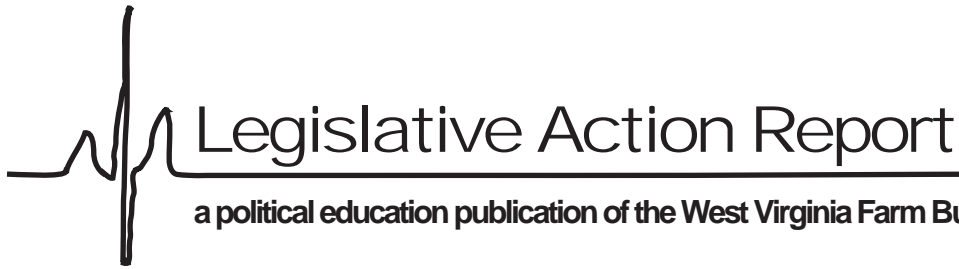


Return Service Requested



# Legislative Action Report

a political education publication of the West Virginia Farm Bureau

ISSUE # 3

FEBRUARY 5, 2010

Bill updates are noted in bold.

Bills surfacing on our watch list during week one - January 13-15

S.B. 2 – By Senator Boley – Referred to Transportation and Infrastructure. The purpose of this bill is to expand the definition of all-terrain vehicles to include all-terrain utility vehicles. WVFB MONITORING.

S.B. 33 – By Senator Deem – Referred to Finance. The purpose of this bill is to limit classification of real property as managed timberland to prevent county property tax revenues from decreasing by more than four percent. WVFB OPPOSES.

S.B. 45 – By Senators Jenkins and Plymale – Referred to Transportation and Infrastructure, then Government Organization. The purpose of this bill concerns the registration of mini-trucks and their operation by municipalities. The bill exempts mini-trucks from title requirements. The bill also exempts sellers from any requirement to modify mini-trucks to comply with any federal law and from making certain disclosures to purchasers. The bill further defines the term “mini-truck.” WVFB MONITORING.

S.B. 57 – By Senator Bowman – Referred to Transportation and Infrastructure, then Finance. The purpose of this bill is to require timbering operations to repair and restore roads and rights-of-way damaged by their operations. It also provides civil and criminal penalties. WVFB MONITORING.

S.B. 59 – By Senator Barnes – Referred to Government Organization, then Finance. The purpose of this bill is to require individuals leasing subsurface property rights to be licensed under this act. WVFB MONITORING.

S.B. 60 – By Senator Barnes – Referred to Energy, Industry and Mining, then Judiciary. The purpose of this bill is to require lessors of subsurface rights to state with specificity what surface rights are also being acquired. The bill also provides that if no surface rights are being acquired, the lease or the contract to lease will so state. WVFB MONITORING.

S.B. 61 – By Senator Barnes – Referred to Energy, Industry and Mining, then Judiciary. The purpose of this bill is to require all contracts for the sale or lease of land over five acres to state with specificity the estates being transferred and, if any, the estates being reserved.

The bill also requires that if no estate is reserved, the contract shall so state. WVFB MONITORING.

S.B. 68 – By Senators Minard, Unger, Oliverio and D. Facemire – Referred to Finance. The purpose of this bill is to include on the state personal income tax return a checkoff option to donate some or all of any tax refund to the “Jackson’s Mill 4-H Camp Checkoff Program” for the operation of the camp. WVFB SUPPORTS.

S.B. 69 – By Senators McCabe, White, Foster, Unger, Palumbo and Chafin – Referred to Transportation and Infrastructure, then Finance. The purpose of this bill is to authorize the creation of a new tax credit for eligible expenditures incurred in placing in service residential or nonresidential energy efficient building property. The bill’s incentive will encourage the construction of energy efficient buildings, thereby reducing the total amount of energy consumed in the state. WVFB MONITORING.

S.B. 105 – By Senator White – Referred to Judiciary, then Finance. The purpose of this bill is to exempt owners, other than corporations or partnerships, of one hundred acres or less of contiguously connected real property from payment of increased valuation and assessment as natural resources property on reserve coal properties. The bill defines “small property owner” as an owner of one hundred or less acres of real property that is not a corporate entity or partnership. It also requires an affidavit from the property owner that the coal will not be mined or the interest therein transferred. If the coal is subsequently mined, the owner will be assessed the increased rate plus interest before mining may continue. WVFB MONITORING.

S.B. 183 – By Senator D. Facemire – Referred to Transportation and Infrastructure, then Judiciary. The purpose of this bill is to prohibit diesel powered motor vehicles from excessive idling; to provide exceptions to idling restrictions; to establish a misdemeanor offense of excessive idling; to provide criminal penalties; and to provide enforcement by the Department of Environmental Protection. WVFB MONITORING.

S.B. 195 – By Senators Jenkins and McCabe – Referred to Judiciary. The purpose of this bill is to allow Supreme Court justices to be elected on a nonpartisan ballot. WVFB SUPPORTS.

S.B. 211 – By Senators Browning and Foster – Referred to Natural Resources, then Energy, Industry and Mining. The purpose of this bill is to set up a regulatory scheme in which to regulate the use by owners and others of various waterways, lakes and watercourses. The bill contains provisions requiring persons to obtain permits before engaging in various activities

that affect waterways, lakes, streams or watercourses. The bill contains civil enforcement provisions as well as a penalty for intentionally damaging waterways. WVFB MONITORING.

H.B. 2012 – By Delegate Cann – Referred to Judiciary, then Finance. The purpose of this bill is to prohibit increases in the assessed value of real property which is located in a county where a maximum excess levy is in effect, the property has not changed in tax classification and the increased value is more than two percent over the assessed value of the same property for the previous year. WVFB MONITORING.

H.B. 2030 – By Delegate Azinger – Referred to Judiciary, then Finance. The bill provides a three percent cap on any increase in assessment on real property that is the primary residence of an individual in any one year. WVFB SUPPORTS.

H.B. 2106 – By Delegates Ireland, Hamilton, Romine and Miller, C. – Referred to Judiciary. The bill would make English the official language of West Virginia. WVFB SUPPORTS.

H.B. 2343 – By Delegates Michael, Hartman, Crosier, Argento, Williams and Poling, D. – Referred to Natural Resources, then Judiciary. The purpose of this bill is to regulate captive cervid farming as an agricultural enterprise in this state. The bill describes powers and duties of the WV Department of Agriculture. WVFB SUPPORTS.

H.B. 2358 – By Delegates Miley, Fragale and Iaquina – Referred to Agriculture, then Finance. (Bill is same as S.B. 68 – tax checkoff option for Jackson’s Mill 4-H Camp.) WVFB SUPPORTS.

H.B. 2488 – By Delegates Shaver and Williams – Referred to Roads and Transportation, then Judiciary. The purpose of this bill is to allow mini-trucks to be licensed in WV for limited use on public highways. WVFB MONITORING.

H.B. 2511 – By Delegate Border – Referred to Natural Resources, then Finance. (Bill is similar to S.B. 33, but targets five percent instead of four percent.) WVFB OPPOSES.

H.B. 2561 – By Delegates Sobonya, Stephens, Rowan, Morgan, Miller, C. and Reynolds – Referred to Roads and Transportation, then Judiciary. The bill provides that an applicant for a farm use exemption certificate may not be required to appear before any assessor for renewal. **UPDATE – Passed House and introduced in Senate. - to Transportation and Infrastructure, then Judiciary.** WVFB SUPPORTS.

H.B. 2578 – By Delegates Duke, Miller, J., Blair, Overington, and Doyle – Referred to Judiciary, then Finance. The bill provides a ten percent cap on any increase in assessment of real and personal property in any one year. WVFB SUPPORTS.

H.B. 2625 – By Delegates Evans, Rowan, Canterbury, Staggers, Doyle and Azinger – Referred to Agriculture, then Finance. Bill provides for aged or disabled farmers to continue to receive the benefit of having their farm land appraised as farm property after they cease farming. WVFB SUPPORTS.

H.B. 2680 – By Delegates Beach and Canterbury – Referred to Government Organization. Bill addresses increasing the environmental protection advisory council membership to nine members, specifying one member representing farming interests and one registered forester representing interests of private owners of forest land. WVFB SUPPORTS.

H.B. 2735 – By Delegates Martin, Argento and Eldridge – Referred to Agriculture, then Government Organization. Bill addresses changing the membership of the State Conservation Committee, as well as staffing and auditing requirements. WVFB OPPOSES.

H.B. 2907 – By Delegates Boggs, Cowles, Walker, Campbell, Argento, Smith and Ashley – Referred to Agriculture, then Judiciary. Bill addresses details/regulations relating to the sales of wine. WVFB MONITORING.

H.B. 2982 – By Delegate Ross – Referred to Judiciary. The purpose of this bill is to modify the definitions of “shallow” and “deep” wells to allow a shallow well to be drilled deeper and provide clarity to both definitions. WVFB MONITORING.

H.B. 3023 – By Delegates Brown, Martin, Argento, Paxton, Poling, M., Poling, D., Moye, Moore, Fleischauer, Manypenny and Rodighiero – Referred to Energy, Industry and Labor, Economic Development and Small Business, then Judiciary. (Oil and Gas Surface Owner’s Bill of Rights) WVFB MONITORING.

H.B. 3096 – By Delegate Guthrie – Referred to Agriculture, then Finance. Bill provides tax credits for the sale of locally grown produce. WVFB MONITORING.

H.B. 3254 – By Delegates Manypenny, Beach, Frazier and Fleischauer – Referred to Government Organization, then Judiciary. Bill would require county commissions to adopt and implement county farmland protection programs. WVFB MONITORING.

Bills surfacing on our watch list during week two – January 18-22

Action has increased during week two of the 2010 Regular Session. A majority of the new bills added to our watch list deal with proposed regulations/rules from government agencies.

S.B. 236 – By Senator Williams – Referred to Agriculture, then Economic Development. The purpose of this bill is to setup the beginning stages of aquaculture development in West Virginia; giving the Department of Agriculture power over such developments and creation of an Aquaculture advisory board. **UPDATE - Committee Substitute passed, presently in Economic Development.** WVFB MONITORING.

S.B. 239 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Judiciary. The purpose of this bill is to authorize the Department of Environmental Protection to promulgate a legislative rule relating to Requirements Governing Ground Water Standards. WVFB MONITORING.

S.B. 241 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Agriculture, then Judiciary. The purpose of this bill is to authorize the Commissioner of Agriculture to promulgate a legislative rule relating to Animal Disease Control. **UPDATE - Passed Agriculture, presently in Judiciary.** WVFB MONITORING.

S.B. 242 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Agriculture, then Judiciary. The purpose of this bill is to authorize the Commissioner of Agriculture to promulgate a legislative rule relating to Integrated Pest Management Programs in Schools and Child Care Centers and Facilities. **UPDATE - Passed Agriculture, presently in Judiciary.** WVFB MONITORING.

S.B. 243 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Agriculture, then Finance and Judiciary. The purpose of this bill is to authorize the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Shellfish. **UPDATE - Passed Agriculture with amendment, presently in Finance, then Judiciary.** WVFB MONITORING.

S.B. 255 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Government Organization,

then Judiciary. The purpose of this bill is to authorize the Conservation Agency to promulgate a legislative rule relating to the Operation of the West Virginia State Conservation Committee and Conservation Districts. **UPDATE - Passed Government Organization with amendment, presently in Judiciary.** WVFB SUPPORTS.

S.B. 277 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Judiciary. The purpose of this bill is to authorize the Department of Environmental Protection to promulgate a legislative rule relating to the National Pollutant Discharge Elimination System (NPDES) Program. **UPDATE – Passed Judiciary.** WVFB MONITORING.

S.B. 278 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Finance, then Judiciary. The purpose of this bill is to authorize the Department of Environmental Protection to promulgate a legislative rule relating to Water Pollution Control Permit Fee Schedules. WVFB MONITORING.

S.B. 280 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Judiciary. The purpose of this bill is to authorize the Department of Environmental Protection to promulgate a legislative rule relating to Monitoring Wells. **UPDATE - Was referred to Energy, Industry and Mining and passed; presently in Judiciary.** WVFB MONITORING.

S.B. 281 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Judiciary. The purpose of this bill is to authorize the Department of Environmental Protection to promulgate a legislative rule relating to Monitoring Wells Design Standards. WVFB MONITORING.

S.B. 302 – By Senators Minard, Fanning, Prezioso, Unger, Boley and K. Facemyer – referred to Natural Resources, then Judiciary. The purpose of this bill is to authorize the Division of Natural Resources to promulgate a legislative rule relating to Deer Hunting. **UPDATE - Passed Natural Resources, presently in Judiciary.** WVFB MONITORING.

H.B. 4049 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Agriculture, then Judiciary. Purpose – see S.B. 240. WVFB MONITORING.

H.B. 4065 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Agriculture, then Judiciary. Purpose – see S.B. 242. **UPDATE – Passed Agriculture, presently in Judiciary.** WVFB MONITORING.

H.B. 4066 – By Delegates Brown, D. Poling, Miley and Talbott – referred to Agriculture, then Judiciary. Purpose – see S.B. 243. **UPDATE - Passed Agriculture with amendment, presently in Judiciary.** WVFB MONITORING.

H.B. 4077 – By Delegates Brown, D. Poling, Miley and Talbott – referred to Natural Resources, then Judiciary. Purpose – see S.B. 255. **UPDATE – Passed Natural Resources, presently in Judiciary.** WVFB MONITORING.

H.B. 4091 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Judiciary. Purpose – see S.B. 277. WVFB MONITORING.

H.B. 4092 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Judiciary. The purpose of this bill is to authorize the Department of Environmental Protection to promulgate a legislative rule relating to Requirements Governing Ground Water Standards. WVFB MONITORING.

H.B. 4093 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Judiciary. Purpose – see

S.B. 278. WVFB MONITORING.

H.B. 4095 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Judiciary. Purpose – see S.B. 280. WVFB MONITORING.

H.B. 4096 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Judiciary. Purpose – see S.B. 281. WVFB MONITORING.

H.B. 4104 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Roads and Transportation, then Judiciary. The purpose of this bill is to authorize the Commissioner of Highways to promulgate a legislative rule relating to the Use of State Road Rights of Way and Adjacent Areas. **UPDATE – Passed Roads and Transportation, presently in Judiciary.** WVFB MONITORING.

H.B. 4110 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – referred to Natural Resources, then Judiciary. Purpose – see S.B. 302. WVFB MONITORING.

Bills surfacing on our watch list during week three – January 25 -29

Senate Concurrent Resolution No. 9 (By Senators Tomblin and Caruth, by request of the Executive) - This Resolution passed unanimously expressing the will of the Legislature to oppose the adoption of a national cap and trade program for carbon dioxide and greenhouse gas emissions that is unduly burdensome to the State of West Virginia and to support measures that encourage investments in technology to address carbon dioxide and greenhouse gas emissions, and requesting that West Virginia’s congressional delegation resist and oppose efforts to adopt a national cap and trade program that is detrimental to our state.

S.B. 369 – By Senators Minard, Green and Helmick – Referred to Energy, Industry and Mining, then Finance. The purpose of this bill is to modify the definitions of “shallow” and “deep” wells to allow a shallow well to be drilled deeper and provide clarity to both definitions. WVFB MONITORING.

S.B. 401 – By Senators McCabe, Wells, Prezioso, K. Facemyer, Boley, Plymale, Fanning, Minard, Edgell and Jenkins – Referred to Finance. Bill addresses ad valorem property taxes. WVFB MONITORING.

H.B. 4001 – By Delegates Fleischauer, Manypenny, Marshall, Mahan, Doyle, Martin, Beach, Shook, Lawrence, Longstreth and Hatfield – Referred to Government Organization, then Judiciary. The purpose of this bill is to require the West Virginia Department of Environmental Protection to develop specific standards to control levels of total dissolved solids in the state’s rivers and streams. WVFB MONITORING.

H.B. 4201 – By Delegates Eldridge, Butcher, Stowers, Louisos, Border, Lawrence, Williams, Varner, Evans and Kominar – Referred to Agriculture, then Judiciary. The purpose of this bill is to create the Livestock Care Standards Board to prescribe standards for livestock care and well being that endeavor to maintain food safety, encourage locally grown and raised food, and protect West Virginia farms and families. WVFB SUPPORTS.

H.B. 4218 – By Delegates Barker and Ross – Referred to Natural Resources, then Judiciary. See S.B. 369. WVFB MONITORING.

H.B. 4224 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – Referred to Agriculture, then Judiciary. Bill addresses best management practices for land application of waste products. **UPDATE - Passed Agriculture, presently in Judiciary.** WVFB MONITORING.

H.B. 4226 – By Delegates Brown, D. Poling, Miley, Talbott, Overington and Sobonya – Referred to Judiciary. Bill addresses oil and gas wells, and other wells. WVFB MONITORING.

## Legislative Update – February 5, 2010

The pace has slowed for bills on our watch list. However, several pieces of legislation are still in the draft process. Week four of the Session provided the backdrop for our annual legislative partnership activity with Farm Credit. On Tuesday, February 2, leaders from Farm Credit and Farm Bureau joined forces to provide lunch for all legislators and selected VIPs. Following the delivery of lunches and accompanying educational materials from our respective organizations, the group dined with Delegate Bill Hartman, Delegate “Woody” Ireland, Deputy Ag Commissioner Steve Hannah, and Assistant Ag Commissioner Bob Tabb. These individuals shared legislative insights and discussed issues impacting agriculture. The afternoon concluded with targeted visits to legislators. The day was most productive and gave agriculture, as well as our respective organizations, some excellent visibility.

Bills surfacing on our watch list during week four (February 1-5) include:

S.B. 403 – By Senators Minard, Snyder, Prezioso, Unger, Boley and K. Facemyer – Referred to Agriculture, then Judiciary. The purpose of this bill is to authorize the Commissioner of Agriculture to promulgate a legislative rule relating to Best Management Practices for Land Application of Waste Products from Aquaculture Facilities. WVFB MONITORING,

S.B. 421 – By Senator Williams – Referred to Transportation and Infrastructure, then Judiciary. The purpose of this bill is to permit the sale and use of mini-trucks. The bill authorizes the Division of Motor Vehicles to title, register and establish ownership documentation requirements for mini-trucks. The bill also addresses numerous other issues – exempting mini-trucks from federal safety and emission standards, requiring a seller to provide to prospective purchasers full disclosure on whether a mini-truck conforms to certain federal safety and environmental standards, etc. WVFB MONITORING.

S.B. 426 – By Senator Kessler – Referred to Natural Resources, then Finance. The purpose of this bill is to exempt owners, other than corporations or partnerships, of one hundred acres or less of contiguously connected real property from payment of increased valuation and assessment as natural resources property on reserve coal properties. The bill defines “small property owner” as an owner of one hundred or less acres of real property that is not a corporate entity or partnership. It also requires an affidavit from the property owner that the coal will not be mined or the interest therein transferred. If the coal is subsequently mined, the property will be assessed the increased rate and that amount, plus interest, must be paid before mining may continue. WVFB MONITORING.

S.B. 484 – By Senators Sypolt, Hall, Stollings, D. Facemire, Williams, Yost, Helmick and Fanning – Referred to Judiciary. The bill limits landowners’ civil liability for certain hunting injuries. WVFB SUPPORTS.

SCR 20 (By Senators Boley, Barnes, Hall, Deem, Caruth, Sypolt, K. Facemyer and Guills) was to be introduced Friday, February 5. The Resolution reasserts West Virginia’s Sovereignty under the Tenth Amendment.

H.B. 4144 – By Delegates Morgan, Stephens, Swartzmiller, Talbott, Hartman, Givens, Martin, T. Walker, Rowan, C. Miller and Manypenny – Referred to Government Organization. The purpose of this bill is to update the law governing the practice of veterinary medicine. WVFB MONITORING.

H.B. 4333 – By Delegates Mahan, Beach, Flesichauer, Overington, Guthrie, and D. Poling – Referred to Agriculture, then Judiciary. The purpose of this bill is to protect dogs by creating regulations for commercial dog breeding operations. WVFB MONITORING.

## Urgent request from AFBF:

Sen. Lisa Murkowski (R-Alaska) has introduced S.J. Res. 26, legislation that would disapprove EPA’s endangerment finding and consequent regulation of carbon dioxide and other greenhouse gases under the Clean Air Act. Sen. Murkowski has already been joined by 40 other Senators in supporting the resolution, which guarantees that the resolution can come to the Senate floor for a vote; moreover, it will only require 51 votes for passage. We are only 10 Senators shy of passing a critically important resolution and putting the Senate on record opposing EPA’s policy. *We need to do everything possible to increase support for this resolution, particularly among Democratic Senators. AFBF requests state Farm Bureaus to personally call their Senators to talk to them about this issue.*

Senators of particular importance are:

- Mark Pryor (D-Ark.);
- James Webb (D-Va.), has indicated sympathy for this approach;
- Max Baucus (D-Mont.), voted against the cap-and-trade bill in the Senate Environment Committee;
- Mark Warner (D-Va.);
- Jon Tester (D-Mont.);
- Tim Johnson (D-S.D.);
- Kent Conrad (D-N.D.);
- Byron Dorgan (D-N.D.);
- Robert Casey (D-Pa.);
- Michael Bennett (D-Colo.);
- **Robert Byrd (D-W.Va.);**
- **John Rockefeller (D-W.Va.);** and
- Evan Bayh (D-Ind.).

If 10 of these Senators vote in favor of the resolution, it would pass the Senate and the issue would then go to the House. We know a resolution of disapproval will be introduced in the House and that 40 Democrats voted against the cap-and-trade bill last June. While challenging, it would be quite possible to find 218 members to sign a discharge petition to bring the issue to the floor.

### IMPACT:

EPA regulation of greenhouse gases will impose significant economic costs on the U.S. economy, including agriculture. At the recent Annual Meeting in Seattle, AFBF delegates unanimously adopted a resolution calling on Congress to enact legislation to halt EPA regulation of greenhouse gases. Blocking the proposed Clean Air Act greenhouse gas regulations is a priority issue for Farm Bureau.

