



West Virginia Environmental Council's

Green

Legislative Update

Published Weekly During West Virginia's Legislative Session

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Under the Dome

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Week 2 — Brrrr . . . !!

The WVEC lobby team usually gets a cold reception at the Legislature, but this wintry blast of real weather that has greeted us the first two weeks has not dampened our spirits. After all, our mountains, rivers and streams could use some heavy snowfalls for a change.

Speaking of cold receptions, we attended the Trial Lawyers' legislative reception last night. Earlier in the day the House had severely thrashed the trial lawyers by passing overwhelmingly (84 – 14) the tort reform provisions in the medical malpractice insurance bill. Judging from the number of unclaimed nametags at the reception table, only a handful of delegates and senators were in attendance.

Brrrr . . .

On Thursday the House of Delegates passed four huge pieces of legislation: medical malpractice tort reform, higher education restructuring, the workers' compensation deficit and "safety" for all-terrain vehicles. These are MAJOR bills, and the House managed to do this on only Day 9 of the session.

In an editorial this week the *Charleston Gazette* chided lawmakers for moving so quickly on these important bills. Well, there will still be weeks of wrangling and dealing over these bills, first on the Senate side, and then in conference committees. For example, we are hearing that the Senate's version of the ATV bill will be even weaker than the House version. **Brrrr . . .**

But don't worry. Things will heat up soon. There will be a real blood bath the last half of the session over the budget, and over final decisions on these bills as well.

In the meantime, enjoy the winter weather. And make sure you feed the birds.

Brrrr . . .

Green Legislative Update

Common Ground

By Rick Eades

To those who fault environmentalists as offering no positive alternatives, take note. Several folks seem able to overlook petty stereotypes and entertain alliances on reasonable GREEN initiatives. Consider a random sampling of the first 10 days of the 2003 West Virginia Legislature:

- Hats off to Linda Mallet/WVCAG and the Farm Bureau for *collaborations* on a bottle bill, as well as support from multiple municipalities.
- Allan Tweddle has drawn a warm response from among others David Miller (former Asst Ag Chief), who serves in an *economic development* capacity at WVU. The issue – biodiesel fuels – where poultry litter problems may become part of an alternative solution or green energy fuel with interesting economic and environmental positives.
- House Education Chairman Jerry Mezzatesta seems very receptive to some *cost savings* GREEN energy ideas, including one Allan is advancing to save money on diesel fuel costs, while reducing diesel emissions in school yards, under the *Turn It Off* initiative.
- Several legislators and various stakeholders seem interested in developing legislation to encourage *energy conservation in public schools* and hopefully deliver *cost savings* to County School Boards. John Taylor and I have contacted several parties and a call has been placed at this

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E-Day! At The Capitol

It's time to make your plans now to attend this year's WVEC Annual E-Day at the state capitol in Charleston. Citizen Lobbying, displays, award presentations, and a wonderful Fundraiser afterward is planned.

E-Day! At The Capitol: February 25, 2003 ~ 10:00 am till 3:00 pm.
Fundraiser: The Brick Cellar, 1604 Washington Street East, Chas.
5:00 ~ 9:00 pm. Music by Ammed Solomen & Steve Hill
For more info, or to reserve a display area, call Denise at the office.

Government Reorganization

By Conni Gratop Lewis

Whether we need it or not, it's time for a reorganization. Governor Wise has proposed reorganizing state government for several reasons. One is that the current setup is cumbersome and inefficient. Another is that the current setup is too costly.

To address the first problem, he proposes to move a multitude of agencies to new homes. His bill (HB 2175/S151) does not address the second issue.

If there are savings, they would show up in the budget. Examples of change include the proposed regulatory services division in Finance and Administration which would house the ethics commission as well as the office of professional chapter 30 of banking, and environmental board in the state code. A dozen or more other agencies also would be part of this new division. I am not sure how this makes state government more efficient or less cumbersome.

The agency director would have the power and authority to move positions, functions and general revenue funds around. Hm.

But that's not why I am writing this piece.

What this bill also does is create a division of Tourism, Natural Resources and Parks. It will be a stand alone agency and pretty much will be responsible for those functions. The agency director would have the same powers mentioned above.

And it enlarges the Department of Environmental Protection by adding programs and agencies currently in the Commerce Department: Division of Forestry, the miners' training and safety boards, water development authority, and the geological and economic survey.

The last time state government had a major reorganization was 1989, stuffing 150 plus agencies into 7 super-departments. It was a mess and didn't always function well, and took several years to sort out and rearrange. Remember the agency that was supposed to both regulate and promote coal?

Most of the changes proposed in this 150 page bill actually are logical. Let's hope that if the bill passes as presented we don't have to take the time to do it over.

We will be watching this bill carefully as it wends its way through the process.

Are We Dreaming?
The new plan puts the Division of Forestry under the control of the DEP. Imagine.....

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Top 10 Questions (WVEC's First 10 Days)

By Rick Eades

10. Will the Senate originate a **Water Use Bill** - to protect West Virginia water quantities from would-be out-of-state predators?

(Note: Consumer Advocate Billy Jack Gregg of the Public Service Commission testified in Senate Finance that WV has no laws offering such protection – thank God folks are paying attention, including Gregg, and Senators Unger and Finance Chairman Helmick).

9. Will the **\$5K/acre cap be removed** on mine permits to allow the DEP flexibility in site-specific bonding, which the coal industry constantly pleads for?

8. Will ALL the DEP flood study findings and regulatory recommendations (i.e. valley fill bottom-up construction, sediment pond re-designs, runoff restrictions) to protect citizens be **washed away in a flood of industry negotiations**?

(Note: DEP's Matt Crum provided an excellent presentation in the final interim Rules Committee meeting, but legitimate DEP rules provisions have repeatedly been gutted).

7. Will **ATV's run wild in State Parks**, which the Governor's ATV bill seems to offer?

(Note: Subcommittee Substitute bill HB 2121 has revised that position - but the language is still not absolutely clear at this time).

6. Will a bill to offer **incentives for energy conservation in public schools** (and significant cost savings and aid to Counties) arise and gain sufficient support for passage?

5. Will **\$2.8 Billion in road and bridge damages** (aka coal industry subsidies) be ignored, during our fiscal demise, or will the overweight coal truck issue be resolved in a way that favors West Virginia citizens and enforcement over corporate interests?

4. Will the coal industry rule again (that since 1990 had 11 of its 15 highest annual tonnage outputs in history) and continue to get everything it wants?

(Note: Will we never hear of production limits from coal industry to better insure that market gluts are avoided and a reasonable, higher price is paid for this resource?).

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3. Will any of several small, but **at first glance reasonable DEP bills** (Solid Waste fees, Lab Certification and direct fee payment to DEP, strict liability for landowners who contaminate groundwater) get introduced and moved into law?

2. Will the **Division of Forestry** actually land in a new home under the DEP, within either the Legislature or Governor reorganization plans?

1. Will the **coal industry's miner statue** on the Capitol grounds reveal a realistic portrayal of the miner, especially from the miner's backside?

(Note: Just thinking of the rich history many brave miners have had in regard to their treatment at the hands of less than labor-loving coal companies).

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writing to the State School Board to further examine their interests and thoughts on the proposal.

Doctor Howard O'Cull, State School Board, has also exhibited some preliminary excitement over such legislation.

Though constantly criticized for our tendencies to oppose eco-damaging aspects of coal, timber, or poultry industries, the WVEC team also seeks ways to make a positive contribution when given the opportunity.

Several other GREEN energy initiatives may hatch this session. All have economic benefits, and support water and air quality protections implicitly.

Speaking of protections, the possibility that a bill to protect West Virginia water on a quantity basis could be introduced this session is as surprising as it is quenching for those of us who have practically screamed about protecting the resource for our state's future.

However, the devil will certainly be in the details of any bill dealing with water allocation. Instead of infighting for the resource between West Virginians, what might be taking place in Pittsburgh and Washington D.C. could be a better place to focus our attention – lest much of our Monongahela and Potomac River waters quietly find themselves allocated to out-of-state users.

“TURN IT OFF”

By Allan S. Tweddle *allantweddle@bigplanet.com*

According to a recent document entitled “Long School Bus Rides—Stealing the Joy of Childhood; A Challenge” by Beth Spence: “The State of West Virginia operates the most expensive transportation system in the country.” With our WV Governor demanding that legislators find ways to “cut State spending again and again” here’s a win/win/win idea:

Win #1: Cut the costs of operating the State’s fleet of School Buses, save money on fuel and engine parts, and reduce fuel consumption.

Win # 2: Save wear and tear on this huge rolling inventory.

Win #3: (and I saved the best for last): Drastically cut the exposure to our children from horrific toxic diesel fumes! Health studies show, unequivocally, that exposure to diesel exhaust poses serious health risks.

It’s simple. Turn off the engines of all school buses when they are parked, waiting to collect or discharge our children at their schools!

It won’t cost a penny to implement. As Kevin Mallory, Transportation Director for the City of Portland (Maine), has said about their no-idling policy, “This is a no-cost solution –it’s a no-brainer.”

Other states and Canada are already changing the antiquated practice of leaving a stationary school bus engine running while parked in front of, or near schools. In the “old days”, 50-75 years ago, you didn’t dare shut off a diesel engine of any kind once you got it started even if you weren’t going to use it for a couple of hours. Those days and those engines are gone. The modern diesels of the last 25 years start as easily as any gasoline engine.

Yet we continue to poison our children and teachers when the collected buses spew clouds of toxic diesel every day. Children are particularly sensitive. They breathe 50% more air per pound of body weight than an adult. It is little wonder that asthma in children, by some measures, is rising at epidemic rates.

The U.S. EPA is pressing for advanced and cleaner diesel engines and bio-diesel fuels are on the way, but new federal standards will take a long time for fleet-wide turnover. We can help our children—and the budget crisis—*today* if we simply “**TURN IT OFF**”.

Turn the engine off when the bus arrives at the schoolyard and before the children disembark the bus in the morning. Keep the engine off until all students are on board their bus to leave school at the end of the day. It’s so

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Hemp: the war on drugs won’t let go

By Chuck Wyrstok

The outmoded, ill-conceived, treasury-busting, non-effective War On Drugs is keeping the farmers in West Virginia from cashing in on one of the best products nature can produce...industrial hemp. Even though the forward-thinking 2002 legislature and Gov. Bob Wise saw fit to make hemp OK to grow in WV, the uptight Drug Enforcement Administration (DEA) in Washington, DC, still lists hemp as a controlled substance.

DEA will not issue permits for anything other than small acreage experimental plots that must have 12 foot high fences, 24 hour lighting and surveillance cameras and guards.

Good grief! When hemp was needed for national security in WWII, farmers were urged to get with it, produce as much as they could, for the rope, shoes, fabric needed for our survival as a nation. It was a fast-growing natural resource that could be immediately utilized. Times were drastic. We were in a war against terror and dangerous forces.

Sound familiar? So, how come the feds have their heads up their butts on hemp when it comes to Homeland Security in 2003. How come the U.S. of A. is the only industrialized nation in the world that does not grow hemp? It’s time to confront our representatives in Washington with these questions. And I urge each of you to do so. Organize. Form a Hemp Growers Association of West Virginia and network with farmers in South Dakota and Hawaii and other states that want to break through this nonsense.

And it is nonsense.

This is not some new, untried, experimental concept. It’s been done before, numerous times over the centuries, all over the world. There’s something else going on here. There is a mania infecting the good people we’ve entrusted to protect us from really bad drugs.

Remember...the government is us. So, it is actually US who are preventing this solution from happening by sitting on the sidelines as our employees (the federal government) wallow in the mistaken belief that hemp will get us stoned. It will not.

So, who yuh gonna call? Your U.S. Senators. Your Congressperson. The WV Department of Agriculture. Urge them to, please, try to show a little initiative...a bit of pro-active, progressive thought on this no-brainer. Gus Douglass could take some time off from hanging banners on pretty girls at the fairs and become an advocate for growing hemp in West Virginia. And how about David Satterfield, our abundantly-paid economic development chief (\$175,000 annual salary, plus the

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Coal Trucks

By Julie Archer, WV Citizen Action Group

Two bills pertaining to overweight coal trucks have been introduced this session. HB 2067, which was introduced last week and sponsored by Delegate Caputo, would require law enforcement officers investigating accidents involving commercial motor vehicles to include the weight of those vehicles in accident reports.

This would make it easier for the Division of Highways to determine how many overweight vehicles are involved in accidents. On a number of occasions when DOH officials have been asked how many overweight vehicles were involved in accidents they were unable to provide an answer. They were also unable to accurately determine how many coal trucks were involved in accidents because currently, investigating officers are not required to report what commercial vehicles are hauling.

Unfortunately, as we all know, coal trucks are involved in accidents far too often. The DOH determined that there were 8 coal truck accidents resulting in 11 fatalities in 2000 and 2001, according to a summary of coal truck accidents released by the agency. Research by Coal River Mountain Watch uncovered 5 additional coal truck related deaths that were not included in either the DOH summary or in a review of coal truck accidents conducted by the Natural Resource Haulers Association.

The coal haulers tried to use the DOH records to their advantage, but their report reinforces why we must continue to pressure Governor Wise and the Legislature to crackdown on outlaw coal haulers. "This is what they didn't want you to see." said Judy Bonds of CRMW. Bonds said the report was an attempt by the industry to divert attention from the real issue – safety. "The truckers association point to fault in these fatal crashes. Almost always, only one side of the story is ever heard."

A closer look at the coal haulers own data reveals what coalfield residents and activist have been saying all along –that these trucks are dangerous. They are more likely to roll over and they are often poorly maintained. CRMW cited numerous incidents of trucks rolling over, knocking mirrors off a school bus, striking passenger vehicles, drive lines falling off and tires blowing out. In some instances the driver of the coal truck was cited for failure to maintain control, but in many cases there was no citation issued.

The coal industry line is that it will be crippled if coal trucks can't run at 120,000 pounds or more, but this just isn't so. A review of citations issued to overweight coal trucks conducted by West Virginia Citizen Action Group revealed a major discrepancy between trucks in the northern and southern parts of the state even though a considerable amount of coal is mined in both regions.

Although the problem with overweight coal trucks is not limited to the southern counties, the heaviest trucks are concentrated there.

The average weight of coal trucks cited in Kanawha County was 144,752 pounds. In 2000, 14,776,832 tons of coal was mined in Kanawha County. That same year nearly 12 million tons of coal was mined in Monongalia County, but the average weight of coal trucks there was only 82,932 pounds. Considering this, the industry's argument doesn't carry any weight.

Keep in mind that many trucks hauling coal in southern West Virginia weigh nearly 50,000 pounds empty. Southern coal haulers have only themselves to blame for allowing the industry to pressure them into buying, that by themselves, are illegal on many roads and bridges. For a real solution to the problem, we need to get to its source – the coal companies.

A bill introduced by Delegate Don Perdue does just that. HB 2193 would require coal companies to weigh trucks they load and report the weights to the Department of Transportation. The shippers could be fined for each truck they overload and could be subject to additional fines for failing to comply with the law.

Similar provisions are part of the Caputo bill, which would increase fines and penalties for coal haulers who violate existing weight limits. Under the Caputo bill the shippers and receivers would also be subject to the same fines and penalties as the trucking companies. As of this writing Delegate Caputo's bill has not been introduced.

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simple.

Keeping the bus warm in the winter appears to be the only argument voiced against this no-idling policy. In Maine, with its frigid weather much more severe than our temperatures in WV, they solved this problem by arranging for the bus drivers to wait in the school building until the children were dismissed. The children in their winter parkas won't suffer if the bus is a bit cool—but a whole lot cleaner and safer.

The WV Global Climate Change Committee is seeking a grant to implement a state-wide program student education project, building awareness of their environment and what they can personally do to help clean it up. E-Council is considering the preparation of a bill to require a "Turn It Off" program in West Virginia.

Do we need legislators to implement this in West Virginia? Will the budget-conscious Boards of Education see the way to win immediate (and free) cost savings and win cleaner air for our children to breathe? Will our children's parents and grandparents call for action? The only question I can ask is, "Why Not?"

There is a lot more to this plan, but these are the important essentials. It really is that simple.

Bill For Public Financing of Elections - How Does it Work?

By John Taylor

Attention: Incumbent Legislators and potential candidates!! It may soon be possible to run for legislature without the constant and demeaning necessity of raising campaign funds! The West Virginia Clean Elections Act is coming soon!

Last issue we wrote about the absolute necessity of changing our system of election campaign financing to public financing. Maine and Arizona got very good results from public financing in their 2000 elections.

The West Virginia Clean Elections bill will be introduced this Session. It will create a *voluntary system of public funding* to qualified political candidates who agree to accept spending limits and do no private fund raising.

Under the Act, candidates will become "qualified" by obtaining a set number of \$5 qualifying contributions from voters in their districts. They must also accept spending limits and do no private fund raising.

For example, a candidate in a single member district would have to get \$5 contributions from 75 people in his district. This \$375 would go to a special fund, a pool of money for candidates to draw on for their campaign expenses. Senate candidates would need 200 \$5 qualifying contributions except for Districts 8 & 17. Gubernatorial candidates would need 2,500 qualifying contributions. Other sources for this pool include:

- * Tax check-off program (\$3 per taxpayer for "Clean Elections Fund")
- * Unspent Clean Elections funds.
- * Voluntary donations. (State tax credits up to \$500 on state income tax or 20% of state tax.)
- * Fines for election law violations (e.g. late filing.)
- * Interest generated by the qualifying contributions fund pool.
- * Other sources designated by the Legislature. (Maine designated \$2 million from general revenue.)

Allocation of Funds:

A qualifying delegate candidate running in a single-member district could collect \$7,500 for the primary election, and \$7,500 for the general election.

The amounts increase for Senate and Gubernatorial races. Qualifying senatorial candidates could get \$20,000 for the primary and \$20,000 for the general election. Qualifying Gubernatorial candidates would get \$1,000,000

for each election.

Eligible candidates get Clean Elections funding for the primary within 5 days of submitting qualifying contributions and complying with all other eligibility requirements. General election Clean Elections funding would come within 48 hours after certification of the primary election results.

In 2000 Maine and Arizona went to a "Clean Money, Clean Elections" campaign finance system. It is a system very similar to the West Virginia Clean Elections Act. Look what happened in Maine and Arizona:

* Arizona elected the first "Clean Elections" governor, Janet Napolitano (D). 45% of the Arizona house was elected as "clean" Candidates. 17% of their state senate was elected "Clean."

* In Maine, 77% of the State Senate and 55% of their House will be made up of Democrats and Republicans who ran "clean."

C'mon incumbents! C'mon! C'mon! Think about this!! Think about NOT having to run around hustling campaign contributions hour after hour, day after day, year after year when you could be spending the same time to focus on issues and your entire constituency and not just on the more affluent part of it.

There's much more information and many more details easily available about the Arizona and Maine "clean" elections. Contact Citizens For Clean Elections through Ohio Valley Environmental Coalition (www.ohvec.org) or West Virginia Citizen Action Group (www.wvcag.org). Better yet, talk to Si Galperin or Julie Archer at these websites, or at (304)346-5891. We at WVEC can also hook you up with more information, but Si Galperin and Julie Archer are your best sources of information about the West Virginia Clean Elections Act.

Note: Thursday, Senate Judiciary took up the "WV Clean Elections Act" - SB 158. The bill was referred to an Elections Sub-Committee. Sponsors include Senators Hunter, Rowe, McCabe, White, Sprouse, Dempsy, Kessler, Oliverio.

Hemp: the war on drugs won't let go

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\$25,000 bonus laid on him by cash-strapped used car salesman Bob Wise)? Shouldn't he be pursuing this? Hemp processing facilities would be needed. Marketing, transportation, sales, manufacturing...JOBS.....hellOOOO!

YOU are paying the salaries of all the above. It makes no sense to ignore this potential. Get these people to do what's right...after all, it's the law.

Calendar of Events

February 8: West Virginia Music Conference. Taylor Books, 226 Capitol Street, Charleston. Music begins at 3:00 p.m.

For more information: 342-1461

February 25: WVEC Annual E-Day! at the Capitol, Senate & House halls, state capitol, Charleston WV. 10:00 till 3:00. Organizations, groups, eco-friendly business displays and other activities planned. Mark your calendar now, and join us! Lobby your legislative representatives!

For more information and to reserve display area contact: Denise Poole, 346-5905 or deniseap@earthlink.net.

February 25: Annual E-Day! WVEC Fundraiser. The Brick Cellar, 1604 Washington Street East, Charleston. From 5:00 pm till 9:00 pm. Stop by after E-Day! at the Capitol.....Buffet, Auction, and music provided by Steve Hill and Ammed Solomen!

Stay tuned for more details.

For more information: Denise Poole, 346-5905 or deniseap@earthlink.net

March 8: Last Day of Legislative Session. Stay tuned for details of End of Session Gathering.

April 26: Artists for the Environment Fundraiser. Perfater Law Office lobby, 1311 Virginia Street East. Silent auction of visual artwork, live music, wine & cheese, and raffle drawing for Mark Blumenstein

sculpture. Join us for this lovely evening and support the environmental efforts in West Virginia!

For more information and to participate contact: Denise Poole, 346-5905 or deniseap@earthlink.net.

Please Note: The "Potato Bar" Western Region Fundraiser scheduled for January 24 in Huntington has been postponed due to unforeseen circumstances. We will re-schedule as soon as possible.



If you are planning an event or have other calendar items you would like us to post, please send all information to:

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