



## Capital Eye

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### Week Three, Gaining Momentum

By Gary Zuckett, [garyz@wvcaq.org](mailto:garyz@wvcaq.org)

The bill list grows longer every day. Today's total is 1,281 bills introduced in both houses. A few of these are ones we'd like to see passed this year. The vast majority are ones we'd like to just go away. Several are pretty funny, like the one from the Eastern Panhandle Representative to allow those counties to secede from the state. A few are really horrible, like the bill this week (SB224) to repeal our state's ban on building nuclear power plants! For the whole list go to [www.legis.state.wv.us](http://www.legis.state.wv.us), click on bill status, and then do a search, type in a bill number or just click on all bills. From there you can download the text and read ones of interest. After that find your Senators and Delegates and send them your yeas & nays. Democracy only works if citizens work it!

This week let's look at some of the good ones:

#### **SB 310 - Unemployment Insurance Modernization**

This bill allows victims of domestic violence, sexual assault or stalking to be eligible for unemployment compensation benefits. The bill also permits employees who have left employment to care for disabled or ill immediate family members to be eligible. It also covers those who have left employment due to the transfer or relocation of a spouse. The carrot for this bill is \$22 million federal support for the state's unemployment fund which is expected to run out of money this spring. See the WV Center on Budget & Policy's unemployment report at: [www.wvpolicy.org](http://www.wvpolicy.org).

#### **SB 322 - National Popular Vote**

The purpose of this bill is to elect the President by a National Popular Vote. Under this compact, the state agrees to award its electoral votes to the presidential ticket that receives the most popular votes in all fifty states and the District of Columbia. The compact goes into effect when states possessing a majority of the electoral votes have joined the compact. Seven states have joined so

far. Several more are in process. See [www.nationalpopularvote.com](http://www.nationalpopularvote.com).

#### **HB 2025 - WV Energy Efficiency Act**

The bill would set overall state goals for reductions in use of electricity and natural gas to save consumers on their energy bills through conservation. Goals of 2-3 % reduction by 2025 are modest but attainable. The bill is undergoing a re-write and will hopefully resurface in House Government Organization soon.

#### **SB 24 – Green Buildings Act**

The purpose of this bill is to adopt green building standards for the construction or renovation of public buildings over fifty thousand square feet in size. Both this and HB2025, above, are also supported by the WV Environmental Council [www.wvecouncil.org](http://www.wvecouncil.org) and the new Energy Efficient WV Coalition. See the E-Council's page for in-depth updates on these and other green issues.

### **Marcellus Shale Bills: What's in them (and what's not)? – Volume 2**

By Julie Archer, [julie@wvcaq.org](mailto:julie@wvcaq.org)

This week, the "Hydraulic Fracturing and Horizontal Drilling Gas Act," was formally introduced in both the House (HB 2878) and Senate (SB 258). The bill, which was prepared by legislative staff for an interim study committee, is one of two comprehensive bills regulating Marcellus Shale development that will be before the legislature this session. A second bill prepared by the WV Department of Environmental Protection (DEP) has yet to be introduced. Both bills are long and legally and technically complex. Because of their length and complexity, this is the second installment in a series on how the bills attempt to address major areas of concern for citizens and the environment.

#### **Disclosure of Chemicals Used in Hydraulic Fracturing**

Under both bills, the water management plan must contain a listing of the anticipated additives that may be used in fracturing or stimulating the well. The DEP bill requires that upon completion of a well, a listing of the actual additives used be submitted as part of the completion report. The interim bill is similar. It requires the operator to file a report with the DEP that includes the complete list of the chemicals and chemical

compounds used, the volume of fluid used in each separate hydraulic fracturing operation and the Chemical Abstract Service registry number for each constituent chemical.

In case of a medical emergency, HB 2878 and SB 258, also require the operator to provide the concentration of each constituent chemical and the formula for each chemical compound to medical and other emergency personnel. The operator must keep a copy of this information at the well site and produce it at the request of DEP, local emergency personnel and landowners residing within 5,500 feet of the well.

### **Waste Management and Disposal**

After fracing, much of the water used flows back out of the well. In addition to the chemicals used in hydraulic fracturing, this flowback water may contain naturally occurring radioactive materials and increased levels of salt. Flowback and other wastewater should be transported off-site, treated and disposed of safely.

Both bill drafts would require the operator to record and maintain information regarding the quantity of flowback water from hydraulic fracturing the well, the quantity of produced water from the well; and the method of management or disposal of the flowback and produced water.

Both bill drafts would also require the operator to record and maintain information regarding the transportation of wastewater, including the quantity of water transported, the collection and delivery or disposal locations of the water; and the name and address of the water hauler, and the company for which the hauler was hauling the water. However, neither bill addresses the lack of approved disposal facilities for handling the high volumes of wastewater generated.

The interim bill would require that all pits and impoundments be constructed with a dual liner system with a leak detection system installed between the two liners, to prevent seepage or leakage. (Last year the legislature approved a DEP rule with new construction standards for large volume pits and impoundments. The rule makes it highly unlikely that drillers will not use impermeable synthetic pit liners, but exemptions are allowed and the rule does not contain liner specifications.)

Unfortunately, both bills continue to allow pit liners and the solid waste contained in them to be buried in unmarked sites on a surface owners land, sterilizing the area from future construction and other uses.

### **Air Quality**

In addition to increases in surface disturbance, water use and waste disposal, Marcellus Shale development degrades air quality. Many of the processes involved with this development release nitrogen oxide (NOx), volatile organic compounds (VOCs) and other potentially harmful substances into the air. However, DEP claims to have no authority to regulate emissions from gas well sites. The DEP bill contains general environmental protection performance standards that require drillers to control particulate matter. This is the only mention of air quality issues in either bill.

**Note:** This article contains excerpts from a comparison of the bills prepared by Don Garvin, Legislative Coordinator for the WV Environmental Council. We hope to conclude this series next week.

### **Shall We Primary or Not?**

By Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)

We've always called ourselves the "good government" group. But this one has us wondering. The acting governor has done what he promised last week and introduced a bill (HB2358 & SB261) to change the law governing how "special" elections for governor are held. Present law states that the governor shall proclaim a date for a special general election (which he did that last week – October 4<sup>th</sup>). The law also states that each political party shall hold a nominating convention (usually preceded by a caucus in each county to elect delegates to the convention.)

Either option, Convention or Primary, has good and bad aspects. County meetings and a state convention would actually get folks in each party together at least twice to talk about the critical issues facing our state government. It would save the state \$3-6 million in election costs and save us all from those awful non-informational political ads on television in May and June before a primary election. Proponents of letting the law stand as is

also cite something they call "election fatigue". (Caused by all those inane commercials?)

On the other hand, holding a full primary election will give everyone (who gets off their duff on June 20<sup>th</sup>) a chance to vote for their favorite candidate from at least two of West Virginia's parties holding primary elections for governor. (The Mountain Party still nominates its candidates for both governor and president by party convention so it can't be all bad.) Turn out for the special primary in last year's special Saturday-in-August Senate primary was dismal – 12% of voters made it to the polls. This is still more voters than could be stuffed into a convention at the Charleston Civic center without the fire marshal shutting it down. There is much to be said about the gap between the ideal and reality when it comes to political conventions.

That bastion of civil liberties, the West Virginia Chamber of Commerce, has come out swinging tough in support of the Primary, along with the Republican Party. The state labor federation – AFL-CIO, has decided to support the Convention route. Officials in the Democratic Party are so-so.

What gives? There is an underlying political strategy here from the conservatives that if the large field of Democratic candidates are forced into a bloody and expensive primary fight, their winner will come out weakened, cash poor and easier to knock off by a well-funded Republican above the fray. Is this a political tactic in the guise of "changing the law to let the people vote" rhetoric? We'll let you decide.

How do you feel about going through two more elections again this year? For the first time ever, WV-CAG is conducting a poll of its members to gauge where you stand on this issue. Please take a moment and go to [http://www.kwiksurveys.com/online-survey.php?surveyID=IJLHJJ\\_b8028e13](http://www.kwiksurveys.com/online-survey.php?surveyID=IJLHJJ_b8028e13) and post your opinion! Results will be in next week's newsletter if we can figure out how to post them!

## **GreenSpace: The New Lightbulbs, Confusing but Enlightening**

*Excerpted from Sandy Bauers, PhiladelphiaInquirer GreenSpace Columnist*

Lighting is changing fast. Incandescents as we know them are on the way out. It may be confusing for a while. But in the end, your wallet will thank you. And so will the planet. Walk down today's lighting aisle, and it's intimidating. Incandescents. Halogens. CFLs. LEDs. All sizes. All shapes. All colors, from warm white to a crisp bluish tint. And more to come. So read on for a tour of the ever-burgeoning bulb-land.

"There's a tremendous amount of development," said Brian Fortenbery, an energy efficiency lighting expert with the Electric Power Research Institute, a national nonprofit. "It's not a one-technology game, by any stretch." Driving the change is a provision in the Energy Independence and Security Act that Congress passed in 2007, during the George W. Bush administration. It set energy efficiency standards for lightbulbs, which will begin to phase in come Jan. 1, 2012. A wide misconception is that the law "bans" incandescents and "mandates" CFLs. It's more of a required tune-up, supporters say. The act requires new bulbs to put out the same light with 30 percent less energy. But in reality, incandescents as we know them will not meet the standard.

Recently, some influential critics have surfaced. U.S. Rep. Joe Barton (R., Texas) and a dozen other Republicans introduced legislation they're calling the BULB Act, for Better Use of Light Bulbs. It would repeal the bulb portion of the 2007 act. "It is about personal freedom," Barton said. "These are the kinds of regulations that make American people roll their eyes." The energy efficiency community is aghast. Isn't conservation part of being a conservative? With about four billion screw-based sockets to fill in the United States, it matters what we put in them. Lighting accounts for about 15 percent of the energy use of a typical household.

Efficiency advocates say the new standards ultimately will save consumers more than \$10 billion annually - \$143 per household - and avert the need for 30 new power plants. They point out the act isn't telling people what kinds of bulbs to put in their homes. It's more like increasing the gas mileage of cars. Moreover, the market is already responding. At the beginning of January, Ikea stopped selling incandescents altogether. The energy efficiency world has taken on our fridges, our water heaters, our washers and dryers. But the

incandescent lightbulb has remained "the least efficient piece of equipment in our homes," said Noah Horowitz, a lighting expert with the Natural Resources Defense Council, a national nonprofit.

Ninety percent of the electricity that goes into it is given off as waste heat. "Tell me another product where you're only getting 10 percent of the energy coming in converted to useful work," he said. For those who can't quite kick the habit of energy-guzzling incandescents, halogens may be your first baby step toward efficiency. Adding the gas reverses the deterioration of the tungsten lighting filament, making the bulb about 25 percent more efficient. Otherwise, these bulbs look and act like incandescent twins. The next step in efficiency is CFLs, compact fluorescent lightbulbs. These have had a tough go since their introduction a few decades ago, when they were big and clunky, with poor light that didn't even come on right away. And they were expensive to boot. Now they are cheaper, brighter, and truer, the shades of light ranging from warm white to cool. New versions are dimmable.

So wake up, kiddos. The bulbs aren't the be-all. The lingo is changing, too. Watts are on the way out. Eventually, we'll all have to learn lumen-speak. Lumens are a measure of brightness. Watts are simply the power needed to light the bulb, which worked as a proxy when we had only one kind of bulb. But now you can get an LED bulb that's as bright as a 60-watter but consumes only 12 watts.

New labels are headed our way, probably this summer, designed by the Federal Trade Commission. They'll resemble food nutrition labeling, showing how bright the bulb is, its expected life, its light appearance, the energy used, and the estimated yearly energy cost.

Advocates like the NRDC's Horowitz say the best is ahead, both in light and in savings. "Today's consumers have no idea what a bad deal that 25-cent 100-watt incandescent bulb was," he said.

Read the entire version of this article at:  
[http://www.philly.com/inquirer/health\\_science/2011\\_0124\\_GreenSpace\\_The\\_new\\_lightbulbs\\_confusing\\_but\\_enlightening.html#ixzz1BxdgsZp0](http://www.philly.com/inquirer/health_science/2011_0124_GreenSpace_The_new_lightbulbs_confusing_but_enlightening.html#ixzz1BxdgsZp0)

## Healthy Youth Initiative Seeks Insurance Fairness for Teens

By Julie Archer, [julie@wvcag.org](mailto:julie@wvcag.org)

In 2009, the legislature commissioned a study to address the high rate of teen pregnancy in West Virginia. The study, conducted by the Center for Business and Economic Research at Marshall University, included a clear recommendation that insurance carriers should cover dependents' prescription birth control. Based on this information, as well as West Virginia's high rate of teen pregnancy and poor maternal and infant health, the Healthy Youth Coalition, a broad group of health professionals, advocates and labor organizations, has come together to encourage lawmakers to pass the Insurance Fairness Act of 2011 (HB 2439). WV-CAG is proud to be a part of this coalition.

Let's help our teens be healthy and out of harm's way by guaranteeing insurance coverage for contraception and prenatal care. Increasing access to birth control is the most effective way of reducing unintended pregnancy, and increasing access to prenatal care gives mothers the opportunity to care for themselves and give birth to healthier babies.

To learn more about this initiative and sign a petition in support of the Insurance Fairness Act of 2011 visit [WV Healthy Youth Initiative - PetitionBuzz](#), or at [www.petitionbuzz.com/petitions/wvhealthyouth](http://www.petitionbuzz.com/petitions/wvhealthyouth).

## Donor's Challenge Takes Off!

By Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)

Wow, thanks to all of you who responded to our major donor who offered the \$3,000 challenge to match any \$50 or over donation to the CAG legislative campaign! Since just last week we have received \$1200 in matching donations, which puts us nearly half-way there!

These funds will be put to good use in our work for Clean Elections, Same Day (voter) Registration (during early voting) reining in the wild Marcellus gas drillers, extending unemployment to abused spouses, and more including all the defensive fights against bad bills like the one introduced last week to repeal our ban on building commercial nuclear power reactors in WV. It takes all the time, energy,



and resources we can muster to fight back against all the evil bills that get thrown at us during the session. This is a great shot-in-the-arm and is much appreciated!

Several of you contacted us after the article last week to remind us that, since we're now a mostly electronic newsletter, we should put our address in all articles asking for a mail-in response. So here it is: **1500 Dixie St, Charleston, WV 25311**. Keep those matching contributions coming in to allow us to draw down the full \$3,000 before the end of the session! Your support is crucial during this historic time for our state when so much is at stake.

## **Citizens United – Anniversary of a Bizarre Ruling**

A year ago this week, the United States Supreme Court issued its bizarre Citizens United decision, allowing unlimited corporate spending in elections as a form of "free speech" for the corporate "person." Justice John Paul Stevens, writing for the dissent, had the task of recalling the majority back to planet earth and basic common sense.

"Corporations have no consciences, no beliefs, no feelings, no thoughts, no desires," wrote Stevens. "Corporations help structure and facilitate the activities of human beings, to be sure, and their 'personhood' often serves as a useful legal fiction. But they are not themselves members of 'We the People' by whom and for whom our Constitution was established."

Also this week in Vermont, state Senator Virginia Lyons presented an anti-corporate personhood resolution for passage in the Vermont legislature. The language in the Lyons resolution is unabashed. "The profits and institutional survival of large corporations are often in direct conflict with the essential needs and rights of human beings," it states, noting that corporations "have used their so-called rights to successfully seek the judicial reversal of democratically enacted laws."

Thus the unfolding of the obvious: "democratically elected governments" are rendered "ineffective in protecting their citizens against corporate harm to the environment, health, workers, independent business, and local and regional economies." The resolution goes on to note that "large corporations

own most of America's mass media and employ those media to loudly express the corporate political agenda and to convince Americans that the primary role of human beings is that of consumer rather than sovereign citizens with democratic rights and responsibilities." See the rest of this article at AlterNet – [www.alternet.org/news/149620](http://www.alternet.org/news/149620)

Here in West Virginia, SB317 was introduced this week by acting Senate President Kessler to require corporations to disclose their spending on political activities. More on this next week.

## **Kanawha-Charleston Health Department Director Urges Action on CSB Recommendation**

By Julie Archer, [julie@wvcaq.org](mailto:julie@wvcaq.org)

Kanawha-Charleston Health Department director, Dr. Rahul Gupta, is pushing for swift action on the U.S. Chemical Safety Board's recommendation that local health officials establish new program aimed at preventing leaks, fires and explosions at chemical plants. According to *the Charleston Gazette*, on Thursday, Gupta told the Board of Health that officials need time to iron out the details of a statewide chemical-safety program, but said he wants something done in order to prevent another tragedy, like the August 2008 explosion that killed two workers at the Bayer CropScience plant in Institute, from occurring.

In a 169-page report released last week, the CSB urged the state Department of Health and Human Resources to work with the Health Department to start a statewide program, citing existing legal authority for DHHR to make inspections and conduct hearings that concern occupational and industrial health hazards. Read more at <http://www.wvgazette.com/News/201101271525> and <http://blogs.wvgazette.com/watchdog/category/chemical-industry/>

*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.wvcaq.org](http://www.wvcaq.org)*

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## We Get Letters: Your Feedback!

A good question came into the office this week from a CAG member: "How will independents be able to participate in a primary?" The answer is that those registered as independent can now vote in any party's primary. All you have to do is show up and request a ballot for the party of your choice. And don't let the poll workers tell you otherwise! If they give you a hard time ask them to contact their coordinator or the Secretary of State's office. This happened to Gary in the last primary and when the workers checked it out they let him vote on a party ballot. Keep the questions coming either by phone (304)-346-5891, fax (304) 346-8981 or email to [bev@wvcag.org](mailto:bev@wvcag.org).



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