



Green Legislative Update

Published Weekly During West Virginia's Legislative Session

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Under the Dome

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Week 7 – Putting Lipstick On a Pig

Before this legislative session began, members of the WVEC Renewable Energy Committee were granted a meeting with Governor Manchin to discuss his energy initiatives and our Citizens' Energy Plan for bringing green jobs and new economic growth to West Virginia.

The meeting lasted for almost an hour and 15 minutes, which is about an hour and 10 minutes longer than he has ever spent with us.

Also present at the meeting were Department of Commerce Cabinet Secretary Kelly Goes, Director of the Division of Energy Jeff Herholdt, and the governor's legislative liaison Jim Pitrolo.

When I asked Pitrolo to set up this meeting, his initial response was, "Well, the governor isn't going to change his position on 'coal-to-liquids'. This is a coal state."

I replied that we wanted to talk about renewable energy and energy conservation and efficiency, and not waste the governor's time (or ours) arguing about "clean coal."

So we met. Things were very cordial. Mainly, we listened. But we did get to talk about renewable energy, and we gave the governor's staff copies of our four energy bills: green buildings, renewable portfolio standards, energy efficiency, and PSC siting reforms.

We offered to work with the governor on these issues.

The governor promised that staff would get back to us about our bill proposals. They never did.

And then the session started and the governor gave his State of the State address in which he unveiled energy initiatives that are centered almost entirely on – you guessed it – *coal*. Each of the four major elements to the governor's energy legislation is really *only about coal*.

The Alternative and Renewable Energy Portfolio Act (**SB 297 and HB 2682**) is not about decreasing our carbon footprint, but instead promotes coal-to-liquids and other "clean coal" technology.

The Transmission Line Tax bill (**HB 3000 and SB 505**) enables the *gargantuan* PATH and TrailCo power lines in order to burn more West Virginia coal.

The Coalfield Community Development bill (SB 375 and HB 2835) is all about promoting clean coal projects as a legal post-mining land use.

Finally, the Carbon Sequestration bill (**HB 2860 and SB 396**) is necessary for only **one** reason - *burning more coal*.

None of these bills addresses energy efficiency or demand reduction in any way, shape, or form! It's kind of like putting lipstick on a pig.

And as WVEC lobbyist Leslee McCarty points out in this week's *Legislative Update*, without a major State Energy Program aimed at reducing energy consumption, West Virginia will be **ineligible** for more than **\$33 million in Federal Stimulus funds for energy efficiency projects**.

Up to this time WVEC lobbyists have "played it nice" with the governor's bills. But he and his surrogates are fighting us every step of the way.

Well, no longer. We are the WVEC and we are here to help!

Spring rains are here, but it's still time to keep your bird feeders full.



Apology And Shameless Plea ...

By Don Garvin

You are receiving this issue of Legislative Update later than normal. It's not because we are slacking off, but changes to the legislative schedule this year have resulted in a backlog of bills for committees to deal with.

Committees have been meeting twice a day - even on Fridays. So, it's becoming impossible for our lobby team to finish the *Update* on Fridays. We may face the same problem next Friday, which will be our final publication before the Legislative Wrap Up issue after the session concludes.

Meanwhile, the lobby team is working harder than ever to represent you and the environment at the legislature. It's a grueling task. You can take one worry off our shoulders by continuing your financial support of the West Virginia Environmental Council.

If you haven't contributed yet this year, please do so! If you can afford to donate more, we can really use it!

Thank you on behalf of the lobby team.



Support President Obama's Clean Energy/Climate Change Priorities

Please contact members of Congress asking they support President Obama's budget priorities of **clean energy** and tackling **climate change**.

To take action on this issue, click on the link below:

https://secure2.convio.net/sierra/site/Advocacy?s_oo=W0lhHHy3LTxZ0MD1FZITbg..&id=1779

If the text above does not appear as a link or it wraps across multiple lines, then copy and paste it into the address area of your browser.

Legislative Session 2009 Information Sources:

Legislative Reference & Information Center:

MB-27, Bld. 1 - State Capitol Complex, Charleston WV 25305

WV Legislative web-site: www.legis.state.wv.us

(For bill tracking, bulletin board (journals), legislators' e-mails.)

To Call Toll Free: 1-877-565-3447 or local Charleston area: (304) 347-4836

WV Environmental Council Web-site: www.wvecouncil.org

WVEC Office: (304) 414-0143

CAPWIZ: <http://capwiz.com/catholicconferencewv/issues/alert/?alertid=10836991>

Ohio Valley Environmental Coalition:

www.ohvec.org/ovec_news.html and www.ohvec.org/news_gen.html daily.

Every morning, OVEC checks scores of news sources and posts links.

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Manchin's Transmission Line Tax Bill Advances

By John Christensen and Don Garvin

The House Finance Committee passed **HB 3000** on Friday, following an early morning Public Hearing on the bill in the House Chamber, and a marathon Judiciary Committee meeting earlier in the week.

Both committees made significant changes to the original bill, primarily dealing with *how* the tax monies would be used. As it stands now, the utility companies will pass on the tax to West Virginia rate payers, and the rate payers will get **none** of the relief that governor Manchin first promised. Instead, all the monies will go to fund state and county block grants and infrastructure projects.

The marathon session in House Judiciary on Monday afternoon began at 2:00 PM and ended *seven hours* later. Much of the debate centered around the constitutionality of the transmission tax, and *who* would get *what portion* of that tax pie.

However, Delegate Barbara Fleischauer (D-Monongalia) led a significant effort to amend portions of our PSC Reforms bill (**HB 2887**) into the bill. She offered three amendments, but only one was adopted. That amendment requires that landowners within a quarter mile of the transmission line right-of-way be provided written notice by certified mail.

Her amendments that failed would have required a more thorough analysis of the necessity and impact of these projects, and provided protection of the viewshed within 5 miles of state or federal designated scenic areas.

As soon as the bill passed out of the Judiciary Committee, we filed a request for a Public Hearing with the House Finance Committee.

Late Thursday afternoon we received a call from the Finance Committee granting our request, but scheduling it for 9:00 AM on Friday morning!

In spite of the short notice, we had a respectable showing at the hearing, with some folks driving in from all across the state early that morning. **No one** spoke in favor of the tax or the transmission lines, and the testimony in opposition was compelling.

As soon as the hearing concluded, the Finance Committee met and passed the bill by a vote of 19 – 6. We'll provide the roll call vote in our next week's *Update*.

HB 3000 will be on 1st reading in the House on Monday.

Governor's Bill Gives Short Shrift to Energy Conservation & Efficiency

By Leslee McCarty, WVEC Lobbyist

In spite of federal mandates to include “demand side” incentives for public utility companies to initiate programs to help customers save energy - **Senate Bill 297** - the Governor’s “Alternative and Renewable Energy Portfolio Standard,” pays little attention to this critical area.

Further, the bill includes the term “alternative energy” (mentioned prominently in the first sections of the legislation) to mean “advanced coal technology, coal bed methane, coal gasification or liquefaction, synthetic gas, IGCC, waste coal, tire derived fuel and pumped storage hydroelectric.” We understand that the Senate amended in “nuclear power” to this list! Most of these, actually **add** carbon dioxide to the atmosphere, instead of reducing it!

Renewables as we know them - such as solar, biomass, wind and geothermal are also included, properly, as renewable - but the definition of coal as “alternative” strains credulity, especially when one factors the cost in environmental, and human terms, destruction of carbon-capturing forests in mountain top removal, oil-derived energy used to extract and process coal, etc.

Your lobby team is attempting to get the Governor’s staff to include almost all of our **HB 2891**, which would mandate that the Public Service Commission require utilities to create energy efficiency plans and incentives for customers. **Our** bill sets hard targets, and allows utilities to actually make money by decreasing demand.

We have a meeting scheduled with the governor's staff to try and get some or all of our language included in their bill, but it's going to be an uphill battle; **SB 297** passed out of Finance on Friday and will be on 1st Reading Monday.

As we have seen in the recent decision by the EPA to begin to enforce Clean Water Act standards for MTR sites, we believe we will be getting a lot of help from Washington on energy efficiency and renewables, especially from guidance in stimulus funding.

Meanwhile in Charleston, the message from the new administration in D.C. apparently is not being heard. Indeed, it is being translated into some language where “renewable energy” translates into “alternative energy.” And in Charleston, that means **coal, coal, coal, tires and coal!**



Public Financing for Supreme Court Passes Senate Judiciary Committee!

By Carol Warren
WV Citizens for Clean Elections

The Senate Judiciary Committee took up **SB 311** - the public financing bill for Supreme Court candidates - on Thursday morning this week.

Senator Don Caruth (R-Mercer) offered an amendment to include a provision that the Supreme Court elections be non-partisan, but it was defeated. Senator Evan Jenkins (D-Cabell) offered an amendment to begin the Pilot Project in 2010 instead of 2012, because of the unforeseen necessity of an election in 2010 due to the recent death of Justice Joseph P. Albright. That amendment was approved.

The committee then voted to move the bill, with recommendation that it pass. The bill has now been referred to Finance Committee. Please call the committee chairman, Senator Walt Helmick (D-Pochahontas) at (304) 357-7980 and urge him to place SB 311 on the Finance Committee agenda.

Kudos to Julie Archer of WV Citizen Action, who spent many hours helping to develop the bill and getting the final product ready.

Unfortunately, our legislative public financing bill (H2764) was not taken up by Judiciary Subcommittee A, and is probably dead for the year. But WV Citizens for Clean Elections will continue to advocate for public financing for legislative races, and the legislators know that we will not go away!

"Clean Coal" ...
is an oxymoron

Quote of the Session

"I can fix this bill with a little duct tape."
Delegate Brady Paxton (D-Putnam)

Congress Approves More WV Wilderness Areas

Congress on Wednesday finally approved more than 2 million acres in nine states as protected wilderness — from California's Sierra Nevada mountains to the Monongahela National Forest in West Virginia.

The House approved the bill, 285-140, the final step in a long legislative road that began last year. The legislation is on its way to President Barack Obama for his likely signature.

In West Virginia, the legislation expands three existing wilderness areas — Dolly Sods, Cranberry and Otter Creek — and adds Big Draft, Spice Run and Roaring Plains West. In total, 37,000 acres will be added to the wilderness program in the Mountain State.

Supporters called the bill landmark legislation that will strengthen the national park system, restore national forests, preserve wild and scenic rivers, protect battlefields and restore balance to the management of public lands.

"After nearly a decade during which our parks were taken for granted and our range lands were scarred by a spider-web of roads and (drilling) well pads," the lands bill "represents a new dawn for America's heritage and American values," said Rep. Nick Rahall, D-W.Va., chairman of the House Natural Resources Committee.

(Compiled from various news service reports).

Selenium Bill on Third Reading

Earlier this week the Senate Judiciary Committee took up SB 461, the bill that would give the coal industry another three years to meet water quality based effluent limits for toxic selenium discharges into waters supporting aquatic life under existing NPDES permits.

A Judiciary staff attorney told the committee members that the proposed legislative extension did not adhere to DEP rules and EPA rules for public notice and comment, and advised the committee that in his "legal opinion" the EPA would not approve the extension provided in the bill.

Committee chairman Jeff Kessler (D-Marshall) asked for someone from DEP to come forward and explain the agency's position on the bill. But NO ONE from DEP was in the room!

The committee then voted unanimously by voice vote to approve the bill!

The bill is now on third reading in the full Senate. Amazing.

Subcommittee A Passes Out Bottle Bill

by Linda Frame, linda@wvcag.org

On Tuesday, with a 5-1 vote, House Judiciary Subcommittee A passed out **HB 3037** to the full House Judiciary Committee with recommendation that it pass. Voting for the bill were Delegates Fleischauer (D-Monongalia), Brown (D-Kanawha), Schoen (R-Putnam), Susman (D-Raleigh) and Tabb (D-Jefferson). Voting against the bill was Delegate Lane (R-Kanawha). Delegate Caputo (D-Marion) was not present.

Please take a moment and thank the committee members for their yes votes. Also, please contact House Judiciary Chairwoman Carrie Webster's office and ask her to put the bill on her committee's agenda now that it has passed out of subcommittee. Her number is (304) 340-3252.

Thanks for all of your phone calls and e-mails. This was a hard-fought victory against a very well-funded coalition of industry lobbyists that wanted to kill the bill in subcommittee. This would not have been possible without your support!

Think Renewable Energy

Solar Tax Credit Bill Advances in Both Houses

HB 2535, the solar energy tax credit bill, was passed by the House of Delegates this week! The bill would provide a state personal income tax credit of up to \$2,000 for the installation of a residential solar energy system, and would also require a "net metering" credit for any excess electricity generated. Del. Bill Wooton (D-Raleigh) was the lead sponsor, and the legislation received little or no opposition as it worked its way through a couple of House committees.

SB 608, an almost identical bill in the Senate, was also passed out of the Senate Transportation and Infrastructure Committee this week. The bill's lead sponsor is Sen. John Unger (D-Berkeley) and it is now awaiting action in Senate Finance.

Finally, something positive is happening on renewable energy!

Green Legislative Update

Obama EPA Starts Crackdown On Mountaintop Removal

The U.S. Environmental Protection Agency will more closely scrutinize mountaintop removal permits under a new initiative announced Tuesday by the Obama administration.

EPA Administrator Lisa Jackson went public with her plans a day after agency officials sent letters that will delay — and could ultimately block — two mountaintop removal permits in West Virginia and Kentucky.

"The two letters reflect EPA's considerable concern regarding the environmental impact these projects would have on fragile habitats and streams," Jackson said in a prepared statement.

Jackson added that she had instructed EPA staff "to review other mining permit requests" and "follow the letter of the law in ensuring we are protecting our environment."

Adora Andy, Jackson's press secretary, said there is "no block, halt or hold" on new permits, but EPA has launched "a review of those pending applications."

"This is the Obama administration reversing the past eight years," said Joe Lovett, director of the Appalachian Center for the Economy and the Environment. "It is really a positive development."

But the EPA move caused widespread confusion in the Appalachian coal industry, and drew harsh criticism from mining lobbyists.

"I've heard everything from a moratorium on permits to the denial of a whole bunch of permits," said Bill Raney, president of the West Virginia Coal Association. "My concern about all of this is jobs. We're sitting here trying to put an economy back together, and it seems to me there's been plenty of time to look at these things."

Gov. Joe Manchin announced late Tuesday that he would meet today with Nancy Sutley, chairwoman of the White House Council on Environmental Quality.

Behind the scenes, EPA officials have been pushing to take action following a February federal appeals court decision overturning a ruling by U.S. District Judge Robert C. Chambers to require more detailed permit reviews. But corps officials opposed EPA, and the dispute is being mediated by the White Office Council on Environmental Quality.

"There is a significant backlog of permits under review by the corps," EPA said. "EPA expects to be actively involved in the review of these permits following issuance of the 4th Circuit decision last month."

(This is an excerpt from a larger article by Gazette reporter Ken Ward Jr. used here by permission.)

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Major Bills We Are Tracking

Bill Number	Title	Committee
Senate Bills		
SB 14	Requiring jobs impact statement for proposed legislation (<i>Perennial Bad Bill</i>)	Passed Econ Dev, to Judiciary
SB 28	Public health assessment of DEP rules (WVEC Bill)	H&HR
SB 45	Authorizing DEP Secretary to sign NPDES permits (<i>Bad Bill</i>)	Passed EIM, to Judiciary
SB 92	Eliminating timber severance tax (<i>Bad Bill</i>) (similar to HB 2931)	Finance
SB 234	Fish Poop Bill (<i>Bad Bill</i>) (same as HB 2474)	Passed House, to Senate Ag
SB 240	Repealing nuclear power plant ban (<i>Terrible Bill</i>)	Died in EIM
SB 241	Creating WV Public Campaign Financing Act (Clean Elections)	Judiciary
SB 279	Industrial accidents and emergency response regulations (same as HB 2565)	Passed Senate, to House EIL
SB 289	Creating WV Innovation and Development Act	Passed Econ Dev, to Finance
SB 297	Alternative and Renewable Energy Portfolio Act (Governor's Bill)	On First Reading
SB 301	Creating Green Buildings Act (WVEC Bill) (similar to HB 2948)	Transportation
SB 311	Creating Supreme Court Public Campaign Financing	Passed Judiciary, to Finance
SB 374	Creating Oil and Gas Surface Owner's Bill of Rights (SORO Bill)	EIM
SB 375	Relating to Office of Coalfield Community Development (Governor's Bill)	Passed Senate, to House EIL
SB 396	Carbon dioxide sequestration (Governor's Bill) (same as HB 2860)	EIM
SB 461	Extending selenium compliance time (<i>Terrible Bill</i>) (no House bill)	On Third Reading
SB 478	Creating Surface Owners Protection Act (Committee Bill)	EIM
SB 505	Transmission line tax (Governor's Bill) (same as HB 3000)	Finance
SB 507	Clean Coal Technology Council's powers and duties	On Second Reading
SB 518	Granting DEP Advisory Council rule-making authority (Coal's Bill)	Judiciary
SB 564	Requiring DEP finalize mine permits in six months	Passed EIM, to Judiciary
SB 568	Moratorium on slurry injection permits (<i>Great Bill</i>)	EIM
SB 600	Continuing special reclamation tax on coal (same as HB 3003)	Passed EIM, to Finance
SB 608	Solar Energy Tax Credit (<i>Great Bill</i>) (same as HB 2535)	Passed Trans, to Finance
SB 715	Chesapeake Bay Restoration Initiative	On First Reading
House Bills		
HB 2098	Prohibiting oil and gas operators from "daylighting"	EIL
HB 2133	Increasing the penalties for discarding trash on land and in streams	On Second Reading
HB 2321	Extending the alternative-fuel motor vehicle tax credit (<i>Great Bill</i>)	Finance
HB 2474	Fish Poop Bill (<i>Bad Bill</i>) (same as SB 234)	Passed House, to Senate Ag
HB 2535	Solar Energy Tax Credit (<i>Great Bill</i>) (similar to SB 608)	Passed House, to Senate Fin
HB 2565	Industrial accidents and emergency response regulations (same as SB 279)	EIL
HB 2682	Alternative and Renewable Energy Portfolio Act (Gov's Bill) (same as SB 297)	EIL
HB 2764	West Virginia Public Campaign Financing Act (Clean Elections)	Judiciary
HB 2835	Relating to Office of Coalfield Community Development (Governor's Bill)	POL Sub
HB 2781	Tax credit for LEEDs certification of sawmills (Guthrie's Bill)	On First Reading
HB 2860	Carbon dioxide sequestration (Governor's Bill) (same as SB 396)	On First Reading
HB 2887	PSC Reforms Act (WVEC Bill)	Judiciary
HB 2891	Renewable Portfolio Standards Sustainable Energy Act (WVEC Bill)	EIL
HB 2931	Eliminating timber severance tax (<i>Bad Bill</i>) (similar to SB 92)	Passed House, to Sen. Fin.
HB 2948	Green Buildings Act (Interim Committee Bill)	Passed Gov Org, to Finance
HB 2960	Marcellus Shale water pollution control (WVEC Bill)	Gov Org
HB 2980	"West Virginia Energy Efficiency Act" (WVEC Bill)	Gov Org
HB 3000	Transmission line tax (Governor's Bill) (same as SB 505)	On First Reading
HB 3003	Continuing special reclamation tax on coal (same as SB 600)	Judiciary
HB 3023	Creating Oil and Gas Surface Owner's Bill of Rights (SORO Bill)	EIL
HB 3033	Strengthening vehicle emission standards (Fleischauer Bill)	EIL
HB 3037	Establishing a returnable beverage container deposit program (New Bottle Bill)	Passed Judiciary Sub A
HB 3058	Eliminating the use of light plastic bags	EIL
HB 3081	Coal-to-Liquid Act of 2009 (<i>Terrible Tax Credits Bill</i>)	EIL
HB 3114	Loans for purchasing solar energy panels (<i>Great Bill</i>)	Banking
HB 3131	Green Buildings Act (WVEC Bill) (similar to SB 301 and HB 2948)	EIL
HB 3176	Surface Owners Protection Act (Committee Bill)	EIL
HB 3206	Authorizing DEP Secretary to sign NPDES permits (<i>Bad Bill</i>) (same as SB 45)	Passed Gov Org, to Judiciary
HB 3271	Creating a tax credit for certain solar energy systems text (Manypenny's Bill)	EIL



Calendar of Events



April 8: STOP PATH (Potomac-Allegheny Transmission line.) Meeting. Lewis County Senior Citizens Center, Weston, WV. Begins at 6:30 PM. The Concerned Citizens of Lewis County have scheduled this informational meeting. Detailed information about PATH may be found at <http://wvcitizensagainstopath.com/wordpress/>. and <http://calhounpowerline.wordpress.com:80/>.

For more information about this meeting contact: Kaycee Lamb (304) 269-5731

April 11: Legislative Session adjourns at midnight.

April 17 & 18: Annual WV Sustainable Fair 2009 - "Green Makes \$en\$e". Stonewall Resort, Roanoke WV (exit 91 off I 79.) Jeffrey Barrie, noted filmmaker, serves as keynote speaker addressing "Kilowatt Ours - The Energy Conservation Solution". New edition of his film will be shown, followed by a question & answer period. **Other Highlights:** Seminars on Green Building, Slow Food WV, Fuel Cell Technology, Solar Energy, 21st Century Collaborative, Children's Gardening; Exhibits, Demonstrations, Art Exhibit - "Sustenance for the Soul", Alternative Transportation. Gourmet Benefit Dinners: "Taste of WV - Farmers & Their Chefs" (Friday, cost \$25) and "A Sustainable Feast" (Saturday - cost \$40). Live auction Saturday evening with auctioneer Bob Stewart, of Stewart's Auction Co., Jane Lew, WV. Admission only \$5. at the door. Reservations for either or both dinners available in advance.

For more information: www.sustainablelivingforWV.com or call Denise, (304) 617-7073 - deniseap@earthlink.net

April 25: Earth Day Celebration. Folk Life Center, Pipestem WV. Features a panel discussion on wind power; live music, camping.

For more information: Shelly Turner -(304) 466-0626.

May 1: WV Citizen Action Group's Annual Spring Fundraiser. Woman's Club of Charleston - 1600 Virginia Street East. Great buffet, progressive friends, silent auction. Live Music! Tickets just \$30 a person.

For more information: WV-CAG office, (304) 346-5891.

May 2: 15th annual "Cheat River Festival" - Friends of the Cheat fundraiser. Location is just outside Albright, WV in Preston County. Features live music, art, vendors, 5K run, river sports and more.

For more information: www.friendsofthecheat.com

May 30: Kanawha Valley Connections: Creating Pathways to Sustainability" Fair. Habitat for Humanity ReStore, 815 Young Street, Charleston. All day event. Sustainability themes showcased include, local foods, businesses & jobs, conservation, energy sources, recycling, health, economic development, culture, transportation, recreation. Organizers are seeking exhibitors with green or sustainable products, practices.

For more information: Will Taylor, (304) 382-1233.

June 27: 6th Annual Lavender Fair - "Just Keep Dancing!". LaPaix Herb Farm, Lewis County (just outside of Weston.) The farm is listed as a National Historic Landmark (May/ Kraus Homestead.) Workshops and talks on using herbs for crafts, culinary and medicinal purposes, organic wild edibles, etc. Demonstrations, interesting booths, wood walks, gourmet food, live music and much more.

Admission: \$5/person, \$10/family (one car)

For more information: www.lapaixherbfarmproducts.com/lavender_fair_2009.htm

If you would like to have your event listed in the WVEC Calendar, please e-mail Denise Poole: deniseap@earthlink.net or call: (304) 414-0143.

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- _____ \$ 25 Regular
- _____ \$ 50 Seedling
- _____ \$ 100 Sustaining
- _____ \$ 250 Enviro Steward
- _____ \$ 500 Canopy
- _____ \$ 1,000 Old Growth
- _____ \$ Other

“Our modern industrial economy
takes a mountain covered with trees,
lakes, running streams, and
transforms it into a mountain of junk,
garbage, slime pits, and debris.”

Edward Abbey