



Capital Eye

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Week 8, Crossover or Crash!

By Gary Zuckett

This past Wednesday was crossover day and any bill not passed out of its house of origin that day is considered done, dead, caput. The House managed to toss over 160 bills to the Senate. The Senate's count was 156 including the literal last minute Hail-Mary passage of SB 616. The passage of SB 616 is a study in what can be done when leadership wants something. This was the resurrection of SB 566 which died in Senate Finance a day earlier. It deals with what some see as a liability crisis over OPEB (other post-employment benefits) such as retiree health care costs, which accountants are crying the blues over. The West Virginia Center on Budget and Policy has a different take [here](#) when talking about the original bill. This resurrection was accomplished all in the space of several hours on "crossover day." The bill "originated" in and passed out of Senate Finance in the afternoon and was reported to the floor during the evening session. On the Senate floor, they waived the rules requiring bills to be read on three separate days, amended it on second reading and passed it unanimously! Hopefully, the House will take time to consider the merits of this rushed legislation that basically defunds state public employees' retirement health care.

Rally for Retirees

Speaking of retiree health benefits, several members of our lobby team attended the solidarity rally on Thursday at the Capitol for Century Aluminum retirees. They were protesting the loss of their contractually negotiated health benefits which were cancelled by the corporation's CEO - who earned over \$4 million in 2009. Many of the retirees are suffering from life-threatening conditions and require immediate medical treatment but do not yet qualify for Medicare. See Paul Nyden's Gazette article here:

<http://www.wvgazette.com/News/201103031153>

Bigger Wisconsin Solidarity Rally March 12th!

By Gary Zuckett

As the Banksters' and Billionaires' class warfare against public employees continues to spread to our neighboring states of Ohio and Pennsylvania, plans are being made for another, bigger, solidarity rally at the state Capitol on the last day of the session, March 12th. The crowd at last Saturday's event was estimated to be between 250-350, but folks were still arriving as the event closed so who knows how many attended in all. Another Nyden article describes this uplifting event:

<http://wvgazette.com/News/politics/201102261499>

and Jeremy Brannon's short video of the rally's highlights is here:

<http://www.youtube.com/watch?v=RyZUVsRIImbs>

Come down to the capitol next Saturday to support working families everywhere and tell those who have the middle class in the crosshairs that we won't take it anymore! The rally starts at 12:30 on the river side of the capitol. Bring the kids and make a day of it. Food concessions will be set up inside the Capitol and in case of rain we'll be on the ground floor of the rotunda. Let's make this a thousand person event!

Good Bills Crashed Too

So many good bills didn't make the cross-over this week and crashed. SB 509 that would have saved the state money on health costs by covering contraception and pregnancy for dependents of state employees on PEIA insurance. This bill never made it out of the Senate Banking and Insurance committee chaired by Senator Joe Minard, the only senator to vote against the Ethics bill.

Unlike the Ethics bill, many other good government proposals crashed. SB 317 would have required corporations to disclose political expenditures to shareholders, the Secretary of State and the public. HB 2405 would require corporations to clearly report general fund political expenditures to shareholders and require shareholders to approve political expenditures of \$10,000 or more. Acting Senate President, Jeff Kessler (D-Marshall) and Delegate Tim Manchin (D-Marion) should be

thanked for sponsoring these post *Citizens United* reforms.

Energy efficiency would have improved in West Virginia had HB 2025 passed requiring utilities to set goals to reduce overall energy consumption in our state. Many more “green” energy bills met the same fate. When will we “get it” and start passing incentives for renewable energy sources at least at the same level that we throw tax money at coal, oil and gas?

The Answer? Become a Legislator!

We will probably “get it” when there are many more progressive legislators behind the desks at the Capitol. Now is the time for you to consider running for the statehouse! The progressive and labor communities are looking for candidates to support in scores of districts.

For the first time ever, the national Democracy for America (DFA) group will hold a campaign training session in West Virginia, April 9-10, 2011. Their mission is to focus, network, and train grassroots activists in the skills and strategies needed to take back our country, manage successful campaigns, or run for office themselves. The training also includes issue advocacy and lobbying with an emphasis on organizing around an issue, generating public pressure, and citizen lobbying of elected officials. Considering the numerous social, environmental and economic problems facing West Virginia, this individualized training will be invaluable. To register and prepay online: www.democracyforamerica.com/events/2506-weston-wv-dfa-campaign-academy . For further information and to sign up for email updates contact North Central WV-DFA Chair Denise Binion at ncwvdfa@gmail.com or call 304-669-0247

Challenge Grant – Almost There!

Since this is the last newsletter we issue until after the session (watch for a session wrap-up after we recover), this is the last chance to have your contribution be doubled by drawing down our legislative challenge match. We are less than \$400 away from matching the whole \$3000 match offered by one of our major donors! Thanks to all who have pitched in to make this happen! Those

who want to get us over the top can send a check to 1500 Dixie St, Charleston WV, 25311.

Marcellus Shale Legislation Awaits House Action

By Julie Archer

On Wednesday, bills regulating Marcellus Shale gas well drilling were up for final a vote in both the House and the Senate. However, only the Senate acted, and the House decided to forego further consideration of its bill (HB 2878) – the stronger of the two – in favor of the weaker Senate version (SB 424).

You can read more coverage of the Senate action and Senator Clark Barnes' (R-Randolph) effort to strengthen the bill by eliminating the Oil and Gas Inspectors Examining Board [here](#), [here](#) and [here](#). This board gives the industry too much influence over the hiring and firing of oil and gas inspectors. Senator Barnes' amendment would have done away with the board, as well as the requirement that inspectors have industry employment history in order to be hired. It also allowed DEP to hire oil and gas inspectors the same way they hire other environmental inspectors. We're not sure if partisan politics got in the way or the fact that the bill was advanced to third reading with right to amend which gave industry backers in the Senate an extra day to squelch support for the amendment, but it was defeated. Most Senate Republicans supported the amendment with a few partisan exceptions that we are aware of, including Senators Dan Foster (D-Kanawha), Ron Miller (D-Greenbrier) and Herb Snyder (D-Jefferson).

Please call or e-mail your representatives in the House of Delegates ASAP. This may be our last chance to pass a bill this session to regulate Marcellus Shale and other gas well drilling.

[Click here](#) to find contact information for your delegate(s). You can also call them toll free at 1-877-565-3447.

On Thursday, SB 424 was read a first time, then placed on the regular “House Calendar” (described by one statehouse reporter as the “graveyard where bills go to expire in the waning days of a session”) as opposed to the “Special Calendar”

(consideration of bills on this calendar precedence over bills on the regular “House Calendar”).

Update as of Friday: The bill is back on “Special Calendar” and will be on second reading (amendment stage) on Monday, but things are changing on a daily basis.

It is imperative that your delegates hear from YOU. There is a coordinated effort by some in the industry to stop the bill, saying - “Vote No” and “the future of the industry and West Virginia’s economy are at stake.” We’ve heard that legislators are receiving hundreds of these messages – but very few from concerned citizens in support of a strong bill regulating Marcellus Shale and other gas well drilling.

Please contact your Delegates and ask them to pass a strong bill that will protect West Virginia’s:

- **Surface Owners**
- **Water Resources**
- **Environment and Natural Resources**
- **Mineral Owners**
- **Work Force**

Although the Senate bill has some good provisions, there are many good provisions in HB 2878 that we would like to see incorporated into SB 424. These provisions include:

* Requiring all new oil and gas leases to contain language advising the signer to consult with an attorney.

* A pre-survey notice be issued to surface owners that:

- Applies to ALL new wells, not just to horizontal wells.

- Is issued thirty days in advance of the entry to survey.

- Requires the driller to offer to meet with the surface owner.

* Requiring horizontal wells to be 1,000 feet from occupied dwellings and water wells unless the owner consents, or unless a variance (with conditions) is granted.

* Requiring horizontal wells to be 100 feet from a watercourse, pond, or wetland.

* Requiring horizontal wells to be more than 2,500 feet upstream of a surface public water supply, and more than 1,000 feet from a groundwater public water supply.

* Allowing the state to deny or condition a horizontal “shallow” well permit based on impact to parks, rare habitats, historical sites, bodies of water, etc.

* Requiring horizontal wells to be inspected during each phase of cementing, completing and altering before the company can proceed.

* Extending water well testing near horizontal wells from 1,000 to 5,500 feet if requested by the water well owner.

* “Local jobs for local workers” provisions.

Please [contact your delegate\(s\)](#) now and urge them to support SB 424 and any amendments that would strengthen the bill. ***Thank you!***

Slurry Bill Sunk

By Joel Brown

This week the slurry bill, also known as the “Alternative Coal Slurry Disposal Act” (HB 2850), was not considered in the House Finance Committee. Tuesday’s meeting would have been the deadline for the bill to be passed out of committee for consideration by the full House. The highly anticipated bill (for background refer to the article in last week’s newsletter) would have put a moratorium on new permits for underground slurry injection sites. But by failing to consider the bill in time, the bill’s chances of moving forward were killed. Like so many poisoned fish, this bill essentially became dead in the water once leadership lost interest in addressing the dire needs of some of West Virginia’s most devastated communities.

Election Bill Update

By Julie Archer

Most of the election bills that we wrote about in the [February 4th edition of the Eye](#) met their demise on

Wednesday and are now officially dead. Unfortunately, the list of the deceased includes HB 2378, which would have added West Virginia to the states that have joined the National Popular Vote compact. Under this compact, the state would agree to award its electoral votes to the presidential ticket that receives the most popular votes in all fifty states and the District of Columbia. The bill made it further than many this session, having reached the House floor for a vote before being sent to the “graveyard” by the House leadership.

Here is an update on some of the election bills that are still working their way through the process:

HB 2903, the rules relating the West Virginia Supreme Court Public Campaign Financing pilot project, which will make public financing available to state Supreme Court candidates in next year’s elections. These were bundled with some other legislative rules into HB 2639 and passed by the House well ahead of this week’s crossover deadline. Last Friday, the House also passed HB 2732, which would provide additional funding for the project through annual fees paid by licensed attorneys and modest “fair administration of justice” fees on those using our courts. The bill also provides for a one-time transfer of \$2 million from the Unclaimed Property Trust Fund. Both bills are awaiting action by the Senate Judiciary Committee.

SB 391, which would make changes to the process for establishing satellite or community voting locations for early voting in places other than the county clerk’s office, was passed by the Senate and has been referred to the House Judiciary Committee. Its companion, HB 2748, met its demise in House Judiciary last week. Currently, the county executive committees of the Democrat and Republican parties have veto power over the process of establishing community voting locations. SB 391 provides the counties with a work around if they cannot get approval from the executive committees.

While we support the expansion of community voting, as introduced, SB 391 also contained a provision to shorten the early voting period from 20 days to 13 days, without extending the deadline for voter registration. Presently, voter registration ends the day before early voting begins and in the short term we were hoping to see this practice continue. Ultimately, it would be great if individuals could

register and vote on the same day during the early voting period, as proposed by HB 3001. Unfortunately, neither seems likely this session. Although the provision to shorten early was not included in the final version of SB 391 it is still alive in a separate bill, SB 581.

One last election bill that is still alive and bares mentioning is HB 3100, which would permit the sale of liquor on election day. If the Senate passes the bill, those who want to consume such spirits on election day can buy their own, instead of having to rely on those trying to buy their votes!

Ethics Bill Returns to House for Tweaking

By Joel Brown

House Bill 2464, the Ethics Bill, passed the Senate by a 32-1 vote on Monday. The only senator to vote against the bill was Joe Minard (D-Harrison). The bill, having passed in both the House and the Senate, would add requirements that public officials and high-ranking administrative aides disclose spousal employment and income, and that public employees refrain from registering as lobbyists for one year following their state government employment or service.

There are, however, two revisions that the Senate added to its version of the bill. The Senate excludes unpaid members of state boards and commissions from complying with the spousal disclosure requirements. And there is disagreement about when the new one-year lobbying moratorium would go into effect: the House bill would be effective upon passage, while the Senate bill would postpone the effective date until January 1, 2012. The Senate Judiciary Committee had earlier proposed exempting current legislators from the new ethics provisions until their terms expired, but later removed this amendment.

Last year’s ethics bill failed to make it out of committee in time for consideration by the full Senate. There was controversy about the timing and committee assignments, including accusations that Senate leadership was maneuvering to kill the bill. Considering last year’s controversial death of the ethics bill, one Senator, Walt Helmick (D-Pocahontas) registered his frustration, saying "I think you could surmise those in power last year

didn't want the bill." Helmick was the Senate Finance committee chairman last year, and he was criticized for the bill's failure to pass Finance in time. You can read more about the debate here: <http://wvgazette.com/News/politics/201102280582>. Further details, including an audio recording of the floor debate, can be found at <http://westvirginia.watchdog.org/2584/wvleg-senate-approves-updated-ethics-act-with-audio/>.

This week the House did not accept the proposed Senate revisions. So it appears that the stage is set for a conference committee to hash out an agreement on the 2011 Ethics Bill. We wish them success.

Bridge Day for Women's Rights!

We want to let you know about this important announcement from our friends at WV Free!

To celebrate International Women's Day, amazing local women have organized:

"Meet me on the Bridge" at 12 noon on Tuesday, March 8th

The group will gather at the base of both sides of the South Side Bridge. Here is some helpful information I promised to pass along from organizers:

You can gather two places: 1) At the base of the South Side Bridge on the sidewalk of Virginia Street at Dickinson or 2) At the base of the ramp of the Bridge between the West Virginia Lottery and the Train Station building. There will be volunteers to guide you!

The purpose of the gathering is to bring awareness to the plight of women in Third World Countries who are victims of war. We know that women are the key to peace worldwide and you are going to help spread that message while on the Bridge.

Please wear orange or blue, the colors of the women and in Congo and Rwanda who originally started the "Meet me on the Bridge" process. T-shirts will be sold for \$10, \$5 of which will be donated to Women for Women, the organization that is spearheading this event globally.

This event will take place rain, snow or shine so dress appropriately!

Please help promote this event to your friends, colleagues and family members. Ask them to **register** on the event website at: <http://www.progressity.com/MeetMeOnTheBridge> You will know the event is concluding when the drummers begin marching everyone off the Bridge.

If you have any questions, please email Barrie Kaufman at artistbarrie@aol.com.

Victory Over PATH!

Too often we don't take time from our fights for environmental and social justice to take a deep breath and celebrate our wins. The announcement that AEP and the regional PJM have thrown in the towel on their bogus proposal to charge West Virginia rate payers billions to build a huge new power line to the east coast **is such a big win!** This boondoggle, designed to profit the utilities (which get a guaranteed return on every dollar spent) finally collapsed under the weight of the crumbling economy and the perseverance of opposition groups across the state. Here's a big THANK YOU from all West Virginia ratepayers to all those who fought so long and hard against PATH! Follow the history of the demise of this dinosaur on Bill Howley's web page at <http://calhounpowerline.com/>

Breaking News

The West Virginia DEP's Division of Air Quality has announced a permit review for Bayer CropScience's Institute plant, with a public comment period of thirty days. For more information please contact Mike Egnor at DEP, (304) 926-0499 Ext:1208, or go to their webpage [here](#). For a more in-depth look at the issue, visit the People Concerned About MIC [website](#).

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