



## Capital Eye

Volume 13, No. 6 ~ February 17, 2012

### **Over the Hump**

*By Gary Zuckett, garyz@wvcag.org*

Monday is the 41st day of this 60 day Session and the last day to introduce bills. This is good. So far, the Senate has 621 to consider and the House doubles the ante with 1264 proposals. President's Day is a day off for state workers and schools but not for the folks working at the session. Legislators and support staff still have to show up and continue sorting the wheat from the chaff. We'll be there to keep track of them and work to move our progressive policies forward.

### **One Step Forward, One Back**

The Healthy Youth Bill (SB194 - requiring insurance to cover minor dependents contraception & maternity) was killed last week in the Senate Insurance Committee and brought back to life this week actually passed out of that committee but with a poison-pill amendment that redefines contraception. See Julie's article inside.

### **Sweetheart Bond Bailout**

Legislators gave American Electric Power a big WET KISS on Valentine's Day with the introduction of a bill (HB 4530) to let them sell long-term bonds to pay off their whopping \$350 MILLION in unrecovered coal costs. Company lobbyists proposed this Bail Out scheme to save us ratepayers (and AEP's reputation for always showing up at the PSC for whopping rate increases) the pain of actually paying the fuel cost for the electricity we've already used. The bill would allow them to sell 10 yr. bonds to cover last year's coal bill. So what happens next year – another 10 year bond? Why should our kids have to pay our past electric bills when they grow up? This is a regulated market but does the PSC have to make us

consumers pay for every corporate management screw up? This is a big one and exactly why should customers pay the whole tab for this? A public hearing is scheduled for this afternoon. See the talking points article by Coalition 4 Reliable Power.

### **Criminalizing Voter Registration?**

A bill proposed by the Sec. of State's office (SB 4408) would allow on-line voter registration (if the voter already has a signature on file with a state agency) – we like this option. However, also included is a section right out of the conservative's playbook making it a crime for “third party” voter registration drives to compile a list of citizens they have registered from info on the cards. Here at Citizen Action this has been a major component of past Civic Engagement campaigns. We'll register low-income and other disenfranchised citizens, keep a list of their contact info, and then when early voting kicks in send them a post card, make a phone call or even show up back on their doorstep to encourage them to Get Out and Vote! Making this a crime is not the way to promote participation in our democratic process. Good news is, after a discussion with the Sec. of States office, it appears this section of the bill will be amended out. This is another example of why we need to be up at the capitol every day the legislature is in session – to catch and correct the unintended consequences of even well-meaning legislation.

### **Transportation Showdown**

In DC Congress is heading toward a showdown over funding for the BIG Transportation bill. HR7 in the House is a terrible bill that locks in cuts to transit, safe & complete streets, bikes & trails and more for its five year timeline. Rep Rahall, member of House Transportation Committee, recently sent out a letter publicly blasting the proposal. West Virginia would lose \$453.8 million in federal highway funds between 2012 and 2016 -- the 14th-biggest loss among the 50 states under the GOP plan. The Senate has a much better bill that keeps most funding levels at current rates for the next two years. Contact Senators Rockefeller and Manchin and ask them to improve the Senate's version by supporting amendments by Senators Cardin &

Cochran that would give local towns and cities more say in how “Transportation Enhancements” i.e. funding for sidewalks, crosswalks, bike lanes, and other safety and esthetic factors are applied in their communities. See [www.t4america.org](http://www.t4america.org) for the latest info.

### **GOP Blinks on UI & Middle Class Tax Breaks**

In an abrupt about face, the majority party in the US House decided to quit shooting its own foot and agree to extend unemployment insurance and the payroll tax cuts that have been pumping billions into our weak economy for the last year. Election years are good for something I guess. Local news reports that Sen. Rockefeller will support this package and Senator Manchin will vote no. Call our junior Senator and let him know how you feel about his opposition to this needed relief for middle class and workers collecting unemployment. Remind him there is only one job opening for every four unemployed in this jobless recovery we are in.

### **Thanks**

Again I must end with a big THANK YOU to all our supporters who have renewed their memberships. Your support keeps the bills paid and allows us to be up at the capitol to monitor and mentor the process at the legislature. If you haven't yet renewed please take a minute to do so. We are like these new hybrids we get lots of miles per dollar and take pride in doing the work of representing you at the capitol without the hefty price tag of the industry lobbyists!

### **Senate Committee Revives Insurance Fairness** *By Julie Archer, [julie@wvcag.org](mailto:julie@wvcag.org)*

A week after they defeated SB 194, which would extend maternity and contraceptive coverage to the dependent daughters of insurance policyholders, members of the Senate Banking and Insurance (B&I) Committee acted on a motion offered by Senator Greg Tucker (D-Nicholas) to reconsider the bill. Although we are thrilled that the committee agreed to give the bill another chance and

unanimously supported the bill the second time around, the victory is bittersweet as the committee also adopted an amendment that drastically redefines “contraceptives.”

Unfortunately this new definition is written in such a way that it could restrict or prohibit coverage of IUDs, emergency contraception (EC) or “the morning after pill,” and potentially some regular birth control. This exclusion would apply not only for dependent daughters, but also for spouses who currently have the costs of these contraceptives covered by their insurers.

The bill now goes to the Senate Finance Committee, where the fiscal impact on PEIA will be a hurdle. However, a 2010 study by Marshall University's Center for Business and Economic Research estimated that the legislation would actually save the state about \$19 million a year by reducing costs associated with inadequate prenatal care for teen pregnancies.

At this point the bill can still be amended and members of the Healthy Youth Initiative will be working with supportive legislators to restore the original definition of contraception so that the bill will provide comprehensive coverage. We'll continue to keep you posted.

### **“AEP Bond Bailout Bill” Would Pass Debt on to our Children**

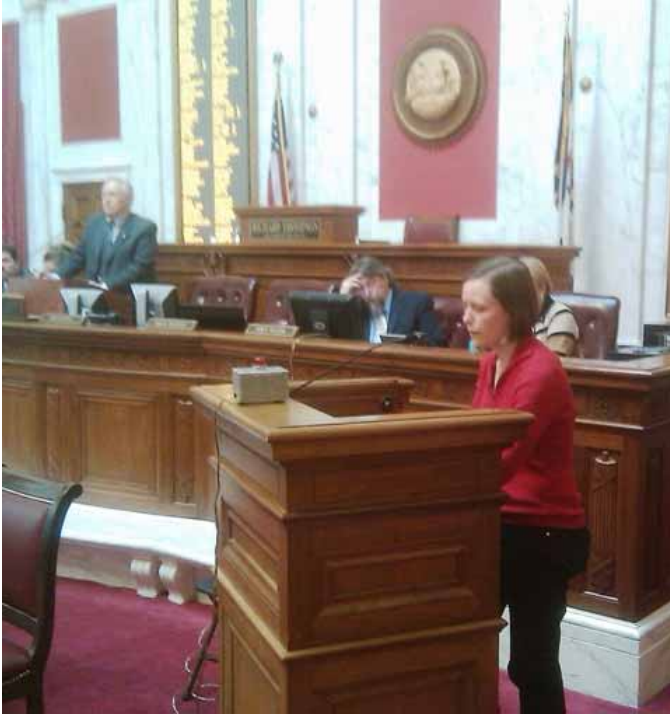
*By Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)*

*Cathy Kunkel Testifies on concerns about HB 4530 at the public hearing on Friday.*

Consumer and Environmental advocates called for a public hearing on HB4530 on Thursday to air concerns about this fast-tracked legislation. In the “be careful what you ask for” department, the House Finance Committee complied with less than 4 hours notice of a 1PM hearing Friday.

Even with such short notice we had at least 10 citizens testify on their concerns about the bill and several more sent in written comments. Their comments went like this: “This should only be for a

one-time bond, not blanket authority to do this over and over.” “Least Cost Planning should be included.” “This is a dangerous approach to rate relief.” “This is another case of Privatizing Profit and Socializing Debt.” “What we are doing here is passing our past electric bills on to our children.”



*Cathy Kunkel Testifies on concerns about HB 4530 at the public hearing on Friday.*

Supporters cited unsubstantiated claims that other states have done this (no one mentioned any specific states); that utilities are allowed to recover fuel costs (no one said otherwise); rate-payers needed relief (so true); Don’t amend it – it will mess it up for the bond market (want to buy some underwater coal debt?); That this wasn’t about Energy Efficiency and all those other bills (if we were more efficient we might not be in this mess) and so on..

WV-CAG and Energy Efficient West Virginia (EEWV) will continue its fight for equitable public resource management. EEWV has been urging legislators to instead require that utilities adopt Least Cost planning to help keep them out of this type of hot water.

The industry backed plan allows the Public Service Commission to permit any electric utility to issue bonds to securitize (hide) rate increases. Additionally, the proposed bill would not require industry to regulate fuel use according to best management practices that would pass the least amount of cost onto consumers. EEWV is fighting to place some common sense restrictions to this absurd plan. Bond issuance should be limited to a one time deferment of fuel cost debt and limit the terms of repayment to five years.

Legislators should investigate discrepancies between the debt left to Appalachian Power Consumers, which has accumulated \$300 million in unrecovered expenditures, and its competitors, Mon Power and Potomac Edison that have not created such expansive debt problems for its users. Appalachian Power should be held accountable for any corporate mismanagement, so that the company does not profit from passing its debt crisis solely onto consumers.

## **Bill Would Increase Opportunities to Rejoin Split Estates**

*By Julie Archer, julie@wvcag.or*

Nearly everyone thinks that separating of ownership of the surface from ownership of the minerals was a bad idea. Surface owners have the burden of the well site, access roads and pipelines being placed on them but receive no royalty (or lease signing bonus if the minerals are not leased), and as a result have no incentive to cooperate with the drilling of gas wells.

In 2009, a lobbyist for the Independent Oil and Gas Association and the West Virginia Oil and Natural Gas Association told a legislative interim committee, “[I]t would be much easier for everybody if there was a unification of the surface and the underlying oil and gas. It would be much easier for the industry. It would be much better for the owners.”

HB 2851 reverses the trend to separate ownership in one small way – by giving surface owners a chance to own any interests in the minerals under their land

if any of those interests are sold for unpaid taxes. The bill was on the House Energy Industry and Labor (EIL) Committee meeting agenda earlier this week. However, while the bill appears to have broad, bipartisan support among committee members, the bill was placed in a subcommittee rather than being taken up by the full committee.

Although the details of the bill are somewhat complicated, the principal behind how it would work is relatively simple. Currently, if a mineral owner does not pay the property taxes on their interest in the minerals, then their interest in the minerals is sold at a tax sale on the courthouse steps. A notice of the tax sale is published in the newspaper in the name of the mineral interest owner. The person that purchases the mineral interest at the tax sale has to check courthouse records, find out who the owner or owners of the mineral interest are, and notify them of their right to “redeem” and get their property back by paying the back due taxes and costs of the sale and title work, etc. If no mineral owner redeems, after a period of time, the purchaser at the tax sale gets a deed and assumes ownership of the mineral interest.

HB 2851 would require the person who purchased the mineral interest at the tax sale to also check the surface tax maps available in every county, and send a notice to the name and address on the tax ticket for the surface tracts(s) above the mineral interest tracts. The surface owner would have the option of stepping into the tax sale purchaser’s shoes by paying the tax sale purchaser twice the money the purchaser already has put into the purchase. This way purchasers still have incentive to bid at the tax sales, and the mineral interest owner can still redeem, but if the minerals are not redeemed, then the bill allows the surface owner to finish the process and get a deed to the mineral interest underlying his or her surface land.

The EIL subcommittee, which is comprised of Delegates Doug Skaff (D-Kanawha) (Chair), Barbara Fleischauer (D-Monongalia), Stan Shaver (D-Preston), Troy Andes (R-Putnam) and Mitch Carmichael (R-Jackson) is expected meet Monday. Hopefully, they will recommend the bill for passage by the full committee, giving the committee the

opportunity to vote on the bill when it meets again next Wednesday. Although there are a number of other bills we would like to see passed to help West Virginia surface owners this session, this may be the only one with any momentum this session. Please contact members and urge their support. A list of committee members at the contact information is available at <http://www.legis.state.wv.us/committees/house/HouseCommittee.cfm?Chart=i1>.

## **Election Bill Update**

*By Julie Archer, julie@wvcag.or*

At the end of last week, most of the election related bills we're following were pending in the House and Senate Judiciary Committees. However, this week a few of them started to move. Here's an update.

Bills to narrow the scope of our post-election audit got legs this week in both the House and the Senate. First the House Judiciary Committee took up HB 4295, which would limit the election canvass hand-count of the votes cast in five percent of randomly selected precincts in each county to a single race or issue chosen in each of the chosen precincts. Fortunately, after a lengthy discussion on the importance of placing election integrity and voter confidence over efficiency, the bill was referred to a subcommittee that ultimately rejected the proposal. After progress slowed in the House, the bill's proponents began pushing the Senate version (SB 510) and the actions shifted to the Senate Judiciary Committee. There, similar questions were raised about the merits of the of the bill, although ultimately a compromise was reached to limit the canvass to 2% of randomly selected precincts, but continue to require a hand-count of all the races on the ballot in each of the selected precincts. SB 510 is on Second Reading today and will be voted on by the full Senate early next week.

It should be noted that since this issue came up, we have been taking a look at principals and best management practices for post-election audits endorsed by reputable election integrity and good government organizations like Verified Voting and Common Cause. One thing we have learned is that

percentage based audits that specify auditing a fixed percentage of precincts can be both inefficient and ineffective and that there are more statistically accurate, fair and efficient auditing methods that could be adopted. Unfortunately, these methods are complicated, so it's unlikely that we'll be able to get ourselves, let alone the legislature, up to speed to be able to offer a reasonable alternative this legislative session.

The same day the Senate Judiciary Committee advanced SB 510, it also passed SB 518, which would disqualify anyone convicted of treason, a felony, bribery or perjury from being elected or appointed to any elected office. As much as we would like to keep former Lincoln County Assessor Jerry Weaver, and other officials convicted of vote rigging from running for office, especially after such an egregious violation of the public trust, we're not comfortable with a law that would prohibit all felons from running for office. As one of our members wrote a couple of weeks ago when we first mentioned the bill in the Eye, "What if you are 20 and get convicted of marijuana possession and then grow up, get a PhD (or some other indication of success and discipline), etc." Initially, we thought SB 518 was limited to those who were convicted of crimes related to elections rigging, but that is not the case, and we'd prefer that it be more narrowly written. SB 518 is also slated for a vote by the full Senate early next week.

Finally, a proposal by the Secretary of State's Office to bring West Virginia in line with the Uniformed and Overseas Citizens Act by allowing late voter registration (up to but not including the day of the election) to members of the military, Merchant Marines, and others who reside temporarily outside of the United States, has made some progress, but has stalled due to opposition by the county clerks. The Senate version (SB 400) stalled in a Judiciary subcommittee after being endorsed by the Senate Military Affairs Committee. In the House, the bill made it to the floor and had advanced to Second Reading before being recommitted to the Judiciary Committee. We hope the legislature can see it's way clear to adopting this bill which would make it easier for our military men and women, their families and other U.S. citizens

living and working overseas to exercise their right to vote.

## **President's Day Rally at the Capitol to Push for Public Worker Protections**

By Maggie Fry, [maggiemfry@gmail.com](mailto:maggiemfry@gmail.com)

UE Local 170, the West Virginia Public Workers Union, urges the passage of a variety of bills related to workers' rights this session. Monday, public workers and their supporters will rally in the Capitol Rotunda to support a variety of bills ranging from a living wage increase for public employees and retirees (HB 2934), the development of manageable caseload standards for DHHR program areas (HB 2369) to study resolutions that aim to stop the privatization of state workers jobs.

Several of their long term legislative battles still continue this session. WV OSHA, HB 2371, asks that the state provide funding for a program to investigate grievances and enforce worker protection rights for public employees. The bill, introduced by Delegate Paxton (D-Putnam) has been referred to the House Energy, Industry and Labor Committee.

UE is also pushing for expansions to the WV Children's Health Insurance Program (WVCHIP) HB 2469 that would allow the children of public employees who make less than \$25,000 to be covered under this state children's insurance program. The bill would ensure state workers' children receive high quality care and maintain the fiscal stability of the insurance program that provides coverage for 24,888 children across the state ([www.wvchip.gov](http://www.wvchip.gov)). Introduced by Rodrigo (D. Logan) and Reynolds (D Cabell), the bill has also been referred to House Energy, Industry and Labor Committee.

UE asks for your support in the fight to protect workers rights on President's Day, Monday, 11am in the Capitol Rotunda. For more information on the event or their other political initiatives visit the WV Public Workers Union website at <http://uelocal170.org/content/>.

## The Power of Parody in Protest

by Joe Dickerson, joe@wvsoro.org

Humor and parodies are an important part of Americans political history. Political cartoons have been part of this country's discourse since its inception. With the popularity "news" sources as the Onion and the Daily Show there is an outlet for humorous, politicized commentary. Many visitors to the United States remark that it is the ability to openly and freely mock our all aspects of our society that makes America such a wonderful place. I'll take the compliment, though this country does have its issues... humor may be an effective answer.

The fracking debate is rich with humorous material. The term itself is a nice dose of dirty humor. But this goes beyond cheap sexual allusions. Humor, absurdity, and parody are the best weapons protestors have against the onslaught of advertising the industry can generate. Most groups lack equivalent resources, and must look for alternatives to glossy, corporate advertizing campaigns used to convince us of the friendly fracking benefits.

One of the major issues in debating fracking is the issue of positive versus negative interaction. Industry presents ads letting people know how wonderful natural gas is and that it is a clean and safe method of powering our lives. They speak about neither the environmental destruction nor the boom and bust economy this fuel source brings to small rural communities. Their ads often choose a single local employee and focus on them, as if to say all of our employees come from your area. Here is one that has been making the round in West Virginia.

<http://www.youtube.com/watch?v=pVjUbGEB7e4>

Now attacking this ad or the family in it would present detractors in a negative light. This is where parody comes into play. Rather than be seen speaking negatively about fracking, and falling victim to the debate of energy independence, state's rights, and job creation, simply turn the efforts of industry against itself. Imagine the same sound

track in the above video played in a montage of these images:

[http://www.vanityfair.com/business/features/2010/06/fracking-in-pennsylvania-201006/jcr\\_content/par/cn\\_contentwell/par-main/cn\\_pagination\\_contai/cn\\_image.size.fracking-01.jpg](http://www.vanityfair.com/business/features/2010/06/fracking-in-pennsylvania-201006/jcr_content/par/cn_contentwell/par-main/cn_pagination_contai/cn_image.size.fracking-01.jpg)

[http://switchboard.nrdc.org/blogs/amall/Boyd\\_tank.jpg](http://switchboard.nrdc.org/blogs/amall/Boyd_tank.jpg)

<http://www.westerncitizen.com/wp-content/uploads/Fracking-pit-Helen-Slottje.jpg>

Suddenly the tone changes. Other more humorous methods can be utilized as well. Comics, image macros (those funny cat picture all over the Internet), "Chick Tract" style comics, and dubbing and editing of ads are all very effective, cheap to produce and can reach a broader audience. Tactics like these were effective during earlier social revolutions and can be utilized here as well.

## Citizens Gather in Huntington to Demonstrate for Blair Mountain



*Thirty people marched to the Natural Resource Planning office in Huntington today to call attention to Alpha Natural Resourc mining operations that threaten the historic battlefield. Organizers say they will continue their efforts to preserve the mountain.*

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