



# THE WEST VIRGINIA VOTER

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## PRESIDENT'S REPORT

By Jonathan Rosenbaum

During one of the most important and electrifying times in American history, I have been chosen to take on the role of President for the State League, a role I do not take lightly. After four years of serving as President of the Morgantown-Monongalia County League, as well as serving over eight years on the State Board, I am keenly aware of the challenges that all levels of the League are currently experiencing, therefore, I have defined a 3 Point Plan of Action: **Improved Communications, Expansion of the League in West Virginia**, and to **Engage Members to Help with Portfolios, both on a state and local level**. Already this Plan of Action is experiencing fruition, which is very exciting!

In June, Lyn Widmyer (Jefferson League) and I attended a unique and historic National Council meeting in Leesburg, Virginia, aptly named *Blueprint for Mission: Impact, Engagement, and Sustainability* to discuss and work on five transformational objectives. Almost immediately I learned that one of those objectives, "Adjusting Local League Guidelines for Quicker Onboarding of New Leagues, and shifting responsibility to State Leagues" has already seen the passage of new local League Recognition standards that were approved by the LWVUS Board on April 18, 2017. At our State Board meeting this August we established a working group to redefine League Recognition in WV by making changes in Policies and Bylaws, an exhilarating step in moving forward to realize the **Expansion of the League in WV** by making the process so much easier!

The complete Council report that I gave the State Board is now available to read at our new "**Improved**" Communications tool, <https://chat.lwvww.org> in the #important-documents channel. The site provides several different options to easily login. This tool provides an excellent way to **Engage Members to Help with Portfolios, both on a state and local level** by facilitating an easy way for members and leaders to communicate together, regardless of where they are located, and by providing aggregated conversations and resources. Traditional forms of communication will continue to be utilized which include email. I recently created an email list for our state members (members-at-large). I am exploring providing an occasional telephone conference call for all members to participate in to express interests and concerns. Also, I would like to encourage local Leagues to consider providing occasional League 101 gatherings for their members, and to put real effort (through communication) into engaging their members to become an active part of the process we call the League.

### In other news:

Lyn Wydmyer has been invited to be our National Lobby Corps representative. I have not received a report back whether she had the opportunity to participate, but I am really proud that she will be able to represent us on National actions such as visiting members of the U.S. House of Representatives and lobbying in favor of the Dream Act of 2017.

After three public hearings around the state, FirstEnergy's proposed Pleasants power plant transfer (PSC Case No. 17-0296-E-PC) will begin Evidentiary Hearings on September 27. You may still send in comments. As with the Harrison power plant case in 2013, the WV League opposes FirstEnergy passing the costs of Pleasants power plant to the ratepayers of West Virginia.

On October 7, citizens will vote on a constitutional "Roads to Prosperity" amendment to approve billions of dollars in road bonds that will be paid for by two bills that became law this June: SB1006, which increases wholesale fuel taxes, sales taxes on motor vehicles and increases DMV fees, and SB1003, which gives the state Parkways Authority the power to raise tolls on the West Virginia Turnpike. Local Leagues around the state are educating citizens about this election, and encouraging them to vote. Both Jefferson and Huntington League sponsored public educational meetings.

There has been a great deal of interest about voters rights in regards to actions taken by the federal Election Integrity Commission (EIC), and what is happening on the state level. The State League sent a letter to Secretary Warner concerning the EIC's request, a copy of the original letter is available at <https://chat.lwvww.org> in the #important-documents channel. Wood County had a public meeting on September 25 called *Am I (still) registered to vote*. Morgantown will have a public meeting on October 18. Both Leagues have brought in speakers from the Secretary of State's Office. Read more about this in Kathy Stoltz's and Julie Archer's article in this Voter edition.

While I am covering only a small part of the incredible things local Leagues in West Virginia are accomplishing this season, you can learn much more by visiting the website at <http://lwvww.org> and becoming actively involved at <https://chat.lwvww.org>!

## Educators work on ESSA Plan

By Shirley Rosenbaum

The Every Student Succeeds Act (ESSA) was signed into law on December 10, 2015. It reauthorizes the 1965 Elementary and Secondary Education Act (ESEA), which was previously reauthorized as No Child Left Behind (NCLB). The ESSA requires each state to develop an implementation plan in consultation with school and community stakeholders.

Each public school will be evaluated on five criteria: proficiency in English and math via statewide testing, student progression toward college or career readiness, high school graduation rate, English proficiency among non-native speakers (an estimated 2,000 students in West Virginia), and attendance and behavior. Each criterion will be graded at four levels, from highest to lowest: distinguished, accomplished, emerging and unsatisfactory.

The A to F grading in schools will be replaced. Schools will be assigned colors and labels (red: unsatisfactory; yellow: emerging; blue: accomplished; and green: distinguished) for their performance in individual categories, including “math proficiency” and percentage of students with more than 90 percent attendance.

The Joint Education Committee, comprised of the Senate and House Education Committees, met on August 22. ESSA was on the agenda. You can visit the department's Every Student Succeeds Act website to take a survey and sign up to stay informed on the plan's development at [wvde.state.wv.us/essa](http://wvde.state.wv.us/essa). State policy makers discussed the proposed ESSA plan at the Joint Education Committee meeting on August 22 and the West Virginia Board of Education meeting on August 24. Expected edits that emerged as discussion themes in the public forums and in the policy makers' discussions included:

- the 4-year and 5-year graduation rate for the high school level
- changing the process for determining the score ranges for each school performance label (unsatisfactory, emerging, accomplished and distinguished) from norm referenced to criterion referenced
- keeping the subgroup cell-size for accountability at 20 students in order to maintain statistical stability; public reporting will be done at a subgroup cell-size of 10 students

The WV Department of Education is expected to incorporate changes to the draft and ask the West Virginia Board of Education to approve it on September 7 for submission to the U.S. Department of Education on September 18, 2017. The U.S. Department of Education will have 120 days to approve the plan. It is expected that additional edits may be required during the 120 day window in order to gain full approval.

Based on public comment, WV submitted the proposal on September 11. The Governor has approved.

## ELECTION LAWS

By Kathy Stoltz and Julie Archer

In response to earlier news reports that more than 67,000 voters had been removed from West Virginia's voter registration rolls since January, Kathy Stoltz represented LWVWV at a meeting with Secretary of State Warner's elections division staff, along with representatives of WV Citizen Action Group and the ACLU of WV, to learn more about the process for removing voters from the rolls, and the reasons for their removal. The Wood County League also met with Wood County Clerk Mark Rhodes to discuss the voter registration purge and the Presidential Election Integrity Commission. Rhodes is a member of the Commission, which has been tasked by President Trump with looking into allegations of election fraud.

## VOTER REGISTRATION PURGE

The Secretary of State and county clerks rely on various processes and procedures to guide them in keeping the voter rolls up to date. West Virginia election laws are spelled out in state code, and are subject to the National Voter Registration Act (NVRA). Several in-state and multi-state databases are used to identify the deceased and registrants who are not eligible to vote due to a felony conviction or having registered in another county or state. Among them are lists from the Division of Corrections, the Social Security Administration's Death Master File (DMF), and National Change of Address (NCOA) system (<http://www.nationalchangeofaddress.com/>). West Virginia is also a member of the Electronic Registration Information Center (ERIC) (<http://www.ericstates.org/>), a multistate partnership that enables states to share and compare official data on eligible voters in order to keep voter rolls more complete and up to date. ERIC is owned, managed, and funded by participating states with assistance from The Pew Charitable Trusts. Comparing these lists to West Virginia's statewide registration list identifies those whose registrations possibly are invalid.

Voter registrations are identified in several categories:

“**Active**” voters are those whose registrations are up to date and who have voted in any election within the last four years (the span of two presidential elections).

“**Inactive**” voters are those who have not voted in the last four years or whom election officials believe may no longer be eligible because they have moved. These voters will have been sent a notice asking that they confirm or update their registration information. If the person does not respond to the notice or the US Postal Service returns the notice as non-deliverable, then the voter is considered “inactive.” Their information will still appear on the county voter lists and poll books, but to be returned to “active” status they will have to update their information or confirm that it is correct, which they can do by contacting their county clerk or going to the polls to vote and updating it there. “Inactive” voters who fail to respond to the notice or otherwise update their registration and do not vote in the next two federal elections will have their registration “**cancelled**.”

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## VOTER REGISTRATION PURGE

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During a “purge”, registrations of those who are confirmed through the various databases to be no longer eligible to vote are “cancelled.” This would include deceased people, felons who have not completed their sentences, people found to be registered and voting in another jurisdiction, etc. After a voter’s registration is “cancelled” they are removed from the county voter lists and poll books, but their names will still appear in the Statewide Voter Registration System (SVRS) for up to 5 years before being permanently deleted (**purged**).

According to the Secretary of State’s Office, as of September 22 over 73,000 outdated or ineligible registrations been “canceled” since Secretary Warner took office in January. A rough breakdown of those:

The majority (nearly 44,000) were canceled due to inactivity (not voting for at least 8 years) **and** failure to respond to a confirmation notice.

Another 17,000 voters were identified as deceased by county clerks or the SSA’s DMF.

More than 5,000 had moved out of state.

Nearly 1,600 were identified as felons by the Department of Corrections.

The remaining 5,000 were determined to be duplicates or court ordered cancellations due to mental incompetence, etc.

Statewide, 5.77% of registrations have been cancelled, the rate in individual counties ranging from a high of 21.82% to 1.45%. Note that a county having ineligible registrations on its rolls does not mean that those people voted. Of the 732,362 ballots cast in the 2016 General Election, so far the Secretary of State’s Office is pursuing two cases of fraudulent voting, representing less than one-one thousandth of one percent of votes cast. Clearly, this does not represent widespread voting fraud.

The Secretary of State’s Office says it also has worked with county clerks to register nearly 29,000 new voters over the same time period. A breakdown of new registrations v. canceled in each county can be viewed at <https://tinyurl.com/CancelledVoters>.

It is too soon to tell whether there will be instances of WV voters’ registrations being canceled erroneously. **Voters can confirm their own registration online at <https://services.sos.wv.gov/Elections/Voter/AmIRegisteredToVote> or by contacting their county clerk.** If a voter finds that they are not on the rolls when they go to vote and they believe they are registered, they are entitled to vote a provisional ballot.

## PRESIDENTIAL ELECTION INTEGRITY COMMISSION (PEIC)

The LWVUS is on record opposing the PEIC, also known as the Pence-Kobach Commission, out of concern that the Commission is not genuinely seeking to preserve and promote voter participation and election integrity but is unjustifiably and inappropriately collecting information about voters in order to suppress the vote. Several of its members have a history of favoring voter suppression measures and seem determined to find voting fraud where it does not exist. Information about the 12 members of the PEIC is available at: <https://www.brennancenter.org/analysis/meet-members>.

In July the LWVWV sent a letter to Secretary of State Mac Warner expressing our concerns about the Commission and its attempt to collect personal information on every US voter, and urged the Secretary not to cooperate. Ultimately, Warner’s office responded to the Commission’s request saying, “A request for voter registration information will be considered by submitting the required documentation and the fees associated with the list. We will not release personal information to the Presidential Commission, even upon request.” To our knowledge, no formal request has been received from the Commission.

The Commission has held two meetings. According to media accounts, the first meeting focused on fraud rather than access to the polls, and seemed to downplay the risks posed by hacking. For its second meeting, the Commission had “a packed agenda with panels reinforcing their goal of voter suppression,” according to the LWVUS. Both meetings received a high level of scrutiny from voting rights advocates, including the League.

The five Democratic members of the twelve-member Commission have been pressured to resign. Wood County Clerk Mark Rhodes told the LWV of Wood County that he feels it is important to have their views and concerns represented. Among these are concern about election processes that can be addressed in the Commission’s recommendations, such as requiring that all election equipment include a paper trail (not all states require this) and that a system be developed for notifying state election officials that hacking of some part of their registration or voting systems has been attacked, which was not in place for the 2016 election.

The Commission’s report on its findings is due May 11, 2018. The League will continue to monitor their activities.

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## NEWS FROM NATIONAL

### League Submits Brief in *Husted v. A. Phillip Randolph Institute* ★

LWVUS and LWVOH submitted an amicus brief to the U.S. Supreme Court in the case of [Husted v. A. Phillip Randolph Institute](#). The case will be heard by the court on November 8, 2017. The amicus brief argues that the process used by Ohio to purge voters from voter rolls is illegal, inaccurate and unreasonable under the provisions established by Section 8 of the National Voter Registration Act (NVRA).

## CONGRATULATIONS TO ANGIE ROSSER

Angie was named the **National Wildlife Federation's Charlie Shaw Partnership Award**. Angie is the **executive director of the WV Rivers Coalition and is a League of Women Voters member**. The award honors one person each year from among the Federation's affiliates. Angie was honored for her efforts to protect rivers and wildlife habitat in West Virginia and nationwide.

## NATURAL RESOURCES

By Helen Gibbins

### PIPELINES IN WEST VIRGINIA

Jobs, taxes, and making America energy independent are some of the arguments supporting the promotion of fracking for natural gas in West Virginia. Countering the support of fracking are landowners' rights and the effects on the environment. In past issues of the Voter we have covered some of the problems of the fracking process. Because a number of proposals have been submitted to build hundreds of miles of pipelines to carry the gas produced in West Virginia to other states and overseas, we must also look at some of the problems caused when companies build pipelines. Concerns range from the effects on our special places to water pollution to landslides to flooding and to the rights of landowners.

When a company wishes to build a pipeline, it must submit its proposal to the Federal Energy Regulatory Commission (FERC) and to the WV Department of Environmental Protection (DEP). If the pipeline is to cross a national forest, the US Forest Service must also approve the project. The process has been less than thorough with the results that environmental organizations have taken legal action. After environmental organizations took the DEP to court over its approval of the Mountain Valley Pipeline (MPV), the DEP withdrew its approval for MVP's project. Perhaps that incident will encourage the DEP to do a better job of reviewing and approving future pipelines.

It is difficult to build pipelines in West Virginia's terrain that includes multiple obstacles such as steep slopes susceptible to erosion, in addition to thousands of stream segments and hundreds of wetlands. Within the national forests are special areas that must be protected from the disturbance of their land and waters.

To ameliorate the disturbances from the construction of pipelines and access roads, proposals are supposed to include specific, adequate, and comprehensive plans for the entire stretch of the pipeline. Among the requirements of the planning process are descriptions of the fauna in streams to be crossed, water quality data, erosion and storm water control plans, reclamation and revegetation plans, and mitigation. Without good plans and adherence to the plans the result will be the muddying of our waters, loss of fauna and other attributes of streams, landslides, and sometimes flooding. But sometimes even a good plan may not be

strong enough to protect our soils and waters during pipeline construction because of the structure and slopes of our land.

Adhering to the plan is the necessary next step to protect our lands and waters. Unfortunately it has fallen on the DEP to enforce the plans by issuing multiple citations on violations some pipeline companies have incurred.

Another issue connected to the increase of gas distribution by pipelines is the leaking of methane, a powerful greenhouse gas linked to climate change. Methane leaking can come from the drilling and transporting of the gas. A recent appeals court ruling requires FERC to examine climate impacts when reviewing an Environmental Impact Statement for a pipeline project. Even if FERC believes the pipeline provides a good that outweighs the bad, it must discuss both the good and the bad. It will be interesting to see how this decision plays out.

For more information about pipelines, go to the WV Rivers Coalition and the Appalachian Mountain Advocates websites.

### WVDEP REGULATORY REVIEW

A bill passed during the 2016 legislative session (SB 619) requires state agencies to determine whether their rules, policies and recommendations are more stringent than their federal counterparts. DEP has confirmed that their review process is underway. The agency must hold a public comment period and issue a report by Nov 1.

### WEAKENING ENVIRONMENTAL REGULATIONS

Since the beginning of the new administration the president, federal agencies, and Congress have moved to remove or weaken environmental regulations as well as decrease funding for the federal agencies charged with environmental protection. Here is a listing of some of the weakening actions being taken. (From NRDC, POLITICO, Washington Post, Environmental Defense Fund)

- Withdrawing the U.S. from the landmark Paris climate agreement.
- Ridding agencies of scientific advisory committees.
- Repealing the Clean Water Rule. (see article elsewhere in the Voter).
- Reopening fuel efficiency standards, model year 2022-2025 for cars and light-trucks.
- Dismantling the Clean Power Plan that would reduce carbon emissions from power plants.
- Reviving the Keystone XL tar sands pipeline and moving forward with the Dakota Access Pipeline.
- Ended a study on the health effects of mountaintop-removal mining.

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## WEAKENING ENVIRONMENTAL REGULATIONS *Continued from page 3*

- Repealing a rule mandating that rising sea levels be considered when building public infrastructure in flood-prone areas.
- Repealing a standard directing federal agencies to use more protective siting and design requirements for projects that receive federal funding such as affordable housing and hospitals in flood prone areas.
- Reversing a ban on drilling for oil in the Arctic and Atlantic Oceans.
- Reversing a ban on the pesticide chlorpyrifos, that is linked to learning disabilities in children.
- Ended a rule banning the dumping of waste from mining into streams. (Stream Protection Rule).
- Reconsidering limits on dumping toxic waste from coal-fired power plants and disposal of coal ash.
- Proposing to reverse restrictions on the discharge of mining wastes in Alaska's Bristol Bay watershed (Pebble Mine), the largest salmon spawning area in the world.
- Reviewing national monuments in order to downsize and allow industrial exploitation of them.
- Delaying implementation of the Chemical Disaster Rule, an overhaul of chemical plant standards that would help prevent accidental chemical release emergencies.
- Tried to repeal the Methane Rule that requires new and modified oil and gas wells to capture leaking methane emissions. A federal appeals court ruled against the repeal.

The House of Representatives passed acts that would hamper the executive in its issuance of regulations -- the "Regulatory Accountability Act of 2017" and the "Regulations from the Executive in Need of Scrutiny" (REINS Act). Both acts will handcuff the government with red tape, while reducing the ability of agencies to enforce laws that protect our health, environment, and pocketbooks.. The House also passed the "Ozone Standards Implementation Act of 2017" which will delay by 8 years the 2015 anti-smog protections that took more than a decade to achieve and weakens the Clean Air Act.

The budget process is another area for citizens to focus on because adequate funds are necessary for enforcing the laws. The House of Representatives already has substantially decreased EPA's portion of the budget. These decreases also apply to many of West Virginia's environmental programs. Making a case for environmental protection through the budget process is one we must make with our members of the Senate. See the Environmental Defense Fund's analysis at [www.edf.org/EPAcuts](http://www.edf.org/EPAcuts)

## ADVOCACY

The LWVWV signed on to WV Rivers Coalition comments to the USEPA on the Clean Water Rule. The Rule was adopted in 2015 after years of planning, 400 stakeholders meetings, and more than a million comments. It defined the waters that are to be governed by the Clean Water Act.

Through the regulatory process the US EPA now is rolling back the protections of the Clean Water Rule and thus the waterways that are the drinking water sources for more than 117 million Americans, habitats for wildlife, protections from flooding, filtration of pollution, recharge areas for groundwater, and places for recreation. Repealing the Clean Water Rule will block protection of at least 60% of WV's stream miles and one/half of its sources for drinking water.

After repealing the Clean Water Rule the EPA will issue regulations that apply the Clean Water Act only to navigable rivers. For more information, please visit [www.protectcleanwater.org](http://www.protectcleanwater.org)

The League also signed on to comments on the Atlantic Coast Pipeline's **State 401 Water Quality Certification**. **The application lacked critical information in many different areas. See the WV Rivers website, connecting to "Pipelines" for more information.**



As LWVJCWV marched in the annual African American Cultural and Historical Heritage Parade in Charles Town on Saturday, Sept. 16, they received lots of applause!

## IMPORTANT DATES TO REMEMBER

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|------------------|----------------------|
| October 7, 2017  | Road Bond Vote       |
| November 4, 2017 | LWV WV Board Meeting |
| January 13, 2017 | LWV WV Board Meeting |

