



## Capital Eye

Volume 13, No. 5 ~ April 19, 2013

### Session Ends With a Cliff Hanger

by Gary Zuckett, garyz@wvcag.org

Thankfully, the 2013 regular session ended on midnight, April 13th, but not without some drama on one of our bills. As often happens, one of our major bills was still in process on the very last day. This year it was the Supreme Court public financing bill – the one to make last year’s successful pilot project a permanent option for candidates to our highest court. As Norm mentions in his article, Julie, our Clean Elections guru, got this one passed with dogged determination and skills honed by years of lobbying on this issue. Well done!

Out of the 1829 bills introduced, only 216 completed the legislative process – a little less than 12%. Considering some of the screwball bills introduced, this ratio is a very good thing. The system is set up to intentionally make it hard to pass legislation. The idea being the process will sort the wheat from the chaff. However, this doesn’t always work. More on that later...

Looking over our policy priorities this was a better year than last as far as getting some progressive bills passed. Maternity Coverage for Dependents passed this year requiring PEIA (state workers health insurance) to cover pregnancies of dependents on their parents’ plan. This is a great public health issue – Kudos to WV-FREE and Planned Parenthood for leading the charge!

In addition to the Public Financing Bill, our Resolution opposing *Citizens United vs FEC* and corporate personhood, that we first introduced last year, passed both the House and Senate! Both HR9 and SR24 will be delivered to the President and all our congressional reps asking them to sign on to one of the several bills to fix this floodgate of

corporate mystery money into our elections by a constitutional amendment. WV is now the 12st state in the nation to officially call on Congress in this manner!

The Secretary of State, Natalie Tennant, got 15 of her 17 bills passed, many dealing with various aspects of the election process. Most notable are ones which will allow on-line voter registration, streamline the process for cleaning up registration rolls and remove deceased voters (to keep them from voting from the grave as has happened in the past). The Secretaries coalition to oppose voter ID and other suppression bills was also successful in holding off such moves from conservatives. We were at the table with other allies on this effort.

On the not-so-good column, several other good issues were not successful. The Fairness WV bill to include sexual orientation to the existing non-discrimination policy at the workplace and in housing was removed from the roster by it's sponsor because it was too watered down to support. The Future Fund, an excellent proposal to take a small portion of our mineral severance taxes and put it into a trust fund for future economic development, didn’t make it through. On the upside of failed bills, one that were hoping would meet a swift demise, this one yet another tax break for burning coal in WV power plants, was killed by the Senate after sailing through the House.

As related in our last newsletter, our bills on energy efficiency were painted with the dreaded “anti-coal” label and set aside by the legislature. See [www.eewv.org](http://www.eewv.org) for more on this.

Then there were the ones that passed that we’re very unhappy about. The “Haliburton Rule” that keeps secret the “proprietary mix” of chemicals that Frackers pump down Marcellus and other gas wells to stimulate production, was slipped into a DEP Rules bill at the last moment. Also the Selenium Bill that starts a research process in DEP that will allow a weakening of limits of this substance in our streams. In all, the environment took a hit this time around. However, it would have been worse without the dedication of the E-Council, Rivers, Sierra Club, WV-SORO and individual citizens who came up to

lobby against the horde of bad environmental bills. See <http://www.wvecouncil.org> for the gory details.

Most progressive lobbyists up there agreed that this was one of the toughest sessions in memory. The recent rise of the Tea Party Conservatives in gaining seats in the House put a chill on many progressive issues and focused much of the debate on wedge issues such as guns and reproductive rights.

Speaking of guns, of the many pro-gun bills, the worst one that finally made it though was amended into the Home Rule bill that allows cities some leeway in taxation and other matters. Delegate Lane from Kanawha Co got the amendment passed on the floor and it will allow those with a concealed permit to carry guns into public swimming pools, state and county parks, and lots of other places where we really don't want them. In addition, it forces communities like Charleston that has had a three day waiting period and one-per-month limit on handgun sales since the 90s to repeal it to stay in the Home Rule program! We're asking the governor to veto this damaged bill and send it back to the legislature to fix it:

[http://signon.org/sign/governor-tomblin-please?source=c.url&r\\_by=4541129](http://signon.org/sign/governor-tomblin-please?source=c.url&r_by=4541129)

Finally, A big thanks to all you citizens who came down to the capitol to keep your lawmakers in line. We are also grateful to the many that sent in donations to cover the cost of our legislative team and the updates and newsletters. There is still time (but not for long) to help us capture the rest of the \$5,000 pledge to match all our donations during the session. This is your last chance to have you contribution doubled! Send your checks to 1500 Dixie Street, Charleston WV 25311.

**Hold the date: See note inside for our Spring Fling Awards Dinner on May 17th at the Woman's Club here in Charleston!**

## Victory for Clean Elections

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

In case you haven't heard the news -- on Saturday the WV State Senate passed HB 2805, 30-4, making the WV Supreme Court Public Campaign Financing Program permanent.

You can see the roll call vote here: <http://www.legis.state.wv.us/legisdocs/2013/RS/votes/senate/04-13-0060.pdf>

It was down to the wire, as we cleared our last legislative hurdle before this important vote just two days earlier, when HB 2805 was advanced by the Senate Finance Committee with no amendments. The final vote came after a last minute attempt by opponents to derail the bill by to amending it on the third reading.

Fortunately, this attempt failed because HB 2805 had strong bipartisan support in the legislature, as well as the support of the Secretary of State and 29 organizations who are very excited to see West Virginia taking this important step to keep special interest money out of the courtroom and to maintain and improve the integrity of our state's highest court.

Thanks everyone, for your part in making this victory possible. Now we wait for the Governor to sign the bill.

In addition to HB 2805, other significant election reforms that were sent to the Governor include:

SB 604, which restores various types of non-broadcast media – mass mailing, telephone banks and billboards – to the definition of “electioneering communication” in West Virginia’s disclosure law. The House narrowly approved the bill 52-47 following a lengthy floor debate during which Republicans argued that such rules stifle political speech, because groups that engage in these activities must disclose the identity of their donors.

SB 527, updating the process by which vacancies in elected office are filled. The bill was prompted by a

series of special elections triggered by the death of U.S. Senator Robert C. Byrd in 2010. The bill requires most elections to fill vacancies to be held in conjunction with regularly scheduled elections, but sets procedures for special filing periods and holding special elections that cannot be held within the specified timeline to fill a vacancy for a particular office.

SB 477 would allow for electronic registration of voters. According to Secretary of State Natalie Tennant, this bill is pro-citizen, pro-county clerk, pro-Secretary of State, pro-progress because it saves everyone time and money. The bill creates a more efficient means for submitting a voter registration application and reduces the risk of an application getting lost in the process. It still allow for the use of the current paper applications.

We look forward to celebrating these and other legislative victories with you at the Spring Extravaganza on May 17.

## **Archer the Arrow Shooter**

by Norm Steenstra, norm@wvcag.org

WV-CAG began working on election reform back in the mid 90's. We along with OVEC formed the People's Election Reform Coalition –PERC. A couple of years into the PERC work a young, recently unemployed Julie Archer began volunteering at CAG, and as poet Robert Frost wrote “ and that has made all the difference”.

Julie began her CAG “career” by entering data on campaign contributions to all legislative candidates of the 1998 election cycle. As a result of her efforts we identified which special interests contributed to the various candidates and used that information to discredit some very bad legislative actions.

PERC and Julie continued its data base work through several more election cycles and Julie evolved into the lead legislative force in the campaign to pass the Clean Election bill that provided public financing for candidates. A less inclusive bill creating a “pilot” project for Supreme Court was passed under her leadership in the 2010

legislative session. In 2012 one person used the public financing method and although grossly outspent now sits on our Supreme Court.

This past session Julie led the team that successfully lobbied for the public financing for Supreme Court races to become a permanent fixture in the West Virginia political process. WV-CAG members and citizens across the state need to know that Julie and her team were relentless in their efforts. In 21 years of lobbying I have never witnessed such dedication and skill by anyone who kept their eye on the prize like Julie did this year. Mountaineers everywhere owe her a heartfelt “ATTA GIRL!”

“An activist is someone who cannot help but fight for something. That person is not usually motivated by a need for power or money or fame but in fact is driven slightly mad by some injustice, some cruelty, some unfairness, so much so that he or she is compelled by some internal moral engine to act to make it better”.- Eve Ensler

Julie Archer is our slightly mad activist this year!

## **Can We Really Stomach Higher Electricity Bills?**

By Stacy Gloss, stacy@wvcag.org

Here at Energy Efficient West Virginia, we started the year strong with two campaigns for Integrated Resource Planning and Energy Efficiency Resource Standards. For too long, the WV Public Service Commission has ignored sensible and nationally used tools to evaluate electricity production and sales including energy efficiency and demand response part of their energy plan. We provided the legislature with information that Integrated Resource Planning not only works, but it is used in some form by 34 other states. Half the states in the country have an energy efficiency resource standard and most are meeting their targets. Energy efficiency is proven over and over again all over the U.S. as the least cost, and least risk resource available. You can find tons of resources on our website at [www.eewv.org](http://www.eewv.org). We constantly post facts on our Facebook page and @EEWV on Twitter. The cheapest power plant is the one that doesn't

have to be built at all. Though legislation designed to enable the PSC to use a wider range of planning and analysis tools was rejected by the House, we continue the fight for energy efficiency in WV.

Right now Mon Power and Potomac Edison are planning to purchase an 80% share of the Harrison power plant from a subsidiary of their parent company. Essentially, FirstEnergy is selling a power plant to FirstEnergy, doubling the book value of the power plant through some pretty creative accounting to a whopping \$1.2 billion and charging their customer base in West Virginia for it.

The real reasons behind this are that FirstEnergy's profits have fallen in part due to reduced profits in the competitive electricity market. If the Harrison plant can be sold into WV's regulated electricity system, the plant will be protected from competing with regional market forces and its operating costs plus profit will be paid for – by West Virginia ratepayers (6% increase on their bills) – locking us in for life.

Mon Power did not seriously evaluate many possible alternatives to this coal plant; instead, they conveniently presented a self-serving analysis that justified their decision to purchase this plant to bail out their parent company. We believe this is a terrible “deal” and we need Citizen Action members to help us say “No.”

The Harrison Power Plant Station sale is a boondoggle and should be stopped. Please sign our petition: [http://signon.org/sign/the-harrison-power-station?source=c.em.mt&r\\_by=6372677](http://signon.org/sign/the-harrison-power-station?source=c.em.mt&r_by=6372677).

For more information, download our factsheet online here. Visit our website [www.eewv.org](http://www.eewv.org) and sign up for our newsletters. Like us on Facebook <https://www.facebook.com/energyefficientWV>.

## **Session Short on Efforts to Strengthen Drilling Regulations**

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

A number of bills were introduced this legislative session to address shortcomings in the Horizontal Well Control Act passed by lawmakers in December 2011 (including more than 20 bills sponsored by Delegate Mike Manypenny (D-Taylor) and various co-sponsors). Bills were also introduced to increase opportunities to rejoin split estates by giving surface owners a chance to own the minerals under their land if those minerals are sold for unpaid taxes, and to require the Department of Environmental Protection to issue a procedural rule to allow surface owners a right to a hearing and appeal of a decision of the Department's decision to issue a permit for well work on the surface owner's land. The latter was in response to the W.Va. Supreme Court opinion in *Martin v. Hamblet*, which encouraged the Legislature to re-examine these procedures. However, none of these bills were taken up by the committees to which they were assigned. The good news is the industry's scaled back and repackaged version of forced pooling known as "lease integration" also met its demise.

The one drilling related bill that made its way through the process, was a bill containing the DEP's rule implementing the Act. Despite the weakness of the Horizontal Well Act itself, the rule contains a number of good provisions that we would like to see take affect. Unfortunately, the Senate Energy, Industry and Mining (EIM) Committee adopted an amendment that weakens the provisions of the rule that require disclosure of the chemicals used in hydraulic fracturing. The amendment was adopted due to pressure from Halliburton.

This amendment allows operators and their service providers to keep not only the concentrations of additives secret, but also the identity of specific chemicals in those additives. It also required health care providers to sign confidentiality agreements and provide a written statement of need in order to obtain information about the identity or concentration of a chemical designated as a confidential trade secret.

House Judiciary Committee members made the amendment less onerous for health care providers, by eliminating the requirement that they must sign confidentiality agreements and replacing it with a

provisions that says the driller/operator “may provide notice” to doctors that disclosing information designated a confidential trade secret to others for any purpose other than diagnosis or treatment of a patient may subject them to legal action by the driller or its contractors. The amendment to the amendment was offered by Delegates Barbara Fleischauer (D-Monongalia) and Woody Ireland (R-Ritchie).

Another successful change offered by Fleischauer and Ireland requires that the Material Safety Data Sheets (MSDS) for chemicals that will be used at the well site be included in the well site safety plan, and that operator provide a copy of the plan to the surface owners and owners of water wells or developed springs within 1,500 feet of a proposed gas well.

However, as we recently learned from our friends at the Natural Resources Defense Council, the problem with relying on MSDS sheets in an emergency is that many MSDS list information as proprietary or incomplete. In fact, a study by the Endocrine Disruption Exchange of MSDSs used in an oil and gas context found that 43% of the MSDSs they analyzed reported less than 1% of the total composition of the product. Only 14% of the MSDSs provided information on the complete contents. This is why we need comprehensive chemical disclosure laws.

Regrettably, a proposal by Delegates Fleischauer, Manypenny and Stephen Skinner (D-Jefferson) to strike the Halliburton amendment altogether was not adopted.

## Tax Day, Who Pays?

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

April 15th is a day feared by many as the last day to file Federal and State income taxes. Here at Citizen Action, we leveraged this unusual attention on our tax system to make two statements promoting a better and fairer tax system.

Monday morning at the state capitol, WV Center on Budget & Policy, Communications Workers of

America and WV-CAG held a press conference to call for an end to tax loopholes and off-shore shelters that allow multi-national corporations and millionaires to hid profits and avoid paying their fair share of taxes.

We released a report called “Picking Up the Tab” that reveals the cost to the average WV tax payer of these “offshore tax dodgers” – an extra \$620 in state taxes to cover lost revenue. Small business pays an average of \$2300! See report at: <http://www.uspirg.org/reports/usp/picking-tab-2013>

Later that day we partnered with WV Patriots for Peace to highlight the Bloated Pentagon Budget by handing out fliers at the downtown Post Office from 5-6PM as everyone was dropping off their tax returns. We distributed nearly 400 of them asking folks to call Sen. Manchin to cut Pentagon spending that is now set to consume 57% of our nation’s discretionary budget in 2013!

**If you haven’t called Sen. Manchin on this it’s not too late to dial in the toll-free number – 888-872-1238.**

**If you haven’t signed on to our petition to cut pentagon pork, please do**  
[http://action.usaction.org/p/dia/action3/common/public/?action\\_KEY=498&track=taf](http://action.usaction.org/p/dia/action3/common/public/?action_KEY=498&track=taf)



*Brenda Wilson, Norm Steenstra and Robin Wilson demonstrate at Charleston’s Main Post Office for Global Day of Action on Military Spending.*

# *Save the Date!*

*West Virginia Citizen Action Group's*

## *Annual Spring Extravaganza*

**Friday, May 17, 2013  
Charleston Woman's Club  
5:30 pm to 9:00pm**

*Join our progressive community in  
celebrating 39 years of  
Citizen Action in West Virginia  
& in honoring the lifelong  
accomplishments of our awardees!*

Dinner, Drinks, Live Music, Dancing, Silent  
Auction and more!

**Tickets ~ \$35/person (students \$10)**  
For tickets & more info, call 304-346-5891  
or e-mail [stacy@wvcag.org](mailto:stacy@wvcag.org)

### **Upcoming Community Events**

#### **Mon-Preston Labor Council Hosts a Special Meeting on "Right to Work"**

Monday, April 22nd, 2013 at 5:30pm  
at the Plumbers & Pipefitters Union Hall,  
100 Richard Street, Morgantown, WV 26505.

The WVU Institute of Labor Studies & Research will present an informative and timely message concerning so-called "Right to Work" and how it negatively impacts YOUR Union. Also, Chad Rink and Jeff Cech of the Iron Workers will discuss the potential of beginning a chapter/campaign for "Jobs with Justice" in Morgantown. Pizza and beverages will be served. For more information please contact Diane Parker at [dcrparker@msn.com](mailto:dcrparker@msn.com)

#### **AFL-CIO Remembers fallen workers at 25th annual observance of Workers Memorial Day**

Sunday, April 28, 2013 at 2:00PM  
Willow Island Memorial, West Virginia

This is a day set aside nationwide by unions to remember workers who have suffered and died because of workplace hazards. The observance will memorialize twenty two workers who died as a result of a workplace accident in West Virginia during 2012. The AFL-CIO hopes the event will help focus greater attention on workplace conditions and further efforts to enact safety and health legislation. For more information please contact Sherry Breeden at [sbreedon@wvafclcio.org](mailto:sbreedon@wvafclcio.org)

#### **Seneca 2 Forum and West Virginia State University Cultural Activities Anne Victory, "U.S. Human Trafficking: Modern Day Slavery (From 5 Star Hotels to the Super Bowl)"**

April 24th, 7:00 pm  
WVSU Davis Fine Arts Bldg. Auditorium

Anne Victory, HM, currently serves as Education Coordinator for the Collaborative Initiative to End

Human Trafficking in Cleveland/Akron, Ohio area. The Collaborative Initiative to end Human Trafficking is a group of concerned persons and organizations in northern Ohio whose mission is to educate and advocate for the prevention and abolition of human trafficking, while connecting services on behalf of trafficked persons. For more information visit: [www.collaborativeinitiative.org](http://www.collaborativeinitiative.org)

## Marcellus Shale/Earth Day Events

**Sunday, April 21, 2013 ~ 2-5PM at the Warwood Garden Park in Wheeling, WV** Informational gathering and protest regarding the proposed Green Hunter Water facility, which would treat and recycle waste water generated by Marcellus Shale development. The plan will be located just 1.2 miles upstream from Wheeling's water plant.

Sunday's event will feature music, speakers, information tables, activities for children and more. For more information contact Patricia Jacobson at [jacobson64@gmail.com](mailto:jacobson64@gmail.com)

Background:

<http://theintelligencer.net/page/content.detail/id/582521/Warwood-Getting-Frack-Water-Plant.html?nav=515>

<http://theintelligencer.net/page/content.detail/id/582958/New-Frack-Plant-Faces-Opposition.html?nav=515>

<http://www.theintelligencer.net/page/content.detail/id/583930/Project-Criticism-Growing.html?nav=515>

## Monday, April 22, 2013 ~ 6PM at the Union Rescue Squad Building on Pump Street in Union, WV

Celebrate Monroe County's Clean Water on Earth Day with [SavetheWaterTable.org](http://SavetheWaterTable.org). Speakers will include WV Host Farms Program ([www.wvhostfarms.org](http://www.wvhostfarms.org)) Administrator Diane Pitcock, who will present a program on Marcellus shale drilling and some of its lesser-publicized affects on West Virginia landowners. Question and answer period to follow. A free ham, bean and cornbread dinner will be served beginning at 6PM.

Speakers will begin at 7PM. The Rescue Squad Building is one block behind the Court House.

**Saturday, April 27, 2013 ~ The 5th Annual Panhandle Earth Day Celebration at Morgan's Grove Park, Shepherdstown, West Virginia** Music, Art, Crafts, Food, Kid's Activities, Demonstrations, Environmental & Conservation groups, Activists, Vendors, a Farmers Market and more!

This is a family friendly, community-oriented event, held rain or shine. Feel free to bring a picnic lunch, lawn chairs, blankets and comforts for an afternoon in the park. Please leave your dogs at home.

This year's music will include: The Boatmen - The Woodshedders - Billy Thompson Band - Moogatu - Handsome Sonic Bongo Band - LowBrau Highballers - Acoustic Blues Revue - Flowers & Birds - Roots Coalition - Rick Hill - Captain Obvious and the Moot Points - and more!

## You Pay More in Taxes than Some Huge Corporations



Source: Citizens for Tax Justice, 2012

TaxFairness

West Virginia Citizen Action Group  
1500 Dixie Street, Charleston 25531

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Action Group, 1500 Dixie St., Charleston, WV 25311 -

**THANKS!**

**Donate quickly & securely at [www.wvcag.org](http://www.wvcag.org)!**