



Capital Eye

Volume 3, Issue 12
November 2004

Picking up the Pieces Our 2005 Legislative Agenda

by Norm Steenstra, norm@wvcag.org

Let's start this issue with the positive stuff before we talk about the election results. There is a good prognosis for several of our key legislative initiatives. Speaker of the House Bob Kiss stated in a meeting last week with the West Virginia Council of Churches that the "Clean Elections" bill "will move this session." This is the first time any of the legislative leaders have declared any real support for the voluntary public financing bill. In the same speech, Kiss promised that revisions to the Legislative Ethics law would be a top priority in the upcoming session. Both of these issues are long-time WV-CAG goals.

The Bottle Bill, another long-term legislative goal, may acquire new "legs" as we have tweaked it to neutralize major opposition from the retailers. Our campaign will focus on how many new jobs can be created with the bill's passage.

A new WV-CAG priority is passage of the "One strike and you're out law." We are introducing this concept in an attempt to severely punish anyone who tampers with the electoral process. The "one strike" concept would mandate zero tolerance for voter fraud, vote buying and voting machine tampering. Mandatory long prison sentences would result in such criminal behavior. How many politicians could oppose this attempt to protect our electoral process?

With every new administration comes surprises and we anticipate quite a few with the new governor. As always, WV-CAG will be watching for opportunities to promote cleaner government, affordable health care, social justice and environmental protection. Likewise we will continue to guard against the erosion of consumer rights. We are gearing up for our 31st regular legislative session with guarded optimism.

Rx Drug Resolution Passes Special Session

by Gary Zuckett, garyz@wvcag.org

Another step to lowering prescription drug prices for West Virginians was taken by the legislature recently. During the November special session both the Senate and the House passed SCR 301 unanimously. This resolution directs the Pharmaceutical Cost Management Council to proceed with its plan to “use the Federal Supply Schedule as a benchmark for prescription drug prices for the negotiation and purchase of brand name drugs...”

A recent university study estimated that West Virginians could save up to \$300 million per year on prescription drugs if they paid the same price as the Federal Government. The resolution also authorizes a state Pharmaceutical Advocate to be appointed to negotiate these discounts for state agencies such as PEIA.

The idea is that if and when other states join us in this effort, a critical mass will form that drug makers cannot ignore. This is precisely what the drug lobbyists are afraid of and why we've seen a small army of them at the legislature every time this issue is taken up.

The fight for lower drug costs will continue into the 2005 legislative session as the Council will most likely need to come back again for additional legislative approval to coordinate the new “Drug Czar” with the Council, possibly making him or her Chair. Further legislation will also be needed to allow the Division of Corrections, Bureau of Public Health and others to participate in such a drug purchasing pool.

Contact your legislators ask them to continue the fight for lower prescription drugs for all West Virginians. While you're at it, remind them we need universal health care, too.

**For more information
please see the Council's web page:
<http://www.wvc.state.wv.us/got/pharmacycouncil>**

The Road to November 2nd

by Norm Steenstra, norm @wvcag.org

So what happened? WV-CAG devoted the entire year to regime change. Never in our 31 years did we put so much effort, expend so many resources or have such an emotional investment in a campaign. Add to the fact that our top priority in the state races was the reelection of Warren McGraw and you get a sense of our collective pain.

While a second Bush term is likely to be more of the same awfulness, the defeat of Judge McGraw ushers in a new era of darkness in West Virginia. For longer than most of us can remember the State Supreme Court was the only real balance to the other branches of government, branches traditionally dominated by the most special of special interests. We learned that one person could indeed make a difference especially if that one person is a Supreme Court judge.

We also learned that a \$3.5 million smear campaign could also make a difference. The McGraw defeat was a bitter pill but the true tragedy is that our legal system – our last line of defense against the rich and powerful - can be bought by a rouge multimillionaire coal baron. It wasn't just the money either. McGraw's opponent ran what is probably the dirtiest and most dishonest campaign in the state's history. This is the kind of man elected to serve for the next 12 years in our highest court.

We lost some friends in the legislature, too. The most important loss was that of Delegate Barbara Fleischauer (D-Monongalia). We will all miss Barbara, who was a leader on all of the progressive issues. We can only hope that she takes some time off and returns to the legislature in 2 years.

Gloomy news? You bet. But there were many good things that happened during this election cycle. From WV-CAG's perspective, we registered more than 7,500 new voters (12% of the state's total), most of them minority and economically disadvantaged. In Kanawha County we were responsible for half of all the new voters. We took several hundred of those to the polls and believe that they made a difference in several House of Delegate races.

Senator Mike Ross, perhaps the most self-serving legislator of the last 50 years, was defeated, as was Jerry Mezzatesta, both of whom had ethics complaints filed against them. As always the election was a mixed bag. We, of course, hoped for a far different mixture but our mission remains.

We are a state that consists of many different kinds of people. It often seems that maybe we have more than our fair share of apathetic and politically ignorant people, too lazy to put much thought and effort into shaping public policy. That is why public interest groups face such a big challenge in educating, agitating and motivating citizens. Now more than ever people like you will determine our future. Stay tuned, forget politics for a while, and have a wonderful holiday season.

Charging the Electric Fence

by Linda Mallet, linda@wvcag.org

If we all charge the electric fence at once one of us is bound to get through. I learned this great analogy at a summit of bottle bill activists from across the country hosted by the Container Recycling Institute. While we didn't actually practice running at any fences during this meeting, we could all relate to the frustration of trying to break through the special interest barrier to get bottle bill legislation on the radar screen of our legislators.

West Virginia is one of several states pushing for a new bottle bill. There are initiatives in about a dozen states right now in various levels of completion and political viability. Also, several of the states with existing container bills are lobbying to get their antiquated laws updated to include bottled water and sports drink containers, among others.

I picked the brains of these experienced activists and have come away with a new sense of where we should take our legislation during the upcoming Legislative Session. It was priceless to be able to draw upon the lessons learned by the 10 states who have had bills for decades.

As with many of our efforts, industry resistance is strong and well-funded. Activists in other states face the same hurdles but, despite industry's over-powering lobbying presence and money-fueled arguments, progress is being made. As more and more new efforts are launched and old initiatives are strengthened, maybe one of us will get past that electric fence and make an opening for the rest.

So stay tuned to these pages during the Session! And, as always, if you have any time to help with this or other issues, give us a call!

**For more on WV-CAG bottle bill work, please visit
www.wvbottlebill.org**

Stay Informed!

The 2005 Legislative Session will start in February this year due to the gubernatorial inauguration. We will begin publishing *Capital Eye* weekly at the session's start. Please send address changes, etc. to linda@wvcag.org.

Campaign Aims to Change the FACE of WV Politics

by Julie Archer, julie@wvcag.org

In September, Citizens for Clean Elections launched a public education and postcard campaign to encourage legislative support of Fair and Clean Elections (FACE) in West Virginia. Representatives of several coalition partners, including WV-CAG, participated in the kick-off press conference at the State Capitol and Delegates Bonnie Brown, Dan Foster and Rusty Webb attended and voiced their support for the West Virginia Fair and Clean Elections Act. (Other legislative supporters like Senator Jon Hunter, Senator Vic Sprouse and Delegate John Doyle called to let us know they would be unable to attend, as did Secretary of State-elect Betty Ireland).

Delegate Foster brought a special guest, Representative Christopher O'Neil, a Maine legislator who was in West Virginia attending interims to talk about Maine's health care system. Rep. O'Neil spoke about the success of Clean Elections in his home state saying the legislative process has improved because fewer legislators are relying on contributions from big business and more voters are invested in the system. He also said Clean Elections diminished the influence of the insurance industry in the Maine legislature, making it possible to pass a comprehensive health care plan that provides coverage for all of the state's citizens.

Think about how the West Virginia legislature might be different if we had a Clean Elections system in the Mountain State! If you're tired of politics as usual, please do what you can to help with this important campaign. Although the coalition has had several volunteers come forward to help, many more are needed. **If you would like to coordinate efforts in your home county by distributing brochures and postcards, e-mail julie@wvcag.org or call the WV-CAG office at 346-5891.**

Speakers are available for presentations to civic groups and other organizations, and we have additional written materials and videos for house parties or other events you might want to organize to help spread the word about Fair and Clean Elections (FACE). Working together we can change the FACE of West Virginia politics!

Verified Voting Expert Speaks to Interim Committee

by Julie Archer, julie@wvcag.org

During the November interims, Bob Kibrick, an expert computer consultant and activist with Verified Voting, addressed a legislative sub-committee on the problems with relying on electronic voting machines to record and count votes without a voter-verifiable paper ballot.

Mr. Kibrick outlined many fundamental problems with paperless DREs, or Direct Record Electronic machines, and stressed the importance of election transparency. **“Voters need to have confidence in voting technology, but paperless DREs fail to provide that confidence because the entire voting process is closed and opaque and the results aren’t voter verified,”** he said. “Secret software records and counts the votes and if a DRE makes any errors in recording or storing votes, unless you have paper ballots inspected by voters, no meaningful manual audit can be done.” Mr. Kibrick also detailed how testing and certification of voting equipment is inadequate, and said there were numerous ways DRE software could be programmed to intentionally steal votes during an election, while passing required pre and post election tests with flying colors. He said a related concern is that a voting machine that wasn’t rigged might miscount votes during an election because of programming bugs. Mr. Kibrick also suggested alternatives to DREs that provide many of the same advantages, including allowing individuals with disabilities to vote without assistance, but are more cost effective.

Problems with touch screens and other types of DREs during elections are numerous and well documented, and November 2 was no exception. In Carteret County, North Carolina, 4,530 votes were lost because election officials thought the computer would hold 10,500 votes when only 3,005 actually fit. An error with a DRE voting system in Franklin County, Ohio gave President Bush 3,893 extra votes in suburban Columbus. The county’s unofficial results had Bush receiving 4,258 votes to Democrat John Kerry’s 260 in a precinct where only 638 voters cast ballots. There were also problems with machines used to count absentee ballots in Florida. The machines began subtracting votes when the totals surpassed 32,000. In addition, voters calling into an Election Day hotline reported more than 1,100 problems with touch screen voting machines, from improperly recorded choices to frozen screens. These problems underscore the shortcomings of electronic voting and highlight the importance of having a voter-verifiable paper ballot.

Mr. Kibrick's testimony before the legislature gave a big boost to our efforts to require a voter-verifiable paper ballot for all voting systems used in West Virginia. WV-CAG member and WV Citizens for HAVA founder Hedda Haning said, "No question Bob got the subcommittee's attention with his presentation. He woke several people up. They could not ignore his expertise and vast knowledge of election technology and state election law." Mr. Kibrick, Hedda and I met with several legislators in their offices the following day and the feedback was very encouraging. (*Thanks to Hedda for working with the interim committee staff to make Mr. Kibrick's visit to West Virginia possible*).

The week after Mr. Kibrick was in West Virginia, the legislature passed a bill during the special session to set up a revolving loan account to provide counties with federal funds to upgrade voting systems. **The bill states that no loan will be approved until final standards for electronic voting equipment with a voter-verifiable paper ballot have been established either by the Secretary of State or the National Institute for Standards and Technology (NIST).**

Although additional legislative action will be necessary to require a voter-verifiable paper ballot, we feel this bill is an important statement of intent to codify that requirement. We'll continue to keep you up to date and let you know about actions you can take to help protect the integrity of our elections.

To find out more about Verified Voting, a national group working for transparent, reliable and publicly verifiable elections, visit www.verifiedvoting.org.

Capital Eye is published by West Virginia Citizen Action Group (WV-CAG). You can visit our website at www.wvcag.org, call us at 304-346-5891 or e-mail us at 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!

“Clean” Candidates Successful in Maine, Arizona and North Carolina

by Julie Archer, julie@wvcag.org

Public Campaign (www.publiccampaign.org), a national organization working for full public financing of elections, reported that in Maine and Arizona a record number of Clean Elections candidates won election on November 2.

In Maine, 83% of the state senate and 77% of the house will be made up of legislators who ran “clean.” Both major parties are heavily represented in this group of incoming legislators.

In Arizona, all four winning candidates for the state’s corporation commission participated in Clean Elections. As a result, ten of Arizona’s statewide elected officials, including its governor, attorney general and treasurer, will serve with no special interest strings attached. In addition, 58% of the members of the Arizona state house and 23% of the state senate ran “clean.” As in Maine, Clean Elections winners in Arizona were both Republicans and Democrats.

In North Carolina, judicial candidates had their first opportunity to participate in a public financing system modeled after Maine and Arizona. Two seats on the seven-member Supreme Court and three seats on the 15-member Court of Appeals were up for election. Both Supreme Court races and two of the three Court of Appeals seats were won by candidates who ran with public financing. In all, 12 of the 16 candidates running for the five seats participated in the public financing program.

UPDATE YOUR MEMBERSHIP HERE!!

If you like what you see, ***why not join WV-CAG today?*** If you are already a member, now is a great time to renew your membership or send in an extra donation. Please clip and mail to WV-CAG, 1500 Dixie St., Charleston, WV 25311:

Name: _____

Address: _____

Here’s my donation of ___\$15 ___\$25 ___\$50 ___\$100

Other \$_____

Send action alerts to my e-mail: _____

We Need New Heroes

by Linda Mallet, linda@wvcag.org

WV-CAG was founded on the principles of progressive crusader Ralph Nader. Nader's beliefs and political philosophies made his 2000 presidential candidacy a viable choice for progressive voters. But the truth remains that Nader's 2000 bid for the presidency gave us Dubya and his four years of destruction. This was a tough lesson learned on how one good guy can cost the electable sort-of good guy the race. And the 2000 election, the unpredictable event that it was, now holds its valuable place in history. After all, who could have predicted that George Bush would "win" the presidency by 537 votes?

Four years go by and Nader decides to again throw his hat in the ring. His candidacy this time around was treated as an annoyance, an unwelcome threat, even by disbelieving third-party founders and Nader followers. How could he do this again, after what many believe he caused last time? The only answer is ego. And in response, while Nader won impressive percentages in 2000 in many states, this time voters were not tempted to support him or buy his message of taking votes away from Bush.

Ken Hechler is another champion, a long-serving accessible public servant, but, unfortunately another victim of ego. He left his position of Secretary of State in 2000 to return to Congress. When he lost that bid in the Democratic primary he blamed it on the fact that his opponents greatly out-spent him. So, in his 2004 race to regain the Secretary of State office, he spent about \$1 million of his own money. Despite this incredibly outrageous amount of personal expense, Hechler lost to his Republican opponent.

Those who supported these mavericks during their heyday must come to terms with the fact that these men's egos, sense of duty, you name it, caused them to wage a losing battle and, in doing so, prevented good candidates from their fair turns. We wanted a better legacy.

Both of these heroes were overpowered by the need to feed their egos. If only they had decided to step out of the limelight and sublimate their egos by providing invaluable guidance behind the scenes, we might have had a chance in 2004 to re-elect President Al Gore and to elect Secretary of State Natalie Tenant.

Now, more than ever, we need some new heroes.