

Legislative Update
of West Virginia
Citizen Action Group

March 14, 2014

Volume 14, No. 5

Legislative Wrap-up 2014

by Gary Zuckett

Progressives had more “wins” than usual this session we’re happy to report. SB 373 to protect public water supplies from chemical spills was the most rewarding win. An increase in minimum wage, pregnant workers fairness, integrated resource planning, industrial hemp, and bicycle safety all passed in pretty good shape. The Future Fund passed but with [serious funding challenges](#).

[Bike Safety](#) now requires a minimum 3 foot distance a driver of a motor vehicle must observe when passing a bicyclist on the road and refines the circumstances when a cyclist must drive far to the right of the lane. This will make cycling safer and vastly improve our state’s national ranking by biking groups and will bring in additional tourism dollars as more bikers travel our country roads.

[Industrial Hemp](#) can now be grown as a test crop at our state’s land grant universities with approval of our Commissioner of Agriculture. This crop is a valuable source of seeds, oil, and fiber that is now only available from imports. When in commercial production, it will

become an asset to WV farm communities. This variety of Hemp contains only minute levels of THC which means it is only good for food and fiber.

These wins are in stark contrast to last year when all of our bills were DOA by the last day of the session. This year we were sitting on the edge of our seats in the gallery watching the Minimum Wage and Water Bill pass in the final hours before midnight.

What made the difference? Many say and we must concur that having new leadership in the House come out of the gate with [their own agenda](#) was a big factor. This new leadership complements the restructuring of the Senate when Senator Kessler gained the presidents podium after Tomblin became governor. Will we get everything we want? No, as you’ll see below where we tally up the losses. However, it is a breath of fresh air in the rather stale atmosphere in the state capitol...

There Were Losses too, (continued on [next page](#))

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Meth labs will continue to proliferate due to the failure of the prescription-only bill for Pseudoephedrine. States like Oregon and Mississippi which have gone the Rx only route have seen 80-90% reduction in Meth labs the first year. Big Pharma pulled out all the stops with robo-calls, full page newspaper and TV ads, and threats of election losses for lawmakers who backed the bill. It's a shame they believed Pharma's BS and let it die the last night of the session after gutting it. Kids, families and whole communities will continue to suffer under the stranglehold of this easy to make and very addictive drug. Big Pharma will continue to profit from this illicit diversion of over the counter cold medication that was once Rx only back in the 70s. What's wrong with this picture?

Another loss was the passage of yet another gun law that has [mayors around the state fuming](#) because it will allow those with concealed carry gun permits to bring them into local community centers where kids are present. When will our lawmakers tell the NRA that enough is too much?

One win which will return as a loss in the next few days is the fight to restrict Marcellus drilling waste from burying our municipal landfills. HB 4411 was hard fought and making progress but still not in good shape. We were relieved when it died in conference committee the last night of the session but it will

be resurrected in today's special session as [Bill 107](#). [Watch Rachel Maddow's clip](#) on how not to handle this "hot" topic.

A big loss for women's choice was the unfortunate passage of a strict 20 week ban on abortions. Decisions on these rare procedures are best left to a woman, her doctor, and her faith. Besides, all other states that have passed this 20 week legislation have had it declared unconstitutional by their courts.

Medicinal Marijuana legislation was not taken up by the Health committee this session. We are hearing that next session it's to be seriously considered.

War on Water Continues – How You Can Help



Andy Park and Paul Epstein, Jamming at the Capitol
BIG Citizen Water Party

With the passage of SB373 to regulate above ground storage tanks and other threats to our drinking water, the fight for clean

water has just begun. We'll now need to doggedly monitor the DEP as it develops its Rules to implement the new law, make comments on the rules and keep you, the citizens informed of the progress or lack thereof. Funding for the proposed medical monitoring of us who have been exposed is needed as well as progress on implementing the recommendations of the US Chemical Safety Board.

We will need continued citizen action to keep the momentum going for all the above. The water crisis has gotten everyone's attention. Now the challenge will be to keep folks aware that the fight is not over. You can help by keeping informed an active when action alerts come out and invites to public rallies and press events are sent.

Another way to support our work is to renew your membership or make a special contribution for our staff time and expenses on this fight. Remember, we still have a challenge from our major donor that will match your donations dollar for dollar and for new members or first time contributors a two for one will essentially triple your contribution. Click the ["Donate](#)

[Now"](#) button or send your check to WV-CAG, 1500 Dixie St, Chas, WV 25311. We sincerely thank all who have already sent in for our war on water campaign. We can't do what we do here without it!

Session Could Have Been Worse for Low Wage Workers and Women

by Brooke Drake

Minimum Wage Increased

Senators passed [Bill 4283](#) with some amendments to increase minimum wage by \$1.50 over two years in 75 cent increments each January. The changes remove exemptions for any employers, minutely raising tipped earner wages and adjusting their employer credit to reduce the impact of that increase on the fragile restaurant industry. Training wage increased to \$6.40 per hour for workers under 20 years of age who have been employed less than 90 days.

Pregnant Workers to be Treated Fairly

A bill ([HB4284](#)) was passed to [require](#) employers to provide reasonable accommodations to pregnant workers, while preventing them from imposing unsolicited help upon these workers. It also prohibits denying employment opportunities based on pregnancy status or forcing women to take leave while pregnant.

Choice Banned

Legislators [passed](#) a ban ([HB4588](#)) on abortions performed on viable pregnancies more than twenty weeks after conception. It would be a misdemeanor offense for a person to intentionally or unintentionally cause abortion. The legality of this bill has not been tested, but similar bills in other states have been deemed unconstitutional. Planned Parenthood has asked people to call the Governor and ask him to veto this bill which, according to Charleston Daily Mail, he is [considering](#).



Statement from WV Healthy Kids and Families Director Stephen Smith,

a member of the Our Children, Our Future Steering Committee:

“This year, we learned the power that everyday citizens have when they unite across their differences – doctors and parents, unions and businesses, Family Resource Networks and religious leaders.

We also learned that we must continue to grow that power. On some issues, we saw legislators choose lobbyists over kids, because they thought it was the politically smart thing to do.

Through community outreach and education, it is our job to show legislators in the coming year that supporting our kids *is* the politically smart thing to do.”

Legislators [came to an agreement](#) that \$980,000 in budget cuts to early childhood programs would be restored, culminating a hard-fought legislative session for West Virginia’s most vulnerable kids and families, say leaders with the Our Children, Our Future Campaign.

The Our Children, Our Future Campaign will re-convene on April 11th and 12th for a strategy retreat and leadership training in the Eastern Panhandle. For more information, contact Stephen Smith at 304.610.6512.

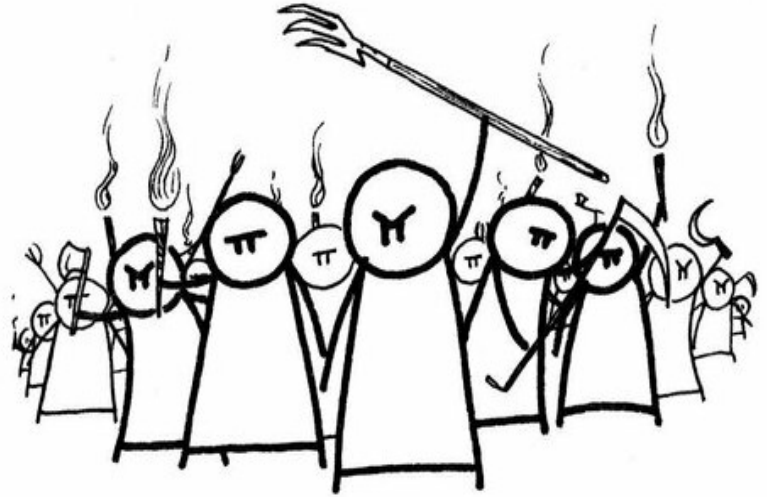
Legislature Saves Early Childhood Cuts

Child Poverty Advocates Celebrate Strong Session amid Turmoil

From Stephen Smith, Our Children Our Future

In spite of a tight budget that only got tighter as the session continued, advocates saw full funding restored to all of the following programs:

- ☺ Family Resource Networks and Family Resource Centers restored \$150,464;
- ☺ In-Home Family Education programs restored \$250,000;
- ☺ WV Children's Trust Fund grants for child abuse prevention restored \$80,000;
- ☺ Domestic Violence Prevention restored \$357,900;
- ☺ Child Advocacy Centers restored \$111,908 and then increased an additional \$200,000, keeping funding level for local programs due to rapid growth and expansion.



Full funding for each of these programs was included in the budget conference committee agreement announced yesterday by House and Senate leaders.

Our Children, Our Future Campaign leaders note that even though child poverty grabbed few headlines – as abortion bills and the water crisis threatened to derail the session – this was an historic session for the issue. In addition to restoring the cuts, victories included landmark legislation to:

- ☺ Raise the state Minimum Wage (HB 4283) for the first time in nearly a decade.
- ☺ Create a Future Fund (SB 621) that will establish a permanent form of wealth from severance taxes.
- ☺ Enable local governments to establish Land Re-Use Authorities (SB 579), empowering communities to re-develop dilapidated properties.
- ☺ Protect pregnant workers against job discrimination (Pregnant Workers Fairness Act – HB 4284)

How did it happen?

Kids and families were better organized than any time in recent memory, fighting through the winter weather and the water crisis to advocate in record numbers. Kids and Families Day, with 812 leaders from across the state, was by far the largest advocacy day at the Capitol this year. 21 Regional Forums (from Parkersburg to Wyoming County, from Martinsburg to Lewisburg, and almost everywhere in between) around the state brought legislators in close contact with their constituents during the session, as well. And at least 6,100 letters, e-mails, and phone calls were made to legislators making the case for these issues.

The Our Children, Our Future Campaign is a statewide coalition of 177 congregations, community organizations, advocacy groups, unions, health groups, chambers of commerce, service agencies, and other allies – that is committed to end child poverty in West Virginia. Its issue platform is decided through a grassroots process of community meetings and a statewide vote before the session. Since its inception less than 2 years ago, the campaign has led the charge with lawmakers on a range of policy victories – including expanding Medicaid, enacting the Feed to Achieve Act, and restoring Head Start cuts at the federal level.

Even campaign losses from this year offer reasons for hope:

- ☼ SB 6, which would make some forms of Sudafed require prescriptions as a way to dramatically reduce Meth Labs, passed the Senate for the first time and nearly passed the House (before drug companies spent a fortune on a misleading campaign of robocalls and ads across the state).
- ☼ Move to Improve (SB 455), in its first year, passed Senate Health, Senate Education, the Full Senate, and House Health before running out of time in House Education - an impressive run for any first-time piece of legislation. Furthermore, the State Board of Education has already begun to include recommendations from the bill – i.e. to include at least 30 minutes of physical activity in the school day - in its internal policies.

Compromise Hand Count Bill Passes

by Julie Archer

Going into the final week of the 2014 legislative session, we reported that the House Judiciary Committee had narrowly passed SB [359](#), which would eliminate the hand count of 5% of randomly chosen precincts during the post-election canvass. Once the bill got to the House floor however, the bill stalled because some members of House leadership, and House Speaker Tim Miley in particular,

were not comfortable eliminating the hand count without putting in place some other measures to check voting machine performance.

The bill remained parked on the House inactive calendar for over a week, before a compromise was reached that would maintain the hand count for a reduced number of precincts (3% rather than 5%), allowing time for an alternative

auditing method to be developed. We look forward to working with Kanawha County officials and representatives of the county clerks to come up with method that is less time consuming and more efficient for election officials, and designed to give voters confidence in the outcome of the election.

Energy Efficiency West Virginia Report

by Stacy Gloss

Integrated Resource Planning Passed the Legislature

On Friday (March 7, 2014) the WV Senate PASSED a pro energy efficiency bill for utility least cost planning. H.B. [2803](#), requiring electric utilities to implement integrated resource plans, was passed by 33 members of the Senate. This follows bill passage by the WV House of Delegates. With H.B. 2803, WV electric companies will have to submit future electric generation plans to the WV Public Service Commission that include consideration of demand side

energy resources including energy efficiency. The bill represents an agreement reached between WV electric utilities and our campaign. Integrated Resource Planning / Least Cost Planning has been a campaign of Energy Efficient West Virginia for the past three years and this is a win for advancing energy efficiency in the mountain state. We'll be working closely with the WV Public Service Commission to ensure a transparent process so that utility integrated resource plans are made public.

For more information about Energy Efficient West Virginia, visit www.eewv.org.

Local Energy & Efficiency Partnerships

This year Energy Efficient West Virginia began a new campaign for local energy and efficiency partnerships for West Virginia (LEEP). Delegate Barbara Fleischauer

championed a bill that would create a statewide opportunity for small businesses and commercial property owners to apply for financing for energy efficiency retrofits in consult with local governments and third party lenders. The program is similar to nationally recognized PACE financing. Though the bill was not taken up in committee, a house concurrent study resolution was introduced and passed through the house of delegates. This was HCR 119. EEWV will continue advocating for this energy efficiency financing option to be studied jointly by the house and senate during the interims in 2015. Through the year, EEWV will also sponsor informational workshops across West Virginia to talk with local governments and West Virginia mayors about how this program can help be part of the solution to renovate and retrofit dilapidated or vacant building stock. **Please call or write to your WV Senator and let them know that you want them to study HCR 119 in interims this year.**



Summary of HB 107 (Was HB 4411)

In Gary's wrap up article, he mentioned that HB 4411, the bill allowing drill cuttings and other waste generated from Marcellus Shale gas wells to be disposed of in commercial solid waste facilities was resurrected in a brief special session as HB 107.

Here's a brief summary of what's in HB 107 prepared by Don Garvin, Legislative Coordinator for the WV Environmental Council:

Commercial solid waste facilities located in a county that is, in whole or in part, within a karst region (as determined by the West Virginia Geologic and Economic Survey) may lawfully receive drill cuttings and drilling waste generated from horizontal well sites, but NOT above the monthly tonnage limits of the commercial solid waste facility. Drill cuttings and drilling waste received at that facility shall be counted and applied toward the facility's established tonnage cap.

Commercial solid waste facilities NOT located in a county that is, in whole or in part, within a karst region may lawfully receive drill cuttings and drilling waste generated from horizontal well sites **ABOVE** the monthly tonnage limits of the commercial solid waste facility under the following conditions and limitations:

- ◆ The drill cuttings and associated drilling wastes are placed in a separate cell dedicated solely to the disposal of drill cuttings and drilling waste;
- ◆ The separate cell dedicated to drill cuttings and associated drilling waste is constructed and maintained pursuant to the standards set out in this article and legislative rules promulgated thereunder
- ◆ On or before **March 8, 2014**, the facility has either obtained or applied for a certificate of need, or amended certificate of need, authorizing such separate cell as may be required by the Public Service Commission.
- ◆ The secretary may only allow those solid waste facilities that applied by **December 31, 2013** for a permit modification to construct a separate cell for drill cuttings and associated drilling waste, to accept drill cuttings and associated drilling waste **WITHOUT** counting the deposited drill cuttings and associated drilling waste toward the landfill's permitted monthly tonnage limits.
- ◆ No solid waste facility may exclude or refuse to take municipal solid waste in the quantity up to and including its permitted tonnage limit while the facility is allowed to lawfully receive drill cuttings or drilling waste above its permitted tonnage limits.

Any solid waste facility taking drill cuttings and drilling waste must install radiation monitors by **January 1, 2015**. The secretary shall promulgate emergency and legislative rules to establish limits for unique toxins associated with drill cuttings and drilling waste including, but not limited to heavy metals, petroleum-related chemicals, (benzene, toluene, xylene, barium, chlorides, radium and radon) and establish the procedures the facility must follow if that limit is exceeded: The rules shall establish and set forth a procedure to provide that any detected radiation readings above any established radiation limits will require that the solid waste landfill immediately cease accepting all affected drill cuttings and drilling waste until the secretary has inspected said landfill and certified pursuant to established rules and regulations that radiation levels have returned to below the established radiation limits. Any truckload of drill cuttings or drilling waste that exceeds the radiation reading limits shall not be allowed to enter the landfill until inspected and approved by the Department of Environmental Protection.

On or before **July 1, 2015**, the secretary shall submit an investigation and report to the Joint Legislative Oversight Commission on Water Resources and the Legislature's Joint Committee on Government and Finance, which examines:

- (1) The hazardous characteristics of leachate collected from solid waste facilities receiving drill cuttings and drilling waste, including, but not limited to, the presence of heavy metals, petroleum related chemicals (benzene, toluene, xylene, etc.) barium, chlorides, radium and radon;
- (2) the potential negative impacts on the surface water or groundwater resources of this state associated with the collection, treatment and disposal of leachate from such landfills;
- (3) the technical and economic feasibility and benefits of establishing additional and/or separate disposal locations which are funded, constructed, owned and/or operated by the oil and gas industry; and
- (4) viable alternatives for the handling, treatment and disposal of drill cuttings, including the potential for processing, reusing and reapplying a portion of the collected drill cuttings as suitable fill material for roads, brownfield development or other projects, instead of disposing of all collected material into landfills.

The secretary shall submit any proposed contract for conducting the studies for review and preapproval by the Legislature's Joint Committee on Government and Finance.

The "Gas Field Highway Repair and Horizontal Drilling Waste Study Fund" is created to fund the improvement, maintenance, and repair of public roads of three lanes or less located in the watershed from which the revenue was received that are identified by the Commissioner of Highways as having been damaged by trucks and other traffic associated with horizontal well drilling sites or the disposal of waste generated by such sites, and that experience congestion caused, in whole or in part, by such trucks and traffic that interferes with the use of said roads by residents in the vicinity of such roads. Revenue for the fund will be generated through an additional solid waste assessment fee imposed upon the disposal of drill cuttings and drilling waste generated by horizontal well sites in the amount of \$1 per ton. Up to \$750,000 from the fund shall be made available to the Department of Environmental Protection from the same fund to offset contracted costs incurred by the Department of Environmental Protection while undertaking the mandated horizontal drilling waste disposal studies.

Have You Seen These Stickers Yet?

**DID YOU KNOW
FELONS CAN VOTE
IN WV?** Contact
brooke@wvcag.org
(304)346-5891 for info



While registering people to vote, I've been making sure to inform them that felons can vote in West Virginia. Most people don't believe it at first, because there are so many myths about the steps necessary to restore citizenship. Once an ex-convict is off probation and no longer has to see a parole officer, they are

officially "off paper" and can register to vote just like everyone else. There are no letters or special forms to fill out, and it doesn't matter what the felony was.

Please restore hope for all your friends in the big house by mailing them a letter written in black or blue ink placed in a standard sized envelope to South Central Regional Jail 1001 Centre Way, Charleston, WV 25309. Do not put stickers or perfume on the envelope. Do not send paper that hasn't been written on. Leave blank space for them to write. Do not send cardstock, but pictures are fine as long as there are fewer than five and of decent nature. Do not send food. Do not send drawings in crayon.

Do send love a support as inmates of all genders and pregnancy statuses have been given nothing but tap water to drink since mid-January. Remind them they deserve clean water and proper governing.

Top Five Reasons Everyone Should Vote

- 1. ...
- 2. ...
- 3. ...
- 4. ...
- 5. ...

West Virginia Citizen Action Group

1500 Dixie Street

Charleston, WV 25311

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"Action for a change."



We Need Your Support!

We can't do it without you!

Please renew your membership or send a donation.

Name: _____

Address: _____

E-mail: _____ Phone: _____

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

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

THANKS!

Donate quickly & securely at www.wvcag.org!