed Concrete given as a hands-on test rather than verbal.

"I can't believe how much the demand for the program has grown," says Neal. After a few years the classes began to spread across the Commonwealth. Many members recall either attending the classes or acting as supplemental examiners in the Hampton, Lexington and Roanoke areas. At the same time, some individual companies offered in-house classes for their employees, such as the classes instructed by George Kuhn in the Christiansburg area. Regional classes, beginning in the mid '80s and

running through the late '90s, were instructed by local VRMCA members, such as Don Sipher in Roanoke, Nick Collins in Lexington and Sammy Davis in Richmond. Davis also developed the PowerPoint presentation that is largely being used today. These instructors were still all volunteers, as were the proctors, and the concrete sample was donated by local producers. In the early 1990s VRMCA saw the need for permanent testing equipment, and purchased not only the necessary testing tools, but also a small trailer to store and move supplies.

In 2001, with the increase in students and number of classes, the VRMCA Board decided to hire retired VDOT Assistant State Materials Engineer Richard Steele to serve as permanent instructor for all classes throughout the state. Within a couple of years the program took another leap forward when VDOT began to require contractors and consultants bidding on state jobs to have ACI certification, causing a further surge in enrollment.

At the end of 2006 Steele decided to become "really retired," and VRMCA was fortunate to hire George Boykin, retired VDOT Hampton Roads District Materials Engineer. By 2007 the once-tiny program had grown to 23 standardized classes serving almost 800 students annually. Several Professional Engineers from member companies currently act as primary examiners for the widespread

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SPECIAL SECTION: 2009 Industry-Related Legislation

VRMCA lobbyists are monitoring the following legislation currently before the 2009 Virginia General Assembly, which convened January 14, 2009. Members are encouraged to provide feedback to legislators by calling the General Assembly's toll-free constituent viewpoint hotline at (800) 889-0229.

HB 1587 Real ID Act

Provides that the Commonwealth will not participate in the compliance of any provision of the federal Real ID Act and of any other federal law, regulation, or policy that would compromise the economic privacy or biometric data of any resident of the Commonwealth.

Patrons: Marshall, R.G., Athey, Gilbert, Morgan and Peace; Senator: Cuccinelli

HB 1622 Weight limits for gravel trucks

Repeals the July 1, 2009, sunset on the statute granting trucks hauling gravel, sand, or crushed stone no more than 50 miles from origin to destination in counties that impose a severance tax on coal and gases the same weight limits prescribed for coal trucks.

Patron: Bowling

HB 1661 Motor fuels tax

Converts the rates of taxation on motor fuels from cents per gallon to percentage rates. The percentage rates shall be calculated by the Commissioner of the Division of Motor Vehicles in an amount that will most closely yield the amount of cents per gallon being charged on the applicable motor fuel prior to the effective date of the bill. Thereafter, the percentage rates would not change, but would be applied against the average price per gallon of the fuel, less federal and state taxes, as determined by the Commissioner of the Division of Motor Vehicles over rolling six-month periods, to determine the cents per gallon to be charged.

Patron: Scott

HB 1669 Income tax, state

Provides that the Commonwealth shall return to cities and counties 50 percent of the growth in income tax collections for each city or county. The amounts returned shall be expended for school construction costs and transportation needs of the cities and counties.

Patrons: Albo, Rust and Frederick

HB 1752 Weight limits for gravel trucks

Repeals the July 1, 2009, sunset on the statute granting trucks hauling gravel, sand, or crushed stone no more than 50 miles from origin to destination in counties that impose a severance tax on coal and gases the same weight limits prescribed for coal trucks. The bill also allows the same overweight permits for trucks hauling coal and coal byproducts to electricity-generation facilities as trucks hauling coal to a loading dock or railroad.

Patron: Carrico



HB 1759 Transportation Capital Projects Bond Act of 2009

Authorizes the Commonwealth Transportation Board to issue bonds in an aggregate amount not to exceed \$4.81 billion for specific transportation projects throughout the Commonwealth. The bonds will be paid for by the revenues collected for each project through tolls and other fares or fees.

Patron: Marshall, R.G.

HB 1846 Motor fuels tax

Eliminates the current seventeen and one-half cents per gallon motor fuels tax and replaces it with a 5% sales and use tax, while retaining the collection of the replacement tax at the "rack" or terminal (wholesale level) where the current cents per gallon tax is collected.

Patron: Lingamfelter

HB 2075 Overweight/oversize vehicle permits

Provides that violation of terms and conditions of any overweight or oversize vehicle permit does not void such permit unless such violation involves (i) knowingly crossing a restricted structure, (ii) creating a safety hazard, (iii) the lack of a required escort, (iv) complete deviation from a prescribed route, (v) a violation of a curfew by more than 30 minutes, (vi) noncompliance with axle spacing requirements by more than two inches, or (vii) having fewer than the required number of axles.

Patron: Scott, E.T.

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HB 2130 Supplemental Highway Construction Fund

Allocates 10 percent of the annual growth in general fund revenues to highway construction.

Patron: Miller, J.H.

HB 2185 Weight limits for gravel trucks

Extends for two more years the July 1, 2009, sunset on the statute granting trucks hauling gravel, sand, or crushed stone no more than 50 miles from origin to destination in counties that impose a severance tax on coal and gases, the same weight limits prescribed for coal trucks.

Patron: Phillips

HB 2194 Motor fuels tax

Increases the motor fuels tax by \$0.10 per gallon, minus \$0.01 for each \$0.20 that the average price of gasoline exceeds \$3.00. The tax will be indexed every two years beginning July 1, 2010, by an amount equal to the percentage change in the U.S. Department of Labor's Producer Price Index for Highway and Street Construction. The revenue generated is used for transportation purposes as required by existing law, and allocates primary system highway construction funds among the nine highway construction districts on the basis of the ratio of vehicle miles traveled on primary highways divided by the lane miles of primary highways in each highway construction district, weighted 90 percent, and a need factor, weighted 10 percent.

Patrons: Watts; Senator: Ticer

HB 2206 Budget Bill

Requires the Governor to include in his Budget Bill funding for transportation in the biennium in an amount equal to at least 10 percent of the amount by which the projected general fund revenues for the biennium exceed the general fund revenues of the immediately previous biennium.

Patron: Frederick

HB 2250 Severance tax

Adds sand, marl, and gravel to the list of items on which localities may impose the severance tax.

Patron: Barlow

HB 2311 Courthouses

Allows localities to assess an additional three dollar fee as part of the costs in each civil, criminal, or traffic case to be used solely for the construction, renovation, or maintenance of a courthouse.

Patron: Melvin

HB 2319 Overload and overweight permits

Revises the fees for vehicle overload and overweight permits to conform to recommendations of the Virginia Transportation Research Council.

Patron: Marshall, R.G.

HB 2577 Highway noise abatement

Requires that whenever the Commonwealth Transportation Board or VDOT plan for or undertake any highway construction or improvement project and such project includes or may include the provision or construction of any noise abatement structure or technology, priority must be given to the use of low-noise asphalt pavement and plantings of American red cedar trees or other appropriate conifers in preference to construction of noise walls or sound barriers constructed of concrete, metal, wood, bricks, stone, or composite materials.

Patrons: May, Albo, Iaquinto, Orrock and Rust

HJ 770 Virginia's Transportation Needs Commission

Creates the Commission on Virginia's Transportation Needs to look at transportation needs in Virginia and alternatives for planning and financing Virginia's transportation system.

Patrons: May, Albo, Hall and Rust

SB 1041 Fuels taxes

Adjusts fuels taxes each year on April 1 by the percentage increase in the Corporate Average Fuel Economy (sales volume weighted), Total Fleet (the CAFE) for the immediately preceding calendar year over the CAFE for calendar year 2008. The first adjustment would occur on April 1, 2010.

Patron: Hanger

SB 1048 Temporary vehicle registrations and overload and overweight permits

Revises the fees for temporary vehicle registrations and vehicle overload and overweight permits.

Patron: Miller, Y.B.

SJ 347 Constitutional amendment; right to work

Provides that any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for the employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is against public policy and an illegal combination or conspiracy.

Patron: McDougle

There are a number of online resources available on the official Virginia General Assembly website (<http://legis.state.va.us/>) to assist you in taking an active role in the legislative process. If you don't know who represents you, you can find out by using Who's My Legislator. In addition, a biographical page on each delegate and senator is available from the General Assembly's homepage. Contact your representative about a particular issue before the Legislature takes action on it. Using the Legislative Information System, you can track legislation and review committee agendas prior to a meeting. You can even testify before committees on issues important to you. ❖

Build it with Concrete



VIRGINIA READY-MIXED CONCRETE ASSOCIATION
SOUTHWEST VIRGINIA
ADVISORY COUNCIL

Contributing Members:



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*VRMCA Spring
Convention*

May 17-19, 2009

*The Homestead
Hot Springs, VA*



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Does your company have news to share?

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Submissions may be edited for length. Inclusion is not guaranteed and may be excluded due to space or relevance.

Hampton Roads Advisory Council Focuses on Concrete's Reduction of the Heat Island Effect



by: J. Keith Beazley
 Director of Industry Services

The Hampton Roads Concrete Advisory Council started the first meeting of 2009 with a special presentation on "Building Green with Concrete" as part of their 2009 Marketing Plan for Concrete Parking Lots in the Hampton Roads area. Council Chairman Bill Denison, of Titan Virginia Ready-Mix, LLC, covered the Heat Island Effect of concrete paving and the requirement of materials having a Solar Reflectance Index (SRI) of at least 29.

Surfaces with lower SRI's absorb more solar radiation, raising the temperature. Reducing the heat island effect by using materials with higher SRI's will save energy by reducing the demand for air conditioning, which will in turn improve air quality. The reduction of stormwater runoff from these areas also reduces the heat from the "first flush" into streams and waterways, which would otherwise kill fish and wildlife.

Both the architectural and engineering communities are very interested in the heat island reduction benefits of using concrete as a paving material. This increased drive for concrete paving hopefully will replace yards lost in the residential market.

The Council is marketing Concrete Paving as part of the 2009 Marketing Plan and has developed a special program using the tools of the NRMCA Concrete Parking lot program. They are using the "Building Under Design" tool, the parking Lot Engineering Service, and the Cost Analysis of Concrete in Paving. The Committee is reviewing the marketing tools and benefits for presentations to architects and engineers, as well as the benefits from concrete for LEED credits and stormwater runoff.

Denison, who also teaches Concrete Technology courses at the local Community College, will develop and present topics throughout the year. ❖

*VRMCA/NVCAC & The Engineers and Surveyors Institute
 present*

Concrete Paving Analyst Program (CPA, Version 3.0) Course # P504-09

This Course is Specifically Designed for Civil & Site Engineers
 (3 hours of Continuing Education Credit available)

Instructor: Phil Kresge, National Resource Director w/ NRMCA

February 12, 2009, 3:30 p.m. to 6:30 p.m.

**ESI Office
 4455 Brookfield Corporate Drive, Suite 107
 Chantilly, VA 20151
www.esinova.org**

Contact Ella Broughton @ 703-263-2232 to Register
 Registration Fee: \$150 (This is ESI member price)

VRMCA Members can take advantage of the opportunity to invite their engineers to participate in this valuable training @ ESI Member Price.



Support the Annual NVCAC Golf Retreat

As spring approaches, the Northern Virginia Concrete Advisory Council would appreciate your support to help promote the concrete industry to engineers and architects. The NVCAC is planning their annual golf retreat at Algonkian Golf Course in Sterling, Virginia on Thursday, April 23, 2009.

The golf retreat focuses on building relations with local architects and engineers by offering a concrete-industry seminar and an afternoon of golf. This year's retreat will stress the importance of concrete paving and strong lines of communications for the long-term success of the industry. This retreat has been a success in the past because of the seminar topics, planning by the council members, and the continued support of the companies

associated with the NVCAC.

Your cooperation is needed to make the 2009 NVCAC Golf Retreat more successful. The NVCAC is asking each company to sponsor a golf retreat team for \$500.00. As in previous years, the sponsor fee will go to cover the cost of the entire retreat for each guest. Each foursome will consist of one NVCAC Council member or employee of your company and three architects/engineers. The golf event following the seminar will not be a tournament, but will offer an excellent opportunity for concrete-industry representatives to interact with project decision-makers. Each NVCAC representative will be promoting the concrete industry and answering direct questions that can prove beneficial for future concrete

opportunities.

The NVCAC is requesting your support to help successfully prepare for this year's event. A goal of 18 sponsorships will allow the NVCAC to invite over 50 architects and engineers to the retreat. Once the invited guests understand the advantages of concrete paving, the concrete industry should reap the benefits for many years to come.

Complete details of the retreat will be provided to you within the next few weeks via email. If you have any questions, please contact Marc Granahan at (703) 618-0735 (mgranahan@lehighcement.com) or Hessam Nabavi at (703) 966-6743 (hessam@vrmca.com). ❖

ACI Milestone

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classes, including Teck Chua, Steve Kerr, Hank Keiper, Tom Wahl and Bryan Cline. Boykin has aggressively carried the program forward to where it is today, a large part of VRMCA's effort to promote and educate the design and construction industries about ready-mixed concrete.

"Without the ACI certification anybody could be out there doing it," says Neal, "Whereas with this, it's like a drivers license, you know they did it right at least once."

VRMCA has scheduled twenty-three classes to take place throughout the state in 2009. Christina Sandridge, VRMCA Member Services Coordinator, says, "People should register their employees ASAP because all classes tend to fill up quickly."

You can download the complete schedule and registration form at www.vrmca.com/aci/ or register online with a credit card. Fees are \$315 per person for VRMCA members, \$420 per person for VDOT, and \$475 per person for non-members. Fees include the two-day class course, a workbook, PCA Design & Control, and examination. For those who fail to pass the exam, there will be

a \$160 retest fee.

VRMCA still relies on volunteer help from Association members. "It takes ten to twenty volunteers to give the exam," says Boykin. "They come from VRMCA's supplier and producer members and VDOT. Sometimes it can take a bit of arm-twisting to get enough for each class." VRMCA could not offer these important classes without our volunteers, so we urge you to take solicitation letters for field testing support seriously.

We want to take this opportunity to thank everyone who has assisted in the formation and continued operation of this effort! We couldn't have done it without you! ❖

Outgoing NVCAC Council Chair Predicts Future

by: Hessam Nabavi
Director of Industry Services

Last month the Northern Virginia Concrete Advisory Council ended the year with a festive celebration at the elegant Marriott Westfield Washington Dulles in Chantilly. Outgoing NVCAC council chairman Mustafa Elias, of DuBrook Concrete, praised the council's hard work and offered words of encouragement for the new year.

"Thank you everyone for the efforts you put to promote concrete in every possible way in one of the most difficult years in the industry," said Elias. "Thanks to Hessam Nabavi and all the VRMCA support. Many thanks to PCA for their generous contribution. Thanks to all the concrete materials suppliers that continue to devote their time to this council. I would also like to congratulate Kevin Terry as the new chairman and wish him luck and announce my support to him in every possible way."

"My friends, this is a time of unity so let's share the knowledge and the wisdom to support each other against the challenges that we are facing. . . I'm sure that together we're going to defeat them."

"Now I've got a small secret to tell.



I time travel. I inherited this gift from my great grandfather. Usually I travel 20 to 30 years into the future but this time I said let me go a few months into 2009 and find out what is going on. The month was September 2009 and the date was Monday the 14th 11:30 am. I bought a newspaper and started reading the headlines:

250,000 New Jobs Created In August

Unemployment Rate Falls To 1.5%

Department Of Transportation Announces: Concrete Is The Only Material Approved For Roadway Construction

The Price Of Oil Is Down 3 Cents To \$9.20

"Usually all I have is 5 minutes of time in the future so I had to come back

to reality, but I was very optimistic about what I read and I really think that things are going to get better pretty soon."

After Elias, Kevin Terry with Virginia Concrete and the 2009 NVCAC council chairman also made some remarks about the activities of the council and encouraged the members for a strong participation in 2009.

Mr. Hank Nehilla, president of Virginia Concrete, gave a brief talk about the importance of the VRMCA and the NOVA Council. He encouraged everybody to become more involved in the council's activities. Nehilla said in the present economy we should promote more than ever.

NVCAC appreciates Nehilla's presence and his thoughtful gestures in this fun get together. Finally we wrapped up the day by Elias raffling off some small gifts to a few members and wishing everyone a happy holiday. ❖



Mustafa Elias of DuBrook Concrete and Sean Murnane of W.R. Grace.

VRMCA



Visit
www.vrmca.com
to post and view job opportunities!



Labor Union Initiatives In The 111th Congress

By John G. Kruchko & Paul M. Lusky

As the 111th United States Congress begins, employers may want to consider what changes in laws affecting employment are likely to result from a Congress with a large Democratic majority and a newly-elected Democratic President. Labor unions believe they are primarily responsible for Mr. Obama's election and the significant gains made by Democrats in the House and Senate. Consequently, they will expect payback in the form of strong support from Congress and the new President for their legislative agenda.

At the top of the union agenda is the mislabeled Employee Free Choice Act ("EFCA"). This proposed legislation will bring about the greatest change in the nation's labor policy since the passage of the Taft-Hartley Act in 1947. Contrary to the title of the legislation, the Employee Free Choice Act will bypass the secret ballot election as a means of determining whether employees wish to organize into labor unions, and will force employers to bargain with unions who have secretly intimidated, cajoled, bribed, or misled employees into signing a document designating that union as the collective bargaining representative of the employee.

Under the current law, if a union obtains signatures of more than 50% of an employer's employees in an appropriate bargaining unit on authorization cards, the union may demand recognition from the employer as the collective bargaining representative for the employees in that unit. However, the employer may decline to recognize the union, because

it has no way of knowing what promises, threats or misrepresentations were made to employees to induce them to sign the cards. The union is then free to file a petition with the National Labor Relations Board seeking a secret ballot election, supervised by agents of the Board, to determine whether the employees really wish to be represented by the union. Prior to the election, both the employer and the union have the opportunity to provide information to the employees regarding the pros and cons of union membership, and the consequences of their decision to be represented by a union. Employees are thus able to make an informed and secret choice as to whether to join a union.

The Employee Free Choice Act will drastically change this procedure. This proposed law provides that if a union secures the signatures of a majority of the employees in an appropriate unit, the National Labor Relations Board will certify the union as the collective bargaining representative for that bargaining unit without holding any type of secret ballot election. Since card signing normally takes place in secret and away from the employer's place of business, the employer will not usually be aware that union organizing is taking place, and thus will have no opportunity to present information to employees regarding the negative effects of the employees' decision to organize. Employees will be making the decision to join a labor union without critical information regarding union dues, fines and assessments; the union's strike record; the collective bargaining process and the fact that employees may not receive any

increase in wages or benefits as a result of bargaining.

As if this major change in labor policy was not significant enough, the EFCA makes further changes to the National Labor Relations Act. Once a union is certified, the employer must commence bargaining with that union within 10 days of receiving a written request. If the parties are unable to reach an agreement within a 90-day period, the union may request the Federal Mediation and Conciliation Service ("FMCS") to enter the negotiations and attempt to mediate a settlement. If mediation is unsuccessful after 30 days, the FMCS must refer the dispute to an arbitration board which will determine the terms of the collective bargaining agreement (wages, benefits, hours and working conditions) which will be binding on the employer for a period of two years. The EFCA thus removes control of labor costs from the employer and gives a board of total strangers absolute authority to determine the employer's costs of doing business.

At this point in time, it appears that some sort of labor law "reform" is inevitable. Both the President and Congressional Democrats have promised their "Big Labor" supporters that a bill will be passed. The new Secretary of Labor appears to be a staunch EFCA supporter, and will be tasked with leading the fight for passage, even though the National Labor Relations Act ("NLRA") is not enforced by the Department of Labor. The EFCA is the number one item on Labor's agenda for the new Congress.

In addition to the EFCA, Congress
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will face several other union initiatives. For example, labor will likely introduce a proposal to change the meaning of the term "supervisor" under the NLRA. This bill, designated the RESPECT Act when introduced in 2007, would significantly reduce the number of employees who could be classified as supervisors under the NLRA. Obviously, the result would be that more employees could be organized by unions thus dramatically increasing the pool of potential dues available to unions.

Congress will probably also see an effort by unions to pass federal legislation preempting right-to-work laws in over 20 states that currently prohibit unionized employees from being forced to pay union dues. Once again, like the EFCA, passage of this legislation would lead to increased organizing and more revenue for unions.

Unions will also back an increase in the minimum wage even though legislation passed in 2007 created a three-step increase in the minimum wage that will

culminate in an increase to \$7.25 an hour on July 1, 2009. Some of the more radical union proposals would result in a minimum wage of \$10 an hour in 2010. Further, unions want future annual increases tied to inflation so that the minimum wage would not be a political "football" in the future. President-elect Obama also supports an increase in the minimum wage and proposals for indexing the minimum wage to inflation.

Finally, in the civil rights area, employers should anticipate that unions will support passage of a law that will uncap current limits on damages in employment discrimination cases. Further, labor will undoubtedly back passage of legislation extending the statute of limitations for bringing lawsuits against employers for discriminatory pay practices.

Employers should contact their lobbyists, their chambers of commerce, and their trade organizations to urge these groups to oppose passage of the EFCA

and other labor initiatives harmful to business interests. Employers must become much more active and vocal if they wish to stop passage of union initiatives supported by a Congress with a substantial Democratic majority. In some cases, union legislation will have substantial support and only a Republican filibuster will block passage. This is a difficult procedural maneuver and only a concerted lobbying effort by employers will activate such an effort by



the minority party in Congress. ❖

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The Southwest Virginia Concrete Advisory Council

Presents:

PERVIOUS CONCRETE CONTRACTOR CERTIFICATION COURSE



February 18, 2009
8:00 a.m. to 4:00 p.m.

Instructed by:
William Denison, Jr.
Titan Virginia Ready Mix

Chandler Concrete
600 Norfolk Avenue
Roanoke, VA
(540) 345-3847

For questions regarding the Contractor Course,
please call Bob Nablo at (540) 460-0181
or e-mail: bob@vrmca.com

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