



Capital Eye

Volume 1, No. 2 ~ January 20, 2012

Week Two – Getting Down to Business

By Gary Zuckett

As of this morning 1319 bills have been introduced into the legislature. This includes over one hundred “rules” bills. Rules bills are the most arcane legislation as they are crafted in great detail by the agencies whose job it is to enforce or oversee the laws the legislature passes.

Every year the Environmental Council lobby team has to wade through literally thousands of pages of “rules” to find the poison pills that industry lobbyists hide inside. Kudos to Don, John, Leslie and all the Greens for their diligence in keeping track of all these details. If you missed the E-Council’s Session Kick-Off Fundraiser at their office this week, log on to www.wvecouncil.org and send them a membership donation to help protect our precious air and water resources.

Committees are now overloaded with more legislation than they can possibly consider in the 60-day session and its very good that most of it will never be taken up by a committee. Many of them make me wonder – like HB 4039 – “Prohibiting the disruption of emergency communications by sabotage” Isn’t this already illegal? Or HB 2216 – “Prohibiting family planning centers that receive state funding from (even) discussing abortions.” What ever happened to ‘free speech’? See what I mean?

Congress just got back to work in Washington and one bill that’s been getting a lot of attention from the web is SOPA – the Stop Internet Piracy Act. Sounds like a good thing right? No one likes pirates. However, Congress does not have a “truth in labeling” clause and one always needs to get into the details. This Act goes way beyond protecting intellectual property and could be used for the kind of censorship found in China and other not-so-free countries. The Electronic Frontier Foundation www EFF.org is a long established group whose goal is to keep the internet free and unrestricted by those (media giants) who would like to control it. To that goal, a new group has come up with a novel tactic, the [reverse robo call!](#) Now for a small fee, you can record your very own phone message and have it sent to members of Congress

and the lobbying firms that are pushing internet censorship. From 99 cents and up, you pick who to target with your message and a percentage of every order is donated to EFF. I’ve always wanted to get back at those annoying calls at dinnertime...

Citizen lobbying is essential both at the state and federal level. If all lawmakers hear are messages from paid lobbyists, then what kind of public policy do you expect? Please make the time this legislative session to be a citizen lobbyist. If you can, come down to the capitol on the Progressive Lobby day we have set for Feb 8th or just call us and come down whenever you can. It makes an impression on (most) lawmakers when one of their constituents shows up in their office with an issue of concern. I know this is not practical for many so pick up the phone and leave a message or write a letter. In the hierarchy of effectiveness, the easier it is to do – the less impact it has. A visit is most effective. A short personal (snail-mail) letter is next, then a phone call, finally an e-mailed personal note, and those super easy “click on this button to send a message to your senator” are at the bottom of the list. In the end, any communication is better than none so do what you can.

Don’t forget the resources available on the WV Legislative web page www.wv.legis.state.us I just found a new blog they have with daily entries and pics of some of the happenings at the capitol.

Finally, I want to thank all who have recently renewed their memberships or sent in a donation. Your support is what keeps us speaking ‘Truth to Power’ and every contribution is appreciated. Our web page www.wvcag.org has an on-line donate button and an option to print out a member form and mail a check. Thanks in advance for those who so do!

House Advances FOIA Fix Bills, Minority Advocate

The House of Delegates is moving quickly on two bills that it passed during previous legislative sessions, but which failed to gain approval or were gutted by the Senate.

On Wednesday, Delegate unanimously passed a fix to the state's Freedom of Information Act aimed at closing a perceived loophole that has been used to keep the personal e-mails of public officials from being released.

The bill (HB 2402) defines a public record as any writing prepared or received by a public body, if its content or context relates to the public's business. Delegate Barbara Fleischauer (D-Monongalia), lead sponsor of the bill sought the revision in response to a 2009 state Supreme Court ruling rejected a FOIA lawsuit by the Associated Press.

The case involved e-mails between former Supreme Court Chief Justice Elliot "Spike" Maynard and then-Massey Energy CEO Don Blankenship that the AP sued to obtain under the Freedom of Information Act. The AP sought the e-mails after the release of several photos showing Maynard and Blankenship spending time together on the French Riviera during July 2006, while Massey had several cases pending before court.

The House unanimously passed a version of the bill last year, but it did not make it out of the Senate Judiciary Committee before the end of the session.

To read more about the FOIA fix, check our Ken Ward's post on the Charleston Gazette's "Sustained Outrage" blog -- <http://blogs.wvgazette.com/watchdog/>.

The House has also taken swift action on a bill sponsored by Delegate Clif Moore (D-McDowell) to establish the Herbert Henderson Office of Minority Affairs. The bill (HB 4015) would create a cabinet-level office designed to research, advocate for and oversee programs that address issues that disproportionately affect African-Americans and other minorities.

The bill was the first piece of legislation passed out of the Judiciary Committee last week and is currently awaiting action by the House Finance Committee. The House has overwhelmingly passed the bill in 2009, 2010 and 2011, but each year, the bill either stalled in committee or had its funding stripped in the Senate. According to media reports, the bill's sponsors and legislative leaders have Moore and other House leaders have worked to resolve some of the "misunderstandings" and are optimistic about its chances for passage this time around. The Charleston Daily Mail has more details at <http://dailymail.com/News/statehouse/201201150124..>



Elections as Business Investments

By Gary Zuckett

Saturday is the 2nd anniversary of the Citizens United vs FEC Supreme Court decision that Corporations are people that have the right to spend unlimited millions to elect our lawmakers. NOT! Corporations are a legal fiction, not living people as well stated in CAG member Hedda Hanning's [Op-Ed](#) and this Gazette [editorial](#) and shouldn't enjoy all the rights of a flesh and blood human. This issue is going to be taken up the state capitol. Both houses introduced [resolutions](#) we worked on that instructs Congress to overturn the high court's errant ruling.

This flood of corporate cash into our electoral process is probably the one of the greatest threats to our representative government that we face today. If it's not fixed in a timely manner we may not survive as a true democracy, instead becoming a nation run by and for the 1%.



Friday at noon, Citizen Action joined with AFL-CIO, the League of Women Voters, and other groups to hold a rally outside the Charleston federal courthouse. Over one hundred real flesh & blood citizens braved the cold to show their disdain for and the absurdity of the “Citizens United” decision.



Five of us dressed in black judicial robes and got a special training (from Uncle Sam no less) in the identification of real people vs. fictional ones. The rally was one of scores that were held around the country that day under the banner of “Occupy the courts.”



Meetings with our US Senators are also planned as a follow-up. Call them up and ask them to co-sponsor a Constitutional [Amendment](#) to undo Citizens United.

The Importance of Base-Line Testing.

By Joe Dickerson

While this material was covered in WVSORO’s Spring 2011 Newsletter this is just a refresher and reminder. For an in-depth discussion on this topic please check out this link: <http://www.wvsoro.org/newsletters/2011/spring.pdf>

Currently there are a multitude of studies that debate the environmental effects of fracking. While these studies are isolated and often of questionable veracity, to those who are being drilled on, there is no doubt that fracking has done damage in their backyards. Unfortunately there is often little that can be done to prove that the damage is the result of fracking without base-line testing. Getting these tests done before drilling occurs is an important factor in the fracking debate and that damage in your area is the result of industrial action.

Fracking presents two distinct threats to water. The most noticeable are catastrophic events caused by industrial accidents. These major events are usually clearly visible and blame can be laid at the feet of the negligent company. What are more worrisome to those in Gasland are the cumulative effects of minor leaks, spills, and mismanagement. These smaller incidents are less visible but their combined effects can be felt long after “clean up” is over. While fizzing, discoloration, bad taste/odor, and “stuff” in the water are signs of pollution; dangerous changes in your water can take place before noticeable signs appear. Testing will show what is responsible for the changes and pre-drilling tests will establish a before and after comparison. This is where a pre-drilling base line test comes in handy.

A baseline test should look for “signature chemicals” that are typically associated with gas well activity, including waste fluids. If later water tests show significantly increased levels of these “signature chemicals” after drilling occurs, the changes would provide evidence that contamination had resulted from drilling activities. Yet such tests need to be performed before drilling occurs in order to give a before picture. Residents of Wetzel County did not have these tests performed before fracking occurred in their area, and are now struggling to prove that the environmental shifts they are experiencing are the result of fracking activity.

Professor Mike Stephenson of the British Geological Survey said most experts thought the process, known as fracking, was a "pretty safe activity". Despite this claim

Professor Stephenson cautioned those concerned with following the environmental damages caused by Fracking should perform baseline test. Stating: "If you don't know what the baseline is, you don't know if people are running a tight ship." Stephenson further notes that these tests are important because sometimes, "There's natural methane in groundwater and you have to distinguish between what's there already and what might have leaked in."

Costs depend on what is being tested, and more tests are not necessarily more effective. Experts suggest that you test for chemicals which have the highest probability of being impacted by drilling operations. Such chemicals include: pH, alkalinity, turbidity, total suspended solids, total dissolved solids, chloride, conductivity, MBAS (detergents), chemical oxygen demand, total hardness, calcium, barium, strontium, arsenic, iron, manganese, methane, volatile organic compounds including BTEX, and gross alpha and beta radioactivity. Other tests will add to the expense but will not necessarily increase effectiveness. The Office of Oil and Gas requires testing for pH, Iron, Total Dissolved Solids (TDS), Chloride, Detergents (MBAS), Methane, Coliform Bacteria.

If there is a chance fracking will occur in your area it is highly recommended that you get base line tests done BEFORE they arrive. Without these tests it will be next to impossible to prove that methane or other pollutants in the water are the result of fracking well operation. Gas companies are quick to claim that any methane in the water is naturally occurring. Similar claims are made concerning the presences of other pollutants. Base-lines tests are crucial in proving if the present.

Useful links:

A Baseline Testing Brochure: While from New York the information is useful.

http://www.tiogagaslease.org/images/Gas_wells_and_water_FAQ_brochure.pdf

State's list of approved water testing labs: Follow First Link on page. Will Download separate document.

<http://www.dep.wv.gov/Pages/Search.aspx?q=water%20testing%20lab>

State's Baseline testing Results

http://www.wvdhhr.org/oehs/eed/i%26cd/documents/baseline%20assessment/baseline_assessment_2011.pdf

MLK Day, A time to Remember and Get Active

By Gary Zuckett

The Asbury UMC church was packed on Monday for the Martin Luther King Day Commission's memorial service. Governor Tomblin and the first lady had seats right in front of the MLK men's choir and were joined by Senator Manchin. Mel Hoover of the Kanawha Unitarian Fellowship offered a rousing and thought provoking keynote and the whole service was uplifting and touching. WV was the first state to enact a state holiday honoring the civil rights leader.

And, in the spirit of the fearless protester for civil and human rights, WV Patriots for Peace brought a Friends Service Committee sponsored banner display of Afghan War art to remind us all of what effects the longest war in American history is having on the civilian population of that country.



Several folks held the banners outside the church while people entered and Rev. Jim Lewis held one banner at the back of the sanctuary the whole service. Senator Manchin mentioned the Afghan war in his remarks calling for our troops to be brought home. Then we and other volunteers from the crowd carried the twenty or so panels in the march to ring the Liberty Bell replica at the capitol. Tonight the whole display is set up at WV State University.

Energy Efficient West Virginia Lobbying for two Bills

By Cathy Kunkle

Join Energy Efficient West Virginia for a lobby day on Tuesday, January 24th! We will meet at 1pm in the rotunda of the capitol building (the main dome) - on the lower level next to the Information Desk. Members of Energy Efficiency West Virginia will give you a brief orientation to lobbying and answer any questions that you have about talking to your legislators or the bills, as well as handing out fact sheets that you can provide to your legislators. If you wish to set up meeting times with your senators and representatives in advance, you can find their contact information on the legislature's website: <http://www.legis.state.wv.us/> (see "Who's my legislator?" in the lower right corner).

We will be lobbying for two bills that will help save West Virginia residents and businesses money on their utility bills, create jobs, and cut energy waste:

▲ Senate Bill 162 ("Least Cost Planning"): This bill was introduced by Senator Dan Foster last Thursday and is now in the Judiciary Committee. The bill requires our power companies to file least-cost plans with the Public Service Commission every two years explaining how they plan to meet future electricity demand at the lowest cost to ratepayers. Specifically, the bill would require utilities to evaluate a range of scenarios, including both conventional power plants and energy efficiency, for meeting future power needs. In states where this process is done well, it leads to significant investment in energy efficiency because saving money through energy efficiency is cheaper than building new power plants.

▲ Energy Efficiency Resource Standard: We expect this bill to be introduced early next week by Delegate Mike Manypenny and Senator John Unger. The bill requires electric utilities to achieve a reduction in electricity sales of 5% of 2010 levels by 2018 and sets a goal (that can be later modified by the Public Service Commission based on program implementation

experience) of achieving a reduction of 15% of 2010 levels by 2025. Utilities can meet these targets by offering programs to help their customers save energy, such as rebates for more efficient appliances, weatherization assistance, industrial energy assessments and other programs. West Virginia's utilities also operate in Ohio and Pennsylvania where they are already meeting or exceeding similar energy efficiency targets in those states.

Tuesday's lobby day also coincides with [Industries of the Future Day](#) at the legislature. Industries of the Future is a group at WVU that provides industrial energy assessments and has helped businesses across the state save millions of dollars through energy efficiency.

for a general assembly. If you would like to submit a proposal for the agenda send your email to the facilitation team at occupycharelstonwv@gmail.com by 12 midnight, Friday, January 27th.

BREAKING NEWS: ROCKEFELLER RELEASES STATEMENT ON TWO-YEAR ANNIVERSARY OF CITIZENS UNITED CASE

CHARLESTON, WV – Senator Jay Rockefeller today release the following statement on the two-year anniversary of the Citizens United case: “Two years ago, the Supreme Court overturned longstanding campaign laws and allowed corporations and rich donors secretly to spend unlimited dollars on political campaigns. That shift drowns out the voice of ordinary citizens as never before. I remain appalled by this ruling and will keep working to limit undue influence of hidden, special interest money in politics. We need to restore basic trust in the system by passing the DISCLOSE Act, and any other legislative solution that can right this wrong.”



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Capital Eye is published by WV-Citizen Action, a nonprofit membership organization founded in 1974 and dedicated to increasing citizen participation in economic and political decision-making. Our members work for progressive changes in federal, state, and local policies by educating people about key public interest issues ranging from environmental protection and consumer rights to good government. Learn more about us at www.wvcag.org.



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