



League
ISSUES
In
West
Virginia

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LEAGUE ISSUES IN WEST VIRGINIA

The League of Women Voters of West Virginia is a nonpartisan organization dedicated to promoting political responsibility through informed and active participation of citizens in government. Although the League does not support or oppose candidates or political parties, it does study and take action on government issues selected by its members.

When an issue is selected by League members to become part of its program, a study is undertaken to present factual information and a variety of opinions related to the particular issue. League members then discuss questions relating to the issue and, if there is substantial agreement among the members, a consensus is reached upon which the League may take action. Each item on the current League program reflects a number of studies on various facets of the issue. Action on positions takes the form of support or opposition to: legislation, litigation, ballot issues, and implementation of positions by various agencies and departments of the executive branch of government. The League also provides the public with information on its positions and seeks public support for them.

The purpose of this publication is to review the history of the West Virginia League's positions. It summarizes the scope of the studies, the action taken in the past, and the potential for future action.

The West Virginia League participates in studies of the League of Women Voters of the United States and takes action at the state level under national positions. These activities are not included in this publication. National positions are the subject of the LWVUS publication, Impact on Issues.

Notes: Consensus Positions are located at the end of each section.

Dates in parentheses indicate dates of adoption by the LWVWV Board of Directors.

For more information about the League of Women Voters, please visit the website <https://lwv.org> and <https://lwv.org>.

STATE GOVERNMENT

Promote an open state government system that is ethical and representative; that has fair and adequate fiscal basis; that protects individual liberties; that assures opportunities for citizen participation in government and the judicial process; that permits reasonable municipal annexation.

ANNEXATION

Position in Brief:

Support measures to simplify and improve West Virginia annexation laws.

HISTORY

In West Virginia, urban growth often occurs outside cities, and a host of problems--water, sewage, zoning--can arise with increased population density. Efforts to incorporate or to annex are difficult under state law. Many businesses locate in fringe areas to escape city taxes, and cities find it especially difficult to annex these fringe areas.

In 1985 the League adopted a study of laws regarding annexation, consolidation and incorporation. During the first year, efforts concentrated on organizing a Public Policy Forum on Annexation, conducted by the West Virginia University Department of Public Administration, held in conjunction with the 1986 State League Council meeting. The impact of the interrelated issues of planning and taxation on annexation in West Virginia were discussed, and alternatives were presented.

Subsequently, the League published "A Study of Annexation Laws in West Virginia," and in 1987 consensus on annexation was announced. The consolidation and incorporation phases of the study were never developed.

ISSUES AND ACTION

West Virginia's annexation laws are very stringent. Three methods are available for cities to annex contiguous, unincorporated territory: 1) with election; 2) without election; 3) by minor boundary adjustment. The League took the position that the laws should be changed to make it easier to initiate annexation, either by cities or by areas wanting to be annexed.

For annexation with election, 5% of the freeholders (property owners) inside the city must petition city council to annex an area outside the city. An election is held, and a majority of the voters inside the city and a majority of the voters and freeholders in the area to be annexed must approve the annexation. The League took the position that registered voters, not just freeholders, should be included in the petition for the election. The League also supported having a combined election by voters in the city and in the area to be annexed.

For annexation without election, state law required that 60% (changed to simple

majority in 1989) of the voters and 60% of the freeholders in the area to be annexed must file a petition with the city council, which could then annex the area by ordinance. The League supported having all freeholders sign the same petition, not separating freeholders according to whether they are "qualified voters" or "freeholders who are not qualified voters."

In annexation by minor boundary adjustment, city council, by simple resolution, applies to the county commission to annex an area. The county commission holds a public hearing and must grant the annexation request unless a freeholder in the area to be annexed objects (city residents, therefore, have no impact on the decision). If there is a single objection by a freeholder, the county commission must reject the annexation. The League took the position that there should not have to be unanimous consent of the freeholders in the area to be annexed, and that the city council should hold a public hearing to allow city residents the opportunity to express themselves before council sends a resolution to the county commission.

Annexation in other states is often unilateral, with no consent from the area to be annexed. The League opposes unilateral annexation solely by approval of the city council, but feels that there are circumstances that should compel a city to annex an area. The League decided that annexation should be kept under the control of city government, not the State, county, or an independent annexation board.

The first opportunity for action under the annexation position came in 1989 when the League supported legislation which lowered from 60% to a simple majority the number of people signing a petition to annex without election. Unfortunately, a provision which would require a petition from either freeholders or registered voters, instead of petitions from both groups, was not included in the final version of the bill. The League will continue to work for improvements in annexation laws.

CONSENSUS POSITION

The League of Women Voters of West Virginia favors changes in state laws to facilitate initiation of annexation, either by cities or by areas that want to be annexed. Annexation should be kept under the control of city governments, and not the State, county commissions, or an independent annexation board. (11/9/87)

Further Guidelines

The League supports the following principles:

- Annexation with election: (a) inclusion of registered voters in the petition for election, (b) calling annexation elections according to state referendum laws, (c) annexation after a combined election by

- voters in the city and in the area to be annexed, but opposes annexation if only city residents vote.
- Annexation without election: having all freeholders sign the same petition, not separating freeholders according to whether they are "qualified voters" or "freeholders who are not qualified voters."
 - Minor boundary adjustment: (a) consent of freeholders in the area to be annexed should not need to be unanimous; (b) city council should be required to hold a public hearing before proceeding with this method.
 - The League opposes unilateral annexation solely by approval of the city council, but supports unilateral annexation under some circumstances: when a fringe area is clearly urban, already receives city services, or negatively impacts the city. In clearly defined situations, a city may be compelled to annex areas, and areas may be compelled to be annexed.

CIVIL SERVICE

Position in Brief:

Support strengthening and extending the civil service system.

HISTORY

The League's position on civil service is the one with the greatest longevity. No records are available to indicate when and why the League first included a merit system study in its program. It is certain that it was part of the program prior to 1945 because the League took legislative action during that year. It has been a part of the program continuously since 1947. The earliest study material still available is a 1952 summary reviewing the League position, current developments, and possible future action. Legislation was proposed in 1957 to increase coverage of the merit system and to establish a state agency. At that time, the League published a comprehensive study which discussed patronage, the advantages and recommended procedures of a merit system, the operation of the West Virginia merit system, and a summary of proposed legislation. The term "civil service system" was substituted for "merit system" in the 1961 League program to reflect the change of the name in West Virginia law.

ISSUES AND ACTION

The West Virginia merit system was established by executive order in 1940 to fulfill federal requirements for a merit system for state employees administering specific federal funds. At the time of the 1957 League study, consideration was being given to establishing a statutory civil service system. The study discussed the widespread use of patronage to fill state positions. Compensation for similar positions varied widely from department to department, and it was difficult to attract qualified technical personnel because of the political nature of state employment.

League members concluded that an adequate merit system should include the following features: (1) hiring the most competent available person on the basis of open competitive examinations, (2) clear job descriptions and equivalent compensation schedules, (3) a service rating for each employee, (4) filling vacancies by promoting qualified employees already in service, (5) equitable grievance and dismissal procedures, and (6) inclusion of non-policy-making positions in all departments and agencies. The advantages of a merit system include: more competent personnel, reduction in turnover of employees, and the establishment of a career service for technical personnel. Among the benefits to

employees are a standardized salary scale and protection of tenure from the whims of political change.

The statutory civil service system was established in 1961. Coverage was not significantly increased by this act, but it did provide for the extension of civil service to additional positions by executive order. It also listed a series of occupations which were specifically excluded from coverage.

The first League legislative action took place in 1945 when the League successfully supported inclusion of the Conservation Commission in the merit system. In 1951, the League opposed an attempt to reverse this measure. In 1963, legislation was introduced to remove certain employees from civil service coverage. It was subsequently defeated, largely due to League opposition.

This series of actions set the pattern for League involvement with the civil service system--consistent support of legislation to extend coverage to additional employees or to improve administration, and opposition to measures aimed at reducing coverage or weakening the system.

The League successfully supported legislation to place the director of the civil service system under civil service coverage, but this coverage was removed later. The League has monitored legislation creating new agencies and reorganizing existing agencies to ensure that civil service is not affected.

During the 1980s, the League opposed measures which would allow political activity by state workers and in 1989 supported comprehensive legislation extending civil service to all persons in state government except those included in the classified exempt service on June 30, 1989.

The attitude of elected officials concerning civil service tends to vary with political circumstance and has overtones of partisanship. Even though the United States Supreme Court has attempted to prevent government employees from being fired because of their political views, the partisan tendency has not completely disappeared. The League must therefore continue to monitor civil service coverage for public employees.

CONSENSUS POSITION

The League of Women Voters of West Virginia supports strengthening and extending the civil service system to include employees of all state departments and agencies. (5/5/51)

CONSTITUTIONAL REVISION

Position in Brief:

Support revision of the West Virginia Constitution.

HISTORY

A League study of the State Constitution was first adopted in 1949. The focus of the study was the overall condition of the Constitution rather than an evaluation of any specific provisions, and the resulting position was one of support for general measures which would lead to the Constitution's modernization. An earlier study on the structure of county government had resulted in a position calling for revision of the Tax Limitation Amendment. In 1957, the League combined these two positions into one calling for the modernization of the Constitution and revision of the Tax Limitation Amendment.

In 1957, the State Legislature created the West Virginia Commission on Constitutional Revision to study the Constitution and make recommendations for its revision. The League supported creation of this commission and undertook its own extensive study of the State Constitution. Its initial effort was sponsorship of a Constitutional Revision Conference to call public attention to the issue of constitutional revision.

Between 1959 and 1967, the League produced a series of studies on the major articles of the Constitution and reached agreement on changes it would support. Since that time, the League has been continuously active in the slow and difficult process of changing the Constitution. It has provided the public with information and programs on the need for constitutional change, acted on proposed amendments through the legislative process, and vigorously supported or opposed ratification of amendments on the ballot.

ISSUES AND ACTION

The Need for Constitutional Revision

The first League study was a survey of constitutional principles and an overall survey of the State Constitution. The West Virginia Constitution was adopted in 1872 and was designed to meet the needs of a sparsely-populated agrarian society. It reflected the popular distrust of government which was prevalent in the mid-nineteenth century and included

detailed and restrictive provisions which hinder the effectiveness of political institutions and their adaptability to changing economic and social conditions. In contrast, the United States Constitution, although far older, continues to be a much shorter and more workable document. The West Virginia Constitution is lengthy, excessively detailed, poorly organized, and contains inconsistencies, obsolete provisions, and overly technical language. Efforts to adapt the Constitution to modern needs through the use of individual amendments have intensified its basic faults without remedying fundamental problems. For these reasons, the League supports comprehensive measures to modernize the State Constitution.

The Executive

At the time of the 1962 study, the provisions pertaining to the Executive Article of the West Virginia Constitution provided for a relatively weak governor. Article VII vested the chief executive power of the State in the Governor, who was limited to one four-year term in office. The executive authority was shared with the Attorney General, the Secretary of State, the Auditor, the Treasurer, and the Commissioner of Agriculture who operated their own departments and who were elected to four-year terms with no limitations on succession. There was no limitation on the number of agencies, departments, and commissions within the executive branch of government; and West Virginia had a large number of them. In some instances the Governor appointed the chief official of these agencies, but in other cases the chief official was appointed by a board or commission over which the Governor had relatively little control. The election of the heads of five departments and the unrestricted proliferation of executive agencies made it difficult for a governor to exercise effective control over the administration of agencies which were theoretically gubernatorial responsibilities.

The state budget system required a balanced budget, which was prepared by the Board of Public Works. This Board consisted of the Governor, the other five executive elected officials, and the State Superintendent of Free Schools. The budget bill became law immediately upon its passage by the Legislature, and the Governor could not veto the bill or any part of it. The Governor's veto of other legislation could be overridden by a simple majority in the Legislature. The budget system deprived the Governor of a principal method of administrative control available to the chief executives of all but six other states and made it impossible to pinpoint responsibility on budgetary issues.

In 1961, the West Virginia Commission on Constitutional Revision, recognizing the weakness of the executive branch, submitted an executive article to bring the powers of the Governor into line with the popular impression of the powers of that office and to provide for centralization of authority under reasonable checks and balances. The Commission report recommended two terms for the Governor, elimination of all other executive elected offices except the Auditor and Attorney General, consolidation of executive departments to

twenty departments, the exclusive right of the Governor to prepare the budget, and the necessity for a two-thirds vote to override gubernatorial veto. The League endorsed these recommendations.

A revised executive article was submitted to the voters in 1962. It contained most of the provisions proposed by the Constitutional Revision Commission with two exceptions, the two-thirds vote necessary to override a gubernatorial veto and elimination of members of the Board of Public Works from the ballot. The League supported ratification of this amendment, but it was opposed by the members of the Board of Public Works who would have been removed from the budget-making process. The amendment was defeated by the voters.

Since that time, a number of partial revisions of the Executive Article have been submitted to the voters with mixed success. In 1968, the Modern Budget Amendment, which vested the budget-making powers in the Governor rather than in the Board of Public Works, was ratified. This amendment received the support of the League of Women Voters. The League supported a gubernatorial succession amendment in 1970, allowing a governor to serve two consecutive terms, and has supported a variety of proposals which would remove certain members of the Board of Public Works from the ballot. In 1989, an amendment to remove the Secretary of State, the Treasurer, and the Commissioner of Agriculture from the ballot was presented to the voters. It was defeated despite vigorous support by the League. No amendment, beyond the initial executive amendment, has been considered to limit the number of executive departments; however, the League has supported statutory reorganizations to streamline the executive branch of government. No proposals have been introduced in the Legislature to require a two-thirds vote to override a gubernatorial veto.

The League is the only organization with a sustained interest in removing members of the Board of Public Works from the ballot and in giving the Governor a stronger veto power. Further League action might also be necessary to prevent attempts to diminish the gubernatorial budgetary powers.

The Judiciary

The West Virginia judicial system, in 1961, consisted of a Supreme Court of Appeals, circuit courts, statutory courts of limited jurisdiction, and justices of the peace. Each circuit had one judge, and for circuits in which this had proved inadequate, courts of limited jurisdiction had been created. Justices of the peace exercised jurisdiction in minor criminal matters and limited civil disputes, and were compensated by fees imposed upon those against whom the justices rendered decisions. The Supreme Court had little supervisory

jurisdiction over the judicial system. Caseloads were not managed efficiently in the circuits. Justices of the peace lacked supervision, and there were no requirements relating to education or legal knowledge for the office. Judges and justices of the peace were elected on partisan ballots. Probate matters were under the jurisdictions of county commissions rather than circuit courts.

A revised judicial article was submitted to the Legislature by the West Virginia Commission on Constitutional Revision. This proposal included a unified court system with the Chief Justice of the Supreme Court of Appeals serving as the administrative head of the entire judicial system. The Legislature could determine the number of circuit judges needed in each circuit, thereby eliminating the necessity for courts of limited jurisdiction. Justices of the peace would be replaced by magistrates. All justices, judges, and magistrates would be compensated by state salaries. The manner of selection of justices, judges, magistrates, and circuit clerks would be left to the discretion of the Legislature. Supervision of probate matters would be transferred to the circuit court, and provisions for disciplining members of the judiciary would be strengthened.

The League concurred with the recommendations of the Commission but favored the inclusion of more adequate qualifications for office, particularly for the office of magistrate.

A Citizens Conference on the Administration of Justice was convened in 1967 to draft proposals to provide for better administration of justice. The proposals were similar to those made by the Commission but were considerably more detailed. Legislative consideration of judicial reform was based on this conference proposal.

Active support for judicial reform was sustained from adoption of the League position in 1964 until ratification of the Judicial Reorganization Amendment. Judicial reform was vigorously opposed by the justices of the peace, but their opposition was diminished in 1973 by a State Supreme Court decision which invalidated the fee system. In 1974, the Judicial Reorganization Amendment was proposed by the Legislature. The League and the West Virginia State Bar formed a coalition which successfully supported ratification. Following ratification of the Amendment, the League supported statutory measures to establish qualifications and training provisions for magistrates, who would be replacing the justices of the peace.

League goals were substantially achieved with ratification of the Judicial Reorganization Amendment, and future action is anticipated only if measures are proposed to weaken the present judicial system or if there is an opportunity to improve qualifications and training for magistrates.

County Organization

Article VII provides the basis for county government in West Virginia. The chief executive body of the county is the County Commission whose duties are largely administrative and record-keeping in nature. The Constitution also requires election of a County Clerk, a Sheriff, a Prosecuting Attorney, an Assessor, and a Surveyor of Lands. These provisions, which are patterned after the traditional English system of county administration, divide responsibility for county administration among the various constitutional officers. The County Commission is severely limited in its powers and, because of its structure, is not well-suited to the diverse executive responsibilities that are today expected of county government.

The county organization article drafted by the Commission on Constitutional Revision was designed to free county governments from limitations that prevent adoption of more responsive forms of government. The proposed article, while permitting retention of the existing form of county government, would also make it possible for the voters to adopt one of three alternative forms. One form would be a county manager or county executive type. The Legislature would be empowered to grant county governments the authority to pass laws and ordinances relating to local affairs. The formation of new counties would be prohibited except by consolidation of existing counties. Voters could also choose to consolidate city and county governments.

The League adopted a position supporting the Commission recommendations and further recommended inclusion of provisions to encourage and facilitate inter-governmental cooperation and consolidation of services and functions at the local level.

Prior to 1980, the Legislature showed little or no interest in revising the County Organization Article. The elected county officials strongly opposed any revision of the Article because of fear that their offices might be abolished or made appointive under alternative forms of government. In 1980, the League supported creation of a legislative interim committee to study the issue; the committee's report favored the recommendations of the League and the Constitutional Revision Commission. From that time on, the League worked diligently to place the County Reorganization Amendment on the ballot. In 1989, the Governor added his support, and the measure finally passed both houses. The County Reorganization Amendment was, however, defeated in a special election.

The Amendment's defeat did not put an end to League action to reform county government in the State, and sustained action is needed if changes in this area are to be accomplished.

Taxation and Finance

There have been two League studies relating to the constitutional provisions on taxation. The first was a survey of the provisions governing local and state taxing and borrowing powers. Taxation of local property is restricted by the Tax Limitation Amendment, adopted in 1932, which provides that taxation must be equal and uniform throughout the State and all property must be taxed in proportion to its value. The Amendment specifies property which may be exempt, divides property into four classes, and sets the maximum rates. These maximum rates may be exceeded for a limited time with the approval of the voters. The State is limited to only one cent per hundred dollars valuation, making it almost exclusively a local tax. Local borrowing power is limited to a percentage of the assessed value of property and requires consent of the voters.

The Tax Limitation Amendment was the result of public demand for relief from the excessive tax burden on property, which in 1932 was providing 75% of the funds for state and local governments. The reduction in state revenue following adoption made it necessary for the State to seek other tax sources. The reduction at the local level required the State to relieve county governments of some of the services which they could no longer perform and to increase vastly state financial support for public schools. Financial problems of local governments have been intensified throughout the years by the long-standing practice of assessing property at far below its actual value.

The Constitutional Revisions Commission recommended no substantive changes in provisions relating to local taxing and borrowing powers. The League of Women Voters, however, had a long-standing position favoring revision of the Tax Limitation Amendment. The 1967 consensus reaffirmed this position for easing constitutional restrictions on local property taxing and borrowing provisions. The League specifically included support for approval of bonds and special levies by a simple majority vote instead of the 60% required by the Constitution.

The second League study was the result of the adoption of a tax on personal income by the Legislature in 1961. During the same session of the Legislature, an amendment to the Constitution was proposed, placing a limit on personal income tax rates. Widespread member interest led to the League study. It was felt that the proposed amendment would impose additional inflexibility upon the state tax structure and, like the previous restrictive amendment on property tax rates, would only lead to shifting the tax burden to other sources of revenue. Consensus was reached in time to oppose adoption of enabling legislation during the 1962 session, and the legislation died in committee in both houses.

Using positions derived from its earlier studies on education and local government

financing, the League successfully supported the 1950 School Bond Amendment and the 1958 Better Schools Amendment which eased the bonding and excess levy provisions for schools. A 1988 Bond Enhancement Amendment aimed at increasing bonding potential for counties was defeated at the polls.

After unsuccessful attempts in 1966 and 1978, an amendment was adopted in 1982 to allow county school bonds and levies to be approved by a simple majority vote. In 1992, a similar amendment changing the requirement for approval of local government bonds and levies from 60% to a simple majority was defeated.

The League opposed the 1980 Homestead and Taxation Exemption Amendment and the 1982 Property Tax Limitation Amendment because they were additional restrictions on local use of the property tax, and exemptions were not based exclusively on need.

Despite the fact that West Virginia property taxes are relatively low in comparison to other states, measures to increase the use of the property tax have been extremely unpopular. The League will continue to support relaxation of restrictions on the property tax and the majority vote amendment. If future increases in the income tax rates result in an attempt to place a constitutional limit on the personal income tax, the League will oppose such a limitation.

Amendment or Revision

In 1964, the State Council directed that the League turn its attention to a study of the amendment process itself. This decision was based on the failure to secure League goals by individual amendments, on an increased public awareness of the need for constitutional revision, and on the interest expressed in a constitutional convention by candidates for state office.

The West Virginia Constitution provides two methods of change. Individual amendments may be proposed by the Legislature by a two-thirds vote in each house and ratified by a majority of the voters; or the Legislature may, by a majority vote of each house, place the question of calling a constitutional convention on the ballot. If a majority of the voters approve calling a convention, its members must be subsequently elected and its proposals submitted to the voters for ratification.

The Legislature had been extremely reluctant to submit comprehensive amendments to the voters. This reluctance spurred interest in calling a constitutional convention, even among some legislators. The League advocated a constitutional convention as the most

effective means of achieving comprehensive revision. A convention bill was passed by the Legislature in 1965 but was voided by the Court because of its apportionment provisions. This bill, however, was not without its effect. For the next few years there was much greater interest in the Legislature in comprehensive amendments.

Calling a constitutional convention remains a desirable goal because of the limited time and interest that the Legislature devotes to comprehensive constitutional reform. It is highly unlikely that anachronisms and ambiguities will be removed from the present Constitution by legislatively-proposed amendments. Amendments that touch upon subjects that are politically sensitive to legislators are unlikely to be proposed through the legislative process. A constitutional convention, as an independent body, is more likely to have the time and inclination to propose comprehensive reforms. Public interest in constitutional reform is cyclical and can be expected to revive again. Times of high interest in a constitutional convention also produce greater interest in the Legislature in producing substantive amendments through the legislative process.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Favors a unified court system for West Virginia with a minor judiciary staffed by adequately trained and competent judges. (11/20/61)
2. Opposes constitutional limitation of the state income tax.
Supports a strong executive branch of state government. (1/15/62)

Further Guidelines

- The League supports the following measures to strengthen the executive branch:
 - (a) two terms for the Governor;
 - (b) an executive budget;
 - (c) a two-thirds vote for veto override;
 - (d) a shorter ballot;
 - (e) consolidation of executive departments.
- 3. Advocates calling a convention to revise the Constitution of West Virginia. The League further urges that delegates be selected on a basis which de-emphasizes partisanship and which insures representation of the broad and varied interests of the citizens of West Virginia.

Supports provisions to allow alternative forms of county government and measures which will encourage and facilitate intergovernmental cooperation and consolidation

of services and functions. (2/1/65)

Further Guidelines

- Alternative forms of county government should include a single executive form, home rule, and county-city consolidation.
4. Supports provisions which ease constitutional restrictions on taxation of local property and limitations on borrowing powers and permit approval of local excess levies and bond issues by a simple majority vote. (4/7/67 and 4/5/66)

ELECTION LAWS

Position in Brief:

Support measures to improve the election process and minimize fraud.

HISTORY

Concern over election fraud prompted the League to include a study of election laws in its program in 1969. Between 1969 and 1974, three studies were produced. The first was a review of laws relating to election procedures with emphasis on provisions relating to administration and enforcement. The second reviewed campaign practices with particular emphasis on campaign financing provisions. The third examined West Virginia's Primary Election process.

Ranked-Choice Voting (RCV) was adopted by concurrence by the League on January, 2021. The direction promulgated by the LWVUS is that Leagues may propose or evaluate a proposed electoral system that encourage participation, are verifiable and auditable, and enhance representation for all voters. The League agreed that RVC should be used in electing West Virginia Justices with consideration for a broader application at a future time.

ISSUES AND ACTION

Election Procedures

The law relating to election procedures was found to be basically quite satisfactory. Voters had satisfactory access to information and the election process. The major problem areas centered upon administration and enforcement of the West Virginia Code. Since failure to adhere to provisions of the Code created many of the election problems, the League decided that better training of personnel conducting elections and voter education would improve the election process. The League questioned the desirability of county commissioners serving as the Board of Canvassers, since they would be sitting in judgment on their own elections and would not necessarily represent both parties. The League was concerned that the secrecy of the ballot be protected and objected to the provision requiring that voters needing assistance receive it from party officials. League support was given to measures which would protect the integrity of the vote, promote accuracy in recording, and minimize opportunities for irregularities.

The principal problem in the area of enforcement is that the local officials responsible for enforcement are sometimes involved in the irregularities or politically allied with the lawbreakers. To overcome this difficulty, the League decided that there should be supervisory and enforcement powers at the state level.

There has been a sustained effort to secure strict observance of provisions in the West Virginia Code. The League has supported measures to improve training of election personnel, including production of election procedures films, and has conducted post-election surveys related to the effectiveness of the training. It supported legislation making the Secretary of State the chief election official with power to investigate election irregularities, but has been unsuccessful in efforts to create a power of prosecution at the state level.

Because the absentee ballot had been used as a vote-buying device, the League supported legislation to increase voter responsibility in the absentee ballot process. Assistance of voters by election officials provided an opportunity to exert undue influence upon the voter. The League supported 1985 changes to allow voters needing assistance to receive that assistance from persons of their own choice but to restrict the number of opportunities to provide assistance.

In 1982, the League reviewed the provisions relating to electronic voting machines and made recommendations for changes that would provide better protection for the integrity of the ballot and decrease opportunities for fraud. Most were adopted by the Legislature.

At the time of the League's study, the State Code required a quadrennial door-to-door canvass to register voters, a provision which the League supported because it gave citizens easy access to the election process. County officials sought to remove this provision from the law, however, because of the expense and inconvenience of conducting the canvass. The League opposed this measure and secured compromise legislation which, while it made the canvass discretionary rather than mandatory, did require that temporary registration offices be established in each magisterial district prior to elections during nonworking hours. It also required canvasses to be made in institutions and home registration upon request. Since elimination of the door-to-door canvass, the League has supported efforts to ease voter registration. In 1983, postcard registration was enacted, and in 1991, a provision to allow qualified persons the opportunity to register to vote when they apply for a driver's license was adopted.

In 1985, the League supported a comprehensive bill strengthening election procedures, including drawing by lot for multi-candidate offices for placement on electronic voting ballots and voter assistance provisions.

There will be continuous need for monitoring the election process to determine the need for further revision and evaluate the quality of enforcement.

Campaign Finance

West Virginia campaign financing provisions were found to be the most unsatisfactory area of the Election Code. Strict accountability for contributions and the identification of contributors were not required. Anonymity was encouraged by such practices as reporting only the net proceeds from fund-raising events and reporting contributors only by name without further identification or address. Cash contributions were sometimes unaccounted-for because of the looseness of provisions relating to reporting contributions and expenditures. Political parties were not required to file financial statements. There were no limits on the size of contributions nor on the right to make contributions, except that corporations were specifically barred from participating. Accusations of financing irregularities in the previous election could not be investigated because records were destroyed within a year. The definition of campaign contributions was so vague that most candidates reported only monetary contributions and not material contributions such as paper and gasoline or the indirect hiring of services.

The League felt that substantial changes should be made in the campaign financing section of the Code to insure more complete identification of contributors, to identify the amounts of all contributions, and to provide a clear record of campaign funds from receipt through expenditure. No political committee should be exempt from the reporting process. Because the right of the voter to information prior to the election is a prime consideration, the League advocated that records be distributed to the press and be available to the public. The League also believed that no segment of the community should be barred from the political process by being denied the right to make a contribution, but that the size of contributions should be limited to prevent any single contribution from becoming a dominant factor in the campaign.

The laws governing political activity were found to be in little need of change. The League did feel, however, that candidates should be protected from unethical accusations by having a right to reply and by having fair campaign practices committees to investigate complaints.

The effort to revise the campaign financing law was a difficult and hard fought battle. Many legislators were extremely reluctant to enact legislation which would require them to

keep more extensive records, to reveal the identity of all of their contributors, and to include in their reports many types of contributions which had previously gone unreported. The legislation which was finally passed included most of the provisions that the League had sought. Another measure which the League successfully supported was the right of corporation employees to form political action committees.

During the late 1980s, public attention became focused on abuses caused by the rising costs of political campaigns. In 1987, the League supported legislation to limit campaign spending and since that time has worked for measures to reduce the influence of special interests on political campaigns, including voluntary spending limits, public funding for gubernatorial campaigns, limitations on amounts candidates may receive from political action committees, limits on amounts of repayment of loans which candidates make to their own campaigns, and codification of the Code of Fair Campaign Practices.

In the future the League will seek to protect campaign financing legislation from revisions which would weaken it and to work for measures relating to campaign ethics.

Primary Ballot

The League publication, "The Primary Ballot in West Virginia," surveyed provisions in the Code relating to West Virginia's Primary Elections and alternative methods of choosing party nominees, such as conventions and caucuses. Primary Elections are separate party elections which give each political party the opportunity to choose its nominees by the election process. Parties without a specified minimum of public support may nominate candidates for the General Election by a petition process. The League supports these primary election procedures because they provide the fullest opportunity available to party members to participate in choosing their party's nominees, give all office seekers the opportunity to be considered by the members of their party, and protect the process by state supervision. The League felt that conventions and caucuses do not offer these advantages because they are poorly attended by the average party member, can be maneuvered to exclude consideration of a full range of potential nominees, and are most readily controlled by adherents of one candidate. Because the Primary Election is a party selection process, the League opposes changes which would permit cross-filing.

The Presidential Preference Primary provisions were found to be far less satisfactory. Unlike the rest of the Primary, where the voter's choice is decisive, the Presidential Preference Primary is merely a popularity poll. Since the decision of the voters does not result in votes for a candidate at the national party conventions, few presidential candidates choose to file for the West Virginia Presidential Preference Primary Election. The party

convention delegates, who are also chosen in the Primary Election, have no obligation to honor the preference choices of the voters beyond the first ballot at convention.

The League believes that the voter should have more direct participation in choosing presidential nominees and feels that this could be accomplished by requiring convention delegates to vote in conformity with the results of the presidential preference election during the initial convention balloting, regardless of their own individual preferences. The State's vote should be cast proportionally for the presidential candidates rather than in a "winner-take-all" fashion. The League also prefers election of convention delegates rather than appointment, so voters can elect delegates who agree with their own presidential preferences.

The third important business of a Primary Election is the selection of the members of political party committees. The League supports the direct election of committee members and feels that party leaders should also be chosen by the voters. The multiplicity of elective offices in West Virginia and the many party positions to be filled contribute to West Virginia's having one of the longest primary election ballots in the nation. The League believes that voters could make more informed choices if there were fewer elected positions, and thus advocates a reduction in the number of state and local elective offices and smaller party committees.

The date of the Primary Election has been a controversial issue. Laws have been introduced to move the date to earlier in the year in an attempt to make West Virginia's Presidential Primary more important nationally. The League has opposed these efforts because they would make political campaigns longer.

The only significant legislation enacted regarding primaries requires candidates for delegates to national political party conventions to state their presidential preference or "no preference" on the ballot. Despite the League's advocacy, there has been no legislative interest in a binding Presidential Primary or a reduction in numbers of members of political party executive committees. These unfulfilled goals, as well as protection of the integrity of the Primary Election process, will be of continuing League interest.

Voter Representation/Electoral Systems

The League encourages and supports election methods that provide for the greatest and broadest voter representation possible and require the winning candidate to receive the majority of votes cast. The election method should work for multiple candidates as well as single candidates, be easy to use and understand, not be expensive and encourage diverse, minorities and women candidates. The LWVUS not supporting any particular election method, promotes and supports the position of an “open governmental system that is representative, accountable and responsive”; election methods that encourage voter participation and voter engagement; encourage those with minority opinions to participate, including under-represented communities; are verifiable and auditable; promote access to voting; promote competitive elections; maximize effective votes/minimize “wasted” votes; promote sincere voting over strategic voting; discourage negative campaigning; encourage meaningful discussion of issues; require the winner to receive a majority of the votes for executive and other single seat offices; and are compatible with acceptable ballot-casting methods, including vote-by-mail. This umbrella encompasses state “Leagues to use this position to propose or evaluate electoral system proposed in their communities.” This position provides Leagues “a clear, but flexible base of principles to explore election method reforms and take action when appropriate for voters.”

Issues and Action: Following the 2018 and 2020, nonpartisan, plurality elections of West Virginia Supreme Court Justices, the League became aware that not one elected justice received a majority vote. Thus disenfranchising West Virginia voters. The League encourages and promotes voter turn-out and that winning candidates win by receiving the most votes. The less than majority election results are believed to be directly attributable to a plurality voting system. The League chose to study alternative election systems that would be more reflective of voters’ choices when electing West Virginia Supreme Court Justices. Accordingly, the League undertook the study of the following election methods: runoff voting, ranked-choice voting and plurality voting.

Run-off, plurality and Ranked-choice voting systems were reviewed, studied and considered. The runoff election is a second election held to determine a winner when no candidate in the first election met the required majority vote. Although easy to understand, it is expensive to candidates and election administrators due to requiring a second election. Historically there is a much lower turn out with voters for a second time. The plurality system is easiest to understand, administer and the most widely used. However, with plurality voting winners need only receive one vote more than the opposing candidate to win, rarely are elected by a majority vote, has problems with split and strategic voting and usually have only candidates from the two major political parties.

Ranked-choice voting met most if not all of the Leagues' criteria. It assures a majority by vote by choosing candidates in a matter of preference. It meets all the criteria as previously set forth, providing a more representative election.

Additionally, the League considered positions of reputable authorities and organizations regarding electoral systems and more particularly RCV; considered the positions and actions taken by local citizen action groups, the ACLU, etc., that supported ranked-choice voting by introducing bills in the 2020 Legislative session which eventually failed. Following this educational process, the League reviewed the concurrences and studies on alternative voting systems advocated by other State Leagues and learned that while no electoral method is perfect, some are better than others at best representing voters. Our League concurred with those State Leagues that found that ranked-choice voting systems are by far the most representative of voters and thusly strengthens our democracy.

LOCAL APPLICATION

Since elections are held at the local level, local leagues have been particularly active in applying state positions to local action. They have monitored registration policies and assisted in local registration drives. Election procedures have been observed and irregularities protested. Such activities will continue.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Supports measures to encourage effective administration and vigorous enforcement of the West Virginia Code. Election laws should serve the voter with maximum convenience, simplicity, clarity, and impartiality; include adequate voter education; promote an equitable and uniform election process and continuous efforts to minimize opportunities for fraud. (11/17/70)

Further Guidelines

- The first step in obtaining an effective election system is adequate training of personnel and election workers.
- The Board of Canvass must be as impartial as possible.
- Responsibility for voter education should be designated to a specific official or board.
- Enforcement of the Election Code should be a priority at all levels.
- Modernization of the departments, centralization at both county and state levels, or changes in materials are desirable, but are of low priority.

- The League would support higher salaries or budgets only if better training were included.
- Election Day procedures should guarantee secrecy, minimize fraud, and encourage a simple, convenient, impartial system. Vote counting methods, voter assistance regulations, security of poll books, and qualifications for election workers should be developed to achieve these objectives.
- The responsibility for enforcement of election laws should be at the state level.
- Increasing penalties is not the solution to preventing fraud, but the penalty for buying votes should be severe.
- The League does not oppose allowing authorized observers at the polls but believes it is impractical.

2. Supports measures which would insure full disclosure of campaign financing information by candidates and committees, promote ethical campaign practices, and provide enforcement at the state level. (11/4/72)

Further Guidelines

- All candidates and independent committees, including those acting on ballot issues, should be required to file financial statements which include addresses of contributors, bank depositories, and complete information about each campaign committee. The records should be kept for the duration of the office sought.
- The records should be available to the public.
- A state agency should be charged with auditing the reports.
- Limits should be placed on amounts of contributions but not on eligibility to contribute.
- To insure more ethical campaigning, candidates should be responsible for campaign literature used on their behalf.
- The League encourages public broadcasting agencies to devote adequate time to candidates and campaign issues.

3. Supports the primary election method of nominating candidates to statewide offices and supports measures which allow party members to participate fully in the nominating process with minimum confusion.

Supports measures which provide for a meaningful binding state presidential primary, the direct election of individuals as delegates to party national conventions, and delegations which are representative of the presidential preference of the party members in the State.

Believes that all citizens should be encouraged to participate in political party activities; that the direct election of party officials by the general party membership is the best method of selection; that the number of party committee members elected should be reasonable.

Believes that some state and local elective offices should be removed from the ballot.

(4/18/74).

Further Guidelines

- The League supports measures which would:
 - (a) Provide for the counting of write-in votes during a primary.
 - (b) Provide a fair method of rotating candidates' names on the ballot.
 - (c) Require candidates for delegate to national conventions to announce their presidential preference and that each preference be printed on the ballot.
 - (d) Eliminate the requirement for an equal number of men and women on political party executive committees.
 - The League opposes measures which allow cross-filing, runoff primary elections, and winner-take-all presidential primaries.
4. Supports legislation that assures that the candidate preferred by the majority of voters will be the winner of the election. The League supports Ranked Choice Voting (RCV), initially to elect West Virginia Supreme Court Justices, with consideration to expand RCV for future elections. (January 21, 2021)

ETHICS IN GOVERNMENT

Position in Brief:

Support a strong ethics law in West Virginia.

HISTORY

During the late 1980s, political corruption reached a peak in the State. Two State Senate presidents were convicted of fraud; the Attorney General resigned under a cloud; the State Treasurer was impeached; and the former Governor was sentenced to a prison term. Public concern intensified, and delegates at the 1989 State League Convention adopted a study of ethics in government.

ISSUES AND ACTION

The League study examined the differences between illegal and unethical activities, the rationale for ethics laws, and national ethics regulations. Since the West Virginia Legislature had adopted an ethics bill in 1989, the study addressed problems with the law and possible improvements.

The major issues were which officials should be covered by the state law, what should be disclosed or regulated, and the extent of the authority of the State Ethics Commission.

The League position, announced in 1991, supports a strong ethics law to govern conduct of all public officials and employees. The League believes that establishment of an Ethics Commission is an effective way to administer the law. All complaints and investigations referred to the Commission should be confidential unless probable cause is determined, and the Commission should be allowed to initiate investigations. The Commission also should be allowed to grant exemptions to provisions of the law, but any exemptions granted should become a matter of public record. In addition, the League supports the following concepts: bans on honoraria, solicitations for charity from subordinates, and participation in licensing/rate-making for businesses in which the official or immediate family has an interest; disclosure of gifts valued at more than \$100; report of lobbyists' expenditures of over \$25 per official; permission for reimbursement for travel and meal expenses.

In 1990, the Legislature stripped the Commission's authority to initiate investigations. Since then, the League has worked diligently to restore that power. League action has opposed other efforts to weaken the ethics law or regulations implemented by the Ethics Commission.

CONSENSUS POSITION

The League of Women Voters of West Virginia supports a strong ethics law to govern the conduct of public officials and employees. The League believes that the establishment of an Ethics Commission to administer the law is an effective way to control public corruption. (1/14/91)

Further Guidelines

- The ethics law should minimize opportunities for using public office for private gain.
- All complaints and investigations referred to the Ethics Commission should be confidential unless probable cause is determined.
- The Commission should be allowed to initiate investigations and to grant exemptions to provisions of the ethics law. Any exemptions granted, however, should be a matter of public record.
- The League supports the following concepts: bans on honoraria, solicitation for charity from subordinates, and participation in licensing/rate-making for businesses in which official or immediate family has interest; disclosure of gifts valued at more than \$100; report of lobbyists' expenditures of over \$25 per official; permission for reimbursement for travel and meal expenses.

JUDICIAL SELECTION

Position in Brief: **Support merit selection and retention election method for selection of West Virginia State Supreme Court Justices and Circuit Court Judges.**

HISTORY

A League Study of Judicial selection in West Virginia was adopted by delegates to the 1995 State Convention, and consensus was announced in April, 1996.

ISSUES AND ACTION

The League study reviewed the history of judicial selection in the United States, West Virginia's judicial system and method of judicial selection, and alternative methods of judicial selection. Methods discussed included appointment, nonpartisan and partisan election, and merit selection and retention election.

The major issues were public apathy and inability to make an informed choice in electing judges. It pointed out the conflict between insuring an impartial and competent judiciary and the need to conduct partisan political campaigns. Judicial candidates were required to abide by the code of Judicial Conduct which prohibited them from commenting on how they would rule on specific issues and from directly soliciting campaign funds. They could, however, form campaign committees to solicit funds; a concern of League members was that a large portion of funds for judicial campaigns were contributed by lawyers.

The League position supports amending the State Constitution to establish a merit selection and retention election method for selection of Supreme Court Justices and Circuit Court Judges. League members believe that, while no method can completely remove politics from the selection process, merit selection is the best method to provide competent, impartial judges while allowing public participation through serving on broad-based nominating commissions and voting in retention elections. Although several changes to improve the partisan election method were discussed, including prohibiting contributions from lawyers and a more aggressive Judicial Investigation Commission, members agreed only that a system for conducting polls by the State Bar and publishing the results should be developed.

A Constitutional Amendment providing for merit selection was introduced in the 1996 Legislature. The League distributed copies of the Judicial Selection study to every legislator. The amendment was not considered by the Legislature.

CONSENSUS POSITION

The League of Women Voters of West Virginia supports a merit selection and retention election method for selection of West Virginia State Supreme Court Justices and Circuit Court Judges. Justices and judges should be appointed by the Governor from a list of qualified candidates submitted by broad-based nominating committees.

The selection method should include periodic retention elections and a process for evaluating judges before retention elections and publicizing the results. Judges receiving a majority of favorable votes would be retained until the next retention election. (April, 1996)

Further Guidelines

- Supreme Court Justices
 - (a) The nominating committee should be composed of both lawyers and non-lawyers. Non-lawyer members should be appointed by the Governor. Lawyer members should be appointed by the State Bar.
 - (b) The nominating committee should: have statewide representation, be politically diverse, have gender balance, have ethnic diversity.

- Circuit Court Judges
 - (a) Each district should have a nominating committee
 - (b) The nominating committees should be composed of both lawyers and non-lawyers
 - (c) Non-lawyer members should be appointed by the governor.
 - (d) Lawyer members should be appointed by the State Bar.
 - (e) Nominating committees should: have district-wide representation, be politically diverse, have gender balance, have ethnic diversity.

- Partisan Election

To improve West Virginia's current method of judicial selection, a process for conducting and publicizing polls by the state and local bars should be developed.

JURY SELECTION

Position in Brief:

Support measures to afford all citizens the opportunity to participate as jurors in the judicial process.

Support removal of obstacles to jury service.

HISTORY

In the 1980s, the way potential jurors were selected in West Virginia and other states became a controversial issue. Criticism centered on the selection process itself as well as representation on master jury lists *vis-à-vis* the demographic composition of the counties. In 1983, the League decided to conduct a statewide study of the process.

During the first year of the study, the League undertook a survey of jury commissioners, circuit court judges and trial lawyers to gather information on the makeup of juries and suggestions for changes in the system.

The League study, "An Assessment of the Jury Selection Process in West Virginia," examined the system of compiling master jury lists, evaluated it for consistency and representation, and suggested possible alternatives. Consensus was announced in 1985.

A second study of the jury system was adopted in 1985. League members realized that, even if the selection process were changed to provide jury lists which represented the community as a whole, the actual juries could not be truly representative until some of the obstacles to jury service were eliminated. Another survey was conducted asking circuit judges to identify obstacles and to suggest improvements. The study, "Overcoming Obstacles to Jury Service," was published in the October, 1985, West Virginia *Voter*, and the position was established by the concurrence method.

ISSUES AND ACTION

At the time of the League study, jury lists in West Virginia were compiled by jury commissioners, one Democrat and one Republican for each of the 55 counties. State law provided few guidelines for compilation of these lists, leaving most of the selection to the discretion of the jury commissioners. Sources of names included voter registration lists, telephone directories, property tax lists, personal acquaintances, "key" community leaders, and a variety of other lists. Most of these sources represent only a limited segment of the

population, e.g. those who choose to vote, those names (mostly male) listed in a telephone directory, property owners, etc. Names were frequently selected from these lists by other than random methods, and there was little consistency among the counties as to what sources were used or how they were used.

League members found that the West Virginia system did not meet the constitutional requirement to guarantee that juries be composed of a "fair cross-section of the community." They agreed that the jury commissioner system should be changed to reduce the discretion of jury commissioners. Jury selection should be uniform across the State and commissioners should receive formal, uniform training. Further, state law should specify the sources from which a list of jurors could be selected, and selection from the lists should be random. Possible sources identified were voter registration and driver's license lists. Any exemptions from jury service should be by the discretion of the judge.

The League began its second phase of the jury selection study by asking circuit judges to list the reasons most potential jurors give when requesting excuses from serving. Most often cited were health, age, employment problems, and vacation plans. The only solutions suggested to overcome these obstacles were higher pay and shorter service.

The League found that West Virginia was one of the highest paying states in the nation and that it would not be economically feasible to compensate jurors fully for work days lost. A national study pointed out that jury pay was never meant as a compensation for expenses incurred. Jury duty was considered a "community hardship" to be borne as a civic duty.

League members thus concluded that shortening terms of jury service was the more practical solution. Jury service of one trial or one day would be much less burdensome to selected jurors, and economic hardships and other obstacles could be greatly reduced. The League recognized, however, that shortened service made selection from broader lists even more important.

Action on the jury positions achieved success in 1988 when legislation was enacted which required that names for the master jurors list be chosen from two of three lists: income tax, voter registration, and motor vehicle operator's license. Jury notices would be sent by first-class mail, and a study of the one-day, one-trial concept was authorized.

In 1992, the League supported legislation requiring that a physically disabled person who can render competent service with reasonable accommodation not be ineligible for jury service on the basis on the disability alone. A 1993 law eliminated the position of jury commissioner.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Believes that all reasonable efforts should be made to afford all citizens the opportunity to participate as jurors in the judicial process, that state law should specify the sources from which lists of jurors should be selected, and that selection of jurors from such lists should be done on a random basis. (1/14/85)
2. Believes that most obstacles to jury service could be eliminated by a severely shortened term of jury service. (4/10/86)

Further Guidelines

- The jury selection method should be uniform across the State.
- If kept up-to-date and accurate, voter registration and driver's license lists are excellent sources for names of potential jurors.
- Any exemptions from jury service should be at the judge's discretion.
- A severely shortened term of jury service, such as the one trial/one day system, would cause less inconvenience and economic hardship. It should be as efficient as possible and could include: (a) a combination qualification and summoning process, (b) use of first class mail for summons, (c) a monitoring system to predict demand for jurors, (d) use of a telephone call-in system, (e) computer selection of names from several source lists, (f) the possibility of overall lower per diem pay on the first few days of jury service, and (g) a county-by-county gradual phase-in of the system.

STATE LEGISLATURE

Position in Brief:

Support legislative apportionment and improved procedures.

HISTORY

The legislative study was adopted in 1969 after the Legislature adopted a resolution proposing a constitutional amendment to change the manner of compensation of legislators, provisions relating to eligibility to serve in the Legislature, and the length of the legislative sessions. The League study evaluated these proposals as well as other provisions in the Legislative Article of the State Constitution. A second study evaluated the rules and procedures under which the Legislature operated and its supportive services. The last study, in 1972, reviewed a position on legislative apportionment which had been the product of an earlier constitutional revision study.

ISSUES AND ACTION

Procedures

At the time of the League study, the salary of legislators was specified in the Constitution, and legislators were forbidden to receive any other compensation. A constitutional amendment was required to raise legislative salaries, but attempts to do so had been rejected by the voters. A regular sixty-day session was held in odd-numbered years and a thirty-day budget session in even-numbered years. By issuing a call, the Governor could include non-budgetary issues for consideration during the budget session. Because pressure was exerted upon the Governor to include items in this call, the list of matters to be considered became increasingly long. Local officials, state officials, and railroad officers were barred from legislative service. There was some difficulty in defining the term "official."

A 1970 constitutional amendment resolved these problems by creating a Legislative Compensation Commission to recommend legislative salary and expense allowances to the Legislature, which would then adopt its own salary and allowances by roll call votes. The budget session was eliminated and replaced by regular sixty-day annual sessions. The eligibility to serve in the Legislature was clarified by removing the ban against railroad officers and by excluding local officials as well as office-holders and employees of the State, the United States, or foreign governments. The League supported these changes and

reaffirmed its position that a two-thirds vote of the Legislature should be necessary to override a gubernatorial veto.

In its review of legislative rules and procedures, the League found many practices of which it approved, such as the transcription of all sessions of the Legislature, the daily Journal as a record of definitive action taken during legislative sessions, and of the easy public access to copies of the Journal and bills introduced. The League was concerned, however, that committee meetings were not open to the public. It felt that roll call votes should be required on the passage of all bills and on definitive committee action. The League was also concerned about the lack of clerical help and space available to members of the Legislature.

The League supported a constitutional amendment relating to legislative salaries and sessions which was ratified by the voters. Changes in legislative procedures, which the League supported, have opened committee meetings and have required posting roll call votes taken in committee. Further action will be necessary to achieve a change in the rules to require roll call votes on passage of bills in the House of Delegates and to require a two-thirds vote to override a gubernatorial veto.

In 1991, the League joined a coalition of groups filing a lawsuit against the finance committee chairs of both houses of the Legislature to protest the development of the Budget Digest. The suit held that the Digest was prepared in secret after the Legislature had adjourned. The State Supreme Court ruled that the Digest be prepared in a public meeting and that records of the meeting be made available to the public.

Apportionment

The West Virginia Constitution, since its adoption, has contained adequate provisions requiring equality of representation in government. The Legislature is required to be reapportioned once every ten years, using the United States census population figures as the basis for representation. For Senate districting, counties are to be clustered into two-member senatorial districts, the population of which is to be as equal as possible. A formula is provided for the apportionment of the House of Delegates. A ratio of representation is determined by dividing the population of the State by the number of seats in the House. Each county is assigned delegates based upon its multiple of the population ratio. Any county whose population is less than three-fifths of the population ratio must be attached to an adjacent county or counties to form a delegate district which is then assigned representation based on its population.

From 1900 until 1964, delegate districts were not used, because the Legislature either

ignored the delegate district provision or made districts unnecessary by increasing the number of seats in the House. By 1960, it was apparent that the next apportionment must contain delegate districts, since it was impractical to increase further the size of the House. Instead of reapportioning, the 1962 Legislature proposed the Fair Representation Amendment which would guarantee each county at least one delegate. The constitutional provisions and the proposed Amendment were the basis of the League study. The West Virginia formula could not achieve a deviation ratio as low as required by decisions of the United States Supreme Court. For this reason, the League reviewed its apportionment position in 1972 and reaffirmed its support of apportionment every ten years based upon United States census figures and of equality of representation.

The primary concern in abandoning the use of the formula to apportion the House of Delegates was the opportunity for gerrymandering. To minimize the opportunity for gerrymandering, the League decided that future apportionments should be based upon the following principles: preservation of the integrity of county lines insofar as possible and a requirement that districts be compact and contiguous. The League further advocated that these principles be incorporated into the State Constitution along with remedial provisions, should the Legislature fail to reapportion as required.

The first League action in the field of apportionment was vigorous opposition to the 1962 Fair Representation Amendment which was rejected by the voters. In 1963, the League urged the adoption of a constitutional apportionment bill, but the Legislature adopted an apportionment which gave each county a delegate and which did not meet constitutional standards. The legislation was challenged in court, and the League of Women Voters filed an amicus curiae brief. The State Supreme Court ruled that the 1963 apportionment act was unconstitutional. In a special session of the Legislature following the Court's decision, the League opposed another legislative attempt to propose a fair representation amendment and successfully supported the passage of apportionment legislation which used delegate districts in strict compliance with requirements of the State Constitution. Since that time, the League has sought to have reapportionments enacted as required by the State Constitution and in conformity with both constitutional representation standards and League criteria. Still to be accomplished is incorporation of new apportionment provisions in the State Constitution, and there will be continuing need to seek reapportionment every decade.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Supports adequate legislative salaries by legislative determination, with allowances for per diem expenses during special sessions and interim committee activities; holding of

regular annual sessions of not less than sixty days; the exclusion from legislative service of officeholders and employees of the State, the United States, or foreign governments, as well as specified local officials; a gubernatorial veto to be overridden by a two-thirds vote of the Legislature.

Supports public access to legislative proceedings and records, including roll call votes; and recommends that adequate supportive services be provided for the Legislature. (4/4/70)

Further Guidelines

- The League supports:
 - (a) Requiring that committee meetings generally be open to the public and that records of meetings be made easily available.
 - (b) Requiring adequate public notice prior to committee hearings.
 - (c) Requiring transcriptions of floor proceedings and making them easily available to the public.
 - (d) Making sufficient clerical help and space available to the Legislature.
 - (e) Reducing the number of legislative committees.
 - (f) Allowing the leadership to make committee assignments.

- 2. Supports apportionment of the West Virginia Legislature every ten years, based upon the United States census figures in accordance with the following principles: one person one vote representation; preservation of the integrity of county lines insofar as possible; compactness and contiguousness of districts; and prohibition against the use of overlaid districts. The League believes that these principles should be insured by the West Virginia Constitution and that remedial provisions should be established in the event that the Legislature fails to reapportion. (1/23/73)

TAXATION AND FINANCE

Position in Brief:

Support improvements in state and local taxes in West Virginia.

HISTORY

The first taxation study was adopted in 1975 because of the growing need for more revenue and the League's need to have a thorough understanding of the state tax structure.

There have been six League publications relating to the issues of taxation. The first, in 1975, was a general survey of the sources of state revenue and the qualities that various taxes should bring to a total tax program. Between 1980 and 1983, three studies provided specific examinations of state business, personal, and excise taxes. A 1984 study reviewed state financial problems in balancing the budget, cutting programs, increasing revenues, and using exemptions. The final study, in 1991, presented the problems of local government finance and possible new sources of revenue.

ISSUES AND ACTION

State Finance

Inflation, reduced federal funding, and the growth of government services all combined to focus attention on the need to expand revenues available to state government. The 1975 survey of state revenues included a description of current state taxes, an explanation of the qualities that political scientists believe should be incorporated into the diverse taxes which comprise a tax system, and an evaluation of the purposes for which the State borrows money. The League decided that a desirable tax system for West Virginia should include some taxes that are based upon ability-to-pay, some that are broad-based and inclusive to provide stability of revenue, and some that are responsive to fluctuations in the economy. All taxes should be easy to administer and yield sufficient revenue to make them useful. It was further decided that general obligation bonds should be used exclusively for the creation of taxable assets and should not be used for expenses. At the time of the study, the removal of the sales tax on food was an issue of disagreement between the Legislature and the Governor. The League supported removal because a food tax places an excessive burden on low-income individuals.

The three studies of state taxes (from 1980 to 1983) occurred during an evaluation of the state financial problems. The Corporate Net Income tax had a relatively low yield because a credit was given for the Business and Occupation Tax to prevent double taxation. The League concluded that the B & O Tax could not be replaced by the Corporate Net Income Tax because the CNIT was not broad-based and its rates would need to be increased significantly. The League supported the continued use of both the B & O and the CNIT and opposed increases in the B & O exemption which would substantially reduce its yield. The League advocated a study of the B & O rate structure to determine if rate adjustments were necessary to make it more equitable. League members opposed creating base exemptions in the CNIT and changes in the Carrier and Charter Taxes.

Personal taxes are those paid primarily by individuals. The principal one in West Virginia is the Personal Income Tax. The issues which constantly surround it are changes in rates and increases in personal exemptions. The League believes that rates should be adjusted to make changes in desired tax yield, but that tax rates should be progressive rather than proportional and that personal exemptions should not be raised. The League supported continued use of the Inheritance Tax because it was levied on an untaxed, unearned source of revenue. Its replacement by an estate tax was opposed because an estate tax was levied on all beneficiaries except spouses. The Inheritance Tax had lower tax rates for beneficiaries closely related to the decedent. The League also favored a substantial increase in the spousal exemption.

Excise taxes are sales taxes and in West Virginia are imposed on consumer sales and use, gasoline, alcoholic beverages, cigarettes, insurance sales, and soft drinks. License fees are imposed on motor vehicles and drivers, horse and dog racing, and other lower revenue-producing sources. The sales tax has a number of exemptions for businesses to prevent pyramiding of the tax and to insure that it is levied only on final purchases. The League supports the retention of these exemptions and exemptions in the gasoline tax which free non-road uses of gasoline from the tax, as well as certain organizations. The cigarette tax should be extended to other tobacco products, and West Virginia should participate in the International Motor Vehicle Registration Plan so that the licensing of interstate truckers and their gasoline usage could more readily be taxed. The League opposes the use of a state lottery to finance government because the revenue bears no relationship to the player's ability to pay.

The final study on state finances reviewed the budget-making process and the general principles which should be applied to state tax policies. The League believes that state revenue must be maintained or increased in order for state government to operate without creating deficits. The League identified priorities for uses of increased revenues and for reductions that might be required by reduced income levels. Priorities for increased spending, if funds were available, were education, highways, higher education, and human

services. Priorities for economizing were "across-the-board" cuts, elimination of duplication of services in higher education, and limitations on increasing retirement benefits. Preference in increasing revenues should be given to increasing rates for the corporate income tax and the sales tax. Decreases, if possible, should be made in the rate for the gross sales tax and the personal income tax. The balance between revenue from business and personal taxes should be kept at approximately equal levels. Future tax relief should be based on the financial need of the taxpayer, giving relief only to those in need and excluding those not in need. Exemptions should be used to prevent pyramiding of business taxes.

The State League monitored the meetings of the West Virginia Tax Study Commission and its subcommittees and offered testimony opposing substitution of the franchise tax for the Business and Occupation Tax because of the serious reduction in revenue which would result. Support was also given to the continued use of the Inheritance Tax with opposition to the adoption of an estate tax.

These positions were carried into the legislative session during which the franchise tax was adopted for many types of businesses. The Legislature resolved the inheritance-estate dispute by simply abolishing the Inheritance Tax without adopting the estate tax. Because legislative action on tax revenues is one reason for a growing shortage of funds to meet all state obligations, the League has concentrated its efforts on the need for realistic funding and its position on the sales tax on food. League support was successful in the effort to remove the sales tax from food but failed to prevent its later reimposition. These issues will need continued attention.

Local Finance

The 1991 publication, "Financing Local Government," surveyed the needs of local government for increased revenue sources and related issues and problems. The League will continue to support the use of the property tax for local revenue to the fullest extent possible by continuing to press for full and accurate appraisals and for a simple majority vote on local bond and levy questions. There is a need for increased sources of revenue at the local level, but care needs to be exercised to insure that local taxes will be simple and economical to administer and that city residents will be protected from double taxation by the county unless the tax is to be used for services to city residents. The local coal severance tax should be expanded to include other extractive industries such as oil, gas, and quarrying. Counties should be authorized to impose the same taxes which are available for cities, but legislative action should be required, especially in the matter of setting maximum rates. If local income taxes are authorized, they should be based upon the state income tax to simplify and facilitate ease of collection by local jurisdictions. The League prefers that a wage tax not be used in place of an income tax because it taxes only one form of income

and allows individuals whose income is derived from fees, investments, royalties, and other non-wage sources of income to escape from their fair share of the tax burden. However, if a wage tax and an income tax are both authorized for local use, there should be a credit to protect the taxpayer from having to pay two local taxes on the same income.

In 1993, a series of statewide and regional conferences was sponsored by the League to give citizens knowledge about the issues of local finance and possible solutions.

In 2001 the League undertook an update of the local finance position. Using concurrence process, a new position was developed, in which the League modernized its positions and modifications were made regarding local options.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Believes that the state tax system should be broadly based, rely on diverse sources of income, provide an adequate, stable yield, and treat taxpayers equitably. It should include components based on ability to pay, take into account the economic impact of individual taxes, and should be simple to administer. (1/13/76)
2. Opposes any tax reform or change which negatively affects the state's or local government's ability to provide necessary services. (4/27/01)
3. The League approves the use of general obligation bonds for the creation of tangible assets, but is opposed to the use of such bonds to meet current expenses. (1/13/76)
4. The League opposes the consumers sales tax on food. (1/13/76)

Further Guidelines

- When imposing new taxes, the following should be considered: acceptability to the taxpayers, ease of compliance and payment, and the social effect of individual taxes. (1/13/76)
 - The order of preference for increasing expenditures is education, highways, higher education, and human services. If reductions must be made, the order of preference in doing so is an across the board reduction, higher education reduction with special emphasis on consolidation of medical schools and colleges, and limitation on increases in retirement benefits. If revenues need to be increased, the order of preference of taxes to be raised is sales and corporate net income. If revenues must be reduced, the order of preference of taxes to be lowered is gross sales or other privilege tax and personal income. (1/13/76)
5. Supports the Corporate Net Income Tax in combination with the current Business &

Occupation Tax as balanced and fair sources of business taxes. (4/27/01)

6. Supports a progressive Personal Income Tax. (4/29/82, updated 4/27/01)
7. Supports the Consumers Sales Tax, with the exception of the Food Tax. The League supports the Use Tax and the Gasoline Tax and favors the extension of the Cigarette Tax to other tobacco products. (6/1/84, updated 4/27/01)

Further Guidelines

- Consumer Sales Tax and Use Tax exemptions should prevent pyramiding of the taxes and insure that they are levied on final purchases. The League approves exemptions in the gasoline tax for non-road use of gasoline. (6/1/84, updated 4/27/01)
8. Believes that the amount of revenue raised at the state level must be sufficient to provide essential state services and that a balance in revenue raised from individuals and from businesses should be maintained. Further, tax relief measures should be based upon objective criteria. (4/18/85)

Further Guidelines

- Factors which should be considered in tax relief measures are need, prevention of pyramiding, and equal treatment of taxpayers. Categories of taxpayers to be given relief should include all taxpayers who need similar relief but should be limited to those in need of relief. (4/27/01)
9. Supports a variety of options for increasing revenue for local governments. (4/30/02)

Further Guidelines

- The League supports the following options for increasing local revenue: (a) expanding the coal severance to other extractive industries; (b) authorizing cities to use the local powers act; (c) authorizing counties to impose the business and occupation tax; (d) making more extensive use of fees; (e) allowing a local income tax, local sales tax, and local wage tax.
- When cities and counties both adopt the same new tax, city residents should pay the city tax and only that portion of the county tax to be used to service city residents.
- If a new tax is adopted, the Legislature should set the maximum rates. Any local income tax should be based upon the state income tax and, if income and wage taxes are both authorized, there should be a credit to prevent local double taxation of the same income. (4/30/02)

NATURAL RESOURCES

Promote an environment beneficial to life through the protection and wise management of natural resources in the public interest; recognize the interrelationships of water quality and supply, waste management, and land use planning.

ENVIRONMENTAL QUALITY

Position in Brief:

**Support legislation to prevent and abate water pollution and to regulate water use.
Support measures to promote effective solid waste management.**

HISTORY

League activity in the area of water resources began because of national League studies on the subject. In 1961, the State League participated in an inter-League committee to conduct and publish a comprehensive study of water resources in the Ohio River Basin. The West Virginia League researched and wrote the portion of the study dealing with pollution, flood control, and recreation for all portions of the Ohio River Basin which fall within the boundaries of West Virginia. The State League added water resources to its program in 1962 and used the data collected for the Ohio River Basin study as the basis for its deliberations.

In 1972 the second study, solid waste management, was undertaken concurrently with a national League study on the same subject.

The League began its study of water use rights in 1971 because the State Legislature had authorized a study of water use rights and was in the process of drafting legislation.

ISSUES AND ACTION

The League promotes improving the public participation process and allowing the State to set standards stronger than federal standards in all laws regulating natural resources. The League has testified on many regulations promulgated to enforce the laws.

Water Pollution Control

In 1961, little progress had been made in water pollution abatement in West Virginia. Several of the larger cities had primary sewage treatment plants, but most of the smaller towns lacked such facilities. Few manufacturing plants had installed facilities for purifying water after its uses, and acid mine drainage was a major source of water pollution. West Virginia's water pollution control law was relatively weak and poorly enforced. Violators found it considerably less expensive to continue paying fines for violations rather than to

install and operate water pollution control systems. Federal legislation became the motivator for West Virginia to enact a stronger water pollution control act so that the State might retain primacy in water pollution control matters. League members agreed that West Virginia needed effective water pollution control legislation to bring West Virginia law into closer conformity with federal standards, to clarify the right to control all effluent into state waters, and to provide more stringent penalties for violations. Support was given to changes in the definition of water pollution to make it more comprehensive, to the establishment of water quality as the primary standard, and to stronger investigative and enforcement powers for the Water Resources Division (now Office of Water Resources).

The League has consistently supported legislation which would strengthen the law, opposed proposals designed to weaken it, and urged more adequate funding of the Water Resources Agency to promote more effective enforcement of the laws. It supported legislation to simplify the creation of public service districts (PSDs), to give county government the right to create PSDs, and to consolidate PSDs. The League supported the creation of the Water Development Board, which assists in financing sewage treatment facilities, and has protested the lack of adequate sewage treatment in some municipalities.

In 1986, the League successfully opposed provisions which would have politicized the water and hazardous waste permitting process by moving the permitting power from the Chief of Water Resources and Hazardous Waste to the Director of the Department of Natural Resources.

In 1987, the League joined a coalition working for the protection of groundwater resources, and in 1991, after a task force representing all factions reached a compromise, comprehensive legislation was enacted.

For many years the League has supported laws to control sedimentation and nonpoint pollution. In 1992 a weak timbering law was passed. It is designed to prevent soil erosion by requiring training and certification of loggers and best management practices for the prevention of erosion and sedimentation. Also in 1992, to comply with the federal clean water act and the National Pollutant Discharge Elimination System (NPDES), regulations on storm water discharges were passed to control runoff pollution.

To further the goal of protecting drinking water supplies, the United States Environmental Protection Agency contracted with the League to organize a program on wellhead protection in Logan County and Wood County in 1988, and in Jefferson County in 1989.

The League continues to work for a certification program to improve water testing laboratories and for strong standards for dioxin.

In July 1992, the Water Resources, Waste Management, and Air Pollution Control Agencies were transferred to the Division of Environmental Protection (DEP), which had been created the previous year to enforce environmental laws pertaining to coal, oil, and gas.

League members have been represented on the West Virginia Water Quality Advisory Committee since its organization, on the public Interest Advisory Committee to ORSANCO for over 15 years, on the Division of Environmental Protection Reorganization Advisory Board, and on the Safe Drinking Water Advisory Board.

Water Use Rights

Throughout the first half of the 1970s, the League testified at public hearings in support of water use legislation. League-supported legislation was passed by both houses of the Legislature but was vetoed by the Governor. In 1983, and again in 1985, legislation was considered to provide for a comprehensive water use plan. The League recommended the registration of water users and amounts so that the State could amass information to make decisions on what kind of water law changes would be appropriate.

Solid Waste

Since 1973, the League has been involved in the passage of solid waste legislation. The State Solid Waste Authority, charged with developing landfills, collecting systems, and recycling facilities, never had sufficient funding, and it was reconstituted as the Solid Waste Management Board. The Waste Management Office of the Division of Environmental Protection and the Public Service Commission also have extensive purview over solid waste management. Local solid waste authorities were established to prepare comprehensive local litter and solid waste control plans and facilities siting plans. In 1991, a comprehensive solid waste law was passed. Tip fees were enacted to pay for recycling programs, landfill closure assistance, open dumps programs, hazardous waste emergency response, and wastewater treatment. Curbside recycling was mandated for cities with populations of 10,000 or more; the quantity of tonnage sent to landfills was limited; certain items were prohibited in landfills; and waste reduction and the purchase of recycled materials were encouraged.

The League has also worked for beverage container deposit legislation and siting standards for solid waste and hazardous waste facilities.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Favors support of strong laws to prevent and abate water pollution with adequate staff and financing to enforce such laws. (4/9/65)
2. Believes that the most desirable goal in managing solid waste is recycling, encouraged by governmental leadership. When recycling is not feasible, the government should provide for and strictly regulate other acceptable means of collection and disposal, preferably on a regional basis.

Supports legislation which would establish specific rights to the use of all water based on a permit system, recognize the hydrological cycle, reserve the waters of the State to its use, and permit the Water Resources Board to allocate water in times of short supply, giving human needs first consideration. (1/23/73)

LAND USE

Position in Brief:

**Support land use planning and appropriate regulations at the state and local levels.
Support regulation of surface mining and timbering.**

HISTORY

Studies on land use practices began with the surface mining study in 1971 because of a substantial increase in surface mining of coal in West Virginia and public concern over the resulting environmental damages. The forest practices study followed in 1973. Two more studies in 1974 and 1976 included the topics of land use planning and development. At the 1991 State Convention, delegates voted to extend the surface mining position to mineral extraction.

ISSUES AND ACTION

Surface Mining

Prior to its regulation, surface mining had produced substantial permanent damage in many areas of the State. The results were unsightly vistas, drainage problems which caused mud slides, and acid water pollution which destroyed adjacent property and streams. The League study recognized the desirability of continuing this major industry in the State and surveyed the criteria under which it could operate with minimum adverse impact on the environment. The League favored allowing surface mining companies to operate only if they do not damage adjacent land or water and if they totally reclaim the mined area. Consideration must be given to the future use and esthetics of the mined land. Fees and bonds should be sufficiently large to allow reclamation by the State if the operator fails to do so adequately, and to provide the State with funds to begin a program of reclaiming orphaned lands.

The League supported the adoption of a strong new surface mining law and amendments to strengthen the law and opposed amendments or regulations which would make the law less effective. The League also supported revisions to permit the use of new technology in surface mining and to allow re-contouring for a higher use of the land upon reclamation.

In 1983, the League opposed transferring the permitting and enforcement powers relating to the coal industry from the Chief of the Division of Water Resources to the Director of the Department of Natural Resources (DNR). In 1985, the League opposed the transfer of regulation of mining to the newly formed Department of Energy (DOE) which combined promotion of mining with regulation. After the creation of the DOE, enforcement deteriorated. By 1991, West Virginia was threatened by the federal Office of Surface Mining to take away its primacy for enforcing surface mining laws. In October 1991, the enforcement of mining laws was transferred to the newly formed Division of Environmental Protection (DEP). The League spoke to the legislation, specifically to the inadequacy of bonds sufficient for reclamation of forfeited mines.

In 1992, the League joined with other environmental groups in a suit to require the State to meet effluent limitations on bond-forfeited sites which result in long-term pollution to the streams and rivers of West Virginia. The West Virginia Supreme Court ordered the DEP to begin reclaiming certain mines forfeited to the State.

Forest Practices

Environmental concerns prompted the League's study of forest practices. Poor forest practices, especially in logging road construction, resulted in erosion and stream siltation. Other concerns included clear-cutting and forest fires. The League found the management plan used by the National Forest Service for the Monongahela National Forest to be satisfactory and advocated that a similar plan be established for state forest management. Such a plan would provide for multiple uses of state forests, which would include timbering by any appropriate method. The League felt that timbering on private land should also be regulated to prevent erosion damage to adjacent lands and siltation of streams. Fire prevention and control programs were found to be in need of more adequate funding.

In 1983, the League opposed transferring the Forestry Division from the DNR, a regulatory agency, to the Department of Agriculture, a promotional agency. Since then the Division of Forestry has again been transferred and now is a division of the Department of Commerce, Labor, and Environmental Resources.

In 1992, the League supported the Logging Sediment Control Act, but preferred a stronger bill with a more direct role for the Water Resources Office. The law requires training and certification of loggers on best management practices to control soil erosion and sedimentation.

Planning and Development

The regulation of land use in West Virginia rests primarily at the local level of government. Some municipalities and a few counties have exercised their right to regulate land use, but the majority of the State has been left unprotected against inappropriate land use practices. The League believes that local planning commissions should have the ability to pass planning ordinances appropriate to their situations. Furthermore, with the limited amount of land that is suitable for development, the League believes that state government should take a more extensive role in land use regulation, maintain high standards for environmental protection, and regulate development in unique natural areas, along highways, and in large non-municipal complexes. West Virginians have traditionally been highly resistant to regulation of the use of private lands, making legislation to promote orderly development extremely difficult to achieve.

The League supported legislation granting counties authority to enact building codes and issue building permits and requiring the State Fire Commission to promulgate a state building code which counties and municipalities may accept. The League continues to support updating West Virginia planning laws, an industrial siting law, and a state environmental policy act to ensure that governmental projects allow for public participation and do not harm the environment.

The West Virginia League, with the approval of the League of Women Voters of the United States, urged congressional action which created the Cranberry Wilderness Area. Efforts to establish a national wildlife refuge in the Canaan Valley will continue.

LOCAL APPLICATION

Local Leagues have taken an active role to reduce water pollution by working for upgrading local sewage treatment plants and, in certain situations, for prohibition of development that is likely to harm water quality. They have consulted with local officials, health departments, and prosecutors to urge more vigorous enforcement of the laws and have worked for safe drinking water programs.

Because local solid waste authorities have been given considerable powers, local Leagues are active in recommending or opposing solid waste policies and facilities to these authorities. Recycling has been a special emphasis for many Leagues.

Local Leagues have been active in working for and monitoring planning laws, in enforcing surface mining regulations, in opposing a limestone quarry where it would impact groundwater and nearby residents and facilities, and in working for designating special and

recreational areas as public lands.

Using LWVUS positions, leagues in West Virginia have been active in strengthening the West Virginia safe water program, air pollution control measures, hazardous and solid waste issues, community right to know about toxics, and energy education.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Believes that all surface mining should be rigidly controlled. In the event that such control is not possible, the League believes that the right to engage in surface mining should be abolished. (1/4/72)

Further Guidelines

- The League believes the following criteria should govern surface mining regulations: future use of mined lands, aesthetics, protection of wildlife, preservation of land for a stable life system, effect on adjacent land and water, state tax monies, and corporation profits.
 - The League further holds that surface mining companies should operate under a "no damage, total reclamation" policy; that reclamation should provide maximum protection to watersheds and adjoining properties; and that the State should be responsible for the administrative supervision of the reclamation of orphaned lands.
 - The League believes the trend toward nationwide "energy complexes" and long-range deep mine contracts places an excessive burden on West Virginia to supply coal.
 - On the question of aesthetics, the League strongly supports protecting natural scenic areas, public lands, waterways, and neighboring farms and homes from the adverse effects of surface mining.
 - A state plan should be formulated to prevent future misuses of land.
 - Surface mining regulation applies to all mineral extraction, including quarrying.
2. Supports the regulation of state and private forests to protect their continuing value from destruction by fire and misuse, and supports measures to promote fuller use of forests for economic advantage as well as for other beneficial uses. (1/23/74)

Further Guidelines

- The League supports more adequate fire prevention and control, through such measures as increased state appropriations, broadened educational programs, and strict law enforcement.
- The forests of the State should provide a larger percentage of the gross state product through state encouragement of secondary industries by such measures as tax incentives, job training, improved transportation, expanded research, increased production, tourism, and multiple use. The State should also encourage private forest cooperatives by such practices as enlarging its small-owner assistance program without resorting to subsidies and punitive action.
- After public hearings, West Virginia should establish a State Forest Service. This plan should provide

- for multiple use of state forests and should be made available to the public.
- Timbering should be permitted in state forests under strict supervision, adequate bonding, and controlled conditions designed to protect the continuing value of the forest. The State should also oversee the management of private forests through helpful controls and a cutting permit system.
- West Virginia should take an interest in the management of national forests in the State by seeking closer coordination between national and state forest planners.
- The League favors mandatory planning legislation for critical areas, for critical activities, and for uncontrolled areas.

3. Supports limited industrial development in West Virginia as long as high standards of environmental protection are maintained. (2/2/77)

Further Guidelines

- The League favors state regulation in the following areas: (a) minimum building standards, (b) protection of unique natural areas, (c) development along highway and interstate intersections, (d) non-municipal residential, industrial, commercial, and recreational complex development, and (e) suitability of use as related to topography and soil limitations on development.
- A professionally staffed central state planning agency should be created to implement land use legislation. In carrying out land protection, the agency should coordinate its activities with plans and policies of local and regional agencies. It should be tailored to maximize local decision-making and should help localities develop and exercise local land use functions to conform to statewide standards, and the State should encourage sub-state regional bodies for planning and regulation in matters of more than local concern.
- The state government should:
 - (a) Tie state land protection programs to integrated development planning as well as coordinate with plans and policies of local and regional agencies.
 - (b) Require impact statements on major public and private developments.
 - (c) Provide local extraterritorial jurisdiction in land use and development.
 - (d) Permit all counties to grant building permits.
 - (e) Provide for historical zoning.
 - (f) Permit review of governmental agency projects by municipalities.
 - (g) Offer increased state financial aid, technological assistance and data to local governments.
 - (h) Authorize localities to exercise innovative land use planning and regulatory techniques.

SOCIAL POLICY

Promote improved schools, teacher and pupil education, delivery of quality health care to all West Virginians, and improved services for juvenile offenders.

EDUCATION

Position in Brief:

Support measures to improve finance and organization for public schools.

Support the expansion of vocational and technical education programs.

Support a state pupil testing program in the public schools.

Support measures to ensure teacher competence in West Virginia.

HISTORY

Public education has been a long-time concern of the League. Positions have been the subject of constant review and expansion. Study began in 1947 with a review of the 1945 Strayer Report, which evaluated West Virginia's public education system. A 1957 League publication reviewed two new comprehensive studies of the West Virginia school system, the Lindman Survey and the Feaster Report. Aspects of education covered by this publication include administration, organization, teacher certification, and school finance. Two more League studies published the following year covered state organization for the administration of schools, an evaluation of sources and amounts of funds for school support, and possibilities for increasing school support on an efficient and equitable basis. These studies resulted in positions on the State Board of School Finance, the state school foundation program, and property reappraisal.

In 1965, the League expanded its study into the area of vocational and technical training. Aspects of vocational and technical training upon which the League took a position included adequate funding, teacher training, research to maintain up-to-date and economical training programs, and courses and facilities to provide training consistent with labor market trends.

By 1979, the quality of education had become an issue both at the national and state levels. The League undertook a new series of studies directed toward this issue. Pupil evaluation was the subject of the first study, and teacher evaluation and certification was the subject of the second. The studies discussed various types of evaluations, the purposes for which results could be used, and advantages and disadvantages of such practices.

ISSUES AND ACTION

Organization

Prior to 1958, the West Virginia Constitution required that the State Superintendent of Schools be elected. The term of office was four years; election was on the party ballot; and the Superintendent was responsible to the voters rather than to the State Board of Education. This manner of selection tended to produce a number of unhappy results. Since any citizen could run for the office, the Superintendent might have little or no professional background in the field of education, a serious handicap to one who is constitutionally vested with the general supervision of the public schools. The candidate who was most likely to win was the one who devoted a great deal of time to political activity. Since the Superintendent was independent of and not accountable to the Board of Education, the result was contradiction, confusion, and a lack of clear responsibility for carrying out state school programs. The League took the position that the chief school officer should be removed from the political arena, that the administrator of the school system should be a qualified educator, and that the Board of Education should be responsible for the efficient and effective administration of educational policies and programs.

Another factor which diffused the responsibility for the administration of public education was the existence of the State Board of School Finance, which consisted of the State Superintendent of Schools, the Tax Commissioner, and the Director of the Budget. This Board was responsible for reviewing and approving local school budgets. It had the authority to make line-by-line analyses and to strike or add items. These duties gave the State Board of School Finance the potential power to influence or even to determine local education policies. The League took the position that the State Board of Finance should be abolished and that its functions should be transferred to the State Board of Education. This position was based upon the belief that responsibility for approval of local school budgets should rest with the body which supervises the policies under which local school systems operate. The goal of administrative reform was to consolidate all state public education functions under one Board and within one department.

In 1958, the League successfully supported ratification of a constitutional amendment vesting general supervision of schools in the State Board of Education and giving the Board authority to select the State Superintendent of Schools. The League also supported legislation which abolished the State Board of School Finance and reassigned its duties to the State Board of Education.

The achievement of these two specific goals did not end League action in support of measures consistent with the responsible administration of the state school system. Following ratification of the 1972 Better School Building Amendment, legislation was introduced to create a school building authority to supervise the distribution of building

funds. The League opposed this legislation and successfully supported legislation placing the administration of building funds with the State Board of Education.

In the future, the League will work to protect the status of the Superintendent of Schools and to prevent the creation of other boards or agencies which would diminish the responsibility of the State Board of Education.

School Finance

West Virginia public schools are financed jointly by state and local taxes. State funds allocated by the Legislature for public education come from the general fund and are distributed to counties in accordance with the state school aid formula. This formula has varied throughout the years, but it has always included components covering necessary costs of instruction, transportation, equipment, maintenance, and program improvement. The total of these costs becomes the school foundation program. The state share of the program for each county is the total of these costs less the amount of local revenue from the regular county property tax. Because local tax potentials vary widely from county to county, the goal of the school aid formula is to augment local funds in a manner which equalizes educational opportunity. The formula is also a vehicle to implement state school policies by the method in which funds are allocated.

Local school funds are derived from the property tax. The amount of revenue available from property taxes is constitutionally limited by the 1932 Tax Limitation Amendment which sets the maximum rates for the various classes of property. Property tax yields fall far below constitutional limits because of a long-standing practice of setting unrealistically low assessments. Assessors are required to make assessments at "true and actual value" but, in practice, have failed to do so.

By 1955, there was growing concern about the lack of adequate local funds for the support of schools. Surveys of assessment practices revealed that county average assessments were as low as 20% and there were gross inequities in assessed valuations within counties.

In 1957, the Legislature enacted statewide appraisal legislation which required a professional appraisal of all property in the State and imposed sanctions upon counties which assessed the total property within the county at less than 50% of appraised value. (A 1982 constitutional amendment raised this ratio to 60%.) A subsurface property reappraisal program was never completed in most counties.

As a result of its studies, the League has taken positions relating to public schools and

finance. It believes that there should be adequate financing of the public school system at both the local and state levels. Local financial support should be based upon accurate property appraisals. State financial support should be based upon use of a formula which augments local funds in a manner which equalizes per pupil expenditures.

A 1982 decision of the West Virginia Supreme Court found the system of school finance unconstitutional because it violated both the equal protection and "thorough and efficient" education clauses of the State Constitution. The Court found school funding to be inadequate and unequal. All of the components of the state's basic foundation program were underfunded, and the program failed in its goal of equalizing educational opportunity because of its reliance upon property taxes. Appraisals were out of date, not uniform across the State, and generally well below true market value. Even the method of funding school construction through local bonds was criticized because county bonding authority was based upon property values. In addition, local excess levies were found to be the major barrier to equal educational opportunity. Since 1982, the League has supported efforts to equalize the impact of local excess levies.

The League has supported the adoption of several constitutional amendments related to financial support of public schools. The 1958 Better Schools Amendment increased the amount of the school excess levy which could be adopted by the voters to 100% and the school bonding potential to 5% of the assessed value of property within a county. It further provided that school boards could impose a levy sufficient to retire the bonds over and above the other constitutional levies.

The 1972 Better School Buildings Amendment authorized the State to borrow \$200 million for school building purposes. The League supported this amendment and the enabling legislation which apportioned the \$200 million to county school boards on an equalizing basis when used with each county's local bonding potential.

In 1982, the League led a successful campaign in support of a constitutional amendment changing the requirement for approval of county school bonds and levies from 60% to a simple majority.

Another 1982 constitutional amendment provided for a reappraisal of all property in the State based upon 1983 market values. Although the League opposed the amendment because of provisions allowing a \$20,000 exemption for citizens who were disabled or over age sixty-five and because it set assessments at 60% of appraised value (instead of 100%), the League supported the statewide reappraisal. Unfortunately, widespread criticism of the program and resistance to higher taxes prevented implementation of the reappraisal.

In 1984, the League supported the unsuccessful Better Schools, Roads and Public

Works Amendment, a plan which would have provided a school funding system in compliance with the 1982 State Supreme Court decision. One provision of the Amendment was a 100% statewide excess levy, a step which the League believed was the best way to begin to meet constitutional equity requirements. Another attempt to meet Court mandates to equalize educational opportunity was the 1988 Uniform School Funding Amendment, which provided for a 90% statewide excess levy. The statewide levy would have replaced local excess levies and established a uniform tax rate of 90% for all counties. This amendment was also defeated.

In 1986, the League again supported a Better School Buildings Amendment. This time, however, the proposal was defeated because of the unwillingness of the voters to go into debt. Another amendment, the 1988 Bond Enhancement Amendment, which would have increased bonding authority of county school systems, was also defeated.

Revision of the school aid formula has been a continuous process. The League has been active in supporting revisions which would increase state aid and distribute state funds in a manner which would correct the per pupil expenditure inequities resulting from the differences in property values among the counties. Since 1957, the League has consistently supported efforts to increase property tax revenue and has also continuously sought funds from the State Tax Department to make up-to-date subsurface appraisals.

Vocational Education

Vocational and technical education programs are especially important in West Virginia. One reason is the very large number of children who receive no post-secondary education. Another is changing labor patterns which leave adults unprepared and untrained to seek new occupations. The 1961 League study revealed that existing vocational facilities were unable to prepare a sufficient number of students; programs were inappropriate to labor markets; and equipment was obsolete. Teacher training in vocational and technical educational fields was inadequate, and rigid qualification requirements prevented the use of experienced personnel from business and industry. Local funds and expertise could not provide satisfactory programs in these fields.

Since 1967, significant changes have been made in state vocational education programs. Shared-time vocational and technical schools have been built in many counties and, in some areas, regional vocational schools have been built. Regional boards have been created to administer these multi-county schools, and the state vocational education program has been expanded. Changing job market demands, however, make improvement of vocational education programs an ongoing process.

League action on behalf of vocational education has been primarily budgetary. Because vocational education facilities are built and equipped with state and federal funds, the League has supported appropriation of state funds for this purpose. It also supported creation of regional school districts to construct and operate multi-county shared-time vocational facilities.

In one instance, the League took a position on legislation related to vocational school curriculum and successfully opposed the prohibition of beautician courses in vocational schools. The League's position was that vocational schools should not be restricted from teaching any skills for which effective courses had been developed.

In 1987, the State Board of Education adopted a plan for Refocus and Redesign of Vocational Education. This plan set long term goals consistent with the League's position but required significant funding increases.

Pupil Testing

The 1980 League publication surveyed a broad spectrum of factors involved in programs to evaluate pupil competence. Issues included the appropriate time for testing students, the types of tests that might be used, the responsibility for validating such tests, the responsibility for setting standards by which the test results would be measured, and the purposes for which the test results would be used.

These issues cluster within three general areas: types of tests, administration of the tests, and uses of tests. The League concluded that the basic responsibility for a minimum competency program should rest at the state level, but that local boards of education should have the option of exceeding state standards. The use of validated tests should begin early and continue throughout a student's school career. The results of the tests should be used for individual diagnostic purposes and as the basis for remedial programs.

In 1987-88, pupil evaluation became a major issue in the State. Three separate commissions recommended testing programs which would be used as a basis for remediation. The League participated in two of the commissions and testified before the third. The major debate concerning testing has centered around funding and use of tests for promotion or high school graduation.

The 1988 Education Reform established a comprehensive criterion-referenced testing program (STEP). Tests would be used to prescribe remediation and to provide information for promotion decisions. West Virginia would also participate in the National Assessment of Educational Progress (NAEP).

Teacher Certification and Evaluation

The League's 1982 study covered issues in teacher education, West Virginia certification laws, continuing education requirements for teachers, and dismissal procedures.

Teacher education was, and remains, a controversial issue nationwide. The teacher preparation process was criticized because of the quality of the students, grade inflation, curriculum, and the competence level of graduates. At the time of the study, the teacher training institutions in West Virginia were required to undergo strenuous accreditation, and they were judged according to a set of standards for each area of certification. Upon completion of the prescribed course of study, teacher candidates were recommended for certification by the training institutions.

The League concluded that requirements for entry into teacher training programs should be strengthened, and field experiences should begin early. Regarding certification, the League decided that the State, not the training institutions, should control teacher certification and, therefore, supported the development of a state testing program for teacher certification.

In 1991, the League's State Board interpreted the position on teacher certification to mean that requirements for certification of school administrators should be no less stringent than those for teacher certification.

A study of continuing education revealed several problems, with criticisms centering on programs not relevant to teacher needs and lack of state funding. The League recognized the importance of continuing education and generally approved state laws governing provisional certification, certificate renewal, and continuing education requirements. The League did, however, conclude that programs must be relevant to teacher needs and that state funding and assistance were needed to develop and administer county programs.

At the time of the study, each county was responsible for teacher evaluation. A wide variety of programs existed among counties, and there was little information concerning the use of evaluation. League members agreed that the State should require evaluation and should set guidelines for it. Evaluation should be used to improve teacher performance and prescribe individualized continuing education programs; it should also be considered in decisions concerning differentiated staffing, transfer, or dismissal of teachers. In addition, reductions in the teaching force should be based on merit as well as seniority.

In 1982, the League supported the adoption of West Virginia Board of Education Policy 5100 which required testing for teacher certification. Teacher candidates would be

required to demonstrate competence in four areas: basic skills, general studies, teaching specializations, and professional education. The on-site state accreditation of teacher training institutions was eliminated.

In the area of continuing education, the League has continually worked against measures aimed at relaxing requirements and calendar changes which reduce the number of days allocated for inservice programs. In the 1982 legislative session, the League supported a law providing for tuition reimbursement for certificate renewal and has continued to support adequate funding of the reimbursement program.

The League also supported teacher pay equalization legislation in 1984 and urged adequate funding, but has continuously opposed efforts to expand seniority laws.

In 1983, the League endorsed Policy 2321 of the State Board of Education, which required teacher evaluation, and participated in a State Task Force which established guidelines for evaluation.

In response to 1991 legislation greatly relaxing requirements for certification of school administrators, the League joined with other groups and successfully lobbied to restore more stringent requirements.

LOCAL APPLICATION

The position on improved finance for public education has been used by local leagues to support adoption of excess levies and local bond issues for school purposes. Leagues have also urged their local officials to make more realistic assessments of property and have supported adoption of programs by local school boards to increase and improve vocational and technical education within their counties.

Local leagues have been advised to monitor pupil testing, the establishment of teacher evaluation systems, and school improvement councils in their counties.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Supports measures contributing to improved finance and organization in public education. (4/4/59)

2. Supports consolidation of school finance functions under the State Board of Education and an adequately funded school foundation program for the children of West Virginia. (11/21/60)

Further Guidelines

- An adequately financed school foundation program requires increased local and state support through measures such as statewide property reappraisals.

3. Supports vocational and technical education programs for persons of all ages in the State, as well as a strong basic education program. (11/13/67)

Further Guidelines

- Vocational education programs must include introductory training at the high school level, and guidance, placement, and follow-up services.
- Programs should have adequate state financing to make use of available funds.
- Programs should be based on sound planning and constant review at the state and local levels to provide teacher training, curricula, and facilities that will meet projected labor market trends.
- Qualification requirements should be flexible to allow local school boards to draw qualified personnel from business and industry.
- Research and development should insure maintenance of up-to-date and economical programs.
- The League endorses the institution of vocational and technical training programs in state-supported schools of higher education.

4. Supports the use of a minimum competency program for pupils in West Virginia. (2/4/81)

Further Guidelines

- The State Department/State Board of Education should set the standards for the basic skills--reading, writing, and computation--but local boards should have the option to exceed the state standards.
- Testing should begin in the primary grades and continue throughout the school career.
- The test developer should be required to validate the tests.
- The tests should be used for diagnostic purposes and remediation.

5. Supports measures to ensure teacher competence in West Virginia including, in order of importance: upgraded teacher training, increased emphasis on evaluation of teachers, improved continuing education programs, and stringent teacher certification requirements. (1/11/83)

Further Guidelines

- The League believes that:

- (a) The State Department of Education should control teacher certification.
 - (b) The State Department of Education should share control of teacher training with institutions of higher education.
 - (c) County school systems should control evaluation of teachers but should follow a design provided by the State Board of Education.
 - (d) The State Department of Education should control continuing education and should assist counties in the development of their continuing education programs.
 - (e) Teacher evaluation should be required in West Virginia.
 - (f) Evaluation should be considered in decisions on differentiated staffing, transfer, or dismissal of teachers.
 - (g) Reductions in the teaching force should be based on merit as well as seniority.
- The League supports: demonstration of competence (testing) for teacher certification; provisional certification with increased emphasis on evaluation during the provisional period; and a State Board of Education dismissal policy requiring evaluation and the opportunity to improve.
 - To upgrade teacher training, the League supports stringent requirements for entrance into training programs and early field experiences.
 - To improve continuing education for teachers, the League supports programs relevant to teacher needs and state funding to assist counties in developing and administering programs.

HEALTH CARE

Position in Brief:

Support the development of a plan for the delivery of health care in West Virginia.

HISTORY

Delegates at the 1993 State League convention adopted a study of health care in West Virginia. Although the League of Women Voters of the United States had adopted a position the previous year supporting universal access to health care and cost containment, West Virginia members realized that any national reform would be implemented at the state level. Moreover, changes were needed in West Virginia even in the event that reform could not be accomplished at the national level.

The first phase of the study addressed the delivery of health care in West Virginia and finance issues were studied during the second year. Because extensive information was available from the LWVUS and other sources, neither phase of the study produced a major State League publication. The first phase included a survey of county health departments in local League communities.

ISSUES AND ACTION

A review by the League of state demographics and the delivery of health care services in the State revealed a lack of centralized coordination and planning. The health care system appeared fragmented and inefficient, and it did not adequately emphasize primary and preventive care.

Members agreed that the State should develop a plan for the delivery of health care to state residents. The plan should include encouragement of managed care, centralization of health care data, planning for needs of the elderly population, ranking of hospitals, encouragement of primary care practitioners, emphasis on preventive medicine, and expansion of the role of county health departments.

Opportunity for action under LWVUS positions came during the 1993 and 1994 legislative sessions. Comprehensive health care reform measures were introduced both years but were defeated by special interest groups. A major provision of both bills was creation of a state health care authority. Although the League could not yet act on this issue, support was given to other provisions such as insurance reform and expansion of Medicaid.

During the 1993 session, the League joined with other groups to support a broad-based Medicaid enhancement tax on all health care providers. This tax was necessary to replace a 1991 tax which had been ruled to be illegal by the federal government. In 1994, the League supported successful legislation expanding Medicaid.

CONSENSUS POSITIONS

In order to provide universal coverage and contain costs, the League of Women Voters of west Virginia believes that the State of West Virginia should develop a plan for the delivery of health care. (4/22/94)

The West Virginia Health care plan should include:

- 1) Encouragement of managed care;
- 2) One state agency having all health statistics based on sound demographic data;
- 3) Realistic planning for the growing elderly population;
- 4) Ranking for all hospitals as primary, secondary, or tertiary;
- 5) Encouragement of primary care practitioners;
- 6) Emphasis on preventive medicine;
- 7) Expansion of the role of county health departments.

Further Guidelines

- The State should encourage health care networks and health maintenance organizations.
- The master plan for health facilities should be based on demographic data, including population projections.
- While it may be desirable for all facilities to operate on their own, it may be necessary for West Virginia to help subsidize some facilities.
- West Virginia should encourage more medical students to enter primary care practices by offering generous scholarship or loan programs.
- In areas where there are shortages, such as physical therapy, or long waiting lists to enter programs, such as nurse training programs, West Virginia should consider expanding programs to help meet state needs.
- Preventive programs should be emphasized by using more mid-level practitioners, providing transportation to facilities, utilizing community education systems, existing health and mental health departments.

JUVENILE SERVICES

Position in Brief:

Support appropriate measures to improve juvenile services in West Virginia

HISTORY

League interest in juvenile services was promoted by decisions of the United States Supreme Court and the West Virginia Supreme Court which changed the established procedures relating to juvenile offenders. The League began its study in 1974 and produced two publications on the subject.

ISSUES AND ACTION

Historically, children who committed crimes were regarded as no different from other criminals and were subject to the same procedures and penalties as adults. Children were regarded as completely within the control of their parents and totally subject to their authority. Such concepts could, and did, result in the execution of ten-year old murderers and the sanction of law for abusive parental behavior.

Greater sensitivity to the plight of children resulted in the evolution of a new concept of juvenile justice. It was based upon the belief that children should not be held fully responsible for their criminal actions and that the State had an obligation to intervene when parents failed in their parental duties. This led to the creation of juvenile courts which assumed an in loco parentis role. The intention was to protect the child from the rigors and stigma of the criminal process, with the judge acting in a parental manner to make judgments on the conduct of a child and to take remedial action which could range from an admonition to confinement.

Because the process was viewed as informal and protective rather than criminal, such constitutional rights as trial by jury and the right to counsel were not accorded to children. Children who were regarded as delinquent were sometimes under the supervision of the court for longer periods of time than they would have been had they been found guilty of a criminal offense by adult standards. The United States Supreme Court decided that children involved with the juvenile justice system were entitled to the protection of the due process provisions of the Constitution.

Since West Virginia's statute was based upon the in loco parentis doctrine, the first

League study focused upon changes which would be necessary to bring state law into conformity with the United States Supreme Court decision. It found that there was a need to clarify the law by using standard definitions for child behavior and that distinctions needed to be made between treatment for status offenders and for delinquent children. The League agreed that the constitutional rights of children should be protected; housing juveniles with adult criminals should be prohibited; and status offenders and delinquents should be separated. The League concluded that children should not be confined in high security institutions unless absolutely necessary and that a wide variety of less restrictive facilities were needed to house children who could not remain in their homes.

The subject of the second League study was the facilities and programs available to juveniles under the supervision of the courts. It was evident that very little between parole supervision and maximum security confinement was available. The League advocated the establishment of group homes, halfway houses, and temporary detention centers. These children should have adequate educational opportunities, special counseling, adequate supervision, and the least restrictive environment appropriate to the circumstances.

The disposition of juvenile offenders is a highly controversial subject. Support for child-oriented legislation has come from many organizations and individuals, but there are also adherents to the view that the law should act as a stern parent toward juvenile offenders. Law enforcement officials have opposed provisions which they viewed as obstacles to their law enforcement duties or to their apprehension of runaways.

The League participated in hearings prior to the formulation of legislation proposed to conform to the Court decisions. The legislation enacted incorporated most of the League's positions. Efforts since passage of that legislation have consisted of support for amendments which clarified or refined the original legislation and opposition to amendments designed to weaken the law. Progress has been very slow in the area of providing satisfactory juvenile facilities and programs, but in 1988 legislation was passed to upgrade educational programs at juvenile institutions. It is in these areas that future League activity will likely be concentrated.

In 1999 the League conducted an additional brief juvenile services study, and members concurred with new positions on confidentiality and on alternative incarceration facilities.

LOCAL APPLICATION

Leagues have been involved in the establishment of a wide variety of local juvenile facilities. They have supported the establishment of temporary detention facilities, group

homes, and upgrading local maximum security facilities. It is in the fields of improving existing local facilities and remedial services and in supporting the adoption of programs that can be used as alternatives to incarceration that local Leagues have been most effective.

CONSENSUS POSITIONS

The League of Women Voters of West Virginia:

1. Favors policies and procedures that meet individual needs, promote rehabilitation, and ensure equal treatment of children. (4/18/75)
2. Believes that those youths found by a court to be delinquent should be provided with prompt disciplinary measures and supervision directed at preparing them for a successful future life and protecting the community. (1/12/78)

Further Guidelines

- Judicial Procedures (1975)
 - (a) Standardized definitions of "delinquent," "truant," "neglected," "deprived," "unruly," or "persons in need of supervision" will allow children to be treated for individual needs. The term "delinquent" should be applied only to those children who have committed acts considered criminal if done by an adult.
 - (b) Neglected children and children who have social problems should be treated separately from children who have committed serious offenses.
 - (c) Clearly defined powers of courts and agencies in regard to juvenile matters will furnish guidelines that will promote more equitable treatment of children.
 - (d) Disciplinary measures must not endanger due process, and must provide efficient, effective, and adequately financed parole and aftercare programs.
- Status Crimes (crimes for children but not for adults):
 - (a) Children confined for status crimes should be kept separate and treated differently from those confined for serious crimes.
 - (b) The League does not favor high security state correctional institutions for children confined for status crimes but does approve of community-based group homes; local and state facilities for treating social problems, emotional ills, and mental retardation; and local or regional detention homes, state-supervised, with social services and rehabilitative programs available.
- Serious Crimes:
 - (a) Children confined for serious crimes should not be confined with adults.
 - (b) The use of high security state correctional institutions should be kept to a minimum.
 - (c) Commitment of children to community-based group homes or regional detention homes, state-supervised, with social services and rehabilitative programs is preferred. Rehabilitative programs should be emphasized by existing high security state correctional institutions.

- There should be adequate facilities for the seriously emotionally disturbed and for those with mental retardation who must be kept in residence. These children should not be confined in correctional institutions.
- Due Process:
 - (a) Children should be fully protected in their right to due process through such agencies as legal aid societies, private legal counsel, ombudsmen, the West Virginia Supreme Court, and court-appointed attorneys.
 - (b) The implementation of the West Virginia Code should be guaranteed through the establishment of alternatives to jail, legal protection for children, and adequate staffs, facilities, and financial support for handling juvenile problems throughout the State.
- The League favors state responsibility for: (a) data collecting, research, and planning of juvenile programs; (b) management or setting standards for detention homes and group homes; (c) a state youth authority for coordination of juvenile services.
- The League favors local responsibility for preventive programs such as youth service bureaus, family education and counseling, and social adjustment and guidance units through boards of education.
- Corrections (1976)
 - (a) Educational programs, accredited by the West Virginia Board of Education, should be designed to meet special needs and should include remedial education, diagnostic testing, useful vocational training, job placement and counseling and special education.
 - (b) Parole and aftercare programs should include: (1) the establishment of group homes and/or halfway houses for children with an unsuitable home environment or with no place to go; (2) programs to ease children back into school or employment with as little social stress or loss of education as possible; (3) an adequate number of parole workers to insure a reasonable workload; (4) salaries for parole staff that are competitive with comparable positions; (5) a statewide follow-up study of children who have returned to society.
- A trained, competent, and adequate staff should be required at all levels of administration.
- Minimum building standards for safe, uncrowded facilities should be included in the West Virginia Code to insure the basic safety of children.
- State financial support should be given for local and state juvenile facilities and programs that are not covered by federal funding.
- The League does not approve of military discipline but favors, instead, cottage groups with house parents. The League will, however, agree to temporary isolation by incarceration of youths who are out of control and are a danger to themselves or the community.
- The League does not favor unrestrained, indeterminate commitments for youths.
- The League approves of an indeterminate commitment set within a judicially determined, limited time period, with regular court reviews for those "hard-core" youths who have committed violent acts against people.

3. Confidentiality: The League agrees that the constitutional rights of juveniles should be protected; juvenile records and identity should be kept confidential except in certain instances. (1/11/99)

Further Guidelines

- The League does not believe that records should be required to be kept confidential when a juvenile under age 14 has been transferred to adult status, or if probable cause exists to believe the juvenile committed treason, murder, aggravated robbery, arson, sexual assault, kidnapping, a second or a third violent felony.

4. Alternative Incarceration Facilities: The League supports the concept of residential behavior modification centers for juvenile offenders following the guidelines of the Corrections Program Office, Office of Justice Programs, U.S. Department of Justice. (1/11/99)

Further Guidelines

- Residential center facilities must include the following:
 - (a) Residential centers are a correction program for juvenile offenders of no more than 6-month confinement involving assignment for participation in the program, inconformity with State laws, by offenders other than those who have been convicted at any time for a violent felony or similarly adjudicated juveniles;
 - (b) Adherence by inmates to a regimented schedule that involves strict discipline, physical training, and work;
 - (c) Participation by inmates in appropriate education, job training, and substance abuse counseling or treatment;
 - (d) Post-incarceration aftercare services for participants that are coordinated with the program provided during confinement.

LIBRARY FINANCING

Position in Brief:

Support tax-based funding for public libraries in West Virginia that is adequate, predictable and sustainable.

HISTORY

A study of the financing of West Virginia's public libraries was adopted by the state Convention in 2013. The LWVWV studied the current laws and rules which govern the funding of the state's 97 public library systems and what sources of funds might be available. Considerable help was provided by the WV Library Commission through their 2013 background report to the Legislature.

The task is complex. Our state has 97 public library systems, which are organized at various levels, with little uniformity. They function under a patchwork of governing and funding, from state, county and municipal taxes, and local non-tax sources.

In 2013 a Supreme Court decision overturned a 1957 state law which required nine county school systems in West Virginia to turn over a portion of their budget to help fund their local public libraries. In Kanawha County this amounted to 40% of the annual budget of the county library system. All of the affected library systems except Kanawha County retained their funding by actions of their Boards of Education. However, since funding was no longer mandated, it is not predictable or secure.

ISSUES AND ACTION

At the time of the study, West Virginia ranked 7th in the United States for its level of state funding to public libraries. It ranked 48th in total operating revenue for libraries and 49th in local operating revenue per capita from tax sources. Because of the low level of local funding, total funding for libraries in West Virginia is low, with a statewide average per capita funding for operation of \$13.04, compared to the national average of \$32.31. County per capitass varied widely.

The Court challenged the Legislature to "arrive at a statewide system of local funding of public libraries, which system plays a vital role in the educational development of children birth through age three, acquisition of early literacy skills, support for K-12 education, support for students pursuing higher education, and support for all West Virginians who continue to learn throughout all of their lives."

During the 2013 Legislative session, two bills seeking to deal with the situation were introduced but not approved. In 2014 and 2015 additional bills were introduced into the Legislature, but received little action. The League will continue to monitor legislation related to library funding.

CONSENSUS POSITIONS (11/8/14)

The LWVWV believes that public libraries are essential in communities for both children and adults. Therefore, the primary sources of funding for West Virginia's public libraries should be tax based. This tax-based funding should be adequate, predictable and sustainable.

The LWVWV believes that there should be a basic state funding level for WV public libraries, based on the population of the area served by the library.

The LWVWV believes that additional local tax-based funds should be provided from those agencies which authorize libraries; that is, County Commissions, municipalities and/or County Boards of Education.

Further Guidelines

Other state options the LWVWV supports are:

- Adjust the local share of the school aid formula to fund public libraries in each county.
- Designate a state tax or percentage of a tax for public libraries.

The following local funding options are acceptable:

- Require these local governing authorities to contribute a given percentage of local property taxes for libraries, as required in existing "special local laws."
- Increase the property tax rate with the resulting revenue going to libraries.
- Require Boards of Education to include a defined level of funding for libraries in the county in excess levy elections.
- Permit Boards of Education, County Commissions and municipalities to impose an additional levy on property for libraries.

The LWVWV does not support a constitutional amendment to allow public libraries to form tax districts and ask voters to assess themselves to support libraries.

The LWVWV does not support library user fees at the state or local level.

The LWVWV believes public libraries may form county-wide or multi-county systems.