



## Rules Rule What Moves

by Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)

Many agree it was a slow, rather unproductive legislative session. An election year, new House leadership still getting its feet wet, and the stodgy Senate diverted lawmakers from addressing many of the critical problems with health care, labor, education, and the environment.

As usual, the all-powerful **House and Senate Rules** committees dominated the final week. Made up of major committee chairs who are selected by the House Speaker and Senate President, these committees decide which bills will move forward for a floor vote. Even when a bill makes it through the arduous regular committee process, languishing in Rules can defeat it.

This happened to our resolutions (SCR 91 & HCR 85) calling on Congress to bring our WV National Guard back from Iraq. A consolation was the wide distribution of our radio interview on WV Public News Service (<http://www.publicnewsservice.org/index.php?content/article/4527-1>) that was picked up by Clear Channel Communications and distributed to its nation-wide radio network even though other WV media outlets deemed it uninteresting.

Two minor **health care** bills made it through. SB13 allows dental hygienists to work in schools, nursing homes and other settings. The other permits pharmacists to administer flu and pneumonia vaccines. Kudos to House Health Chair Perdue and his committee for their hard work on these successes and the many others they passed but the full House did not. Any move to extend health coverage to the tens of thousands of uninsured West Virginians was not even given lip service. See [www.wvahc.org](http://www.wvahc.org) for details on health issues and solutions.

The **SEIU's "Healthy Families"** bill to provide all workers paid sick leave was DOA this year. Labor's big push, the "Worker Freedom Bill", quickly became known as the "captive audience" bill and, after passing the House, became captive in the Senate. Labor leaders pointed out Delegates Burdiss, Miley, and Judiciary Chair Webster as instrumental to their progress this year. Sign up for WV labor's "One Voice" alerts at the state AFL-CIO web page at [www.wvafclio.org](http://www.wvafclio.org).

The **"Human Rights" bill**, adding sexual orientation language to our state's fair housing and labor codes, passed the full Senate and then House Judiciary (with Chair Carrie Webster able leadership) but not without a fight from right-wing conservatives. Opposing an amendment that would essentially gut the bill, Delegate Barbara Fleischauer (D-Monongalia) compared it to pre-Civil War days when some Americans would justify racial discrimination with the Bible. Unbelievably, Delegate Kelly Sobonya (R-Cabell) later said if the bill passed, soon "we won't be able to discriminate against anyone for any reason!" When the bill was held in Rules too long to move out for a final floor vote, Cliff Moore, D-McDowell, scolded the House saying, "Look at me. I'm a black guy and because

of that I've been discriminated against." He said he hoped their gay child didn't call home to say he had been discriminated against while trying to rent an apartment. WV ACLU spearheaded this effort almost to completion this year ([www.acluww.org](http://www.acluww.org)).

I can't recall any **tax cut proposal for big business** that was rejected this year, although many mitigating amendments were introduced because of ammunition from the WV Center on Budget and Policy's ([www.wvpolicy.org](http://www.wvpolicy.org)) report "High Costs, Dubious Benefits: The Fiscal Impact of SB 465 and SB 680." It's an analysis of how recent tax changes and newly-passed business tax cuts will lead to either cuts in government services or require (your) taxes to increase in the near future. Ted Boettner, the Center's founding Executive Director (and former WV-CAG analyst), did a great job countering the continual conservative fantasy that tax cuts pay for themselves.

The environmental lobby declared a **big victory for clean water protection** with the final passage of the rules for listing the state's streams under the federal Clean Water Act mandates. The fight with polluters over what began as the Tier 2.5 list moved through the last legislative interims in early January. At that meeting, Delegate Mike Burdiss (D-Wyoming) gave a rousing speech in support of an amendment to basically triple the number of protected streams. However, the constant whining by the pollution lobby over the past several years that blocked completion of this rule got lawmakers to finally give up on them. Then, a surprise floor amendment by Senator Jeff Kessler (D-Marshall) stripped out the whole Tier 2.5 category, already a concession to industry to keep any of the state's waters from achieving the highest Tier 3 level of protection. Then the House strengthened the Tier 3 definition and sent it back to the Senate where it passed 33-0! See [www.wvecouncil.org](http://www.wvecouncil.org) for much more on this victory.

Next up are our **local, state, and presidential elections** – probably the most critical in our nation's modern history. In conjunction with our sister organization, Mountain State Education and Research Foundation, we are ramping up a broad-based "Civic Engagement" campaign similar to our 2004 project during which we registered nearly 8,000 new voters and got them to the polls. We're need volunteers who want to get democracy working again by getting involved in the process. Contact [marge@wvcag.org](mailto:marge@wvcag.org) or call us for more info.

Speaking of getting involved, do regular job performance reviews on our Senators and Delegates. If they measure up, get out and make sure they get reelected – we need them desperately. If not, see if someone better is running against them. If not, look around for candidates for next time or consider running yourself (we'll help). Get involved in your local campaigns and send us a better 79<sup>th</sup> Legislature. We did the best we could with the old one...

*Capital Eye* comes out weekly during the Legislative Session and bi-monthly throughout the rest of the year. If you have questions or comments about its content, please contact us. If you'd rather receive the *Eye* online, or would like to send us your comments, e-mail [linda@wvcag.org](mailto:linda@wvcag.org) or call us at 346-5891 or 1-866-WVB-FAIR.

Thanks to all of you who have updated your memberships. Since we are doing weekly newsletters, if you have sent us an updated address, please allow a week or two for it to take effect. Thanks!

## **Maynard Says Supports Public Financing** by Julie Archer, [julie@wvcaq.org](mailto:julie@wvcaq.org)

As the legislative session ends, the race to fill two WV Supreme Court seats heats up. The spotlight is on Chief Justice Elliot "Spike" Maynard. In January, it was revealed that he vacationed in Monaco with Massey Energy CEO Don Blankenship in 2006, while Massey had an appeal pending before the court. Now Supreme Court candidate Bob Bastress is calling for an independent commission to investigate the ties between Maynard and Blankenship.

Maynard recused himself from three cases involving Massey after photos from the Monaco trip were filed with the Supreme Court, however, Bastress believes there are unanswered questions about the relationship between Maynard and Blankenship, including who paid for the trip. Apparently, so do others. *The Charleston Gazette* reported on 3/14/08 that the US Attorney's office and the FBI are interviewing Supreme Court employees as part of a federal probe.

Interestingly, at the same time Bastress was calling for an investigation, Justice Maynard came out in support of public financing but said he had reservations that it would result in only wealthy individuals being elected to the bench. "You can't stop people from spending their money, and only the richer candidates would run," Maynard said. (While campaign spending is free speech, as he noted, I think he misses the point!) He said he is not opposed to judicial elections being non-partisan saying there are "real serious deficiencies" in any system of electing judges.

While there seems to be a consensus that public confidence in our judicial system has been undermined, there is disagreement over how to counter the appearance that the courts are for sale. While some lawmakers favor non-partisan judicial elections, others like Senate Judiciary Chairman Jeff Kessler, favor the public financing option.

Both houses adopted a Senate resolution (SCR 69) requesting the legislature study judicial selection methods, and public financing of judicial elections passed both houses. While SCR 69 was a response to the huge sums of money that have been poured into judicial races in recent years, House of Delegates members offered a response to the conflict of interest allegations involving members of the court. A bipartisan resolution (HJR 104) was introduced to amend the state constitution and establish a Judicial Recusal Commission -- a three-member panel that would decide whether a justice or judge should be disqualified from a case. HJR 104 was not adopted.

## **Honor One of Our Heroes & Support Our Clean Elections Work**

We are extremely grateful to Senator Jon Blair Hunter for letting us honor him last month and giving us the opportunity to raise funds to continue his and our work promoting public campaign financing and fair and clean elections. Thanks to everyone who has generously supported our efforts. Special thanks to Sue Price, Rosemary Lockhart and other "anonymous" volunteers who helped make our event a success.

To date we have raised roughly half of the \$15,000 needed to receive a \$15,000 match from

The Piper Fund. Our deadline for raising the additional funds is April 1, 2008. These challenge grants fund for our clean elections work, so meeting the goal is extremely important. If you haven't already, please help us reach our goal by making a generous contribution in honor of Senator Hunter. Help us continue our grassroots and legislative activity on public campaign financing -- the reform that makes other reforms possible. Tax-deductible donations may be sent to MSERF, 1500 Dixie Street, Charleston, WV 25311 or OVEC, P.O. Box 6753, Huntington, WV 25773.

## **A Memorial for Alice Knight**

The natural world lost a great friend with the unexpected passing of Alice Knight on January 18 from a cerebral aneurysm. Alice was a long-time CAG supporter, and she worked for a time as a staff person when David Grubb was the director.

In more recent years, Alice was very active with the Handlan Chapter of the Brooks Bird Club and the Master Naturalist program. She was a talented artist, and her paintings were accepted into juried exhibits at the Cultural Center and the Clay Center. Her most recent creative efforts were focused on photography, and some of her beautiful images of birds, flowers, butterflies, dragonflies, and more can be viewed at: [www.kvbirdclub.org](http://www.kvbirdclub.org).

One of Alice's lasting legacies is the protection of Coonskin Park, when its natural areas were threatened by Yeager Airport's expansion plans. Alice was the person who initiated the formation of the Friends of Coonskin, and she remained centrally involved in the long and successful effort to protect the park.

In recognition of this accomplishment, the Kanawha County Parks and Recreation Commission voted to permanently designate the Nature Trail at Coonskin Park as the Alice Knight Nature Trail. This is especially fitting, as Alice walked this trail many times and was intimately familiar with its wildflowers, trees, and birds.

The Friends of Coonskin is raising money to construct a distinctive trail marker and memorial for Alice, something that blends into the natural surroundings but also has an original, artistic touch. Contributions can be sent to Jim Waggy, FOC President, at 4304 Virginia Ave. SE, Charleston, WV 25304. Checks should be made out to cash or Jim Waggy, since FOC doesn't have its own checking account, or call Jim at 925-6379.

## **Garbage Bill Stopped Again**

by Norm Steenstra III, [norm@wvsoro.org](mailto:norm@wvsoro.org)

Our efforts at getting some good bills passed into law failed, but we were successful in defeating several efforts to create bad laws this session. Thanks to everyone who supported us, especially everyone who came down to lobby. Even if you were unable to convince your legislators, showing up in person adds credibility to our efforts to educate them on our issues.

I want touch briefly on the "Truman Chafin Garbage Bill" (SB 770). Many thanks again to all of those wonderful garbage crazies who showed up (yet again) to voice their opposition to this stinky bill and show (yet again) that West Virginia and her citizens don't want somebody else's trash. If you get the chance thank the WV Environmental Council's John Christiansen for taking the lead on killing this bill.

## **Doddridge County WV-SORO Meeting Saturday, March 15**

**Who:** WV Surface Owners' Rights Organization  
**What:** A regional informational meeting to discuss how to protect property owners from abuses by oil and gas drillers.  
**When:** Saturday, March 15, 2008 at 6:00pm  
**Where:** Doddridge County Park, Snowbird Road, Smithburg, WV (near West Union)

### **Directions:**

*From Parkersburg* - Take Rt. 50 East toward Clarksburg. Continue on Rt. 50 East to Smithburg (directly past the West Union exit). Go past the Doddridge Co. Middle School. Turn right at Snowbird Road. There should be a sign directing you to the park (about 1 mile).

*From Clarksburg* - Take Rt. 50 West to Smithburg at Snowbird Road. Turn left on Snowbird Road. Go about 1 mile to the park.

**For more information call** (304)-346-5891

## **Surface Owners' Bill of Rights Recommended for Interim Study**

by Julie Archer, [julie@wvcaq.org](mailto:julie@wvcaq.org)

The Senate Energy, Industry & Mining Committee and the House Industry & Labor Committee put forth resolutions (SCR 57 & HCR 77) urging the legislature "to study the existing law and regulation of oil and gas drilling by the State of West Virginia and whether the law should be updated or otherwise changed to improve protection of the public interest and the varying interests of surface owners" as well as "the feasibility of requiring free, wholesale or retail gas for surface owners upon whose land well sites and access roads are or have been placed."

The Senate resolution further recommended studying "other general changes in the law regarding the exploration for, drilling for and production of oil and gas, including coal bed methane gas."

Unfortunately, the resolutions were not adopted but we still have a good chance of getting the interim study. Both committee chairs want the bill studied during the interim sessions and, although the House leadership decided not to put HCR 77 up for a vote, House Speaker Richard Thompson gave us a verbal commitment to looking at the issue. Other legislators are also on record saying the issue will be studied prior to next year's legislative session. We'll keep you posted.

## **WV Supreme Court Hears Arguments in Marcellus Dispute**

by Julie Archer, [julie@wvcaq.org](mailto:julie@wvcaq.org)

The latest "play" in the oil and gas industry is to the Marcellus formation. There is currently a dispute between the state's coal and natural gas industries over whether wells drilled in the Marcellus formation are "shallow" or "deep" wells. The dispute is now before the WV Supreme Court, which heard arguments in the case on March 12, 2008. The State Oil and Gas Conservation Commission ruled that Marcellus wells are "deep",

however, some drillers have appealed the Commission's decision.

WV-SORO favors the Marcellus formation wells being classified as "deep" because drillers can only be forced to do well spacing with "deep" wells and are also required to get written consent from surface owners prior to drilling, although this is not always enforced. WV SORO has filed a "friend of the court brief" in the Supreme Court case.

For more about the dispute or news on the industry's play to the Marcellus formation visit [www.wvsoro.org](http://www.wvsoro.org). Check out our slide show on well spacing and royalty sharing, explaining what it is and why it is needed, and why the legislature hasn't required well spacing and royalty sharing in West Virginia.

## **Bottle Bill Study Pondered**

by Linda Frame, [linda@wvcaq.org](mailto:linda@wvcaq.org)

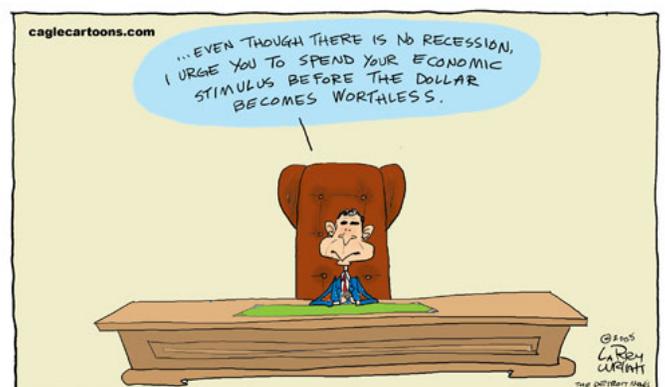
As was the fate for many bills this session, both good and bad, the WV Bottle Bill will most likely be studied during interims in the coming months. In the session's waning hours, the House passed a study resolution, and sponsors in both houses have expressed their continuing commitment to sponsoring and promoting this legislation.

Our goal was to keep the issue alive and raise awareness through education. It appears we met that goal, as House Judiciary Chair Carrie Webster is encouraging future presentations to her committee and tells us that interest in running the bill has increased since last year. She was instrumental in making this session's presentation by John Ferrari from California possible and we appreciate her support.

Also key this session was the tireless work of Delegate Barbara Fleischauer who is the House bill's lead sponsor. Her commitment to this issue, and many others to better the environment, have breathed new life into our legislative fight and we look forward to working with her throughout the interims. Her leadership is invaluable.

We will continue to work with the governor's office to hold talks with businesses opposed to container deposit legislation. Governor Manchin tells us he supports the bill as a substantial way to control litter, one of his pet peeves.

Requests for information on our campaign is unusually high due to upcoming Earth Day events and in response to several media stories. Please help us keep the word out there by writing letters to the editor of your local paper. Check out [www.wvbottlebill.org](http://www.wvbottlebill.org) for more info or call me at 346-5891. You can also log on to sign up for Action Alerts specifically on this issue. THANKS!



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1500 Dixie Street  
Charleston, WV 25311

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AUTO  
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**FIVE YEARS TOO MANY:  
HONOR THE DEAD,  
DEMAND AN END**

**Tuesday, March 18<sup>th</sup>, 2008  
5:15pm  
WV Veterans Memorial  
State Capitol Complex**

- Too many deaths – almost 4,000 US troops, over half a million Iraqis, 6,256 US troops committed suicide in 2005.
- Too many wounded – 28,000 US troops seriously wounded
- Too many homeless – 4,500,000 Iraqis displaced
- Too many dollars wasted – total war costs are projected to be between \$ 3,000,000,000,000 and seven trillion dollars assuming we get out within the next six years, \$ 500,000 per minute
- Too much military overreach – imperial hubris a common but tragic flaw seen repeatedly in the downfall of nations.
- Too little political responsiveness – for years polls have shown US citizens want to end the Iraqi Occupation
- Too little activism – need for more and louder anti-war voices.
- Had we listened to Senator Byrd we could have avoided putting our grandkids in debt and spent our tax money on health care, education, programs to get people out of poverty, sustainable energy, and infrastructure.

**See you on Tuesday, March 18<sup>th</sup>, 5:15 pm at the state Capitol.** Bring your friends to stop this endless, unnecessary, and immoral war. Sponsored by WV Citizen Action and WV Patriots for Peace [www.wvpatriotsforpeace.org](http://www.wvpatriotsforpeace.org)

For more info, you may want to check out:  
<http://www.npr.org/templates/story/story.php?storyId=87801279> and  
[http://www.democracynow.org/2008/2/29/exclusive\\_the\\_three\\_trillion\\_dollar\\_war](http://www.democracynow.org/2008/2/29/exclusive_the_three_trillion_dollar_war)

**Don't Miss Our Annual Event!**

WV-CAG will hold its Spring Fundraiser Event on **April 11** at the **Woman's Club** on Charleston's East End. Tickets are **\$30 a person**. Reserve yours now by calling 304-346-5891 or e-mailing [marge@wvcaq.org](mailto:marge@wvcaq.org). While we have traditionally held this event at Coonskin Park, rising costs made it necessary to move to a more affordable location. We will still have a great variety of food and desserts and this year **music will be provided by Dugan**. Please plan to attend and help us raise the money we need to do our 2008 program work. Thanks!



*Cindy Rank Addresses Legislators at Hearing in Support of SB 580 which would have banned Mountaintop Removal Mining. Photo by Gary Zuckett (2/27/08)*



**We Need Your Support**  
We can't do it without you!

**Please renew your membership or send a donation.**

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Here's my donation of \_\_\$15 \_\_\$25 \_\_\$50 \_\_\$100  
Other \$\_\_\_\_\_ **THANK YOU!**

Clip and mail with your check to West Virginia Citizen  
Action Group, 1500 Dixie St., Charleston, WV 25311 or  
**donate securely at [www.wvcag.org](http://www.wvcag.org)!**