



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.
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Week 1: Open For Business

Well, we have a new governor and in his "State of the State" address on Wednesday night Governor Joe Manchin declared that the state is "open for business."

Open for business as usual, it appears.

We should not be surprised. Being "open for business" has been a major theme of every governor in this state since I moved here in 1982. Mr. Manchin has been in politics in this state for a long time. And during this past campaign he carried around with him a "beat-up old blue binder" that contained his job creation plan. It was called, "West Virginia: Open for Business."

However, we had been hearing from sources close to the administration that this governor would be different, that he wanted to move the direction of the state's economy away from one dependent on extractive industries toward an economy reliant on sustainable development, one with high paying jobs and a clean environment.

But the State of the State address contained no indications of such change in direction.

Instead, the governor said, "Wherever there is one job on the verge of being lost, I will fight to save it. Wherever there is one company looking to grow in West Virginia, I will fight to make that growth a reality."

Business as usual.

Instead, the governor said, "There are power companies looking to build clean coal technology plants somewhere in the east, and I will fight to make that expansion happen in West Virginia."

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Green Legislative Update

Making Elections Fair and Clean in West Virginia

By Julie Archer, WV Citizen Action Group

The Select Committee on Campaign Finance Reform has recommended two proposals that would help make elections fair and clean in West Virginia. One would create pilot project to provide full public financing to legislative candidates who agree to limit their spending and reject all private donations. This voluntary, "voter-owned" system would reduce candidates' dependence on special interest money and let them focus on interacting with voters rather than fund-raising. The "WV Fair and Clean Elections Act" is modeled after laws in Maine and Arizona, where it is now the political norm to run for office free of direct dependence on private campaign contributions. The pilot project would provide public funding to candidates in two Senate and three house races and is the first step toward making this alternative source of funding available to all candidates for elected office in West Virginia.

The interim committee also recommended legislation which would make statewide and legislative elections comply with the federal Bipartisan Campaign Reform Act or McCain-Feingold law which prohibits the use of "soft-money" in election-related communications. It is an important effort to undertake, because the McCain-Feingold ban on unlimited "soft money" donations going to the federal parties has spurred the advent of new vehicles for special-interest money, like the 527 groups And for the Sake of the Kids and West Virginia Consumers for Justice, which both spent millions in an effort to influence the outcome of West Virginia's Supreme Court race.

The bill would prohibit corporations from financing "issue ads" that target candidates shortly before a state election; and would require significant levels of disclosure

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Join WVEC Wednesday, February 16th

~ 2005 Legislative Session ~

"Kick Off Blast" Benefit !!!

Music provided by local fabulous favorites ...

The Voo Doo Katz

Opening act by the exciting new band...

The Black Eyed Susans

Great food from the Sahara Restaurant
and other refreshments & beverages
to please the palate and
quench your thirst.....

Come on out and support the
WVEC lobby team!
Great way to kick off the session!

~ Perfater Law Office Building ~
1311 Virginia Street East, Charleston
6:30 pm ~ 10:30 pm

Suggested donation: \$15.00

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(He has already paved the way for this to happen during the Special Session, when he got the legislature to resurrect the old Public Energy Authority).

So the only specific new job-creating project the governor proposed on Wednesday night was for the state to finance the building of more coal burning power plants. This at a time when the EPA has listed major “non-attainment” areas of the state, areas that are in non-compliance with federal air emissions standards. This at a time when more West Virginia children are suffering from asthma than ever before.

Business as usual.

Well, Governor Manchin, if you are reading our little newsletter, we here at the West Virginia Environmental Council are understandably disappointed with what we heard in your speech Wednesday night. But we remain hopeful and optimistic that we can work together toward a different economic vision for the citizens of this state. We are eager to work with you in building an economy that protects our invaluable natural resources – one that provides clean water to drink, clean air to breathe, and economic well-being far into the future.

Governor, in your speech you quoted the renowned Mahatma Gandhi as saying, “We must become the change we want to see.”

We couldn’t agree more. And to that end, the WVEC lobby team is “open for business.”

Finally, readers, remember to keep your bird feeders “open for business” this winter as well.

Send Us Your Love!

Monday is Valentine’s Day and you are all our “sweethearts” and we just *know* that we are your sweethearts, too.

So why not send us your love “offerings” to help warm us up?

We really do rely on your “love dollars” to keep the WVEC lobby team working on your behalf at the capitol. With our commitment to provide an environmental presence on a more year-round basis, we have also established a much larger funding goal, so we need your support now more than ever.

Please send us a Valentine gift today, and you’ll see how much it will warm your heart as well.

***Happy Valentine’s Day to all our Sweeties,
Don Garvin ~ WVEC Legislative Coordinator***

Interims over at last!

By Conni Gratop Lewis, WVEC Lobbyist

When there is a gubernatorial election, the legislative session is delayed one month, so there is an extra month of interim meetings. This *doesn’t* mean that more *work* is done, just an additional month.

Here are a few dispatches from the legislative front:

The water resources protection act committee received reports every month on the progress of the water usage study. Marshall and West Virginia Universities are collaborating on research projects to help. (First basketball, then research. Can football be far behind?)

The flooding committee also received reports, took tours and heard from the citizens affected by flooding. Thanks to Del. Bonnie Brown and Sen. Billy Wayne Bailey for making it possible for citizens to present their grievances to the committee. It was quite the eye-opener to hear from Judy Bonds and her cohorts in August. It was amazing to watch a roomful of lobbyists pay rapt attention to the Appalachian Treasures slideshow last month. This presentation powerfully demonstrates the human and ecological costs of mountaintop removal.

The committee also generated a bill requiring property insurers to provide information about flooding coverage. The important bill would create a flood prevention planning commission and would implement the recommendations of the flood prevention taskforce.

If you’ve forgotten, DEP did implement the recommendations regarding mining. The Division of Forestry has not implemented the forestry recommendations.

Forest Management Review Commission received reports on a variety of issues regarding forest health and economics. Our own Don Gasper spoke to them about forest health issues. This month’s meeting was a presentation by a WV economist on the economic value of West Virginia’s forests, not just the economic value of the forest products industry.

Last but not least, a Finance committee studying property taxes, including managed timberland taxes, decided the issue needs another year of study. The translation? The committee couldn’t come to anything resembling agreement on what to do about managed timberland taxes.

All in all, the interims this year didn’t generate any bad bills.

An Open Letter to Governor Manchin

By Allan Tweddle, WVEC Lobbyist

Dear Governor Manchin,

Since arriving here in West Virginia from California in 1998, I have been espousing my “2020 Vision”—that West Virginia will be emissions free in 2020. It is an idealistic pursuit but, as an engineer in air quality for 40 years, I know that is do-able.

I also have three delightful grandchildren who live “downstream” in Manassas, Virginia. Downstream means they are in direct line of the pollution and global warming gasses that primarily come from the old, dirty coal-fired power plants here in WV. Industry lawyers, lobbyists, and the current national administration are not only ignoring the problem, they are reversing the protective laws that now exist.

There is a glimmer of hope. Recent articles state that even those good folks who recently voted for the president — the Evangelical Christians across the country — are saying: ***“Wait a minute, Mr. President, why are you allowing pollution to increase, so that our children are exposed even more to asthma and cancer-causing diseases...how does that protect family values?”***

In contrast, Governor Manchin, I am encouraged by your statements that manufacturing jobs are the key to West Virginia’s economic health. To attract new industries and jobs, WV *must* also offer a healthy and clean environment for the families of all the workers who live or move here. More and more key executives who make the site decisions for their companies base their decisions on more than the “bottom line” – based not only on the logistics and economics of the move, but also on how environmental exposures will affect their families. Will they decide against West Virginia because of an unhealthy environment that is growing?

Governor, we will take you at your word that you will do what it takes to make West Virginia an even more special place to live and work. In return, we give you our word that we offer our help in this effort.

You have a wonderful opportunity to make a dramatic difference — especially because of the declared non-attainment status we have “achieved” under previous administrations. With tough enforcement of existing laws, you can move us firmly along the road to zero emissions.

There is far too much despair and lack of hope by many citizens of this State whose lives have been trashed by pollution and flagrant disregard for responsible corporate behavior. We at WVEC are here, ready to shake hands and get started. Let’s start by talking about our WVEC

plans for cutting Green House Gasses and saving the State real cash.

The environment and the economy go hand in hand. Together we can ensure that West Virginia is a clean, healthy, reliable place to live, work, play and be ***“Open For Business.”***

Making Elections Fair and Clean in West Virginiacontinued from page 1

from the sponsors of an electioneering communication that names a candidate but previously escaped regulation by stopping short of expressly advocating the candidate’s election or defeat. The legislation would also limit contributions to 527 groups that attempt to influence the outcome of statewide or legislative races to \$2,000 during any two-year election cycle. West Virginia already has limits on contributions to candidate committees, PACs and state party committees.

Because there are so many ways for special interests to influence our elections, efforts such as these should be applauded. Members of the Select Committee should be commended for their efforts to protect our democratic process from the undue influence of special interests and help candidates and those who want to be involved in politics to have a level playing field.

Committee members: Senators Chafin, Hunter, Oliverio and Facemyer; and Delegates Ennis, Caputo, Lane, Mahan, Miley, Pethtel, Howard, and Schoen. Over the next eight weeks we’ll keep you up to date as these two bills make their way through the legislative process.

Farmers Still Exempt

By Conni Lewis, WVEC

On Tuesday February 8, the Legislative Rule Making Committee voted to gut the new rule governing water pollution permits. Specifically, the committee voted to remove federally required language governing confined animal feeding operations, or CAFOs. The reasoning went like this: because the rules are in litigation, we should delay implementing them until the courts have spoken. So, probably 30 poultry farmers in the eastern part of the state will not have to get NPDES permits to control their discharges. They discharge mostly into the Potomac River basin. The argument that new regulations should be postponed until the courts have spoken was ignored by the same committee when considering new air pollution standards on Sunday. Meanwhile, farmers in mostly midwestern states must already get NPDES permits for their CAFOs. Wonder why midwestern farmers can fill out the permit applications, but West Virginia farmers can’t???

Bottle Bill Gets Recycled

By Linda Mallet, WV-Citizen Action Group

What bill introduced at the session this year would create over 1,000 West Virginia jobs, reduce the state's litter, attract out-of-state companies AND increase our recycling rates? What kind of legislation could be good for the economy AND the environment? The West Virginia Bottle Bill!

SB 58, introduced this week, is different than previous years' Bottle Bills. In this year's bill retailers and bottlers, two industries opposed to the bill, are no longer a part of the redemption cycle. Instead of retailers taking back empty containers and refunding deposits to consumers, new and existing recyclers will handle the job.

The result? Over 110 new or expanded recycling facilities will be needed statewide to handle the return of an expected 700 million plastic, aluminum and glass beverage containers.

Why would someone want to go into the recycling business in West Virginia? Under SB 58, recyclers would receive a 3-cent handling fee for each container they collect. Based on a 70% redemption rate, a city the size of Parkersburg would need about 2-3 redemption centers to handle its 13 million containers each year. This would result in about \$400,000 in handling fees and provide employment for about 4-6 full-time workers and 12 part-time workers for that community. JOBS!


Sponsors of SB 58 are Senators McCabe (D-Kanawha), Unger (D-Berkeley), Foster (D-Kanawha), and Barnes (R-Randolph). We expect the House version to be introduced next week with Delegates Doyle, Talbott, Houston, Webster, Manchin, Canterbury and Evans as sponsors. Please call these sponsors and thank them for their support. Also, please call Senator Jeff Kessler, Senate Judiciary Chair, and ask him to put SB 58 on his committee's agenda. (Toll Free: 1-877-565-3447)

For more info, visit www.wvbottlebill.org. We'll keep you posted!

Keep up to speed on all Citizen Action's issues at:

www.wvcag.org

E ~ Day! March 30, 2005

~ 10:00 am till 3:00 pm ~ 
Senate & House Hallways ~ *State Capitol*
Reception to Follow, 6:30 till 10:30 pm

Green Legislative Update

Public Energy Authority Rises from the Ashes

By Donald S. Garvin, Jr.

WVEC Legislative Coordinator

Governor Manchin and the WV Legislature have breathed new life into the old Public Energy Authority.

The PEA had been largely inactive and was due to sunset out of existence this year. But with little fanfare or advanced notice, this controversial agency was reauthorized during the recent Special Session, as part of the Governor's government reorganization bill.

This legislation basically allows the government to go directly into the business of mining coal and producing and selling electricity, with our Governor serving as CEO.

According to the bill, the purpose of the PEA is to "foster, encourage and promote the mineral development industry"; to "maximize the use of the West Virginia mineral development industry"; and to "represent the state with respect to national initiatives concerning the mineral development industry and international marketing activities affecting the mineral development industry."

The legislation gives the PEA board broad authority to sell bonds to finance energy projects, and the power to enter into contracts for the sale of electricity or to enter into joint business ventures. The agency also may purchase land, minerals and other property, and has the right of eminent domain so that it can condemn private land if necessary.

The PEA board is composed of seven members: the governor (or designee), who serves as chairman; the Secretary of DEP; the Secretary of Commerce; and four members of the public, appointed by the governor. According to the legislation, two of the public members "may be employed by or associated with" an industry the authority is empowered to affect, and "one member shall be a person with significant experience in the advocacy of environmental protection."

This legislation was moved with such short notice and with such a "lovefest" atmosphere between the Legislature and the administration that so marked the special session, there was little that could be done to stop it.

It sets up the mechanism the coal industry has sought recently to mine the coal here, burn the coal here, and sell the electricity out of state. And that's the real "economic development" vision of our current elected officials.

Adoption of Loopholes a Mistake

*Op-ed piece writtem by, James Kotcon (WVEC, Sierra Club)
December 20, 2004*

Lots of bad news befell West Virginians this month, at least those West Virginians who want to breathe the air.

High levels of mercury emissions led to state fishing advisories for every stream, river and lake in West Virginia. The major source of that mercury is from coal-fired power plants.

Then on Friday, EPA announced that all or parts of 15 counties fail minimum health standards for fine particle pollution. This “nonattainment” designation means it is not safe to breathe the air. Charleston, Huntington, Wheeling, Parkersburg, Fairmont and numerous other areas face this designation, and will face restrictions on economic development, new highway funding, and more.

But the designations are actually good news.

Nonattainment designations help protect us. The designations give citizens legal tools needed to insist on pollution reductions at the big, dirty power plants in those counties. This saves lives, and saves money on health costs.

Many old plants like John Amos, Kammer, Fort Martin, Phil Sporn and others have been exempted from modern emissions standards because they were built before those rules took effect. In spite of years of complaints, the plants claimed they were operating legally and no one had a means to force them to clean up.

Because of the new nonattainment designations, citizens now have the legal basis for insisting on installing modern pollution controls. Not only does that mean cleaner air and healthier children, it means hundreds of new construction jobs. Everybody wins. That brings us to the biggest embarrassment of this whole issue.

Under the Clean Air Act, those old dirty plants would have been forced to clean up years ago under a provision called “new source review.” The EPA under the Clinton administration began legal action to force those old plants to finally clean up.

But under the Bush administration, the EPA proposed changes to new source review rules, creating numerous complex loopholes that made them essentially unenforceable. If those plants had been cleaned up, it is unlikely that any West Virginia counties would now be designated nonattainment.

And the really embarrassing part is that the West Virginia Department of Environmental Protection now wants to adopt these same new source review loopholes here in West Virginia.

Under rule changes proposed this year, DEP wants to incorporate the Bush administration exemptions and rollbacks into West Virginia’s air pollution rules.

DEP is proposing to create complex new “plantwide applicability limits” that make it almost impossible to monitor emissions. This so-called “bubble bill” had already been rejected by the Legislature, but DEP wants to impose through rulemaking what it could not get through legislation.

DEP wants to change the rules so that power plants could use the highest emissions of the last 10 years as a “baseline,” giving power plants a break that other businesses don’t get.

DEP wants these rule changes to apply in areas already designated as “nonattainment,” meaning it will be even harder to get air quality back to healthy standards and remove the economic sanctions in these areas.

And the process will be so cumbersome that average citizens will have no meaningful opportunity for input.

The Legislature will review the rule changes in its 2005 session. Legislators in some areas have already pledged to fight the rollbacks.

Now is clearly the time to move forward and clean up the power plants, but it is the worst possible time to roll back the rules that could protect us from continued pollution.

Timber Trucks Rolling in Mud

By Conni Gratop Lewis, WVEC Lobbyist

As you travel throughout West Virginia this winter, you’ve noticed more and more timber laden trucks on our roads. It’s been a mild winter for the most part, but timbering in winter presents special challenges.

These include mud on the roads and erosion risks. The mud is (as we all know) slick and can lead to accidents. Did you know that when you create an entrance onto a public highway, you must have a permit from the Division of Highways?

Many timber operators are fuzzy on this requirement, so you might call your local Highway District Engineer’s office to see if the permit has been issued. And if you see a bad timber job, call your district forester with your concerns.

If you don’t know where your district is, check out the www.wvforestry.com website. Or call the WV Division of Forestry headquarters at 558-2788.

WV Legislative Web-Site:

www.legis.state.wv.us

New and improved this year! For: bill tracking, bulletin board (journals), Legislators' e-mails... keep a close eye on your legislative issues!



Calendar of Events



February 16: WVEC's annual legislative "Kick Off Blast" Benefit !!! Perfater Law Office Building, 1311 Virginia Street East, Charleston.

Time: 6:30 pm ~ 10:30 pm. Music provided by: local favorites, **The Voo Doo Katz** with opening music by the exciting new band, **The Black Eyed Susans!** Buffet with food from the Sahara Restaurant and other yummy refreshments. Come out and support the lobby team and help WVEC start the session off right! Suggested donation: \$15.00

For more information contact: Denise at the WVEC office (304) 346-5905.

March 30: E-Day! at the Capitol. From 10:00 am ~ 3:00 pm. 2nd level house & senate hallways. Make this day your own 'citizens lobby day' and join us for our annual trek to the capitol. Approx. 30 organizations and sustainable businesses will have displays with loads of information and the latest news on bills of interest circulating throughout the Senate and House. Lets let our representatives know we care! Lets make this year the biggest turn out yet.

To register your group, organization or business contact: Denise Poole, (304) 346-5905 or deniseap@earthlink.net

March 30: E-Day! Reception and Award Presentation. (Location to be determined - please stay tuned.) From 5:00 pm ~ 9:00 pm. Join WVEC as we honor our 2005 award recipients. A wonderful evening to unwind after E-Day! at the Capitol. Enjoy dinner,

music, enviro friends - and help us show our appreciation to our Mother Jones, Grassroots Activist, Enviro Courage, Green Entrepreneur and Public Service award recipients.

For more information contact: WVEC office, (304) 346-5905 or check our website: www.wvecouncil.org.

April 1: The National Public Broadcasting Service (PBS) airs the first hour of the four hour documentary, The Appalachians. Check local listings for times. The documentary includes interviews with Ohio Valley Environmental Coalition (OVEC) staff and other mountaintop removal opponents.

April 9: Last day of the legislative session.

April 22: Earth Day! Stay tuned for list of events from around the state and region.

April 23: Earth Day Celebration. Join WVEC, and other environmental organizations, artists, sustainable small business to celebrate Earth Day. Location and exact times for this event to be announced.

To participate & information contact: Denise Poole, deniseap@earthlink.net.

June 25: Third Annual Lavender Fair. La Paix Herb Farm, Alum Bridge, WV (Lewis County.) Workshops, Walks, Booths, Culinary Delights and much more!

For more information: Myra Bonhage-Hale, lapaix1@westvirginia.net or (304) 269-7681.

Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

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Join WVEC **Wednesday, February 16th**

~ 2005 Legislative Session ~

"Kick Off Blast" Benefit !!!

Music provided by local fab favorites ... ***The Voo Doo Katz***

with opening music by the exciting new band...

The Black Eyed Susans

See inside for more details!

West Virginia Environmental Council

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