



THE WEST VIRGINIA VOTER

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2012 Legislative Priorities

The Board of Directors of the League of Women Voters of West Virginia has selected the following issues as our advocacy priorities for the 2012 legislative session:

1. The LWVW supports regulation of all extractive industries to protect West Virginia's people and environment, including land, water, and air, and supports adequate funding for enforcement.

The extractive industries account for many jobs and a substantial tax income for West Virginia. But they often leave us with both human health and environmental problems. The state executive and legislative branches often fail in their responsibilities to protect our people and the environment. Here are a few examples of where positive action should be taken:

Rules: The DEP proposes water quality standards after input from all the stakeholders, but often the legislature steps in to gut the rules. We want our legislators to protect our land, water, and air from pollution.

Underground Disposal of Coal Slurry: For a number of years there have been efforts to prohibit new permits for the underground injection of coal slurry and phase out existing coal slurry injection operations. Last year's bill also would have provided a tax credit to industry to assist in the transition to new technology to reduce and/or eliminate coal slurry. Unfortunately, the bill was defeated.

Timbering on public lands: Periodically bills are introduced to add protections for our state forests and other public lands with mandated best-management practices. Such mandates would protect our watersheds, endangered species, and places with historical value. Wise stewardship of our state forests and waters would be forward-looking legislative action.

Bonds for coal mines: Operators should be required to post

high enough bonds to discourage them from abandoning their mines and to fully cover the cost of treating the mines in perpetuity if they are abandoned. When mines are abandoned, the state is left with the legacy costs of reclamation.

Regulating the extractive industries: Far too often the control of pollution from mining comes from successful citizens' suits rather than from the Department of Environmental Protection's regulatory powers. Recently a group successfully sued Alpha Natural Resources over high levels of selenium in discharges from coal mines. The company will be required to build treatment facilities for selenium because the level of selenium in the discharges is extremely toxic, causing reproductive failure and deformities in fish and other forms of aquatic life. Selenium also can cause damage to the kidneys, livers, and nervous and circulatory systems in humans. The DEP should have required stronger controls on selenium in the first place.

Natural Gas: With the growth in demand for natural gas, we must ensure that the rules and regulations adequately protect our land, water, and air. Rules recently passed by the Legislature are less stringent than hoped for. We need to continue to evaluate the strengths and weaknesses of this legislation and support adjustments where needed.

2. The LWVW supports funding to provide up-to-date technology resources in West Virginia schools.

Our world has changed and is continuing to change at an accelerated rate. Our nation's economy is a global economy. Skills, such as mastery of the basics, once were enough to assure success in the world. The workplace of today, however, demands expert thinking and complex communication.

National and international business and education leaders advise that improving our economy rests on the transformation of our education system. These experts also believe a comprehensive approach to providing technology infrastructure and digital tools is the essential fuel for accelerating this transformation. Technology powers learning via new curricula, new teaching methods, and more

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effective assessments. Technology creates new parental connection, prepares students for a digital-based workforce and improves student motivation, attitude, and interest in learning.

Educators have defined the challenge as being able to provide instruction that is not only relevant, engaging and meaningful, but that also includes the world-class rigor necessary to prepare our students to be competitive in the 21st century workplace.

In a digital world, students need to master the learning skills and tools that are essential to everyday life and workplace productivity. Information and communication technology literacy is the ability to use technology to develop 21st century context knowledge and learning skills. Access to technology is key to our students' success. The League of Women Voters urges the legislature to provide the funding to provide all students in the state with up-to-date resources.

3. *The LWVWV supports giving local governments additional options for generating revenue.*

Prior to the Great Depression of the 1930s, the main source of tax revenue in West Virginia was property taxes. When large numbers of West Virginians were threatened with loss of their homes and farms because of inability to pay their property taxes, voters approved the Tax Limitation Amendment to the state constitution by a huge margin. The amendment divided property into four categories and limited the levy rate on each category. Local governments could exceed the levy rates only if the voters approved excess levies.

As local governments found that they could not provide necessary services on their now-limited income, the state took over road maintenance and school systems were consolidated into countywide districts. To make up for lower property tax revenue, eventually various other forms of state taxes were adopted, including the sales tax, personal income tax, and a corporate net income tax. Revenue from these sources goes to the state. According to The West Virginia Encyclopedia, "Due largely to the Tax Limitation Amendment, local governments collect just 24 percent of all state and local taxes, versus a national average of 41 percent." *

With most sources of tax revenue flowing to the state, local governments have struggled to raise sufficient revenues to provide the services their constituents and government mandates require. In recent years, the Legislature has adopted measures that allow local governments to impose some forms of local taxation such as user fees. Under a home rule pilot project adopted in 2007, four West Virginia cities have broader authority to enact other taxes, such as a municipal sales tax and occupation tax. The imposition of

an occupation tax by the City of Huntington is currently the subject of litigation.

The League believes the legislature should expand the opportunities for local governments to impose the kind and level of local taxes that allow them to provide the services their residents expect and that reflect the economic and business conditions in their communities.

* See www.wvencyclopedia.org articles on Taxation and Tax Limitation Amendment for more information. *e-WV* is maintained by the WV Humanities Council.

LWVWV signs on to amicus brief

By Kathy Stoltz

The LWVWV has signed on to an amicus brief prepared by the Brennan Center for Justice at the NYU School of Law asking that a court ruling regarding West Virginia's election spending disclosure laws be overturned.

During the 2004 Supreme Court of Appeals race, then Massey Energy CEO Don Blankenship funded a multi-million dollar independent campaign to defeat an incumbent justice through an entity called "For the Sake of the Kids." Prior to the election, most voters had no idea who was behind this campaign and had no way to factor that information into their voting choices.

Since that election, the West Virginia Legislature has enacted reforms aimed at expanding disclosure of funding sources for independent advertising campaigns aimed at influencing elections. Courts repeatedly have struck down provisions in these laws. The current case in question revolves around interpretation of certain language that attempts to define which ads are intended to encourage votes for or against a particular candidate, and whether media other than "broadcast" media can be included.

Given its long history of advocating for expanded disclosure of campaign funding information as one more tool enabling voters to make fully informed election choices, the League joins the WV Citizen Action Group and Ohio Valley Environmental Coalition (fellow members of the Citizens for Clean Elections Coalition) in signing on to the amicus brief.

Occupy the Courts Event

A number of groups, including Move to Amend, Common Cause, Public Citizen, Free Speech 4 People, People for the American Way, are organizing a nationwide Occupy the Courts rally on January 20 to memorialize and resist the January 21, 2010 *Citizens United* decision. The U.S. Supreme Court's ruling in the case upended basic campaign finance law that has been in place for a century by conferring "personhood" on corporations and allowing unlimited expenditures to elect or defeat specific candidates.

Here in West Virginia, a group is planning a demonstration from 11:30 a.m. to 1:30 p.m. in front of the Robert C. Byrd Federal Courthouse on Virginia Street in Charleston on Friday, January 20th. The LWVWV has signed on as a supporter and Susan Watkins will be one of the speakers. A similar event is taking place in Clarksburg from 10:00 a.m. to 3:00 p.m. at Courthouse Square, 500 West Main Street.

Follow the actions of the legislature online ...

The 2012 regular session of the West Virginia Legislature convenes on January 11 at noon. There is a variety of information available at the Legislature's website - www.legis.state.wv.us:

Bulletin Board

Access prompt information during legislative sessions through the Legislature's Calendars, Meetings, Abstracts, Indexes and Journals.

Blog - Today in the Legislature

Read an up-to-date summary of daily legislative activities.

Wrap-up

The Legislature's official newsletter is published weekly throughout each regular session and contains summaries of bills and other legislative actions.

Streaming Audio

Listen to the Legislature live. Streaming audio is available for House and Senate floor sessions as well as the House Education, Finance, Judiciary and Government Organization Committees and the Senate Finance and Judiciary Committees.

You can keep abreast of bills by using the Bill Tracking and Bill Status features. Legislators' addresses, telephone numbers and e-mail addresses are also available at the site.

League News

- The State Board approved \$500 grants to Jefferson Co., Morgantown and Wood Co. Leagues. Each League is using the grant for local publications.
- The **Morgantown LWV** held its consensus meeting on the national education study on November 16 and its legislative forum on December 7. Morgantown recently published an updated guide to local government officials.
- The **Huntington Area LWV** sponsored a "Running For Office" workshop on November 7. Some of the topics were: campaign and finance regulations, preparing the message, reaching the public, and raising money. On November 15, Huntington offered a screening of *The Last Mountain*, a film that illustrates the environmental impact of mountaintop removal mining.
- The **Wood County LWV** is publishing a brochure describing the recycling services in the county. Wood County met over pizza on October 24 to discuss the national education study.
- The State Board is currently without a secretary and a Voters Service chair. If anyone is interested in serving in one of these positions, contact Susan Watkins at susanwatkins@suddenlink.net.

LWVWV Board of Directors

President	Susan Watkins 304-343-8574 susanwatkins@suddenlink.net
1st VP Natural Resources	Helen Gibbins 304-736-3287 gibbins@frontier.com
2nd VP Healthcare	Nancy Deming 304-363-6844 NDeming@valleyhealthcare.org
Treasurer	Teresa Koon 304-965-5183 tbyler@suddenlink.net
Director Education	Priscilla Haden 304-346-7252 caphaden@aol.com
Director (off-board) Advocacy	Marilyn McGeorge 304-344-8722 mandw@suddenlink.net
Director Membership Publications	Nancy Novak 304-295-8215 NNovakWV@gmail.com
Director Website	Jonathan Rosenbaum 304-599-2370 freesource@cheat.org
Director Public Relations	Shirley Rosenbaum 304-599-2370 shirley.rosenbaum@gmail.com
Director International Relations	Sharon Rowe 304-898-6308 srowe@concord.edu
Director State Gov/ Election Laws	Kathy Stoltz 304-295-7880 ksstoltz@suddenlink.net

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LAW ON FRACKING IN THE MARCELLUS SHALE

By Helen Gibbins

League members undoubtedly have been following the West Virginia Legislature's attempts to regulate horizontal drilling and fracking for natural gas in West Virginia's Marcellus Shale strata. Here is a short synopsis of the events. Efforts in several legislative sessions came to naught so this year the legislature appointed a Select Committee to work on a law. The result was a fairly decent, not perfect, proposal. Meanwhile, the WV Department of Environmental Protection (DEP) issued emergency rules, a weak response to the problems caused by fracking.

In December the governor called a special session to work on a more substantial law. His draft, with a few amendments, passed the Senate. When the bill moved to the House of Delegates, it was assigned to the Judiciary Committee. The Committee amended in some of the Select Committee's protections. HB 401, the Natural Gas Horizontal Control Act, passed the House and Senate and was signed by the governor, all within a few days. The law is available on the WV Legislature's website.

The law applies to horizontally drilled wells that impact three or more acres or consume 210,000 gallons of water monthly. Already permitted wells and future additional wells on pads already permitted are exempted from the new law. According to the DEP more than 1,600 wells are already permitted, many of which are no longer conducting activity that would fall under the new regulations.

Measures to protect the environment and nearby landowners include:

- Drilling fees will increase from \$400 per well to \$10,000, and \$5,000 for each additional well on the site. This will enable the DEP to hire 14 more inspectors.
- Buffer zones: 625 feet from homes and animal buildings; 250 feet from a well; 300 feet from a natural trout stream; 1,000 feet from a public water supply intake. The law also allows the DEP to propose larger setbacks for homes if warranted.
- Drill cuttings and other drilling waste can only be buried on site if a surface owner consents.
- Air pollution and nuisances: The law requires the DEP to study the impact of noise, dust, and volatile organic compounds (VOC) from drilling sites on nearby

residents. If found necessary the DEP may establish further protections for landowners. Furthermore, "The secretary shall report to the Legislature on the need, if any, for further regulation of air pollution occurring from well sites...that could harm human health or the environment. If specialized permit conditions are necessary, the secretary shall promulgate legislative rules establishing these new requirements." (In addition to VOCs, the League is concerned about emissions such as fugitive methane gas, a global warming gas 20 times more detrimental than CO₂, toxic air pollutants, and radon).

- Public notice requirements have been improved. They include establishing a website that lists all applications and permits.
- There are special provisions for Karst Geology.
- The DEP will issue regulations on casing and cement standards; effective control of the horizontal well by the operator; prevention of the migration of gas or other fluids into sources of fresh groundwater or into coal seams; prevention of pollution of or diminution of fresh groundwater; prevention of blowouts, explosions, or fires; and appropriate disposition of brines and discharges from the drilling or operation of horizontal wells.
- The Secretary shall evaluate the safety of pits and impoundments. If more requirements are needed, the Secretary shall propose regulations.
- Water withdrawal plans: The permit application shall include a water withdrawal management plan to include the type of water source and location; the anticipated months and volume of each water withdrawal; the planned management and disposition of wastewater; a listing of additives; identification of the current designated and existing water uses, including any public water intakes within one mile downstream of the withdrawal location; a demonstration that sufficient in-stream flow will be available immediately downstream of the point of withdrawal; and assurance that aquatic life will not be adversely impacted.
- Criminal penalties were amended to the governor's proposal.
- The law provides for compensation for damages.

CORRECTION TO FALL 2011 VOTER – The Obama administration withdrew its Ozone National Ambient Air Quality Standards to control smog, not the Cross State Pollution Rule.

Affordable Care Act benefits West Virginians

Along with passage of the 2010 federal Patient Protection and Affordable Health Care Act (ACA) came passionate pro and con arguments about the Act. The League supported the passage of the law because it extends health care insurance to more than 30 million Americans, protects the coverage that currently delivers care to most, contains essential elements to reduce costs over the long term, and accomplishes these goals at a reasonable cost. Through increased eligibility for federal payments for Medicaid and the establishment of state insurance exchanges, West Virginia has the possibility of increasing insurance coverage to more than 184,000 adults, preponderantly low-income working adults.

We are now beginning to see how West Virginians are benefitting from provisions of the Affordable Care Act. West Virginians for Affordable Health Care announced these positive outcomes:

- ⇒ More than 25,000 West Virginians on Medicare saved more than \$13 million in 2011 because the law reduced prescription costs that retirees must pay when they reach the “donut hole,” a gap in drug coverage.
- ⇒ Almost 7,000 young adult West Virginians who would have lost medical protection are now insured because the law lets them remain under their parents’ coverage until age 26.
- ⇒ Around 91,000 West Virginia children with pre-existing health problems cannot be denied coverage by insurers, thanks to the new law.
- ⇒ Almost 4,000 aging West Virginians have received free medical screening exams through a preventive safeguard added to Medicare.
- ⇒ Some \$60 million of federal funds have flowed into West Virginia to improve care in school clinics, nursing homes, community clinics and other health projects.

The League of Women Voters believes that a basic level of quality health care at an affordable cost should be available to all U.S. residents. The League remains vigilant in light of current efforts to repeal or diminish the Affordable Health Care Act in Congress and the Courts.

Sign on!

The League of Women Voters of West Virginia is a member of the West Virginia Civics Literacy Council which was created in 2007 by the state Legislature to foster civic education and citizenship.

For the past five years, the Council has planned events to celebrate Constitution Day on September 17.



In 2012, the Council is expanding beyond the focus on a single day and asking people to think about the place of the Constitution in their lives as citizens: What does the Constitution mean to you? Do you have a personal connection to the Constitution? What does it mean to be patriotic?

As you ponder these questions, the League of Women Voters invites you to sign a Declaration of Commitment to the basic tenets and principles set forth in the Constitution of the United States. The Preamble to the Constitution exemplifies those principles:

“We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

Go to the League’s website - lwv.org - and sign on!

DECLARATION OF COMMITMENT

I pledge a renewed commitment to the basic tenets and principles set forth in the Constitution of the United States, a living document that has provided the framework for our constitutional democracy for over 200 years.

The League of Women Voters promotes political responsibility through informed and active participation in government and acts on selected governmental issues.

Susan Watkins
President and Editor



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Calendar

- January 11 WV Legislature convenes
- January 20 Occupy the Courts rally
- January 28 LWVWV Board Meeting
- February 6-7 Women's Day at the Legislature
- February 14 Happy Birthday LWVUS!
- March Women's History Month
- March 10 WV Legislature adjourns
- April 14 LWVWV Council & Board Meeting

JOIN THE LEAGUE! The League of Women Voters is a nonpartisan organization that encourages the informed and active participation of citizens in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. **If you live in Cabell, Jefferson, Monongalia, or Wood County, please contact the local League in those counties.** To join at the state level, send a check or money order payable to LWVWV to: Teresa Koon, Treasurer, LWVWV, 4112 Coopers Creek Road, Charleston WV 25312. Dues are \$40 for individuals, \$60 for a household, and \$20 for students. Because we are a lobbying organization, membership dues are not tax-deductible.

Name(s) _____ Phone _____

Address _____ E-mail _____

City _____ State _____ Zip Code _____