



# THE WEST VIRGINIA VOTER

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## CALL TO CONVENTION

League members are invited to attend the League's biennial State Convention in Huntington on Saturday, April 18. Each Local League is entitled to voting delegates, in numbers allowed by the Bylaws. Any other member-at-large may attend as a visitor. The Convention will hear portfolio reports from state board, as well as elect officers and make plans for the next two years.

The Luncheon speaker will be Ted Boettner, Executive Director of the WV Center for Budget Policy, an organization working toward many of the same goals as the League. Please contact Nancy Novak, [Nno-vakWv@gmail.com](mailto:Nno-vakWv@gmail.com) if you are interested in attending.

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## 2015 LEGISLATIVE UPDATE Status of bills as of 3/20/15

By Kathy Stoltz

The following are selected bills likely to be of interest to League members. As of this writing many bills that passed both houses await signature (or veto) by the Governor. To view all 261 bills passed, go to [www.legis.state.wv.us/](http://www.legis.state.wv.us/), click on the *Bill Status* tab and then on *Completed Legislation* or *Actions by Governor* to check on final status of a bill. The Governor has 15 days from the end of the session to act on most bills. More detail on several bills of interest can be found on pages 2-4.

**LWV PRIORITIES** that were sent to legislators in a letter at the start of the session:

**Voter ID:** (LWV opposed) Four bills introduced, **none taken up.**

**Library Funding:** (LWV for) SB113/HB2541 would have permitted counties to impose a levy for library funding.

**Neither was taken up.** Library funding was included in a list of interim committee studies.

**Tobacco Taxes:** (LWV for) Three bills were introduced but not taken up. A \$1/pack tax increase was amended into HB 2646, which started as a fireworks bill and ended up as a "Christmas tree bill" including the cigarette tax and relaxing indoor smoking regulations. That bill **died on the final day.**

**Water Quality: SB 423** (LWV opposed) Amends the Above Ground Storage Tank Act. Final version greatly reduced the number of tanks that must be inspected, weakening the bill passed last year. **Passed both houses.**

**Water Quality: HB 2283** (LWV for) Drinking Water Status for Kanawha River. Restores "Category A" (drinking water) status to the section of the Kanawha River that runs through Charleston (from Belle to the Ohio River). **Passed both houses.**

### **OTHER BILLS OF INTEREST**

#### **ENERGY/ENVIRONMENT**

**Energy:** HB 2004 This bill limits the state's compliance with the EPA's standards for power plant emissions and continues reliance on coal as a fuel for power generation. **Signed by governor**

**Water:** SB 357 "Coal Jobs and Safety Act" This bill would weaken aluminum criteria for streams and seeks to give coal operators protection against citizen lawsuits.. **Signed by governor**

**Recycling:** SB 352 Allows county or regional waste authorities to designate common carriers of solid waste an exemption from the requirement for a "certificate of need" in order to expand availability of recycling services. **Passed both houses**

*(Continued on page 2)*

## 2015 Legislative Update *(Continued from page 1)*

**Forced Pooling of Mineral Rights:** HB 2688 Facilitates forcing mineral rights owners into an agreement with drillers, spells out terms. **Passed Senate, defeated the final night on a tie vote in the House.**

### ELECTION LAWS

**Non-Partisan Judicial Elections:** HB 2010 Requires the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be non-partisan and by division, election to be held at the time of the May primary election. **Passed both houses**

**Campaign Finance Reform:** SB 541 This was a bad bill that was amended by Senate to become a decent bill setting contribution limits and expanding disclosure requirements, then amended by the House back to its original bad form. It **died at the end of the session.**

SB 249 Eliminates straight party voting. **Passed both houses**  
SB 322 Eliminates mandatory electronic recount of ballots in requested recounts but retains it in the canvass. **Passed both houses**

HB 2157 makes fraud committed in connection to handling absentee ballots a felony and sets penalties. **Signed by governor**

### EDUCATION

**Charter Schools:** SB 14 Creating Public Charter Schools Act of 2015. After much discussion and amendments to delay implementation and to do a study instead of repeal, **the bill died on the final night.**

**Common Core:** HB 2934 would repeal Common Core standards, in WV adopted as 21st Century Curriculum Standards and Objectives. House and Senate were unable to reconcile their amended versions of the bill and it **died on the final night.**

**Childhood Immunizations:** SB 286 spells out requirements for childhood immunizations for admission to school or child care facility. **Passed both houses**

**TB Testing:** SB 424/HB 2669 eliminates mandatory testing in schools for tuberculosis. **Signed by governor**

### HEALTH CARE

**Reproductive Rights:** HB 2568, the so-called Fetal Pain bill, outlaws abortion after 20 weeks except under very limited circumstances. **Passed both houses, Vetoed by governor, Veto override passed both houses.**

**Affordable Care Act:** HB 2216 The purpose of this bill was to authorize only the Legislature to create a state based health ex-

change. This was an overturn of the ACA bill. **Died in committee**

### OTHER

**Constitutional Convention:** SCR 13 urged Congress to call convention for proposal of constitutional amendments imposing fiscal restraints, limiting jurisdiction and setting term limits.

**Died in committee**

**Concealed Carry:** SB 347 removing requirement one must have a license to carry a concealed handgun, amended to set age at 21 instead of 18. **Passed both houses. Vetoed by governor**

**Death Penalty:** HB 2855 would institute a death penalty in WV. **Not taken up**

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## NATURAL RESOURCES 2015 LEGISLATIVE ACTION

By Helen Gibbins

**ABOVEGROUND STORAGE TANK (AST) AMENDMENTS - SB 423 Passed a bad one.** (taken from emails and fact sheets provided by the WV Rivers Coalition and other environmental groups)

Unfortunately in this year's legislative session the excellent bill (S373) from last year was weakened. Many citizen efforts were made to strengthen this year's bill, but most of the efforts did not succeed even though multiple groups and citizens voiced their opinions. Here are some of the weakening facets.

SB 423 exempts approximately 36,000 tanks from regulation under the AST. Roughly one-third of the deregulated tanks are located within 1,000 feet of a river or stream.

SB 423 rolls back inspection requirements, Spill Prevention and Response Plan requirements, and individual permits requirements.

SB 423 creates new restrictions on disclosure of information that could inform water utilities about threats to their water systems.

SB423 **(positive improvement)** added a seat for the WV Rivers Coalition on the Public Water System Supply Study Commission.

**COAL JOBS AND SAFETY ACT - SB 357 - Passed a bad one**

The law makes changes pertaining to safety in coal mines. It also includes environmental provisions.

SB 357 requires the WV Department of Environmental Protection (DEP) to "promulgate an emergency rule revising the statewide aluminum water quality criteria for the protection of aquatic life to incorporate aluminum criteria values using a hardness-based equation." Among the environmental community there are questions about the validity of the science of this process.

*(Continued on page 4)*

## Our Children, Our Future Coalition Works to Protect Families

By Susan Watkins

The LWVWV is part of the coalition *Our Children, Our Future Campaign to End Child Poverty*. Over 175 organizations, businesses, unions, churches and advocates make up this broad alliance devoted to ending child poverty in West Virginia. We followed its legislative priorities during the 2015 session of the legislature.

The top five goals of the coalition were:

- Protect and Provide a Secure Funding Stream for Family Support Programs: Preserve funding for Family Resource Networks and Family Resource Centers across the state.
- Invest in Early Childhood: The Governor's Early Childhood Task Force offers a 10-year plan to make WV a national leader in early childhood programs. Recommendations include expanding home visits and access for quality childcare.
- Juvenile Justice Reform: WV is experiencing a crisis in the number of children referred to juvenile court as a result of missing school. We must amend the current truancy law to extend the number of unexcused absences from five to ten days.
- Drinking Water Protections: Last year's chemical leak in Charleston disproportionately hurt low-income and working families. We must protect drinking water protections enacted after the leak.
- Defend Medicaid and CHIP and Expand Medicaid Access to Mental Health Therapy: Health bills are the leading cause of bankruptcy in America and Medicaid expansion and CHIP are proven to save money.

Other goals included increasing the tobacco tax, requiring a prescription for pseudoephedrine and preventing childhood sexual assault. The just-completed session saw both successes and disappointments for the coalition.

Governor Tomblin's initial budget cut funding again this year for Family Resource Networks and other family service programs. The legislature restored the funding, a big win for the coalition. Advocates are urging the Governor not to line-item veto the measure in the budget.

**HB2550** extends the number of unexcused school absences from five to ten and consequently reduces the number of children referred to juvenile court. It passed and is awaiting the Governor's signature.

**SB423**, which greatly reduces the restrictions placed on above-ground storage tanks in the aftermath of last year's chemical leak in Charleston, passed and is awaiting the Governor's signature.

**HB2527**, known as Erin Merryn's Law, creates a taskforce to address the issue of child sexual abuse. The ultimate goal is to train educators and school personnel to recognize signs of child sexual abuse and respond.

OCOF partners spent as much time fighting against legislation as lobbying for its priorities. There were numerous bills affecting children and families that OCOF opposed: efforts to weaken clean indoor air regulations; prevailing wage and right to work repeal; drug testing of TANF recipients; "as is" used car sales, to name a few.

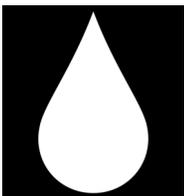
The lobbyists in the OCOF coalition are tireless advocates for the welfare of children and families and their efforts are to be commended.

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## SOURCE WATER PROTECTION PLANS REMINDER



Water utilities are required to prepare Source Water Protection Plans. The public is supposed to be involved in the development of the plans. If local Leagues wish to take part in this planning, contact your local water utility. The deadlines have been staggered according to watersheds, starting in the summer of 2015 and ending by July 1, 2016.

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## NATURAL RESOURCES 2015 LEGISLATIVE ACTION

*(Continued from page 2)*

SB 357 shields some compliance with water quality standards by stating “except for a toxic pollutant injurious to human-health.....water quality standards themselves shall not be considered ‘effluent standards or limitations’..... of the federal Water Pollution Control Act and shall not be independently or directly enforced or implemented except through the development of terms and conditions of a permit.” The federal court has ruled that whether a permit includes a limitation on a pollutant or not if the company is violating the water quality standard for the pollutant, citizens groups can sue to try to stop that pollution.

Water Quality Standards “are the foundation of the water quality based control program mandated by the Clean Water Act. The Standards form the legal basis for controls on the amount of pollution entering West Virginia waters from sources such as industrial facilities, wastewater treatment plants and storm sewers. Standards are also the technical basis for reducing runoff from rural and urban areas. A standard can consist of either numeric or narrative limits for a specific physical or chemical parameter. Ultimately, a water quality standard is developed to help protect and maintain water quality necessary to meet and maintain designated or assigned uses, such as swimming, recreation, public water supply, and/or aquatic life.”(From the DEP’s website)

Permits are the individual limits set on a polluter with the aim of meeting water quality standards.

### DRINKING WATER QUALITY STANDARDS - CATEGORY A - Passed a good one.

Category A Drinking Water Quality Standards are the standards for the state’s waters except when there are variances. Category A means that water treatment plants can treat the water with conventional means. One of the rules passed by the legislature restores Category A to a stretch of the Kanawha River from just above Belle to the Ohio River. If Category A had been established for the Kanawha River before last year’s spill, the water utility could have had another intake. Thus the spill would not have affected so many consumers.

For more information, you may want to read the E-Council’s wrap-up of the 2015 legislative session. WV ENVIRONMENTAL COUNCIL’S MARCH 19 GREEN LEGISLATIVE UPDATE, ISSUE 9. <http://wvecouncil.org/green-vol-25-issue-9/>



## LEGISLATIVE RULE MAKING IN WEST VIRGINIA

### THE AGENCY PROCESS

(From the Secretary of State’s (SOS) website)

Rule making starts with the following steps:

- 1) An agency recognizes the need for filing a new rule, amending an existing rule, or revoking an existing rule or part of a rule.
- 2) During the process of drafting a rule an agency should seek information on content from numerous sources, --staff, other agencies, interest groups, court rulings, scientific or association publications, and the agency’s Attorney General representative.
- 3) Review of the Draft - the agency files with the SOS and Legislative Rule-making Review Committee (LRMRC) and must have prior approval by its agency.
- 4) The final draft of the proposed rule must follow the format established by the Secretary of State.
- 5) The agency schedules a public hearing and comment period. If the comments warrants changes in the rule, the agency makes those changes.
- 6) After approval in writing by the administrative head of the agency, the agency again files the proposed rule with the SOS and LRMRC.
- 7) The LRMRC reviews the proposed rule and “will recommend one of the following to the Legislature.
  - a. Authorize the promulgation of the legislative rule, or
  - b. Authorize the promulgation of part of the legislative rule, or
  - c. Authorize the promulgation of the legislative rule with certain amendments, or
  - d. Recommend that the proposed rule be withdrawn.
 The LRMRC then files a notice of which action occurs in the State Register.
- 8) If the LRMRC approves the rule or modifies the rule, it is submitted to the Legislature.

### LEGISLATIVE PROCESS

(From an article by Don Garvin, WV Environmental Council)

During the legislative session there are normally more than a hundred state agency rules. The legislative web site contains a long list of bills in both the House and the Senate with titles, however, to find out what is in the rules one must go to the Secretary of State’s website. You can also find them on the specific agency web site.

When the agency rules are introduced, they are assigned both a House bill number and a Senate bill number, and these are different from the numbers used by the LRMRC. The rules are then assigned to committees in both houses and will then be “bundled” and sent as a group – under a new bill number – to the Houses.

*(Continued on page 5)*

**LEGISLATIVE RULE MAKING (cont'd)**

In most states the rules can only be voted up or down. The legislatures cannot change or re-write the rules. But in West Virginia lawmakers can change any part of a proposed agency rule. In the extreme, they can even do a “strike and insert” and replace the entire rule.

**EMERGENCY RULES (from SOS website)**

“When a rule is needed before a legislative rule can be made effective through the normal rule-making process, an agency may promulgate an emergency rule. The agency must have authority granted by the West Virginia Legislature and make the case that a true emergency exists, as defined by law. Emergency rules remain valid up to fifteen (15) months or until a legislative rule becomes effective to take its place.”

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**CALENDAR**

April 18	LWV WV Convention, Huntington, WV
April 12-18	National Volunteer Week and National Library Week
April 22-17	Save Energy Week
June 18-21	LWV US Council, National Conference Center, Leesburg, VA
August 26	Women’s Equality Day
September	Voter registration month
October	Voter education month



**West Virginia  
Affordable Care Act Facts**

from the website HealthInsurance.org

- West Virginia is the only state in the country with only one health insurance carrier in its exchange - Highmark Blue Cross Blue Shield
- West Virginia had the 2<sup>nd</sup> highest increase in Medicaid/CHIP enrollment in the country in 2014 as a result of taking advantage of the ACA Medicaid expansion.
- In 2013, about 17 percent of the West Virginia population was uninsured. By July 2014, that number had fallen to 6.6 percent, due almost entirely to the ACA.
- In a study conducted by Wallet Hub, West Virginia is ranked second in the nation in terms of benefits to the states and their residents from the ACA
- Of the people who had selected private plans by January 16, 2015 (27,471) 86 percent are receiving premium subsidies
- If the Supreme Court decides in favor of the plaintiffs, subsidies in West Virginia would be eliminated.

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**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 LWVW to: Teresa Koon, Treasurer, LWVW, 4112 Coopers Creek Rd., 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.

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