

The “Green” Vote

Environmental Issues at the 78th West Virginia Legislature

How Your Legislators Voted on “Green” Issues During the 2008 Legislative Session



**A Report Prepared By The
West Virginia Environmental Council**

May 1, 2008

**Representing West Virginia “Special Interests”:
People Who Want to Breathe Clean Air and Drink Clean Water**

Environmental Issues and the 78th West Virginia Legislature

The 78th West Virginia Legislature convened on January 9, 2008 and adjourned at midnight on March 8, 2008. During this 60-day session legislators introduced 2,134 individual bills, but only 246 of those bills made it all the way through the legislative process to arrive at final enactment by both Houses.

This report highlights how elected members of the West Virginia Senate and House of Delegates voted on legislation dealing with important environmental issues during the 2008 session. Some of the bills mentioned here were enacted, some were not.

Nationally, the League of Conservation Voters produces an “Environmental Scorecard” that rates members of Congress on their voting records on environmental issues. The League actually gives members a percentage rating and a letter score based on their voting records.

For a couple of reasons, this report covering the West Virginia Legislature will not give legislators a percentage rating or letter score: first, most final floor votes on passage of a bill are usually “unanimous” votes, because most contentious issues are dealt with in committee and most committee votes are “voice” votes for which there is no record; and second, some recorded votes are “strategic” in nature and, therefore, do not accurately reflect a legislator’s true position on a particular piece of legislation.

Instead, this report will show how individual members of the West Virginia Senate and House of Delegates voted on a set of important environmental bills during the 2008 session. By looking at all the results, it is hoped that the reader will be able to get a clearer picture of a member’s support, or lack of support as the case may be, for the environment.

The West Virginia Environmental Council

The West Virginia Environmental Council is a statewide umbrella organization representing various groups, organizations and individuals throughout West Virginia.

The mission of the West Virginia Environmental Council is to facilitate communication and cooperation among citizens in promoting environmental protection in West Virginia, to assist in organizing grass roots groups, to facilitate interaction among established environmental organizations, and to correspond with all appropriate local, state, and federal agencies involved in the management of West Virginia’s environment.

The WVEC Lobby Team provides a “voice” for the environment at the State Capitol.

Members of the 78th West Virginia House of Delegates

1st District

Joe DeLong (D-Hancock)
Randy Swartzmiller (D-Hancock)

2nd District

Tim Ennis (D-Brooke)
Jack Yost (D-Brooke)

3rd District

Tal Hutchins (D-Ohio)
Orphy Klempa (D-Ohio)

4th District

Kenneth Tucker (D-Marshall)
Scott Varner (D-Marshall)

5th District

Dave Pethtel (D-Wetzel)

6th District

Wm. Roger Romine (R-Tyler)

7th District

"Woody" Ireland (R-Ritchie)

8th District

"Bill" Anderson, Jr. (R-Wood)

9th District

Larry Border (R-Wood)

10th District

Tom Azinger (R-Wood)
John N. Ellem (R-Wood)
Daniel Poling (D-Wood)

11th District

Bob Ashley (R-Roane)

12th District

Mitch Carmichael (R-Jackson)

13th District

Dale Martin (D-Putnam)
Brady R. Paxton (D-Putnam)

14th District

Troy Andes (R-Putnam)
Patti Schoen (R-Putnam)

15th District

Kevin J. Craig (D-Cabell)
Carol Miller (R-Cabell)
James Morgan (D-Cabell)

16th District

Doug Reynolds (D-Cabell)
Kelli Sobonya (R-Cabell)
Dale Stephens (D-Cabell)

17th District

Don Perdue (D-Wayne)
Richard Thompson (D-Cabell)

18th District

Larry Barker (D-Boone)

19th District

Jeff Eldridge (D-Lincoln)
Ted Ellis (D-Logan)
Lidella Hrutkay (D-Logan)
Ralph Rodighiero (D-Logan)

20th District

Steven Kominar (D-Mingo)

21st District

Harry Keith White (D-Mingo)

22nd District

Richard Browning (D-Wyoming)
Mike Burdiss (D-Wyoming)

23rd District

Cliff Moore (D-McDowell)

24th District

Eustace Frederick (D-Mercer)

25th District

Marshall Long (D-Mercer)
Thomas Porter (R-Mercer)

26th District

Gerald Crosier (D-Monroe)

27th District

Louis Gall (D-Raleigh)
Melving Kessler (D-Raleigh)
Virginia Mahan (D-Summers)
Ricky Moye (D-Raleigh)
Linda Sumner (R-Raleigh)

28th District

Tom Campbell (D-Greenbrier)
Ray Canterbury (R-Greenbrier)

29th District

David G. Perry (D-Fayette)
John Pino (D-Fayette)
Margaret Staggers (D-Fayette)

30th District

Bonnie Brown (D-Kanawha)
 Nancy Guthrie (D-Kanawha)
 Barbara Hatfield (D-Kanawha)
 Dave Higgins (D-Kanawha)
 Corey Palumbo (D-Kanawha)
 Sharon Spencer (D-Kanawha)
 Danny Wells (D-Kanawha)

31st District

Carrie Webster (D-Kanawha)

32nd District

Tim Armstead (R-Kanawha)
 Patrick Lane (R-Kanawha)
 Ron Walters (R-Kanawha)

33rd District

William F. Stemple (D-Calhoun)

34th District

Brent Boggs (D-Braxton)

35th District

Sam Argento (D-Nicholas)

36th District

Joe Talbott (D-Webster)

37th District

William Hartman (D-Randolph)
 Bill Proudfoot (D-Randolph)

38th District

Douglas Stalnaker (D-Lewis)

39th District

Bill Hamilton (R-Upshur)

40th District

Mary M. Poling (D-Barbour)

41st District

Samuel Cann (D-Harrison)
 Ron Fragale (D-Harrison)
 Richard J. Iaquina (D-Harrison)
 Tim Miley (D-Harrison)

42nd District

Jeffery Tansill (R-Taylor)

43rd District

Mike Caputo (D-Marion)
 Linda Longstreth (D-Marion)
 Tim Manchin (D-Marion)

44th District

Robert D. Beach (D-Monongalia)
 Barbara Fleischauer (D-Monongalia)
 Charlene Marshall (D Monongalia)
 Alex J. Shook (D-Monongalia)

45th District

Larry A. Williams (D-Preston)

46th District

Stan Shaver (D-Preston)

47th District

Harold Michael (D-Hardy)

48th District

Allen Evans (R-Grant)

49th District

Robert Schadler (R-Mineral)

50th District

Ruth Rowan (R-Hampshire)

51st District

Daryl E. Cowles (R-Morgan)

52nd District

Craig P. Blair (R-Berkeley)

53rd District

Jonathan Miller (R-Berkeley)

54th District

Walter E. Duke (R-Berkeley)

55th District

John Overington (R-Berkeley)

56th District

Robert C. Tabb (D-Jefferson)

57th District

John Doyle (D-Jefferson)

58th District

Locke Wysong (D-Jefferson)

* Delegate Virginia Mahan was absent for some of the session due to illness.

* Delegate Charlene Marshall was absent for some of the session due to the death of her husband.

Members of the 78th West Virginia Senate

1st District -- Hancock, Brooke, Ohio

Edwin J. Bowman (D-Hancock Co.)
 Andy McKenzie (R-Ohio Co.)

2nd District -- Calhoun, Doddridge, Marion (part), Marshall, Monongalia (part), Ritchie, Tyler, Wetzel

Larry J. Edgell (D-Wetzel Co.)
 Jeffrey V. Kessler (D-Marshall Co.)

3rd District -- Pleasants, Roane (part), Wirt, Wood

Donna J. Boley (R-Pleasants Co.)
 J. Frank Deem (R-Wood Co.)

4th District -- Jackson, Mason, Putnam, Roane (part)

Karen Lynn Facemayer (R-Jackson Co.)
 Mike Hall (R-Putnam Co.)

5th District -- Cabell, Wayne (part)

Robert H. Plymale (D-Wayne Co.)
 Evan Jenkins (D-Cabell Co.)

6th District -- McDowell, Mercer (part), Mingo, Wayne (part), Wyoming (part)

H. Truman Chafin (D-Mingo Co.)
 John Pat Fanning (D-McDowell Co.)

7th District -- Boone, Lincoln, Logan, Wayne (part)

"Ron" Stollings (D-Boone Co.)
 Earl Ray Tomblin (D-Logan Co.)

8th District -- Kanawha

Erik Wells (D-Kanawha Co.)
 Vic Sprouse (R-Kanawha Co.)

9th District -- Raleigh, Wyoming (part)

Billy Wayne Bailey (D-Wyoming Co.)
 Mike Green (D-Raleigh Co.)

10th District -- Fayette (part), Greenbrier, Mercer (part), Monroe, Summers

Jess O. Guills (R-Greenbrier Co.)
 Donald T. Caruth (R-Mercer Co.)

11th District -- Clay, Fayette (part), Nicholas, Upshur, Webster

Shirley D. Love (D-Fayette Co.)
 C. Randy White (D-Webster Co.)

12th District -- Braxton, Gilmer, Harrison, Lewis

Joseph M. Minard (D-Harrison Co.)
 * William R. Sharpe (D-Lewis Co.)

13th District -- Marion (part), Monogalia (part)

Michael A. Oliverio (D-Monogalia Co.)
 Roman W. Prezioso (D-Marion Co.)

14th District -- Barbour, Grant (part), Mineral, Monogalia (part), Preston, Taylor, Tucker

Jon Blair Hunter (D-Monogalia Co.)
 Dave Sypolt (R-Preston Co.)

15th District -- Berkeley (part), Grant (part), Hampshire, Hardy, Morgan, Pendleton, Pocahontas, Randolph, Upshur (part)

Walt Helmick (D-Pocahontas Co.)
 Clark Barnes (R-Randolph Co.)

16th District -- Berkeley (part), Jefferson

John Yoder (R-Jefferson Co.)
 John R. Unger, II (D-Berkeley Co.)

17th District -- Kanawha

Brooks F. McCabe (D-Kanawha Co.)
 Dan Foster (D-Kanawha Co.)

* Senator William R. Sharpe was absent for the entire legislative session due to illness.

The Stream Protection Rules

The 78th West Virginia Legislature finally took action on two rules proposed by the Department of Environmental Protection that significantly affect the way West Virginia rivers and streams are protected from future pollution. These rules – **SB 456 and SB 390** – were arguably the most controversial environmental issues dealt with during the 2008 legislative session.

SB 456, the Antidegradation Implementation Procedures Rule (60CSR5), designates how the state’s cleanest waters are to be protected from future degradation and contained the controversial Tier 2.5 stream list. Final legislative action on this rule resulted in the elimination of the Tier 2.5 stream category (which was created as a compromise with industry in the first place), and the addition of a new definition of Tier 3 waters that greatly expands the number of streams eligible for zero degradation, but also provides less protection for a large number of streams that will now be reduced to the Tier 2 category.

SB 390, the Water Quality Standards Rule (47CSR2), would have greatly expanded the list of trout streams (called the “B2” list) that deserve water quality standards that are higher than drinking water standards. Final legislative action on this rule resulted in the elimination of the streams proposed to be added to the B2 list, but left the definition of “trout streams” in tact.

Legislative Rule-Making Review Committee:

Important votes on these two rules began at the final meeting of the **Interim Legislative Rule-Making Review Committee** on January 8, the day before the regular session convened.

SB 456: Delegate **Mike Burdiss** offered a motion to restore the Tier 2.5 stream list from 156 to the 309 streams originally proposed by DEP; second to the motion was made by Delegate **Joe Talbott**. The motion carried by voice vote. The committee then voted to recommend approval of the amended rule by a vote of 8-4. **Delegates Brown (Co-Chair), Burdiss, Miley, and Talbott, and Senators Minard (Co-Chair), Fanning, Prezioso and Unger voted in favor. Delegates Overington and Sobonya and Senators Boley and Facemyer voted against.**

SB 390: The committee voted to recommend approval of the rule as submitted by DEP by voice vote.

Votes in Senate Committees:

This year was the Senate’s turn to move the rules. So, **SB 456** was taken up for consideration by three different Senate committees.

In the **Senate Natural Resources Committee** Senator **Karen Facemyer** offered a motion to decrease the Tier 2.5 stream list from the 309 streams recommended by the Rule-Making Review Committee down to just 108 streams. The motion carried by voice vote. The committee then voted to recommend the amended rule for passage, again by voice vote. Committee members include Senators Fanning (Chair), White, Bowman, Green, Helmick, Love, McCabe, Prezioso, Unger, Barnes, Deem, Facemyer, and McKenzie. However, **Senators White and Unger** asked to be officially recorded as “no” votes on both motions. The committee also approved a request by **Senator Helmick** to refer the rule to the Senate Finance Committee before advancing it to Judiciary.

In the **Senate Finance Committee** Senator **John Pat Fanning** offered a motion to increase the Tier 2.5 stream list from the 108 streams recommended by the Senate Natural Resources Committee to 156 streams, as proposed this year by DEP. The motion failed by a 7-7 tie vote. Voting in favor of increasing the size of the stream list were **Senators Bowman, Chafin, Edgell, Fanning, Love, McCabe, and Prezioso**. Voting against increasing the size of the stream list were **Senators Bailey, Boley, Facemyer, Guills, Sprouse, Sypolt and Helmick**. Three Senators – **Plymale, Unger and Sharpe** – were absent for the vote. The committee then voted to recommend the rule as amended by the Natural Resources Committee for passage by a vote of 11-3. Voting in favor were **Senators Bailey, Boley, Bowman, Edgell, Facemyer, Guills, Love, McCabe, Sprouse, Sypolt and Helmick**. Voting against were **Senators Chafin, Fanning and Prezioso**. Again, three Senators – **Plymale, Unger and Sharpe** – were absent for the vote.

The **Senate Judiciary Committee** voted to recommend the rule for passage as amended by the Natural Resources Committee and Finance Committee (108 streams) by a vote of 9-3-5. This was a vote by “division”, so there is no official record of individual Senator’s votes. Members of the Judiciary Committee are Senators Kessler (Chair), Barnes, Caruth, Chafin, Deem, Foster, Green, Hall, Hunter, Jenkins, McKenzie, Minard, Oliverio, Stollings, Wells, White and Yoder. Five Senators were absent or did not vote. However, unofficially, the three Senators voting against the weakened rule were **Senators Foster, Hunter, and White**.

SB 390 was taken up for consideration by two Senate committees – Natural Resources and Judiciary.

The **Senate Natural Resources Committee** voted by voice vote to recommend approval of the rule as submitted by DEP.

In the **Senate Judiciary Committee** Senator Don Caruth offered an amendment on behalf of the WV Coal Association to eliminate the additional list of streams that DEP proposed to add to the B2 “trout stream” list. The amendment passed by a roll call vote of 11-4-2. Voting in favor of the amendment were **Senators Barnes, Caruth, Deem, Green, Hall, Jenkins, McKenzie, Minard, Oliverio, Stollings, and Wells**. Voting against the amendment were **Senators Foster, Hunter, White and Chairman Kessler**. Senators Chafin and Yoder were absent.

Initial Senate Floor Votes:

When **SB 456** was taken up for consideration by the full Senate, Judiciary Chairman Jeff Kessler took the floor and blasted the Tier 2.5 concept and industry’s attempts to undermine the process. He then offered a floor amendment to entirely eliminate the Tier 2.5 stream category. The amendment was adopted by a voice vote.

The Senate then voted for passage of **SB 456** as amended. The vote was 29-4-1 (Sharpe absent). The four Senators voting against passage were **Hunter, Sypolt, Unger and White**.

The Senate next voted for passage of **SB 390**. The vote was 29-4-1 (Sharpe absent). The four Senators voting against passage were **Hunter, Unger, White, and Yoder**

All of the other DEP rules were then put into a new **DEP Rules Bundle (SB 373)**. The vote for passage was 33-0-1 (Sharpe absent).

SB 456, SB 390 and SB 373 (the DEP Rules Bundle) were then sent to the House, where they were only single-referenced to the House Judiciary Committee.

House Judiciary Committee Action:

Prior to the stream rules being considered by the House Judiciary Committee, **the Speaker of the House, Richard Thompson**, convened a meeting with all the various stakeholder lobbyists, representatives of the DEP, **House Judiciary Chair Carrie Webster, Senate Judiciary Chair Jeff Kessler**, and staff from both judiciary committees. As a result, agreement was reached to eliminate the Tier 2.5 stream category as adopted by the Senate in **SB 456** and to add a new definition of Tier 3 waters that included protection from future pollution for an expanded number of streams located on public lands in West Virginia.

The House Judiciary Committee then voted by voice votes to accept this new language for **SB 456**, to accept the Senate version of **SB 390**, and to roll both rules into **SB 373**, the DEP Rules Bundle.

House of Delegates Floor Votes:

When **SB 373**, the DEP Rules Bundle, was taken up for second reading by the full House, Delegate Bill Hartman offered a floor amendment that would have eliminated the new Tier 3 definition. The amendment failed by a vote of 32-65-3.

The thirty-two Delegates voting in favor of the Hartman amendment included:

Anderson	Canterbury	Ireland	Reynolds	Stalnaker
Andes	Carmichael	Lane	Romine	Sumner
Armstead	Cowles	Michael	Rowan	Walters
Ashley	Duke	Miller, C	Schadler	Williams
Azinger	Ellem	Miller, J	Schoen	
Blair	Evans	Overington	Shaver	
Border	Hartman	Porter	Sobonya	

The sixty-five Delegates voting in against the Hartman amendment included:

Argento	Burdiss	DeLong	Fragale	Hrutkay
Barker	Campbell	Doyle	Gall	Hutchins
Beach	Cann	Eldridge	Guthrie	Iaquinta
Boggs	Caputo	Ellis	Hamilton	Kessler, M
Brown	Craig	Ennis	Hatfield	Klempa
Browning	Crosier	Fleischauer	Higgins	Kominar

Long	Morgan	Pino	Staggers	Tucker
Longstreth	Moye	Poling, D	Stemple	Varner
Manchin	Palumbo	Poling, M	Stephens	Webster
Marshall	Paxton	Proudfoot	Swartzmiller	Wells, D
Martin	Perdue	Rodighiero	Tabb	White
Miley	Perry	Shook	Talbott	Wysong
Moore	Pethtel	Spencer	Thompson	Yost

(Delegates Frederick, Mahan, and Tansill were absent).

The House Judiciary Committee amendment to **SB 373** was then adopted by voice vote.

The final House vote to approve **SB 373** as amended was 67-32-1 (only Delegate Mahan was absent).

The sixty-seven Delegates voting in favor of passage included:

Argento	Eldridge	Kessler, M	Perdue	Swartzmiller
Barker	Ellem	Klempa	Perry	Tabb
Beach	Ellis	Kominar	Pethtel	Talbott
Boggs	Ennis	Long	Pino	Thompson
Brown	Fleischauer	Longstreth	Poling, D	Tucker
Browning	Fragale	Manchin	Poling, M	Varner
Burdiss	Gall	Marshall	Proudfoot	Webster
Campbell	Guthrie	Martin	Reynolds	Wells, D
Cann	Hamilton	Miley	Rodighiero	White
Caputo	Hatfield	Moore	Shook	Wysong
Craig	Higgins	Morgan	Spencer	Yost
Crosier	Hrutkay	Moye	Staggers	
DeLong	Hutchins	Palumbo	Stemple	
Doyle	Iaquinta	Paxton	Stephens	

The thirty-two Delegates voting against passage included:

Anderson	Canterbury	Ireland	Romine	Sumner
Andes	Carmichael	Lane	Rowan	Tansill
Armstead	Cowles	Michael	Schadler	Walters
Ashley	Duke	Miller, C	Schoen	Williams
Azinger	Evans	Miller, J	Shaver	
Blair	Frederick	Overington	Sobonya	
Border	Hartman	Porter	Stalnaker	

The final floor vote in the Senate – to concur with the House amendments to **SB 373** – was by a vote of 33-0-1 (Sharpe absent).

SB 770 – The McDowell County Mega-Landfill Bill

This was a truly ugly bill that would have encouraged the importation of out-of-state garbage by offering to reduce landfill tipping fees statewide. It was simply another attempt to raise the tonnage cap at the McDowell landfill and turn it into a mega-dump for East Coast garbage. The bill was fast-tracked and passed by the Senate. Thanks to a lot of hard work by WVEC lobby team member John Christensen, and a strong showing by grassroots folks at the public hearing, the bill was never taken up for consideration by the House Finance Committee and died a well-deserved death. The House Finance Committee chairman is **Delegate Harry Keith White**.

The only sponsor for this bill was Senator Truman Chafin.

Votes on this bill in Senate Judiciary and Senate Finance Committee were “voice” votes, therefore, there are no votes of record by committee members.

This bill passed the Senate by a vote of 26-7-1 (Sharpe absent).

These Senators voted in favor of SB 770:

Billy Wayne	Larry Edgell	Evan Jenkins	Roman W.
Bailey	Karen Lynn	Jeffery V. Kessler	Prezioso
Clark Barnes	Facemyer	Shirley D. Love	Vic Sprouse
Donna J. Boley	John Pat Fanning	Brooks F.	Ron Stollings
Edwin J. Bowman	Dan Foster	McCabe	Dave Sypolt
Donald T. Caruth	Jesse O. Guills	Joseph Minard	Earl Ray Tomblin
H. Truman Chafin	Mike Hall	Michael Oliverio	
J. Frank Deem	Walt Helmick	Robert H. Plymale	

These Senators voted against SB 770:

Mike Green	Andy McKenzie	Erik Wells	John Yoder
Jon Blair Hunter	John R. Unger II	C. Randy White	

SB 641 – Amending the Water Resources Protection and Management Act

This is the “*water quantity*” bill. The bill authorizes the continuation of the water resources survey; authorizes DEP to develop a state water resources management plan; and authorizes the designation of regional and critical area water resources planning areas and plans. The bill was passed by both Houses, but only the House version of the budget bill contained the more than half a million dollars funding for the bill. Thankfully, the budget conference committee restored the funding for the bill.

Final passage of this bill in the Senate was by a vote of 33-0-1 (Sharpe absent).

Final passage of this bill in the House was by a vote of 94-2-4 (Mahan, Marshall, Moore and Stemple were absent). **The two “no” votes were cast by Delegates Ireland and Romine.**

HB 4438 – Expedited Air Pollution Permits for Minor Sources

This was a truly ugly bill that allows construction to begin on minor-source facilities and modifications to minor-source facilities before their air pollution permits are approved! It was a Chamber of Commerce sponsored bill that they have been pushing for several years, and this year the Department of Environmental Protection (DEP) got on board in support. The WVEC lobby team negotiated some amendments to the bill that would have improved it somewhat. Those amendments were accepted by the House, but were mostly gutted by the Senate. The bill passed in the final hours of the last night of the session.

House Bill Sponsors were Delegates Morgan, Swartzmiller, Cann, Browning, Craig, Pethtel, Sobonya, C. Miller and Stalnaker. A “same as” bill in the Senate – **SB 626** – was sponsored by Senators McCabe, Jenkins, Wells, Caruth, Oliverio, Foster, Facemyer, Minard, Kessler, Boley, Plymale and Love.

Initial passage of this bill in the House was by a vote of 95-3-2. **The three “no” votes were cast by Delegates Burdiss, Fleischauer, and Shook.**

Initial passage of this bill in the Senate was by a vote of 30-2-2. **The two “no” votes were cast by Senators Hunter and White.**

Final passage of this bill in the Senate was by a vote of 33-0-1 (Sharpe absent).

Final passage of this bill in the House was by a vote of 94-2-4. **The two “no” votes were cast by Delegates Fleischauer and Shook.**

SB 751 – The Surface Coal Mining Special Reclamation Fund

The monies in the Special Reclamation Fund are used for reclamation of mine sites that were abandoned or where bonds were forfeited after 1977. Because this fund is basically going broke again, this bill adds another 7.4 cents per ton to the special reclamation tax, bringing the total now to 14.4 cents per ton (however, the additional levy applies only for one year). The bill also creates a Special Reclamation Water Trust Fund to reclaim and restore water treatment systems on forfeited sites. The bill passed both Houses.

Final passage of this bill in the Senate was by a vote of 26-7-1 (Sharpe absent). **The seven Senators voting against initial passage of the bill included: Barnes, Boley, Hall, Love, Sprouse, Sypolt, and Yoder.**

Final passage of this bill in the House was by a vote of 93-3-4. **The three “no” votes were cast by Delegates Andes, Porter, and Schoen.**

HB 4476 – Public-Private Transportation Facilities Act

This was a controversial bill that has been debated for a long time. Basically, it will allow the private development of new state roads and highways. It would allow the costs and profits to be recovered by collecting tolls from the users. And environmentalists have been leery of similar proposals in the past that focused on extracting industries' use of this type of mechanism. This bill seemed to be going nowhere for most of the session, but then got new life the last couple of weeks, when the WVEC lobby team was busy with other issues. The bill passed both houses late in the session.

Bill Sponsors were Delegates Hrutkay, Tucker, Martin, Swartzmiller, D. Poling, Stalnaker and Craig.

Initial passage of this bill in the House was by a vote of 70-27-3.

The twenty-seven Delegates voting against initial passage of the bill included:

Armstead	Guthrie	Miller, C	Sumner
Blair	Hartman	Miller, J	Tabb
Border	Iaquinta	Overington	Tansill
Cann	Ireland	Romine	Walters
Cowles	Kessler	Schadler	Williams
Doyle	Lane	Shaver	Wysong
Duke	Michael	Sobonya	

(Delegates Craig, Frederick and Longstreth were absent for the vote).

Initial passage of this bill in the Senate was by a vote of 28-5-1 (Sharpe absent).

The five Senators voting against initial passage of the bill included: Hunter, Sypolt, Unger, White, and Yoder.

Final passage of this bill in the House was by a vote of 73-24-3.

The twenty-four Delegates voting against final passage of the bill included:

Anderson	Doyle	Miller, C	Shaver
Armstead	Duke	Miller, J	Sobonya
Blair	Ireland	Overington	Sumner
Border	Kessler	Porter	Tabb
Cann	Lane	Romine	Walters
Cowles	Michael	Schadler	Wysong

Final passage of this bill in the Senate was by a vote of 25-8-1 (Sharpe absent).

The eight Senators voting against initial passage of the bill included: Barnes, Boley, Caruth, Guills, Hunter, Sypolt, Unger, and Yoder.

SB 622 – Voluntary Rural and Outdoor Heritage Conservation Act

This was a good bill that began as an Interim Study on creating a mechanism and funding source for farmland and natural resource preservation. The bill was subjected to an arduous track through the legislative process, but was finally approved by both houses. Unfortunately, the final version adopted by the Legislature is pretty stingy regarding the funding amount.

Bill Sponsors were Senators McCabe, Foster, Hunter, Kessler, Barnes and Oliverio.

The bill passed in the House by a final vote of 77-20-3. **Twenty Delegates voted against passage of the bill.** They included:

Armstead	Ellem	Porter
Azinger	Evans	Schadler
Blair	Frederick	Shook
Border	Lane	Sobonya
Carmichael	Miller, C	Sumner
Cowles	Miller, J	Tucker
Duke	Overington	

The bill passed in the Senate by a final vote of 30-3-1 (Sharpe absent). **The three Senators voting against passage of the bill were Hall, Facemyer, and Sypolt.**

HB 4267/SB 438 – DNR Rules on Drilling in State Forests

This was a good piece of legislation that was passed by both Houses. It was basically a response to terrible land management practices by an irresponsible oil and gas operator at Kanawha State Forest, but morphed into a rule that would apply on all State Forests. The rule provides for increased protection and oversight of drilling activities on State Forests, and also increases public involvement in the process. For final passage, the rule was placed into **HB 4255**, the **Department of Commerce Rules Bundle**. Three Delegates and seven Senators voted against final passage of the Commerce Rules Bundle. However, no Delegates or Senators voted against this specific rule.

SB 323 Municipal Stormwater Regulations

SB 323 strengthens the ability of municipalities to enact stormwater regulations and to require pollution control from facilities or developments within their jurisdiction. The bill was sponsored by Senators Bowman and Oliverio.

Final passage of this bill in the Senate was by a vote of 25-8-1 (Sharpe absent). **The eight Senators voting against the bill included: Barnes, Boley, Deem, Hall, Sprouse, Sypolt, Unger and Yoder.**

Final passage of this bill in the House was by a vote of 57-39-4. **The thirty-nine Delegates voting against the bill included:**

Anderson	Cowles	Ireland	Perry	Sobonya
Andes	Duke	Kessler	Pino	Spencer
Argento	Ellem	Lane	Porter	Staggers
Armstead	Ennis	Martin	Reynolds	Stephens
Ashley	Evans	C. Miller	Romine	Sumner
Blair	Gall	J. Miller	Schadler	Walters
Border	Hartman	Moye	Schoen	Yost
Canterbury	Hutchins	Overington	Shaver	

(Delegates Browning, Mahan, Marshall, and Stemple were absent for the vote).

SB 88 Brownfield Economic Development Districts

According to the note attached to **SB 88**, “The purpose of this bill is to create brownfield economic development districts *in areas involved in the extraction and processing of coal, limestone or other natural resources* and that are currently designated as brownfield or voluntary remediated sites by the state.” While we still have some reservations about this bill, it appears simply to expand the current brownfields statute and contains adequate safeguards. The bill passed both houses, and was signed by the Governor.

Final vote for passage in the Senate was 33-0-1 (Sharpe absent).

Final vote for passage in the House was 99-0-1 (Mahan absent).

Renewable Energy Bills

SB 474 passed both Houses and provides a sales tax holiday for Energy Star products for home use. This year, the holiday will be September 1-7; in 2009 and 2010, it will be the entire month of September. This legislation was proposed by the Governor. No Delegates or Senators voted against final passage of this bill.

HB 4434 passed both Houses and creates a revolving loan fund for energy and water savings projects at state institutes of higher education. This bill originated in the House Education Committee. Sponsors included Delegates Mary Poling, Paxton, Frederick, Browning, Wysong, Williams, Ennis, Danny Wells, Stephens, Tansill and Duke. No Delegates or Senators voted against final passage of this bill.

HB 4028 passed both houses and allows counties and municipalities to enter into contracts for energy savings at public buildings. Sponsors included Delegates Fleischauer, Marshall, Beach and Shook. A similar bill, **SB 487**, was introduced in the Senate by Senators Hunter and Foster. No Delegates or Senators voted against final passage of this bill.

Delegate Barbara Fleischauer sponsored four additional progressive energy-related bills that never made it onto a committee agenda for consideration. These included:

HB 4066, the Green Buildings Act, established energy efficiency requirements for public buildings. Co-sponsors included Delegates Staggers, Marshall, Burdiss, Talbott, Hatfield, Guthrie, Canterbury, Wells, Brown and Mahan. A similar bill, **SB 568**, was introduced in the Senate and also was not taken up by committee. Senate sponsors included Senators Hunter, McCabe, Unger, Foster, Helmick, White, Edgell, Bailey, Kessler, Wells, Love, Jenkins and Stollings.

HB 4083, the Renewable Portfolio Standards Sustainable Energy Act, would have required electric providers to include electricity produced from renewable energy systems in their energy mixes. Co-sponsors included Delegates Staggers, Marshall, Burdiss, Talbott, Hatfield, Guthrie, Wells, Tabb, Brown and Moore. A similar bill, **SB 299**, was introduced in the Senate and also was not taken up by committee. The sole sponsor was Senator Hunter.

HB 4095 would have created a commission to study the impact of global warming in West Virginia. Co-sponsors included Delegates Doyle, Guthrie, Talbott, Barker, Miley, Brown, Moore, Manchin, Longstreth and Fragale.

HB 4133 would have resulted in West Virginia adopting California's low-emission vehicle standards. Co-sponsors included Delegates Hatfield, Perdue, Talbott, Barker, Webster, Canterbury, Manchin, Longstreth, Miley and Fragale.

Other Good Bills That Went Nowhere

In every legislative session some really good ideas for the environment are introduced but never make it onto committee agendas for consideration. The 78th West Virginia Legislature was no exception. It is important to recognize the legislators who sponsored these bills, all of which were listed as WVEC legislative priorities for the 2008 session.

SB 135/HB 2773 – the Bottle Bill:

Sponsors of the Senate bill were Senators McCabe, Foster and White.

Sponsors of the House bill were Delegates Fleischauer, Mary Poling, Hatfield, Fragale, Hamilton, Brown, Tabb, Miley, Manchin, Beach and Canterbury.

SB 240/HB 4050 – the Public Campaign Financing Act:

Sponsors of the Senate bill were Senators Kessler, McCabe, Edgell, Plymale, Unger, Jenkins, Foster, Hunter, White, Wells, Sprouse, Love, Guills and Stollings.

Sponsors of the House bill were Delegates Doyle, Brown, Hatfield, Marshall, Browning, Ellem, Lane, Moore, Fleischauer, Perdue and Klempa.

SB 482/HB 4286 – the Oil and Gas Surface Owner’s Bill of Rights:

Sponsors of the Senate bill were Senators Edgell, Hunter, McCabe, White, Kessler and Plymale.

Sponsors of the House bill were Delegates Burdiss, Brown, Eldridge, Moore, Guthrie, Wells and Mary Poling.

HB 4408 – Eliminating Use of Plastic Bags by Retailers

Sponsors of this House bill were Delegates Rodighiero, Ellis, Kessler and Reynolds.

* This report was prepared on behalf of the West Virginia Environmental Council by Donald S. Garvin, Jr., WVEC Legislative Coordinator.