



Capital Eye

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Likely 2003 Legislative Issues: Tobacco Tax, “Tort Reform”, Trucks, and ATVs

by Norm Steenstra

WV-CAG is preparing for the upcoming legislative session when we expect to monitor scores of bills on dozens of issues. “Headline” bills will certainly include medical malpractice (tort reform), overweight trucks, tobacco tax increases and ATV off-road vehicles regulations.

WV-CAG’s position on “tort reform” is that consumers’ common interests must have priority over the corporate or legal community’s special interests. Citizen access to the judicial system and just compensation for negligence must be maintained. We expect the insurance industry to introduce “tort reform” legislation that would help restrict these citizen rights.

The growing problem of ATV injuries and deaths will once again be debated. For 10 years, ATV manufacturers, dealers and enthusiasts have lobbied against meaningful regulations. WV-CAG supports strong regulations on ATV usage on paved roads, public lands and environmentally sensitive areas such as streams and wetlands.

With the state facing a \$200 million budget deficit, WV-CAG will closely monitor proposed cuts in state programs and support a tobacco tax increase. Recent studies illustrate that a cigarette pack’s “true cost” to society is over \$7. A significant tax increase would help pay the true cost of using tobacco.

WV-CAG, in conjunction with our allied groups, plans to introduce at least four bills that highlight key policy initiatives:

√ The WV Clean Elections Act would provide a voluntary mechanism for public financing of legislative and judicial races.

√ The WV Container Law (bottle bill) would create a deposit on certain containers sold in the state (see page 5).

√ The WV Consumer Insurance Advocate Office Act would create a position within the Insurance Commission similar to those in the DEP

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Cleaning Up Judicial Elections

by Julie Archer

Last month the North Carolina legislature made history by adopting the country's most sweeping judicial reform when it passed the North Carolina Judicial Reform Act. The measure is a judges-only version of Clean Elections laws that have been enacted in Maine, Arizona, Massachusetts and Vermont. North Carolina is only the second state (after Vermont) where Clean Election-style financing has been adopted by the legislature rather than through the initiative process.

The Act does four things: 1) makes state Supreme Court and Court of Appeals elections nonpartisan beginning in 2004; 2) gives state Supreme Court and Court of Appeals candidates the option of public financing if they voluntarily agree to fundraising and spending limits; 3) distributes a voter guide to households about the appellate court candidates; and 4) lowers the contribution limits for the judicial candidates not in the public financing program to \$1,000 per election, from \$4,000. Public money for the Fair Elections Fund would come primarily from two voluntary sources: a \$50 contribution attorneys could make when they pay their annual privilege license invoice; and a \$3 check-off on the state income tax form, similar to the federal \$3 Presidential option.

The American Bar Association recommends that states that elect judges consider public financing of those campaigns. It cited the need to minimize money's role in electing judges. ABA president, Alfred P. Carlton, Jr. said, "As more and more judges face skyrocketing campaign costs, more and more people believe justice is for sale." A recent ABA poll showed that a majority of the public wants to elect judges, but that 80% favor publicly financed judicial elections.

Last month *USA Today* ran an editorial praising public financing for judicial elections. "Taxpayer-financed elections are a sound investment," the editorial said. "Justice can't be blind if judges are tempted to keep an eye out for the people who helped put them in office." According to the editorial, contributions to state Supreme Court candidates alone jumped 61% in 2000, compared to the previous election. An analysis of campaigns in 11 states by the non-partisan reform group Justice at Stake suggests that at least half of all donations came from lawyers and business interests. In West Virginia's 2000 election, six candidates for the state Supreme Court raised over \$1.5 million, with 66% being raised by the two winning candidates. The WV Peoples' Election Reform Coalition identified 88% of all contributions to Supreme Court candidates. It found that while 54% of the identified contributions came from the candidates themselves, another 23% came from lawyers. The health care industry was third, at 8%.

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Announcements/Dates To Know

Several WV-CAG-endorsed **candidates need door-to-door volunteers** during these final weeks before Election Day. Delegate Carrie Webster (D-Kanawha) and Senate candidate Mary Pearl Compton (D-Greenbrier and Mercer) particularly need help. Call us at 346-5891 for more details.

Monday, October 21 at NOON: PROTEST THE PLAQUES - Yes to Miners, No to Mountaintop Removal! Please meet us at noon, sharp, to protest the new mountaintop removal plaque on the State Capitol grounds. You can't miss it. It's BIG. As you come in from Greenbrier/Washington St., by the Cultural Center, you will see it. Please bring either general signs-Stop Mountaintop Removal-or more specific signs around the "Tell the Whole Story of Coal" theme.

The coal miner is a proud symbol of West Virginia grit and fire. We are not protesting that part of the statue, but the mountaintop removal plaque and the proposed wording for another plaque are unconscionable public relations ploys brought to you by the WV Coal Association and its supporters in public office.

Please come out and show that we are not proud of mountaintop removal mining in West Virginia and we do not want to see it memorialized on our Capitol grounds.

November 4 from 11:30 to 12:30 PM come to Taylor Books on Capitol St. in Charleston to meet author Michael Gardner. He will be signing his book Harry Truman and Civil Rights: Moral Courage and Political Risks, an account of Truman's role in civil rights history.

November 5 - Remember To Vote!

Join WV-CAG, renew your membership or make a donation. **We could use your help!** Please clip and send to: WV-CAG, 1500 Dixie St., Charleston, WV 25311. Remember - it's easy to donate on-line at www.wvcag.org!

Name: _____

Address: _____

Send me future newsletters on-line at: _____

Enclosed please find my contribution of:

\$25 \$50 \$100 \$250 \$ Other

Somebody Had To Do It!

Suit Challenges “Development” Committee on Constitutional Grounds

by Gary Zuckett

During the 2002 legislative session’s waning hours, a so-called “economic development” bill was passed to fund several pet projects of state leadership. Not just any pork project, this plan would sell \$200 million in bonds and give the money away to various projects approved by a committee hand-picked by the House Speaker, Senate President, and Governor. I use the term “give” in the usual definition of the word, no payback will ever be required from the lucky recipients.

As a recent *Gazette* editorial pointed out, big plans drawn in the wee hours at the end of the session usually have “holes” in them. In this case the holes include an unconstitutional grant committee and several other flaws that call the legitimacy of the whole process into question. That’s where WV-CAG comes in.

In a brief filed before the WV State Supreme Court last month, we challenged the committee’s makeup along with several other issues, and asked many questions, including “Is giving away \$70 million to a retail outlet mall proposal really economic development?”

Our director named this whole scam, “The mother of all Budget Digests” after the annual pork give-away tagged onto the State Budget every year by the legislature. The Budget Digest amounts to only \$20 to 30 million per year but this new, improved pork barrel will cost taxpayers at least \$375 million to pay off the bonds over a 30-year period.

This suit is a political hot potato and, after agreeing to hear the case, the State Supreme Court immediately sent it down to Kanawha Circuit Court (Judge King) for finding of facts and testimony. Judge King rejected the initial hearing on our request for an injunction against the Committee promising any more project money. However, the case is scheduled to be heard on Oct 30th. Then the stage will be set for a return to the Supreme Court for the final say. Stay tuned. A third of a billion of your tax dollars are at stake. Check our web page for updates.

November 5 - Election Day - Remember to Vote! This year you don’t have to wait until Election Day. No Reason ~ No Excuse
Voting starts on Monday, October 21.

Visit www.wvgop.com to see when the state’s Republican Party is recognizing Election Day.

WV Project For Campaign Conduct

by Linda Mallet

WV-CAG is working on the WV Project For Campaign Conduct in conjunction with the Institute for Global Ethics. Our goal is to encourage Congressional candidates to sign a campaign code of conduct where they promise to refrain from using personal "attack" messages in their advertising. National surveys show that voters agree that negative, attack-oriented campaigning is "wrong" (67%), "unethical" (61%) and "undermining democracy" (59%). 72% say they would have more respect for candidates who signed and abided by a code of conduct. 74% would be more likely to vote for candidates who signed a code and abided by it and 59% say they'd be less likely to vote for a candidate who signed a code and then broke it. We are working with 2nd and 3rd Congressional Districts and US Senate candidates and hope to have signed codes very soon.

Bottle Bill Goes On-Line

by Linda Mallet

West Virginians use over 14 beverage containers each week. That's over 1 billion each year. With a national recycling rate of just 38%, most of our containers become landfill or litter. Unfortunately, voluntary recycling does not work. Ten states, however, have shown us that a deposit on beverage containers does get people to return them and WV-CAG is working toward a 10-cent incentive to recycle in West Virginia - a bottle bill.

We need your help! Take a minute and go to www.wvcag.org and sign our on-line petition. If you're interested in doing more to help out, please call or e-mail me. Many of you have done just that and we now have volunteers working our paper petition drive in counties across the state. The WVU chapter of the Sierra Club got over 700 signatures in just one day!

Send an e-mail out to your friends and ask them to sign the on-line petition. Also, if you are a member of a local organization (environmental group, garden club, neighborhood association, parent-teacher group) that would be interested in joining our coalition, give me a call.

We are working with mayors in several communities with a goal of bottle bill resolutions signed across the state. If you can help us by contacting YOUR mayor, please call me.

Working together, we can make a bottle bill a reality in West Virginia!

Coal Keeps the Lights On In West Virginia's Funeral Homes

by Julie Archer

In the early morning hours of September 28, three college students were killed when an overloaded coal truck on U.S. 60 near Shrewsbury struck their car. According to *the Charleston Gazette*, their car skidded into the path of the truck, which weighed more than 131,000 pounds. The weight limit on that stretch of road is 65,000 pounds.

Although the initial investigation showed that the truck's driver did not cause the accident, an accident reconstruction will determine how much harder the truck hit the car because of its illegal weight. Division of Highways officials cited the trucking company for hauling overweight and may change the schedules of weight enforcement crews if overweight trucks are running more in the early morning and late night hours.

Regardless of who is at fault, the truck involved was hauling an illegal load. The fact also remains that our legislature and governor have failed to do anything to address the overweight coal truck problem. We need to write letters to the editor, talk to our friends and neighbors and keep this issue on people's minds. And we need to ask questions. Why was the truck on the road at 2:30 am? Wouldn't its driver be more fatigued at this time? And will the same reconstruction specialist who said weight was not a factor in the accident that killed a brother and sister in Hernshaw last year investigate this accident?

WV-CAG and We the People joined with Coal River Mountain Watch and the Ohio Valley Environmental Coalition on the one-year anniversary of the fatal accident in Hernshaw to call on Governor Wise to enforce the law. Help us keep up the pressure. Call and tell him the time to act is now. Ask him how many more lives must be lost before he decides to crackdown on these scofflaws. The number is (304) 558-2000 or 1-888-438-2731. Call or write your legislator(s), especially if they voted to increase the weight limit for coal trucks during the special session. (To find out how they voted, visit www.wvcag.org.) Remember, there's an election in November.

Tort Reform Debate Needs Fresh Air

by Gary Zuckett

The insurance industry has been adept in steering the debate on the steep rise in medical malpractice rates away from their bungled finances and toward the non-solution of restricting victims' rights in the courts. This summer, WV-CAG joined scores of groups nationwide to form AIR, Americans for Insurance Reform, (<http://centerjd.org/air/>) which has requested action from state insurance commissioners across the country to better regulate the industry.

See our web page for an AIR study that shows how malpractice premiums directly follow the ups and down of the general economy and have nothing to do with the court system which protects and compensates victims of malpractice.

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In addition to North Carolina, several other states are trying to rein in on the flow of money to judicial candidates. Currently, Wisconsin is considering a proposal to beef up an existing public financing system. And campaigns similar to North Carolina are underway in Texas, Illinois, Georgia and other states.

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and the Public Service Commission.

√ Legislation similar to the "Caputo" amendment, that passed the House in July's special session, to prohibit any increase in legal weights and provide for increased safety inspections and enforcements for overweight trucks.

No doubt there will be unanticipated threats to consumer and environmental interests and we will monitor and respond to them. Please feel free to call our staff to discuss the upcoming session as well as other issues important to you.

West Virginia Citizen Action Group (WV-CAG) publishes Capital Eye. 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!