

# **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

## **Introduction**

The purpose of this report is to share my views about this session's legislation and highlight bills that may be of interest to my supporters and constituents.

Members of the Legislature have spent a lot of time in Charleston this year at several types of fast-paced meetings which covered a wide range of issues. This report focuses mainly on the regular legislative session, using a question and answer format. I've also included information about the extended session, the two special sessions, as well as explanations about the purpose of these additional sessions. In addition, I touch on what is happening at our interim meetings, which occur monthly in between the once-a-year regular sessions.

I welcome your feedback on this report or any other legislative matters. My contact information can be found on my website, [www.FriendsofBarbara.com](http://www.FriendsofBarbara.com), as well as the WV Legislature's website, [www.legis.state.wv.us](http://www.legis.state.wv.us). It is a privilege for me to represent the citizens of Monongalia County and the state of West Virginia.

## **Were you pleased with the 2009 session?**

Yes. I am pleased about three things in particular. First, together with the rest of the Monongalia County delegation, we sponsored and passed more legislation than ever which benefitted our region and WVU. It was particularly unusual that all of these

bills were introduced the first time this year. Normally, it takes at least three years to pass a bill.

Second, I am proud to have been an advocate of several issues that were not successful. Part of what an elected official should do is to speak up about important issues, even when it is hard or unpopular. Often, I find myself defending the West Virginia Constitution. But to succeed, I must convince a majority of my colleagues that a provision is fair or unfair, and that can take time. That leads to my next issue.

Third, I am happy to have played a role in passing legislation which I have introduced for several years. In 2008, with a lot of help from the Governor, a bill passed that limited the time that elementary children could ride on school busses. I had introduced that bill repeatedly over the course of ten years. This year, after ten years, [HB 2981](#) finally passed, which made it easier for third parties to get on the ballot. Although this may not have been of great significance to some, it was the right thing to do.

## **Why was the regular session later than usual this year?**

The 2009 regular session of the West Virginia Legislature began on February 11<sup>th</sup> and lasted until April 11<sup>th</sup>. Under our state constitution, the 60 day session started later than normal because 2008 was a gubernatorial election year, and newly elected governors are given a transition period in the following year.

## **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

### **How many bills passed and how much money is in the state budget?**

During the 2009 regular session, 2,113 bills were introduced in the House and Senate and 226 were passed by both Houses. The Governor vetoed 20 bills, mostly for technical reasons. The Legislature overrode 17 vetoes by passing bills to meet the objections of the Governor. We also passed 13 bills the Governor placed on the call of the 1<sup>st</sup> special session that had failed during the regular session. Under our state constitution, when the Governor calls a special session, only those topics he has placed on the “call” can be considered.

The Budget for fiscal year 2010, which began on July 1st, was reduced by approximately \$200 million. The total amount of the budget was \$11,569,670,638.

### **How can I find out about bills that passed or failed?**

Copies of bills that are highlighted in this report can be directly accessed by clicking on the hyperlinks in the various sections. More information about bills that passed also appears in the *Final Wrap-Up*, *Budget Wrap-Up* and *June Interim Highlights*, all of which can be accessed on the WV Legislature’s home page, [www.legis.state.wv.us](http://www.legis.state.wv.us).

If you know the number of a bill, you can type it in on the Legislature’s home page and print out a copy. By clicking onto the

*Bill Status* heading, you can search for bills or resolutions by topic, by sponsor, etc. Under *Bill Status*, you can also view histories of bills, including earlier versions and find other useful information.

For help, or more information about the website or the Legislature, call Legislative Information, 304/347-4836.

### **What Bills Did the Local Delegation Pass Working as a Team?**

*Vote by Mail for City Elections* - [House Bill 3134](#) authorizes a pilot project for municipalities to conduct elections by mail ballot. The bill was modeled on a successful Oregon statute and is intended to increase turnout and decrease costs. The bill was requested by Morgantown City Council.

*Increased Enforcement of Litter Ordinances in Municipalities* - [House Bill 3197](#) allows city employees who are not police officers to issue citations for littering. Also requested by the City of Morgantown, this bill will permit personnel such as parking attendants or city inspectors who have received specified training to issue citations upon witnessing violations.

*WVU Board of Governors Selection Reform and Promise Scholarship* - Concerned about decisions made at WVU, many local citizens and faculty as well as alumni around the state asked that changes be made to the composition of the WVU Board of Governors (WV BOG). Our local delegates introduced House Bill 2961, which added faculty and staff members and included a requirement that the Board be more sexually and racially diverse.

## **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

HB 2961, with some changes, was amended into the Promise Scholarship bill. The final bill, combining both the Promise Scholarship and the WV BOG reforms was [Senate Bill 373](#).

There was a need to make adjustments in the Promise Scholarship because in just a few years, costs increased from an original \$23 million to more than \$50 million per year. Given the declining economy and the requirement that the budget be balanced, the solution arrived at was to set \$4,750 as the minimum yearly amount that Promise scholars would receive. That amount will enable next year's scholars to cover all of their tuition. The bill also authorizes the Promise Board to increase that amount in the future, if economic conditions permit, so that the tuition of Promise Scholarships will be fully funded.

*Extra Circuit Judge for Mon. County*  
Because of a heavy workload in Monongalia County, the Legislature passed [Senate Bill 338](#), which gives our County a third circuit court judge.

### **How did Veterans Issues Fare?**

Since 2006, I have served as Co-Chair of the Select Committee on Veterans, an interim committee. Because of concerns about the availability of treatment for veterans from Iraq and Afghanistan, especially in rural West Virginia, our committee commissioned a study of returning veterans. The results were startling. WV veterans suffered from PTSD and/or depression at much higher rates than veterans

do nationally. [WV Veterans Survey](#)

As a partial response to the results of the study, this year's budget included \$240,000 in additional funding to cover the costs of four social workers. These new staffers will be assigned to work in rural areas to reach out to returning veterans and inform them about available treatments and benefits.

There were also two interesting developments with respect to veterans and higher education. Our select committee heard testimony from student vets who were having financial and other difficulties returning to college as well as from agency officials who informed us about how the new federal "Yellow Ribbon" GI bill could help returning veterans.

To provide assistance to veterans wanting to attend state institutions of higher education, the Legislature passed [HB 2335](#). With this legislation, combined with funding from the federal government's new Yellow Ribbon bill, our state hopes to attract veterans from neighboring states by providing them with benefits at WV colleges and universities equal to the cost of in-state tuition.

In upcoming interim meetings, two committees will be gathering information about how our state's colleges and universities can improve their assistance to veterans and their families. [HCR 7](#) and [HCR 115](#) authorize the committees to survey state institutions about their programs and conduct research to determine best practices.

## **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

### **What Happened with Environmental Issues?**

Environmental issues did not fare well this session. A detailed report on the session's environmental legislation can be found at the Environmental Council's website, [www.wvecouncil.org](http://www.wvecouncil.org). Below are some of the issues on which I spent a lot of my time.

*Bottle Bill* - I chaired a Judiciary subcommittee, which passed out, for the first time, a beverage container deposit & recycling bill to the full committee. Despite huge public support, our bill met with stiff opposition from convenience stores, beer distributors and soft drink manufacturers. We'll just have to try harder. For more info, see [www.wvbottlebill.org](http://www.wvbottlebill.org).

*Extension of Time to meet Selenium Limits in Streams* - In a disheartening setback, I was unable to convince my House colleagues to vote against SB 461, which allows the coal industry more time to meet deadlines for selenium pollution. Studies of West Virginia waters have shown frightening deformities in fish, yet the mining industry, whose first deadline was in 2003, was given until 2012 to comply.

*Renewable Energy and Energy Efficiency* - I am very proud to have been the lead sponsor of two progressive bills relating to renewable energy and energy efficiency, [HB 2891](#) and [HB 2980](#). And I was pleased that the Governor decided to take on this

issue in his State of the State. The Governors' bill, SB 297, which passed, contained a target to reduce energy usage in WV by 25% by 2025. However, many feel that by including the burning of coal and waste tires in the bill's definition of alternative energy, little will be accomplished in terms of reducing global warming.

### **Did this session help or hurt women?**

Women's issues did not make great headway this session, but some setbacks were prevented and small gains were made in a few areas.

*Funding Issues* - Our Finance committees added significant one-time increases to line items for Free Clinics, Domestic Violence Shelters and In-Home Education Services. Women and children greatly benefit from these services. The Legislature also restored money that the Governor had removed from the budget for Pay Equity.

An attempt to remove medicaid funding for abortions for low-income women was blocked. Our state Supreme Court previously had ruled that the state cannot constitutionally fund pregnancy services and deny health care services for women who choose to terminate their pregnancies.

*Insurance Discrimination* - I am pleased to be chairing the Judiciary interim subcommittee that is studying the issue of discrimination against women with regard to health insurance. Pursuant to a study resolution I sponsored, [HCR 105](#), the subcommittee will be looking into exceptions

## **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

for coverage for dependents, including contraception and pregnancy, as well as exclusions of coverage by private insurers. A National Women's Law Center report, [Nowhere to Turn: How the Private Health Insurance Market Fails Women](#) analyzed policies offered in all 50 states. Of the 51 policies approved in West Virginia, all charged much more for women than men and nearly all excluded pregnancy coverage.

*Study of Paid Pregnancy Leave for Faculty* - Thanks to our delegation and to the Education Committee Chairs, the Legislature will be studying how paid pregnancy leave can be provided to university and college faculty members. [HCR 106](#).

### **What Happened with Civil Rights Issues During the Session?**

*Discrimination Bills* - I have long supported and sponsored legislation that would prohibit discrimination against persons because of sexual orientation in employment and housing. Discrimination causes harm to real people who are our family members and neighbors. It is difficult to make the argument that depriving someone of a home or a job because of prejudice should be acceptable in our state.

The Senate passed [SB 238](#), but the House could not muster sufficient support. Although there are fears about this legislation, young people support this concept by very large margins, so there is hope for the future.

*Constitutional Amendment to Ban Gay Marriage* - Because West Virginia already

has a law on the books banning gay marriage, the Governor, the Senate and the House leadership chose not to support a constitutional amendment banning gay marriage at this time.

As Chair of the House committee on Constitutional Revision, I became the target of an intense campaign to place a ban of gay marriage on the committee's agenda. Radio ads and a telemarketing campaign criticized me, and a group condemned me on TV and radio for not attending a meeting in Morgantown they scheduled in the middle of the week while the Legislature was in session in Charleston. My response to what I considered to be unfair tactics was published in the Dominion Post. ["The Sky is Not Falling."](#) The Legislature will be studying the issue further in interim meetings.

### **Why did the Legislature have an extended session in May?**

For many years, the legislature has gone into an extended session after the regular session to consider the budget. This allows an analysis of all of the bills that have passed, and a reckoning of their costs so that a balanced budget can be produced.

This year, the Legislature took the unusual step of taking a month long recess after the 60<sup>th</sup> day of the session. This additional time allowed the Legislature to consider the Budget after income tax returns had been received and after more was known about stimulus funding. This enabled us to produce a balanced budget, a constitutional requirement, with greater knowledge about what money would be available. Also, taking a long recess after the

## **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

session gave the Legislature more time to consider whether to override bills that the Governor had vetoed.

### **Why did the Governor call the First Special Session?**

Immediately after the extended session, the Governor called a special session to take up several bills he cared about which had failed during the regular session. He also wanted the legislature to vote on two funding bills, one related to flooding.

### **Did you take the floor during the extended or special sessions?**

Yes. I spoke out on three issues during the extended and special sessions.

*Comcast* - I gave a floor speech about the removal of West Virginia Public Television from Comcast's basic level of service. I continue to feel Comcast, which serves customers in north central WV, the eastern panhandle and the northern panhandle, has acted arrogantly towards our citizens and our state. Our delegation strongly urged the Governor to put a bill on the call for the Special Session to require Comcast to continue to broadcast West Virginia Public Television to its basic customers.

I am grateful to the Governor, who spent a great deal of time attempting to negotiate a compromise, but he ultimately decided not to put the bill on the call. The [Charleston Gazette \(6-3-09\)](#) commended my action in an editorial. As pointed out by the

[Charleston Daily Mail\(5-29-09\)](#), in 2004 and 2007, Comcast was rated the worst company or agency in the country for satisfying its customers. As a very dissatisfied customer, I intend to keep working on this issue. As far as I'm concerned, they deserve this award again for their behavior in 2009.

*Tax Break for Internet Advertisers and Data Farms* - I gave a floor speech against SB 1003, which proposed tax breaks to attract new computer businesses to our state. I fear that by giving a special break to out-of-state computer companies, it could damage our in-state newspapers by reducing their advertising revenue. Although I support efforts to attract new industry, I believe this particular type of property tax break violates our state's constitution. [Dominion Post Editorial, 6-16-09](#)

*Licenses for Liquor Retailers* - I opposed HB 105, which changed the rules for licenses for liquor retail stores. Instead of requiring competitive bidding, the measure allows stand-alone stores to pay a minimum bid plus 10 percent for the privilege of being one of just a few liquor retailers allowed to operate in a particular region of the state. The bill also allows retailers to borrow half of the cost of their license from the state. I felt this gave prior holders of licenses an unfair advantage and that taxpayers would have had greater benefit from letting the licenses be bid competitively. I was commended by the Dominion Post for taking a stand on this issue. [Dominion Post 6-3-09](#).

## **Delegate Barbara Evans Fleischauer - Report from the 2009 Regular, Extended and Special Legislative Sessions**

### **Why was there a second special session?**

When new money comes into the state Treasury after the regular session ends, the Legislature must normally go into session to direct where the funds are to be spent. The Governor called a second special session, which was held in conjunction with the three day June interim meetings. Six funding bills were passed, relating primarily to stimulus and other federal funds to be spent by the state.

### **What Will You be Working on During Interim Meetings?**

The Speaker has assigned me to several interim committees. I will be serving as Chair of subcommittee B of the Joint Judiciary Committee, Co-Chair of the Select Committee on Veterans and Vice-Chair of the Committee studying Children's issues. I also serve on the Equal Pay Commission.

Interim committees meet monthly for three days, usually at the State Capitol. Upcoming schedules for interim meetings are posted on the WV Legislature's home page [www.legis.state.wv.us](http://www.legis.state.wv.us). The topics assigned to each committee and all of the interim meeting dates are also posted.

I find interim meetings to be an interesting and enjoyable part of my duties as a Legislator. The range of issues we delve into is quite broad and often the topics are quite unexpected. For example, in the July Veterans Committee interim meeting, we discussed whether endangered bats could

delay the opening of a veterans cemetery.

I welcome your input about matters being discussed during interims, as well as any other Legislative matters.

### **Conclusion**

I am grateful to many people for any achievements made this year. First, to my family for emotional and financial support. Equally important are my office staff and interns, especially Mary Ann Liberatore. My contributors and volunteers make my work possible - a special thanks to those who of you do "mindless work" for me - you know who you are! I am also thankful to be part of a very good team - the Monongalia County delegation. Moreover, many of the positive results I've pointed out in this report came from listening to great suggestions from citizens in Mon. County and around the state.

This past year has been rough. I lost a brother and my father. An aunt and uncle are both seriously ill and I am spending a lot of time traveling and arranging their care so that they can stay in their own home. I am managing, however, with the support of many people I've met and become friends with in connection with my duties as a public official.

Helping people by introducing and passing bills and assisting them in their dealings with state agencies gives me a great deal of satisfaction. I owe a big thank you to the voters of Monongalia County for placing their trust in me. I will continue to work hard to be deserving of that trust.