



Capital Eye

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House Passes Public Financing!

by Julie Archer, julie@wvcag.org and Carol Warren

Very exciting news! On Wednesday, the Supreme Court Public Financing Pilot Project (HB 4130) passed the House of Delegates by a vote of 67-30! Although, we've cleared significant legislative hurdles in the past, it was the first time that any chamber of the West Virginia legislature has ever voted on, let alone approved, a public financing bill.

Several amendments were offered to the bill during Second Reading, only one of which was adopted. That amendment removed the tax refund check-off option as a funding source. This was not a central funding source, and we have never seen an estimate of an amount projected to be provided by it. The other amendments offered, which were rejected, were: 1) to make the elections covered in this project non-partisan; 2) to again remove the court fees - which were taken out by Judiciary and restored in Finance - as a funding source; and 3) to place any unspent monies at the end of the pilot project into the Rainy Day Fund instead of General Revenue.

There was quite a bit of debate on the floor when the bill was up for passage. There was, of course, opposition to some of the funding sources, and to the philosophy of public financing in general. Perhaps the most eloquent proponent of the pilot project was long-time sponsor Del. Patrick Lane (R-Kanawha), who stated that while the perception of money's influence in legislative politics is negative, "money in the judiciary is abhorrent." West Virginia Public Broadcasting captured the debate.

(<http://www.wvpubcast.org/newsarticle.aspx?id=13644>.)

HB 4130 has been reported to the Senate and assigned to the Judiciary and Finance Committees. We have every reason to believe that Judiciary Chair Jeffrey Kessler (D-Marshall), a long-time supporter of public financing, will handle the bill expeditiously. However, we will need all possible votes, so please contact your Senators and ask them to support this bill.

Our next coalition meeting will take place after the session is over, on Wednesday, March 17 at 1:30 PM at the Catholic Diocese (1116 Kanawha Blvd, E.). We hope to be discussing implementation efforts, but will also certainly celebrate this week's significant victory. We will continue to keep you updated. In the meantime, please call your Senators and ask for their support!

Capital Eye is published by WV-Citizen Action, a nonprofit membership organization founded in 1974 and dedicated to increasing citizen participation in economic and political decision-making. Our members work for progressive changes in federal, state, and local policies by educating people about key public interest issues ranging from environmental protection and consumer rights to good government. Learn more about us at www.wvcag.org.

Crossover Day Creates Bill Graveyard

by Gary Zuckett, garyz@wvcag.org

Wednesday was Crossover Day at the legislature. It's a neutral-sounding term for the day when most bills under consideration die because they haven't passed out of their house of origin. In other words, all House bills must have passed out to the Senate and visa versa or they're defunct. Out of the 2,078 bills introduced this session, only 320 are still in play. This is both bad and good news. Bad because most of the bills we were supporting are now dead including Surface Owners' Rights, 100% broadband access, nearly all of the good enviro bills, etc. On the other hand, many of the bad bills we were fighting are also dead, such as the severance tax on wind energy to pay for clean coal research, the repeal of the nuclear ban, etc.

One caveat needs mentioning – at this point bills are “dead” unless leadership REALLY wants them to pass. Bills can still be originated in committee or amended into other bills which are still moving. Parliamentary rules can be suspended and things made to happen that are outside of the normal process.

One bill that might enjoy these special accommodations is SB 369. This bad bill was passed out of the Senate Energy, Industry and Mining (EIM) committee which met, not in its committee room, but on the Senate floor right after a floor session. This bill, a gift to the oil and gas industry, would make all Marcellus gas wells “shallow wells” and thus allow drillers to steal gas from under neighboring properties instead of being subject to deep well “pooling” which divides up the royalties between all mineral owners whose gas is being accessed (see more on next page). This “right of capture” (legalized stealing) goes back to British common law where it was deemed OK to shoot your neighbor's deer if it came onto your property. The EIM committee members (especially Chairman Green, D-Raleigh) get lots of campaign donations from the oil and gas industry – go figure!

This is the last issue of *Capitol Eye* for the session since lawmakers quit at midnight Saturday, March 13. Watch your e-mail for action alerts all next week as we chase bills down to the wire. We'll send out a session wrap-up issue after the dust settles (and we catch our breath) in a few weeks.

Thanks for all your support and keep those membership renewals coming in! Your support makes it possible for us to battle at the Capitol...

Catch Us On-Line

By the time you receive this newsletter, the Legislative Session will only have one week to go. Because the session ends on Saturday, March 13, there will be no *Capital Eye* next Friday. **But a lot can happen in the Session's final week!** Stay in touch by signing up for CAG Action Alerts. Over the next week, as bills die and (sometimes) come back to life like unwanted zombies you need to stay informed. You can do that by sending your e-mail address to linda@wvcag.org.

The Great Tax Shift

The Governor's Amendment (HJR 101) to allow counties to exempt "new" business personal property for taxation sailed through the House of Delegates last week and now rests in Senate Judiciary. The premise behind the amendment is that taxes on inventory, machinery, equipment and other business personal property are hurting capital investment and manufacturing employment. Business personal property taxes account for 18% or \$260 million in county revenues.

If the proposed amendment is passed by the legislature, then voters would decide in November whether counties would have the authority to abolish the tax. If voters support the measure then county commissions would have to pass an ordinance by vote to lower business taxes.

Proponents like the Chamber of Commerce and Manufacturing Association argue that abolishing business personal property taxes will create enough economic activity (i.e. manufacturing growth) to make up for any revenue losses. In other words, we need to tax cut our way to prosperity. So far, proponents have provided no evidence to substantiate this claim.

The truth is corporate tax cuts do not pay for themselves. Moreover, this discussion, like all discussions regarding business tax cuts, completely ignores the benefits businesses receive from local public structures such as education, transportation, and other services. By forcing reductions in public services, tax cuts may impede economic and employment growth. The last thing we should do in a recession is add to the unemployment roles.

Since overall tax collections will likely decrease if a county decides to exempt business personal property, this will either result in a cut in school services or a tax shift onto other taxpayers. Either way, it's a bad deal.

Please contact Senate Judiciary Chair Jeff Kessler (304-357-7880) and let him know that working families shouldn't have to bear the brunt of more taxes so rich companies can get a tax break.

Senate Passes Bill to Legalize Stealing – Bad!

Last week an awful bill to change the definition of "shallow wells" (SB 369) was passed by the Senate Energy, Industry and Mining Committee during a hastily called meeting held in the back of the Senate Chamber. Despite our efforts to educate senators about the ramifications of the bill for West Virginia surface and mineral owners, the Senate passed the bill this week. It is now assigned to the House Judiciary Committee. **Please contact your Delegates and House Judiciary Committee members and urge them to oppose SB 369.**

SB 369 would change the definition of a "shallow well" so that it applies to vertical Marcellus Shale wells. **This would essentially legalize stealing of gas from neighboring mineral owners.** Unlike wells defined as "deep wells," "shallow wells" are not subject to well spacing and royalty sharing laws which allow mineral owners whose natural gas is drained by wells on their neighbors to receive their share of the royalties. If Marcellus wells aren't subject to those laws, gas

drillers could drill on the edge of a neighboring mineral owners' land and drain gas from that tract without paying for it. **One Marcellus Shale well could start out taking more than \$1,000 a day in royalties from a neighboring mineral owner.**

The bill is also bad for surface owners because, without well spacing, there can be more of these larger sites on the surface, with no limit on how close together they can be. Well spacing is good for surface owners because only the number of wells necessary to produce the gas will be drilled. Without well spacing, the "rule of capture" applies resulting in extra, unnecessary wells being drilled as unscrupulous drillers, who are paid by the well, will try to be the first to get the gas from the same pool.

Well spacing is also good for consumers because drilling fewer wells to get out more gas means less cost to get out the gas. It is good for everyone else in the process because it saves money and produces more gas than when the "rule of capture" applies.

We have requested a public hearing on the bill to slow it down, and will let you know ASAP if one is scheduled. Please contact Judiciary Chairman Miley (304-340-3252) and ask him to leave SB 369 off his agenda.

Public Hearing Monday on Marcellus Shale "Water Bill" – Good Bill

The Senate Natural Resources Committee will hold a public hearing Monday, March 8 at 1:00 PM on HB 4513, the Marcellus Shale Water Bill in the Senate Judiciary Room, 208 West, at the State Capitol.

HB 4513 establishes additional requirements for the drilling and fracturing of Marcellus Shale gas wells. These requirements are necessary in order to protect rivers and streams from becoming dewatered by stream withdrawals or contaminated by disposal of wastewater produced in the drilling and fracturing process.

The bill would require that prior to drilling, fracturing or stimulating Marcellus Shale gas wells that use large volumes of water, operators must submit specific information regarding water withdrawals to WV DEP's Office of Oil and Gas.

The WV Environmental Council will have talking points available and you can find more information at www.wvsoro.org. If you can't attend, please contact your Senators on the Natural Resources Committee and ask them to vote in favor of this important bill aimed at protecting our water resources from Marcellus gas well drilling.

Update on Surface Owners' Rights Recognition Act – Good Bills!

We are extremely disappointed to report the Surface Owners' Rights Recognition Act (SB 529 and HB 4408) failed to get a hearing in either the House or the Senate. We'll have more details on what happened soon, along with information on our future plans to advance surface owners' rights in West Virginia. In the meantime, please know we appreciate your continued support, dedication, and enthusiasm for this issue. We couldn't keep going without YOU. Your calls, e-mails and letters, as well as your financial support sustain and enhance our efforts. Thanks for all you do!

Join the Posse!

by Linda Frame, linda@wvcag.org

On Tuesday, March 9, a vanload of West Virginians is going to get deputized and participate in a citizens' arrest of Big Insurance CEOs! We will meet up with thousands of others from other Health Care For America Now affiliates at Dupont Circle, Washington, DC, march to the Ritz-Carlton Hotel, shut down the streets and muck up the big meeting. We want to remind these big-wigs that citizens want Congress to put us first, not insurance profits. We know these CEOs have been fighting hard to kill reform with their lobbyists and their money and we aren't happy.

There's still time to join us (we are leaving at 3:00AM on Tuesday morning) but we need to hear from you right away – call me at 304-346-5891 for more information.

Can't make the trip? Join us on-line at www.citizensposse.org!

Petition Drive Wraps Up With PSC Rally

Please get your petitions in opposing the sale of Verizon land lines to Frontier by next week. We will deliver them to the WV Public Service Commission on March 16 at a Communication Workers of America rally. Join us in opposing this sale that would leave West Virginians in danger of depending on an underfunded and understaffed provider for nearly all of our land-based telephone service. Remember that in similarly structured deals in New England and Hawaii the small receiving company went bankrupt leaving the states to pick up the mess.

You can download the petition at www.wvcag.org. Watch for an upcoming action alert for more details on the March 16 rally in the near future.

Broadband Bill Dies in Subcommittee

Alas, the hope we had for a bill (SB 694) to require Verizon to actually provide the broadband coverage it spends so much to advertise was squashed when a Senate Judiciary subcommittee let it die.

The scenario went like this: Monday 9AM subcommittee meets with Senators Browning (chair), Yost and Hall. Much discussion ensued with a hoard of Verizon lobbyists, the PSC Consumer Advocate, and WV-CAG in attendance. However, the subcommittee adjourned without taking action because the full Judiciary Committee was waiting to meet. When the subcommittee reconvened at 2:45PM to a room full of supporters including WV-CAG, AARP and the Communication Workers of American, the only motion considered was to adjourn. A surgical strike by Verizon lobbyists!

Please let Senator Browning know you're unhappy he killed broadband for all West Virginians (*Capitol*: (304) 357-7807, *Business*: (304) 732-6707, e-mail: richardbrowning@verizon.net). Ask him if he has Verizon broadband and, if so, shouldn't every one of Verizon's customers?

As mentioned earlier, the House companion bill (HB 4618) did not survive Crossover Cutoff...

Contact Your Representatives!

WV Senators and Delegates:

The Honorable _____
West Virginia Senate/House of Delegates
Building 1, State Capitol Complex
Charleston, WV 25305
Call toll-free: 1-877-565-3447

On the web: www.legis.state.wv.us where you can find legislators' e-mails. Or e-mail any legislator at cglagola@mail.wvnet.edu. Be sure to type the legislators' names in the subject line so your e-mail can be delivered.

The Governor's office:

The Honorable Governor Joe Manchin
1900 Kanawha Blvd East
Charleston, WV 25305
Call toll-free: 1-888-438-2731
e-mail: governor@wvgov.org

You can also visit www.wvcag.org, type in your zip code and find info on all your federal and state representatives. **Make your voice heard!**

Voo-Doo Katz in the House!

WV-CAG's Annual Spring Fundraiser is happening on Friday, April 16 at the Woman's Club in Charleston. We are pleased to announce that our musical entertainment will be the Voo-Doo Katz again this year so be ready to boogie into the evening to their great tunes!

Tickets are just \$30 a person which includes our dinner buffet. We'll also feature our ever-growing silent auction.

For tickets, please call us at 304-346-5891 or e-mail linda@wvcag.org. Sponsorships really help fund our program work so if you can afford to donate more we have \$150, \$250 and \$500 sponsorships levels. We hope to see you at the Woman's Club!

Thanks to Our Volunteers!

As our last *Capital Eye* of this legislative session goes to press, it's time to thank our wonderful volunteers who helped us get this newsletter out the door every Friday afternoon. This year they were particularly brave as the weather was crazy and relentless. We truly couldn't keep our sanity without them. A big thank you to Peter Harris, Eleanor Spohr, Elizabeth Harris, Susan Wellons, Kim Lucas and Nicky Lucas!

Our gratitude also goes out to Marge Michau for keeping us organized, feeding us fed on Crazy Fridays, and fighting victoriously with the copy machine.

We would also like to send a shout-out to Laura, Cyndi and Maria at The Phillips Group. Their magical software helps us save money on postage for this newsletter. We appreciate them making time to help us in such a big way.

Thanks, of course, to YOU, our wonderful members who support us with your memberships. Folks recently updating their memberships and/or sending in donations are: Thomas Key, Neal Secrist, Bob and Beth Marshall, Carolyn Del Grande, Bill and Jean Ambrose, Kristen Loken and Ann Blair Morgan. THANK YOU!!!!

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Upcoming Events and Actions!

March 11: WV State University chapter of the Student Environmental Action Coalition (SEAC) and People Concerned About M.I.C. will screen the Appalshop documentary *Chemical Valley*. 6PM. Davis Fine Arts Theatre. Followed by discussion of the film's relevance to the present time. Free and open to the public, donations will be accepted. *Chemical Valley* documents the Kanawha Valley's response to the "Bhopal Disaster," otherwise known as the worst industrial disaster in history, which occurred on December 3, 1994 when the toxic gas methyl isocyanate (MIC) was released from the Union Carbide pesticide plant in Bhopal, India, killing and permanently disabling thousands. This tragedy brought international attention to the predominantly African-American community of Institute, WV, site of the only U.S. Union Carbide plant that manufactures MIC. SEAC will accept old batteries as part of its recycling awareness campaign. This event is part of People Concerned About MIC's education campaign (www.peopleconcernedaboutmic.com).

April 16: WV-CAG Spring Fundraiser at the Charleston Woman's Club. Music by the VooDoo Katz, silent auction, food and great people. Tickets are \$30 (student - \$10) and available now. If you have something you'd like to donate to our silent auction, please e-mail linda@wvcag.org.

April 16 & 17: WV Sustainable Fair. Davis & Elkins College. Speakers & Workshops on Energy, WV Agriculture & Organic Foods, Community Gardening. Green Booths. "A Sustainable Feast" Benefit Dinner Friday evening. Live music throughout, culminating with Saturday concert from 7 PM - 10 PM. Musicians include Mike Morningstar, The Ginsangers and more. **For more information**, contact Denise Poole at deniseap@earthlink.net.

May 22: Kanawha Valley Connections' second annual Kanawha Valley Sustainability Fair, from 10 a.m. to 4 p.m. at Habitat for Humanity ReStore, 301 Piedmont Road in Charleston. Kanawha Valley Sustainability Fair is the signature event of Kanawha Valley Connections, a volunteer organization dedicated to creating pathways to sustainability throughout the Kanawha Valley and surrounding communities. For more information, e-mail robin@wvcag.org.

Please take a moment and renew your WV-CAG membership! You can use the form below or donate on our website at www.wvcag.org. It just takes a second via PayPal. We so appreciate your support!



We Need Your Support
We can't do it without you!

Please renew your membership or send a donation.

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Here's my donation of: \$25 \$50 \$100 Other \$ _____

Clip and mail with your check to West Virginia Citizen Action Group, 1500 Dixie St., Charleston, WV 25311 - **THANKS!**

Donate quickly & securely at www.wvcag.org!