



## Capital Eye

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### **Last Day for Bills in Committee**

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

This week's Capital Eye will be shorter than usual for a couple of reasons. First, Gary is attending a gathering of the executive directors of USAction affiliates in Washington, DC. Second, it is crunch time -- today is the last day for bills to be out of committee in the house of origin (House or Senate) to ensure three full readings by "cross-over day" next Wednesday. Cross-over day is the drop dead day when any bills not passed by their originating body (House or Senate) and sent over to the other are dead and can no longer be considered.

Unfortunately, we are still waiting for many of the bills we have been watching and working to be taken up by their assigned committees. While the likelihood of some of our proposals being considered is dwindling, some committees will be holding meetings this afternoon. We may not know until after press time whether they meet today's deadline, so please watch for important updates and action alerts early next week as we head into the final two weeks of the 2012 legislative session. In the meantime, here is a brief update on some bills that have seen some action this week.

#### **House Finance Limits AEP Bond Bill to Current Debt**

The House Finance Committee passed HB 4530 Monday morning granting the Public Service Commission (PSC) the authority to allow electric utilities to issue bonds to finance unrecovered fuel cost operating expenses. The motivation for the bill is Appalachian Power's approximately \$350 million unrecovered fuel costs balance that remains, despite the PSC's efforts to retire the debt through significant rate increases over the past four years. The bonds will be secured by the money collected from future ratepayers.

Energy Efficient West Virginia, the West Virginia Environmental Council and others asked for a public hearing on the bill last Thursday, which was granted with only four hours notice Friday afternoon. Utility watchdog groups argued at the hearing that while the bond plan might make financial sense in Appalachian's current situation, the introduced version of the bill went too far in allowing electric utilities to apply for such bond issuances in the future.

Someone must have been listening to us. The version of HB 4530 passed by the Finance Committee amended the bill to limit the bond only to paying down Appalachian's current fuel debt. This was a big victory for us – and for ratepayers!

"We are very pleased that the House Finance Committee listened to concerns about the dangers of pushing current operating costs onto future ratepayers and limited the bond issuance only to Appalachian's current fuel debt," said Gary Zuckett, executive director of West Virginia Citizen Action Group and co-founder of Energy Efficient West Virginia. "We now need to prevent a similar crisis in the future. We are concerned that Appalachian Power is still not making long-term investment decisions that will be in the best interest of its customers."

The bill is up for a vote by the full House today. Read more at

[http://www.wvecouncil.org/legisupdate/2012/02\\_20.html#aep](http://www.wvecouncil.org/legisupdate/2012/02_20.html#aep).

#### **House Judiciary Advances Pilot Project Extension**

On Monday, the House Judiciary Committee advanced a bill (HB 4016) that would extend the WV Supreme Court Public Campaign Financing Pilot Project to give candidates who run for the high court in 2016 the option of participating in the program. Considering the hurdles the pilot project had to overcome this year, we were extremely pleased that the Secretary of State's office agreed to seek an extension, with hopes that it will get a fairer trial run the second time around. In addition to extending the pilot project for another election

cycle, the bill also takes out the trigger matching fund provision that was ruled unconstitutional by the U.S. Supreme Court. We were disappointed the committee chose not to provide an alternative to this mechanism, which triggered the release of additional funds to participating candidates when they were outspent by non-participating opponents or independent expenditures. However, if the legislature extends the pilot project beyond this year's election, then we will have the opportunity to seek a fix in time for 2016. At this point, we are waiting for the bill to be taken up by the House Finance Committee. Although the original bill had been referenced to Finance because it would have provided additional funding for the program, as amended, HB 4016 has no fiscal impact on next year's budget.

This week the House Judiciary Committee also revived a bill (HB 4257) requested by the U.S. Department of Defense to bring West Virginia in line with 36 other states by allowing late voter registration (up to but not including the day of the election) for members of the military, Merchant Marines, and others who reside temporarily outside of the United States. The bill previously made it to the House floor and had advanced to Second Reading before being recommitted to the Judiciary Committee due to opposition from the county clerks. We hope the legislature can see its way clear to adopting this bill, which would make it easier for our military men and women, their families and other U.S. citizens working or studying overseas to exercise their right to vote. We will continue to keep you posted.

## **Greetings from Washington**

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

I'm here in DC today with the other 22 state directors of the USAction (citizen action) states meeting to plan, share and look ahead to the 2012 season of campaigns and elections that will be a watershed for our country. WV-CAG affiliated with the national USAction in December 2003 and we then were funded to do a whirlwind civic engagement campaign during the 2004 election

cycle where we registered around 8,000 mostly low-income voters and worked to get them out to vote during the first ever early voting in our state. Since then our national affiliate has been a stalwart ally in many national campaigns such as the fight against Bush's second term proposal to privatize Social Security, the fight to pass health care reform, and now the campaign for rebuilding our economy and putting Americans back to work.

These fertile meetings with other state directors are great for sharing expertise and comparing notes on critical issues. Brian from Progress Ohio and I had a lot to discuss about Fracking and dealing with the Marcellus fields in both our states. Robert, director of Citizen Action Wisconsin, shared the time line for the recall election of their Tea Party governor, an effort that his group was integral in making happen. See his quote in this month's Atlantic article "[Wisconsin One Year Later](#)". Sarah from Ocean State Action shared a compelling program of collaborative work with other groups in her state including joint grant applications and closely coordinated state campaigns that were moving progressive issues more effectively than any of the groups could do on their own.

I'm writing this to underline that WV-CAG is both a state-wide citizen activist group and part of a national movement promoting a fair and just economy and opposing the Tea Party's corporate takeover of our government. If you haven't already, check out our national's [web](http://www.usaction.org) (www.usaction.org) and Facebook pages.

Next week is crunch time back at the state capitol so watch for last minute updates and action alerts.

## **USAction Advances Support for "Paying a Fair Share Act"**

By Maggie Fry, [maggie@wvcag.org](mailto:maggie@wvcag.org)

Last week, USAction delivered 51,203 signatures to Senator Sheldon Whitehouse (D. R.I.) to support passage of S. 2059, the Buffet Rule or "Paying a Fair Share Act," that would require Americans earning \$1,000,000 or more yearly to pay at least a

30% effective tax rate. S. 2059 also eliminates all deductions for the wealthy excepting charitable contributions.

Hailed by opponents of progressive reform as “class warfare,” bi-partisan co-sponsors argue that the “Paying a Fair Share Act” is a commonsense, transitional step toward fundamental reform of the current tax codes that favor wealth over work and put an undo financial burden on middle earning Americans. Most believe the bill in itself will not solve the country’s tax code problems, but is a necessary means of rectifying damages caused by the US jobs and financial crises and long standing problems with the Alternative Minimum Tax without further punishing working and unemployed tax payers. The White House told USAction last week, “Americans deserve a straight deal from our tax system -- and it's clear they aren't getting one. Right now, our tax code is so riddled with loopholes, that the highest-earning Americans sometimes pay a lower tax rate than many middle-class families.”

USAction and others supporting the bill dismiss criticisms that the law would set a punitive precedent against wealthy Americans. Sponsors argue instead that S. 2059 will implement a ground work from which to build more comprehensive reforms that reflect a better balance between the needs of working Americans and the agendas of high income investors.

WV CAG appreciates Senator Rockefeller's co-sponsorship of S. 2059 and is disappointed that Senator Manchin has not yet shown support for the bill. Please contact your senators to thank Senator Rockefeller for supporting fiscally responsible positions and encourage Senator Manchin to stand for reforms that grow a healthy working population rather than those that provide unfair incentives for 1% of Americans at the cost of everyone else. Take action at :

[http://act.truemajorityaction.org/p/dia/action3/common/public/?action\\_KEY=314](http://act.truemajorityaction.org/p/dia/action3/common/public/?action_KEY=314)

## **Fat Cats Push Unhealthy Legislation.**

by Joe Dickerson, [joe@wvsoro.org](mailto:joe@wvsoro.org)

Living in West Virginia obesity is an issue which stares many of us in the face. How often have you looked into the basket of the person next to you at the market and silently judged what they are buying. Food, like all other consumer goods, is linked to culture and socio-economic status. Often we place a value on the quality of our food beyond its life sustaining properties. Conspicuous consumption of fresh fruits and vegetables, “organic”, “vegan” and other labels, is often linked to our need to appear to have a certain amount of wealth. So that, in our drive to be seen making healthy purchase we often neglect larger food issues effecting those who cannot afford and don’t understand proper nutrition. Sadly, in West Virginia issues surrounding access to healthy food, especially for those who live on or under the poverty line, are impossible to ignore. Don’t think we have an issue in West Virginia? Well, we had Jamie Oliver come to Huntington on a televised crusade to save us from our food. It is a problem.

This seems like a time when West Virginians need fundamental food protections, rather than the infuriating HB4045. Darrell Rogers, Campaign and Communications Coordinator for ANH-USA says the bill will create serious problems in an already problematic food system,

"West Virginians want more access to nutrition professionals, HB4045 is a bill sponsored by the junk food funded American Dietetic Association would fine and imprison West Virginians that provide independent nutritional advice. People have defeated these bills in many states already, everyone knows better health comes with better information and availability of services, HB4045 silences nutrition professionals and limits your access, for better health. Say no to HB4045."

Turns out the ADA is under attack recently for what appear to be somewhat contradictory funders. The American Dietetic Association receives around \$1

million a year from big pharma companies, and millions more from the makers of wholesome health products such as Coca-Cola, Pepsi, Hershey, and other producers. Unfortunately there is no public record of what companies are donating and exactly how much they are generating. Both the ADA and corporations refuse to disclose this information.

What has the ADA been doing with this money? In ten states the ADA has pushed legislation which would effectively give them a monopoly on the practice of nutrition. HB4045 is their attempt to establish their empire in West Virginia. They do this by defining the practice of dietetics in legislation so broadly that all nutrition professionals would have to be licensed as dietitians even if they are not, which makes no sense. HB4045 would also create a regulatory board where 4 out of 5 members would be dietitians and give this board the ability to refer West Virginian nutritionists to law-enforcement where they can be fine up to \$1,000 and sentence to 6 months in prison for "practicing dietetics without a license."

Why would a state with a precedent for poor health and nutrition want an organization that is so heavily in the pockets of junk food makers to be the sole voice of nutrition? Letting them promote a corporate line of products over the health of West Virginia's citizens is not only stupid but borders on the insane. .

Links of interest:

<http://www.reallyeatright.org/american-dietetic-association-speeds-up-its-race-for-monopoly>

<https://secure3.convio.net/aa hf/site/Advocacy?cmd=display&page=UserAction&id=1010>

## **WV Center on Budget and Policy Releases Study on Prison Population**

Wednesday, the West Virginia Center on Budget and Policy, the Partnership for African American Churches and the American Friends Service

Committee co-released a report "Stemming the Tide: The Racial and Economic Impacts of West Virginia's Prison System." The report examines relationship between income inequality, national politics, fiscal policy and major shortcomings in West Virginia corrections programs. The study finds dramatic outcomes for African American communities in the state.

In a press release this week, the Center said, "Even though its crime rate is stable and its population is barely growing, West Virginia's prison population continues to expand beyond the capacity of existing prisons and jails. Caught up in this crisis is the state's African American community whose members are at least four times more likely to be incarcerated than white West Virginians. The cost of housing these inmates has resulted in West Virginia having the second highest growth in prison spending in the nation between 1990 and 2010."

The report makes note of the broad impacts this has throughout the state. Rick Wilson, Area Director of the West Virginia Economic Justice Program with the American Friends Service Committee, says, "The last few decades in America and West Virginia have been characterized by mass incarceration. This has enormous impacts on state budgets, on individual and family lives, and on many vulnerable communities which are just not sustainable. We hope this study sheds light not only on how we got here but on how we can move forward."

Moving forward will require dramatic shifts in both West Virginia's prison philosophy and its policy implementation. Elizabeth Paulhus, policy analyst with the West Virginia Center on Budget and Policy explains, "With a prison population growing 100 times faster than the state's total population, West Virginia must find ways to slow this growth. Less expensive alternatives like work release centers, drug and mental health centers could be used for the rehabilitation of low-risk offenders. This would then leave prison beds free for those too dangerous to release into the community."

Partners are confident that West Virginia can implement healthy policies to improve and make our prison system fairer. “The issue of prison overcrowding can be solved in the state of West Virginia. However, it is going to require out of the box thinking by everyone associated with the current system,” said Reverend James Patterson, Executive Director of the Partnership of African American Churches.

## **Disclosure Bill Meeting Needs Support**

West Virginia Trial Lawyers Association asks for support of a Disclosure Bill, HB 4486, that would require insurance companies to disclose the amount of insurance coverage available to an injured person prior to commencement of trial. Proponents of the disclosure bill say that it will reduce the number of lawsuits and facilitate earlier settlements. It requires insurance companies to disclose in writing the amount of insurance coverage available for a potential litigation.

This bill would simplify the legal process in a couple of ways. If the person responsible for the accident has only a small amount of coverage (for example: \$25,000), then it is helpful for a seriously injured person with \$100,000 in damages to know this information early in the process—this is the type of case that could be settled before a lawsuit is filed. If there are numerous injured victims and the one person responsible only has a small amount of liability coverage, it would be helpful for those injured to know the amount available early in the process so that meaningful settlement discussions can take place among all of the parties before those injured need to file lawsuits.

HB 4486 also does not endanger privacy or privilege, it requires the insurance company to disclose the amount of insurance coverage available if the injured person or his/her attorney makes a written request for the information. In West Virginia, insurance companies are already required to disclose this very same information when a lawsuit is filed. This bill simply requires the disclosure to come upon written request, allowing

some claims to be settled before a lawsuit even needs to be filed. Unlike what the insurance industry claims, there is no violation of the privacy provisions of the Graham-Leach-Bliley Act (the Financial Services Modernization Act of 1999) since the act allows for disclosure to those with a financial interest in the information—including someone who has been injured by the policyholder and needs to know the amount of available coverage.

The West Virginia Trial Lawyers ask that you contact your representatives and urge them to pass HB 4486

## **Hydrofracking Awareness and Water Quality Information Forums and Community Symposium Next Week**

Two informational sessions have been scheduled to provide information on Marcellus/Utica Shale drilling processes, water quality and environmental issues. The meetings will be held on:

- **Monday, February 27th at 7:00 pm,** Hydrofracking Awareness Forum and Scientific Panel Discussion at Wheeling Jesuit University at the National Technology Transfer Center (NTTC) Auditorium, 316 Washington Ave., Wheeling, WV (please bring along your water quality data for high speed scanning into a regional water quality database)
- **Thursday, March 1st at 7:00 pm,** Hydrofracking Awareness Forum and Scientific Panel Discussion at the Bethany Town Hall, Bethany, WV (please bring along your water quality data for high speed scanning into a regional water quality database).

The panels at both meetings will include Dr. Ben Stout, a stream ecologist and Professor of Biology at Wheeling Jesuit University; Dr. John Stolz, Director of the Center for Environmental Research

and Education at Duquesne University; Dr. Yuri Gorby, Professor of Microbiology and Researcher at University of Southern California, Ms. Rose Baker of the Wetzel County Action Group; and a representative from the gas industry.

These informational meetings are free of charge and open to the public. Those attending are also invited to bring copies of their own water testing results to be included in research to establish baseline of water quality in the Ohio Valley.

For information contact Patricia Jacobson at [patnjake@sprynet.com](mailto:patnjake@sprynet.com) or 304-242-8873, or Sherry Becker-Gorby at 740-769-2447.

Ben Stout, Professor of Biology at Wheeling Jesuit University ([bens@wju.edu](mailto:bens@wju.edu) or 304-243-2316) says, "A lot of folks are having their water tested pre-drilling. They receive lengthy reports but no interpretation or advice on whether their water is safe to use."

If folks want to come early to the meetings and bring their water testing data organizers will go through the data with them and interpret it and answer any questions they might have.

In exchange we would request that they allow us to scan their reports and include their data in a regional pre-drilling groundwater database. This community-based participatory research will allow us to collectively establish what groundwater should look like in this region, and to assess any anomalies that might occur due to drilling and hydro rafting activities."

### **Marcellus Shale Community Symposium**

FODC is partnering with the West Virginia Surface Owners' Rights Organization, Friends of the Cheat, and Preston County CARES (Citizens' Alliance for Resources and Environmental Safety), to host a Marcellus Shale community symposium focused on land owners' rights. Other topics to be addressed include leasing issues and volunteer water

monitoring programs. The symposium will be held on Sunday, March 4th 2012 from 3:00 – 4:30 PM at the Bruceton United Methodist Church in Bruceton Mills, West Virginia and is open to the public. Julie Archer from the West Virginia Surface Owners' Rights Organization (WVSORO) will present "The Top 10 Tips for Surface Owners Before/When the Oil and Gas Driller Shows Up". Morgantown attorney Jay Leon who specializes in energy, oil, and gas law will address leasing issues such as lease holding and renewal. Friends of Deckers Creek and Friends of the Cheat will briefly discuss their citizen scientist monitoring programs. There will also be ample time for questions and discussion. This will be a great opportunity for residents to learn more about the potential environmental impacts from Marcellus Shale drilling, land owners' rights, and to get involved with monitoring efforts. An event flier is available at [http://www.wvsoro.org/temp/SOROSymp2012\\_Flier.pdf](http://www.wvsoro.org/temp/SOROSymp2012_Flier.pdf). We hope to see you there!

### **Upcoming Memorial Events**

**February 25:** Buffalo Creek Day. Commemorating the 40th Anniversary of the Buffalo Creek disaster. State Capitol Lower Rotunda. 2 pm – 5 pm. Speakers, music, press event & more.

**March 2:** Remembering 40 Years of Blackwater: Buffalo Creek to Today. WV State Capitol. 2 – 5 PM. Memorial event. Sponsored by Sludge Safety Project.

**March 5:** Coal Heritage Public Lecture Series "Violence in the Coal Fields" by Paul Rakes, former coal miner and currently on the faculty of WVU-WV Tech. He recently completed research and published an article about the early coal camps and the violence that was a way of life for coal miners.

Location: Beckley Center of Concord University, Beckley WV. Room E10, Erma Byrd Higher Education Center on Airport Road. 7 PM. Free and open to the public.

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



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