



*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 Lobbyist*

### **Week 4 – March Madness**

It may not be basketball, but make no mistake about it, there is a full court press on against sound environmental regulation at the Legislature this session.

The coal team, and the Chamber of Commerce team, and the Governor's team have merged together to roll out bill after bill that would restrict or weaken environmental protection in the state.

This week we were barely allowed to enter the game on HB 2579, a coal industry drafted bill that will eventually lead to weaker water quality standards for toxic selenium in state streams. While we were granted a public hearing on the bill on Monday, the House Judiciary Committee put the bill on the agenda that same afternoon and passed the bill out of committee. Not one member of the committee cast an audible "nay" vote.

The bill was put on first reading in the House on Wednesday. Then the Governor's team jumped into the game. According to news reports, Governor Tomblin "personally endorsed" the bill at the Coal Association's 40th Annual Mining Symposium this week.

And today the House passed HB 2579 by a vote of 99 – 0, with one member absent.

Talk about your slam-dunks.

On Wednesday the game switched to the other side of the Capitol, as the Senate Committee on Energy, Industry and Mining took up SB 249, DEP's proposed WV/NPDES Rule for Coal Mining Facilities ([47CSR30](#)). The rule would remove from state law a measure requiring coal mine facilities to meet not only their specifically permitted effluent discharge limitations but all of the state's water quality standards. The federal EPA has not yet approved the bill that this rule implements, and has questioned the legality of the bill under the Clean Water Act.

EIM chairman Doug Facemire (D-Braxton) allowed me at least to get into the game by recognizing me to speak against the rule. But the game was already over. My comments were met with blank stares from committee members. Not one question was directed my way.

EIM passed the rule out unanimously by voice vote. The Senate Judiciary Committee passed the rule out, again unanimously, the next day, with no discussion at all.

Another slam-dunk.

And it's only going to get worse. The list of bad bills we are tracking just keeps growing each day.

I have always been excited by basketball's March Madness. But March Madness at this Legislature is almost too depressing to endure.

Who knows what the weather will bring us this week, so please keep your bird feeders full just in case.

## **The Selenium Dilemma**

### **One Perfect Example of How a Bill Really Becomes Law**

*By Denise Poole,  
WVEC Lobbyist*

It's a bitter legislative reality pill we take when this ruse of a bill has the support (for a variety of reasons) of every legislator. HB 2579 rushed into the WV State Capitol like the perfect storm it is – and a perfect example of just how a bill really becomes law. SB 472, the Senate “same as” bill was introduced yesterday with 27 sponsors including Senate President Jeffrey Kessler.

Forget what you learned in Civics Class. Forget the cartoon you were shown when you followed the character “Bill” as he sang and danced his way through the simple steps to transform “Bill” into “Law”. “Selenium Bill” (written of the coal industry, by the coal industry, and for the coal industry”) first appeared on the House Judiciary Committee’s agenda, with “legs” so swift we knew *this* bill would become law as fast as any I’ve seen in my 18 years of policy work in West Virginia.

The real behind the scenes work already accomplished, it was merely a matter of going through the motions of pretending the bill was really up for any kind of discussion. “Selenium Bill” will become “Selenium Law” because the coal industry wants it to.

Hence HB 2579 / SB 472.

So here's the dilemma. Knowing this bill will pass regardless of our efforts this session, do we simply watch as it unfolds? Or do we let our voice continue to be heard? I say the latter, and ask you to e-mail, write and call your Senators to let them know you oppose SB 472 and why.

SB 472 is poised to fly through the Senate just as fast as HB 2579 in the House. It is assigned to Energy, Industry & Mining and Judiciary.

## Thank you “Do-Gooders”

Thanks to everyone who came to our Public Hearing on HB 2579 Monday. Our position was clearly defined, and we had six speakers compared to seven speaking in favor of the bill. Speaking against the bill were Dianne Bady, Gary Zuckett, Don Garvin, Luana Scott, Rob Goodwin, and Kathy Elkins.

We'd like to express appreciation to Delegates Fleischauer, Manypenny, Skinner, Manchin and Ireland for asking specific questions of council and DEP during the Judiciary Committee meeting before the vote.

**Quote of the Week:** “I wonder what all these do-gooders were doing a few years ago when McDowell County (and Southern WV) was literally dying on the economic vine”. Del. Clif Moore (D-McDowell), when speaking in favor of HB 2579 in Judiciary on Monday. The next day he apologized in Judiciary saying that wasn't his usual style.

## Legislature Can Push Energy Efficiency, Lower Electric Bills

*By Cathy Kunkel*

*Policy Analyst for Energy Efficient West Virginia*

What can we do to get electric bills under control in West Virginia? West Virginia's residential electric rates have risen more than 50 percent in the past five years. The burden of high electric bills often falls on the households that can least afford it.

West Virginia still has the seventh lowest residential electric rates in the country, but residents of 26 other states have lower electric bills. That means we are literally throwing money out the windows of our leaky homes. Next door, in Maryland, new houses are built to standards 15 percent more efficient than those in West Virginia. We are ranked 49th in the country for energy efficiency.

Ironically, as electric rates continue to go up, our power companies are largely overlooking the cheapest and least risky resource: energy efficiency. Just as utilities can invest in new power plants, they can also invest in reducing electricity use. Utility efficiency programs are paid for through electric rates, just as investments in power plants are. Energy efficiency investments cost ratepayers less than half the cost of producing the same new electricity in a power plant.

Utilities can offer consumers incentives for recycling old and inefficient refrigerators, home energy audits by local businesses with rebates for efficiency improvements, incentives for the purchase of EnergyStar appliances, custom incentives for energy efficiency projects undertaken by industrial customers, and more. Our utilities are beginning to offer some of these programs, although not to the level that they do in neighboring states where they also operate. These programs would provide residents and businesses the tools they need to manage their electric bills.

Experience from other states shows that spending money to reduce our demand for electricity is far cheaper than investments in generating the same amount of power.

The Legislature can encourage greater investment in energy efficiency and savings for West Virginia residents and businesses by passing the integrated resource planning bill (HB 2803) introduced by Delegate Tim Manchin (D-Marion).

Integrated resource planning is a tool adopted by more than half of the states in the country to provide greater transparency in power company investment decisions and to make sure that investments in energy efficiency are given equal consideration with investments in traditional power plants. It would require our power companies to submit long-term plans to the Public Service Commission analyzing different options, including energy efficiency investments, for meeting future electricity demand.

In the Pacific Northwest -- where electric rates are lower than West Virginia's -- integrated resource planning has shown that energy efficiency can cost-effectively meet 85 percent of expected electricity demand growth over the next 20 years.

Stronger energy efficiency investment in West Virginia would mean lower electric bills and more local jobs. The Legislature can take the first step this year by passing HB 2803, the integrated resource planning bill.

(This article appeared in the March 8 edition of the *Charleston Gazette* and is reprinted here with their permission).

## **WV Alternative Energy Portfolio Is a Sham**

(*Charleston Gazette* reporter Ken Ward, Jr. covered the West Virginia Coal Association's 40th Annual Mining Symposium meeting this week. You can read the full article on the *Gazette's* web page here <http://www.wvgazette.com/News/201303070070>. What follows below is an excerpt from that article, reprinted here with *Gazette* permission).

Jeff Herholdt, director of the state Division of Energy, said the state agency is doing all it can to help continue to promote coal as a fuel of the future -- for the nation and the rest of the world.

In a new five-year energy plan made public last week, the division pledged to "advocate the importance of retaining coal-powered electric generation to ensure the continuation of affordable electricity to residential, commercial, and industrial users."

Herholdt assured coal industry officials that the state's "alternative energy portfolio" requirement would have very little impact on coal production or use.

"This is not bringing in the other energy sources," Herholdt said. "We're not <co >incentivizing renewables with this portfolio."

Herholdt said that many other states are saying they won't want coal-fired power, and having an "alternative portfolio" standard on the books is as much a public relations effort by the state as anything else.

"It would be easy for us to say we do not want renewables," he said. "But the road ahead for us is difficult. It would certainly help if we could show we are appreciative of other energy sources.

“Everybody is taking a shot at coal,” he said. “We’re trying to be appreciative of everyone’s concerns.”

Later, in an interview, Herholdt again emphasized that the program is not aimed at reducing coal use or even at tackling climate change -- a problem most of the world’s experts say is caused by human activities like burning coal and needs to be urgently addressed.

**“We’re the only state that has an alternative portfolio standard that would be met with 100 percent coal,” Herholdt said.** “There’s a lot of paranoia out there. Coal is not evil. Coal is a tremendous resource.”

Herholdt, the state’s top energy official, talked in any detail about climate change only when asked about it, and then said he hasn’t been convinced that the issue is such a big deal.

“Climate is not a science that is final,” he said. “There are people on both sides of the equation. Global warming -- is that a natural phenomenon as opposed to something we’re doing? I don’t see that as a slam dunk.”



## WVEC & WVU Solar Decathlon Team Pair Up for Fundraiser

**50/50 Fundraising effort:** WVU students entered and qualified for the U.S. Department of Energy Solar Decathlon Challenge and will be going to Orange County California October 3-13<sup>th</sup>. Groundbreaking for the project on campus is April 18<sup>th</sup> at 10 AM - the public is invited to attend. Half of the funds raised through WVEC during this time **designated** for our **50/50 challenge** go in support of the **WVU Solar Decathlon Challenge**, and half go in support of **WVEC**.

To learn more: [www.wvecouncil.org](http://www.wvecouncil.org) – follow link at the top of front page.

**I’d like to donate to the 50/50 WVU Solar Decathlon Challenge in the amount of:**

\$ \_\_\_\_\_

*(Make checks payable to WVEC - be sure to note the 50/50 challenge. 1/2 of this donation is tax-deductible).*

Name & Address: \_\_\_\_\_

\_\_\_\_\_



# E-Day! At the Capitol

**Thursday, March 14, 2013**

**Environment Day at the capitol: Entire Upper Rotunda, Senate & House Halls  
From 9 AM – 3 PM**

**This is our Citizen Lobbying Day! Informational Displays!  
Join us and these participants:**

- WV Environmental Council •Sierra Club, WV Chapter
- Greenbrier River Watershed •WV Rivers Coalition
- WV Citizen Action Group / WV-CAG
- Energy Efficient WV •Surface Owners' Rights Org. / SORO
- Sky Truth •Cooper's Rock Foundation
- Wetzel County Action Group •Friends of Blackwater Canyon
- Sustainability Dept., Marshall University
- WV Highlands Conservancy •Ohio Valley Environmental Coalition / OVEC
- Future Fund – Center on Budget & Policy
- REAP Program – WV Division Environmental Protection
- Environmental Advocate – WV DEP •Keeper of the Mountains
- Friends of Deckers Creek

## E-Day! Benefit Dinner & Awards Ceremony

**Women's Club of Charleston – Corner of Elizabeth St. & Virginia Ave.  
From 6 PM till 9 PM**

Donation of \$15 per person / \$25 per couple

Cash donation bar

- Silent Auction

- Music provided by, pianist Robin Godfrey and Sandy Sowell & Gerry Collyard

**Menu:** Lasagna (vegetarian & meat based), variety of homemade soups,  
fresh green salad, fresh bread, variety of desserts, drinks.

**Award Presentations: 7:15 – 8:00 PM**

Awards Bestowed to:

**Don Gasper** (*posthumously*) – Mother Jones

**Ben Stout** – Don Gasper Science in the Public Interest (*new*)

**Mayor John Manchester** – Chuck Chambers Public Service

**Bill Hughes / Wetzel County Action Group** – Laura Forman Grassroots Activist

## Bills We Are Tracking

### Bad Bills:

#### Coal Industry Bills:

- HB 2571, which would further weaken the conflict-of-interest provisions for members of the state Environmental Quality Board.
- HB 2579 (same as SB 472), which would delay efforts to force the coal industry to clean up its selenium pollution. **Passed the House 99 –0 on 3/08/13.**

#### The Governor's Bills:

- SB 187 (same as HB 2507), which would allow the Governor, or the Speaker of the House, or the Senate President to require a “Jobs Impact Statement” on any proposed legislation. **Laid over in Senate Economic Development this week.**
- SB 342 (same as HB 2590), which would create a “WV Land Stewardship Corporation” that could by-pass current brownfields law.
- SB 185 (same as HB 2506), which would remove electric and hybrid-electric vehicles from eligibility for the alternatively fueled vehicle tax credit.

#### Others:

- SB 56 (same as HB 2214), creating the Intrastate Coal and Use Act, which would eliminate federal oversight of coal mined and burned within the state.
- SB 98, creating the Shale Research, Education, Policy and Economic Development Center at WVU.
- SB 424 (same as HB 2826), Terminating state's jurisdiction over certain surface mining operation sites

### Good Bills

- SB 158 (same as HB 2494), Creating the “Complete Streets Act”.
- SB 167, Creating the “West Virginia Future Fund”.
- SB 413 (same as HB 2805), Continuing the Supreme Court Public Campaign Financing Act.
- HB 2747, Relating to open Government proceedings.
- HB 2748, Requiring reporting & publication of all compensation, including the source of that compensation paid to lobbyists.
- HB 2803, Requiring electric utilities to implement integrated resource plans (EEWV bill)
- HB 2210, Relating to energy efficiency for utilities and their customers (EEWV bill)

We'll have more information about most of these bills in future issues of the *Legislative Update*.





## Calendar of Events



**March 14:** WVEC Annual E-Day at the Capitol. From 9 AM till 3 PM. Senate & House Halls & Upper Rotunda. Environmental Groups, Sustainable Businesses, Citizen Lobbying. We hope you can attend. If your group or business would like to display contact Kevin Smith (e-mail listed below), or call the WVEC office: (304) 414-0143. For more information: [www.wvecouncil.org](http://www.wvecouncil.org) or contact Kevin, [a\\_clean\\_wv@yahoo.com](mailto:a_clean_wv@yahoo.com)

**March 14:** WVEC Annual E-Day Benefit Dinner & Awards Ceremony. The Women's Club of Charleston (corner of Elizabeth St. and Virginia Ave.). From 6 PM – 9 PM. Dinner buffet; cash donation bar; silent auction; live music by Robin Godfrey, Sandy Sowell & Gerry Collyard; Award presentations. Join us and relax after E-Day at the Capitol. Donation of \$15 per person, or \$25 per couple at the door. For more information: [www.wvecouncil.org](http://www.wvecouncil.org) or contact Kevin, [a\\_clean\\_wv@yahoo.com](mailto:a_clean_wv@yahoo.com)

**March 14:** Empty Glass Music March Madness. The Empty Glass, 410 Elizabeth Street, Charleston. Several popular local bands '600 LBS of Sin' will play in support of their favorite legislation. Begins at 8:00 PM and goes until as early as 3:00 AM.

**April 16-18:** Good Jobs Green Jobs Conference. The Hilton Hotel, Washington, D.C. Theme: Let's Get to Work: Climate Change, Infrastructure and Innovation. Cost: \$225 Full Conf., \$125 for 1 Day, \$50 for Wed. evening networking reception, and \$50 for a Plenary Pass – to all 4 sessions. For more information & to register: [www.greenjobsconference.org](http://www.greenjobsconference.org)

### Legislative Session 2013 Information Sources:

**Legislative Reference & Information Center:**

MB-27, Bld. 1 - State Capitol Complex, Charleston WV 25305

**WV Legislative web-site:** [www.legis.state.wv.us](http://www.legis.state.wv.us)

(For bill tracking, bulletin board (journals), legislators' e-mails.)

**To Call Toll Free:** 1-877-565-3447 or local Charleston area: (304) 347-4836

**Listen Live:** West Virginia Legislature page <http://www.legis.state.wv.us/> and click on "listen live."

**WV Environmental Council Web-site:** [www.wvecouncil.org](http://www.wvecouncil.org)

WVEC Office: (304) 414-0143

**Ohio Valley Environmental Coalition:** <http://ohvec.org/news.php>

Every morning, OVEC checks scores of news sources and posts links.

**WV Citizen Action Group:** <http://www.wvcag.org>

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We welcome letters, articles, and artwork from readers and reserve the right to edit or reject submissions. Please send materials to Denise Poole, *editor* at [deniseap@earthlink.net](mailto:deniseap@earthlink.net)



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## Support the West Virginia Environmental Council

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Phone: (304) 414-0143 [www.wvecouncil.org](http://www.wvecouncil.org)

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Enviro Steward:	_____ \$250	Canopy:	_____ \$500
Old Growth:	_____ \$1,000	Other:	_____

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