



# Capital Eye

Volume 2, Issue 12  
December 2003

## What To Expect in the 2004 Legislative Session

by Norm Steenstra, [norm@wvcag.org](mailto:norm@wvcag.org)

Conventional wisdom holds that the Legislature does very little of substance in an election year. Be that as it may, WV-CAG will be closely watching at least a dozen issues over the next 3 months. The big picture for the upcoming session must be viewed in the context of a state grappling with major budget cuts, a lame and maimed duck governor and uncertainty of the future plans of the Senate President and the House Speaker.

As always, the issues fall into one of four categories: **defense** against bad bills, **proactive** bills, the “**inevitables**” and things we **never expected** them to try and get away with. **WV-CAG initiatives** include strengthening and increasing the Insurance Commission’s Consumer Protection Office, Clean Elections, Prescription Equity (see page 5), the funding of adult literacy programs by the creation of “education” license plates, election law changes that require additional reporting of donations and, of course, the bottle bill.

**Defensively** we will be working against: the insurance and medical industries’ continued assault on consumer and victims’ rights (so-called “tort reform”); predatory lending schemes; the privatization of public parks; lax regulations on overweight coal trucks; and, attempts by industry to reduce water quality standards and manipulate water rights’ ownership.

Under the “**inevitable**” category we will watch the scores of special-interest tax-break attempts that everybody from coal, insurance, banks, to medicine and power companies will try and get passed.

The last category is perhaps the scariest: the **unexpected**.

Every session, scores of bills are introduced that, quite frankly, “decent folk” never anticipated and don’t understand.

We’ll be there for the 30<sup>th</sup> year in a row representing the West Virginia consumer. This is only possible with your loyal support, timely input and personal contacts with legislators. Follow the madness in our weekly *Capital Eye* starting on January 16.

# Son of “Tort Reform”

*by Gary Zuckett, garyz@wvcag.org*

If you enjoyed the blazing white coats around the Capitol last session threatening to leave the state because of malpractice insurance, you'll love this year's son of “tort reform.”

Now we're hearing there is full-blown state-wide insurance crisis that is affecting auto, homeowner, business, and every other kind of insurance. Its cause? That pesky civil court system that you're hearing about in all those radio, TV and billboard commercials that say our courts are broken and need to be fixed.

Insurance companies who, by the way, are now waging a campaign to have the WV Legislature fix this problem, are the ones financing these public declarations of our “broken” court system.

One consumer protection law targeted for “fixing” is “third party bad faith” under the Unfair Trade Practices Act. What it comes down to is that insurance companies don't want to be sued when they jerk you around and delay settling a claim to see if they can get you so desperate you'll settle for way less than you're really due. This occurs frequently when another driver totals your car and his insurer drags on and low-balls the settlement offer hoping you're so desperate to get to work you'll take thousands less to get on with your life. Eliminating “third party bad faith” will give victims of this unfair trade practice no recourse in the courts to go after insurance companies who try to gouge them like this.

Six states still allow third party bad faith claims – North Dakota, Montana, New Mexico, Florida, Kentucky and West Virginia. All have homeowners' premiums below the national average. All except Florida have lower than average auto insurance. (If you've ever driven in Florida you know why they aren't with us on that one.)

The real WV insurance crisis isn't in our court system, it's in the unfair, unethical and oft-times illegal practices of the insurance industry. The fix is insurance reform, not more “tort reform.”

One especially needed reform is the creation of an independent Insurance Consumer Advocate like the one who actively advocates for consumer interests in the WV Public Service Commission.

WV-CAG will fight the insurance industries' attempts to roll back consumer protections and will advocate for the creation of a true Consumer Advocate. Contact your legislators now and tell them not to roll back consumer protections to fatten the bottom line of wealthy insurance companies.

# Here's to Clean Elections for WV

*by Janet Fout and Julie Archer*

*(appeared in Charleston Daily Mail on Thursday, 12/18/03)*

In response to the Daily Mail's Dec. 9 editorial, "Bad idea: West Virginians should not be forced to subsidize politicians," the West Virginia Clean Elections Act is a voluntary system.

It is modeled after laws in Maine and Arizona, where 63 percent and 37 percent of legislators, respectively, are now free from special-interest ties. "Voter-owned" elections had broad bipartisan support, saw more women and people of color get elected, and increased voter participation. Arizona elected the nation's first governor who owes her successful campaign to the people, not special interests.

To qualify for public financing, candidates must pass a threshold test by collecting a substantial number of small contributions from registered voters in his or her district. The show of public support required will weed out so-called "fringe" candidates. Qualified candidates must agree to accept no private contributions and refrain from spending their own money, and in exchange, they receive a modest amount of public money to run their campaigns.

The Daily Mail editorial stated that taxpayers should not subsidize politicians, but we often forget that nationally, taxpayers have already been paying for partial public financing for many years through a federal income tax checkoff. It's true that tax-check off provisions, the primary source for paying for this type of public financing, have been confronted with decreasing rates of participation.

That may have to do with taxpayers' observation that partial public financing eliminates neither the money chase nor candidates' obligation to special interests that give the most. However, in states that have a "clean elections" system of full public financing, support has been overwhelming.

In Arizona, over 650,000 people contributed to the clean elections fund through a voluntary \$5 tax check-off in 2002, a 77 percent increase since the program's implementation in 2000. Another 70,000 voters gave \$5 contributions to help qualify one or more candidates in 2002.

And despite hostile lawsuits and political attacks, 64 percent of Arizona residents responding to a poll conducted by the Arizona Republic said they support the state's "clean elections" system. Six states have adopted full public financing programs, and most of these measures were passed by voters through the initiative process.

(Continued on page 10)

# Bottle Bill Summit Meeting

by Linda Mallet, [linda@wvcag.org](mailto:linda@wvcag.org)

Bottle bill activists from across the state met in Flatwoods earlier this month to put our heads together on how to make a West Virginia container law a reality. Our to-be-named coalition is growing and this core of enthusiasts committed to insuring it has a diverse statewide membership of organizations and individuals.

Besides the obvious goal of getting legislation introduced, our plans also include organizing Deposit Day at the Capitol during the WV Environmental Council's annual E-Day (February 17, 2004). To show how refunding a deposit can boost recycling rates, we will pay you 10-cents for each container you bring to our booth. As this event takes shape, we will keep you updated.

In the meantime, what can YOU do to promote the Bottle Bill?

- ◆ Write a letter to the editor of your newspaper
- ◆ Call your newspaper's comment line
- ◆ Contact your legislators four times during the Legislative Session about the Bottle Bill
  - ◆ Talk about the Bottle Bill at meetings you attend
  - ◆ Ask for resolutions of support from organizations of which you are a member (sample resolution available at [www.wvcag.org](http://www.wvcag.org)).
  - ◆ Forward me names of organizations, friends, neighbors and co-workers who are interested in finding out more
  - ◆ Continue to collect petition signatures
  - ◆ Ask friends to sign the on-line petition at [www.wvcag.org](http://www.wvcag.org).
  - ◆ Come to E-Day!, work at the Deposit Day booth, and lobby your legislators.
  - ◆ Call me at 346-5891 with your ideas and suggestions!

We are currently working with legislators to coordinate bipartisan sponsorship of this year's bill. We expect to see the bill introduced once again in the House and Senate. This year's legislation is modeled after Michigan's container law, which was enacted in 1976 and requires a 10-cent deposit on plastic, aluminum and glass beverage containers. We'll keep you posted throughout the session!

**Visit the Bottle Bill page at [www.wvcag.org](http://www.wvcag.org) for more info.**

# WV-CAG Joins Prescription Coalition

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

WV-CAG has joined the WV Free Coalition for Reproductive Freedom, the National Association of Social Workers and other organizations to form West Virginians for Prescription Fairness. Members of this ad-hoc coalition believe that health insurance plans should cover contraceptives, which are a part of basic health care for West Virginia's women and families. We will work during the session to urge the legislature to enact a state law requiring health insurers to provide comprehensive coverage of contraceptives.

Contraceptives have a proven track record of preventing unintended pregnancy and reducing the need for abortion. Covering contraceptives would save money for both insurers and families, yet nearly 50% of most group insurance plans do not cover any contraceptive method, and only 15% cover the most commonly used prescription contraceptives. And many of the same insurance plans that refuse payment for contraception routinely cover Viagra.

The practice of denying contraceptive coverage constitutes sex discrimination, but it could be easily remedied through the passage of contraceptive equity, or prescription fairness, legislation. Twenty-one states have already enacted contraceptive equity and we hope we'll add West Virginia to the list.

## Check Out Lloyd Jackson on Water

Although WV-CAG is months away from making endorsements for the governor's race and we are none too pleased with the current choices, oil and gas millionaire Lloyd Jackson has shown some rare and amazing courage with his position on the state's water rights issue. Jackson released his water rights plan that is 180 degrees from those of coal, gas, chemical and agro-businesses. In a recent statement, Jackson called for legislation that would settle the water rights issue by declaring that THE PEOPLE OWN the waters of the state and they, not private out-of-state industries, should be the beneficiaries of this natural resource. Imagine if politicians a century ago had taken such a stand on West Virginia's mineral wealth! Likely we would have the finest schools, roads, health care and parks in the nation. We applaud Jackson for his position and must say, "Lloyd, you're starting to get our attention."



*Granny D (Doris Haddock) speaks at press conference on 2002 campaign contributions. WV-CAG's Julie Archer looks on.*

## **SUPPORT WV-CAG!!!**

Now is a great time to renew your membership or send in a little something extra to **help get us through the Session**. Please clip and mail to 1500 Dixie St., Charleston, WV 25311. Your contribution will be used to help get us through the Session!

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Here's my donation of \$ \_\_\_\_\_

Send me action alerts at my e-mail: \_\_\_\_\_

# Clean Elections Victory

*by Julie Archer, julie@wvcag.org*

Over the past several months Sub-Committee B of the Joint Judiciary Committee has studied The WV Clean Elections Act (now the "Public Campaign Financing Act").

In November, efforts by Senator Jon Blair Hunter to move the bill out of sub-committee to the full Joint Judiciary Committee were delayed after much debate and the adoption of some significant amendments offered by Senator Larry Rowe. His amendments add Circuit Court and State Supreme Court candidates, delay the bill's implementation until 2008, and phase in the availability of public financing for the various offices. Judicial and gubernatorial candidates would become eligible for public financing in 2008, followed by the State Senate in 2010 and the House of Delegates in 2014.

However, **we have a victory to celebrate!** The sub-committee reconsidered the bill this month and moved it to the full Joint Judiciary Committee without recommendation. The full committee then voted 16 to 10 to report the bill out without recommendation. While we certainly would have preferred for the committees to give the bill a "do pass" recommendation, we're pleased with the consideration it received during the interims. Reporting the bill out, even without recommendation, allows continued discussion and debate.

**Thanks for contacting members of the sub-committee and urging them to support public financing of campaigns in West Virginia! Your calls and letters made the difference.** Thanks to Senators Hunter, White and Rowe, and Delegate Fleischauer for their strong leadership. (For great quotes, check out the Clean Elections news coverage at [www.wvcag.org](http://www.wvcag.org)).

## WV-CAG Affiliates with USAction

WV-CAG, while informally aligned with kindred groups in other states, finally formally affiliated with USAction ([www.usaction.org](http://www.usaction.org)), the nation's largest progressive activist organization, dedicated to winning social, racial, and economic justice for all. It fights to win on issues that matter to every American and represents three million members in 34 affiliates, with statewide organizations in 24 states.

We look forward to working with our sister groups across the nation on issues such as the recent fight over the Medicare Rx bill and initiating a 2004 registration drive to increase voter turnout.

# **The Newest Bad Idea in West Virginia**

“Payday lending” offers quick cash to consumers without a credit check and an average interest rate of about 900% APR. Customers must only have a job and provide a check dated on their next payday to cover the entire loan plus interest. This predatory lending targets military personnel, chronic gamblers, seniors and low-income wage earners, and West Virginia is one of 13 states that prohibits it. Out-of-state payday lending companies have hired the same lobbyist/public relations company used by AT Massey Coal in their efforts to legalize payday lending here. WV- CAG’s research uncovered thousands of dollars in 2002 campaign contributions to legislators, and we expect a dramatic increase on the 2003 reports.

Led by public interest lawyer and former WV-CAG board member Dave McMahon, a coalition including AARP and WV-CAG is fighting to stop the legalization of payday lending in the state. During the December legislative interims we claimed a major victory when the Joint Judiciary committee passed a bill that prohibits post-dated checks as collateral. With all the campaign contributions this industry has invested recently, its lobbyists are sure to resurface the industry-friendly bill during the legislative session. We’ll keep you posted.

## **Insurance Problem Toll-Free Hotline**

**1-866-WVB FAIR**

WV-CAG has a new toll-free number for consumers experiencing problems with auto, fire and home owners’ insurance companies. The insurance industry will introduce major “reforms” at the legislative session that drastically reduce consumers’ rights, therefore, we need your horror stories for ammunition to dispel its lobby’s propaganda. If you have had trouble obtaining insurance or your insurer is not acting in good faith in regard to your legitimate claims, call us! We will also facilitate complaints to the WV Insurance Commission. This number is staffed during regular business hours. If we miss your call, leave us a voice mail message.



# Medicare: Rx for Privatization

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

The infamous Medicare Prescription Drug bill is now law. After AARP caved in to the president's pressure and endorsed a terrible bill, Senate Democrats could not round up the votes for a filibuster.

This is a textbook case of a special interest lobby making big campaign contributions, hiring armies of lobbyists, and then actually drafting ITS agenda into legislation. The Medicare Rx bill gives it a return on investment that the payday lending industry would die for. Millions invested turns into literally Billions in profit.

Under this bill, drug makers make out like the bandits. A Boston University study reports that since this bill outlaws price controls, drug companies will get \$139 BILLION in windfall profits.

Common Cause ([www.commoncause.org/action/070103\\_pharma\\_report.pdf](http://www.commoncause.org/action/070103_pharma_report.pdf)) says that, in the last decade, drug makers contributed \$57.9 million to campaigns. Even when lobbying and advertising costs bring the total to nearly half a billion dollars, the figure is a tiny percentage of the \$139 billion return.

Bush and the right-wingers who control Congress crafted the Medicare prescription drug law as a Trojan horse to privatize Medicare. Their ultimate goal is for it to "wither on the vine" as envisioned by that uncompassionate conservative Newt Gingrich. This Medicare Rx scam will actually subsidize HMOs and other private insurers to bleed Medicare through "cherry picking" the healthiest seniors. This leaves the sickest and oldest to languish in an increasingly expensive risk pool that will eventually sink traditional Medicare under a mountain of red ink.

The losers here are the very seniors and people with disabilities who depend on Medicare. Prohibiting Medicare from negotiating with drug makers for reduced costs will fairly guarantee that, even with the modest new drug coverage, overall drug costs will go up.

Seniors don't want a prescription drug bill that will cause the whole Medicare program to crash, even one AARP supported with a multimillion-dollar ad campaign. The powerful organization's leadership is out of touch with seniors as a recent poll showed 60% of them want the bill revisited.

Please thank Senators Byrd and Rockefeller, who opposed this bill, and sided with the elderly and disabled. And in November, remember that Representative Capito helped roll this Trojan horse through the House.

(continued from page 3)

Undoubtedly, a major hurdle for passing a clean elections law will be finding a stable funding mechanism. The legislative interim committee studying the Clean Elections Act received a report from a Charleston-based law firm on potential sources of funding for public financing. This analysis identified sources outside of general revenue accounts.

The Reform Institute, a Washington, D.C.-based educational organization working on campaign finance and election reform issues, commissioned the study. Hopefully, lawmakers will take a closer look at this analysis as they consider the Clean Elections Act during the regular session.

The amount of money required for a clean elections system may seem high, but it is very low in relation to the actual cost of legislative and regulatory favors routinely given to wealthy special interest contributors.

Furthermore, when the total cost is broken down per average taxpayer, it comes to less than \$5 a year. Free and open elections are a public good and indeed, the bedrock of our democracy.

To provide some sort of government funding for candidates reduces the possibility of corruption, reduces the amount of time a candidate spends raising private funds, and diminishes the role that special interests have in determining public policy.

Taking these things into consideration, one can wholly justify the small amount that a public funding system would cost relative to current spending measures.

# Calendar of Events

**January 11 - 13:** Legislative Interims in Charleston

**January 14:** 2004 Legislative Session begins

**January 14:** Governor Wise's State of the State address

**January 16:** WV Environmental Council's Legislative Session Kick-off Fundraiser at Perfater's Law Office in Charleston

**February 17:** WV Environmental Council's annual E-Day! at state Capital. Come and visit the exhibits and lobby your legislators! Also, partake in Deposit Day (see page 4) which will be held in conjunction with E-Day! this year. Get 10-cents for each beverage container you "redeem." Help us promote the WV Bottle Bill!



**From the WV-CAG staff and  
board of directors:**

**Seasons Greetings and a Very  
Happy 2004 to you and yours!**

***The aim of life is to live, and to live means to be aware,  
joyously, drunkenly, serenely, divinely aware.  
- Henry Miller***

*West Virginia Citizen Action Group (WV-CAG) publishes Capital Eye during the Legislative Session and throughout the year. You can visit our website at [www.wvcag.org](http://www.wvcag.org), call us at 304-346-5891 or e-mail us at [linda@wvcag.org](mailto:linda@wvcag.org) to give us your comments and suggestions and to become a member. Since 1974, WV-CAG has been a nonprofit membership organization dedicated to increasing citizen participation in economic and political decision-making. By educating people about key public interest issues and involving them in the decisions that affect their lives, WV-CAG works for progressive changes in federal, state and local policies - ranging from environmental protection and consumer rights to good government and health care reform. Thank you for your support!*