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Water pollution bill advances, despite strong opposition at public hearing

[Ken Ward Jr.](#), Staff Writer

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Chad Cordell, Kanawha Forest Coalition organizer, holds photos of contaminated mine sites in West Virginia. Cordell was speaking during Monday's water quality hearing in the House of Delegates. "These areas looked nothing like this when I was a child," said Cordell, who went on to talk about how he cannot take his children to the same places he enjoyed in his youth, because of water contamination.



West Virginia Commerce Secretary Woody Thrasher speaks in support of House Bill 2506 during Monday's hearing. 

Despite strong opposition at a public hearing, little analysis by lawmakers of potential environmental impact and no data to support promises of new jobs, a bill that would allow more toxic pollution to be discharged into West Virginia's rivers and streams moved one step closer Monday to passage later this week in the House of Delegates.

The House advanced the bill to second reading, or amendment stage, after its supporters easily defeated an unusual procedural move by Delegate Mike Pushkin, D-Kanawha, that would have rejected the bill during its first reading on the floor. Lawmakers will consider any proposed amendments to the bill during the House floor session today.

During a public hearing Monday morning, the majority of speakers opposed the legislation, which is being pushed by the West Virginia Manufacturers Association with support from business lobby groups, including the state Chamber of Commerce.

The bill would change the stream flows used when state officials calculate pollution permit limits in a way that would allow greater discharges of cancer-causing chemicals

and other toxic substances.

“I know times are tough, but this bill is not the solution,” said Gabriel Peña, of Fayette County, one of two-dozen residents who spoke against the measure. “Protecting water quality is an investment in the future of West Virginia.”

Other residents from Fayette County, from the Cheat River area of Preston County and from Greenbrier County told lawmakers that their and other communities across the state have made significant headway in developing tourism as a growth business, and that legislation to weaken environmental protection hurts those efforts, by threatening water quality directly and by continuing a bad image of the state that discourages outdoor enthusiasts from coming to West Virginia.

“We are tripping over ourselves to allow more pollution into our rivers,” said Amanda Pitzer, executive director of the Friends of the Cheat in Kingwood.

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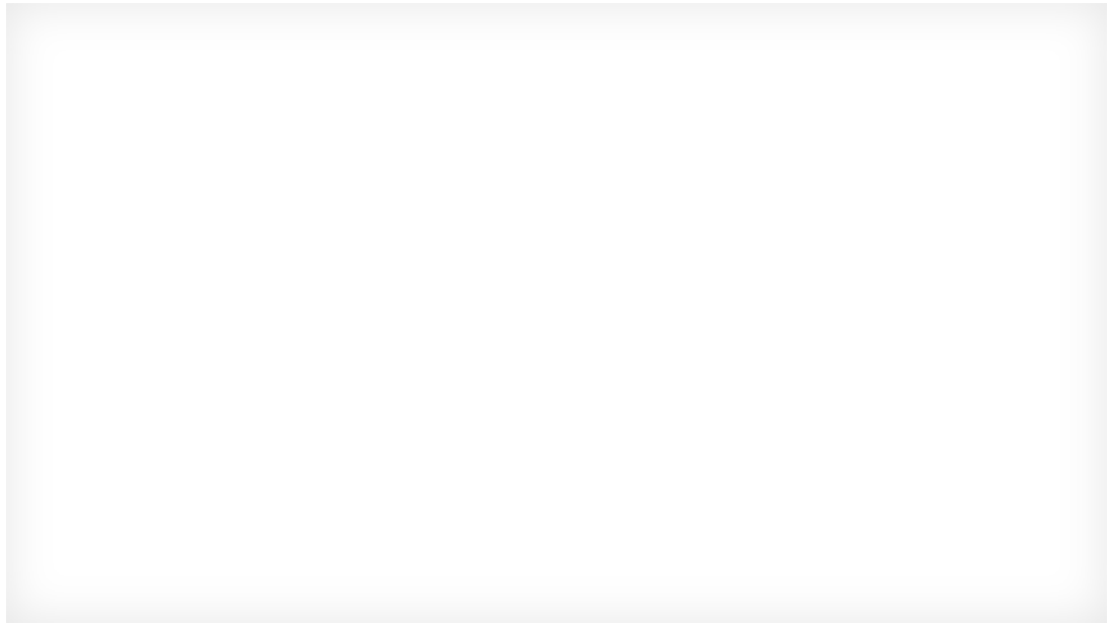
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Larry Orr, president of the West Virginia Council of Trout Unlimited, told lawmakers, “This bill would be a step backwards for the protection of waters in the United States.”

The House Judiciary Committee scheduled Monday's public hearing after already having passed House Bill 2506 out of committee on onto the floor last Wednesday.

Essentially, the bill would instruct the state Department of Environmental Protection to change the stream flow that agency staffers use in pollution limit calculations from low-flow conditions to average flow. West Virginia uses a flow referred to as "7Q10," which is the lowest seven-day consecutive flow that occurs at least once every 10 years. The bill would mandate the use of an average flow called "harmonic mean."

Because the bill would require the DEP to use larger stream flows, the result would be discharge permits that potentially allow significantly larger amounts of pollution discharge, according to Evan Hansen, of the Morgantown consulting firm Downstream Strategies. Discussion among lawmakers, including questioning representatives of the DEP, the West Virginia Rivers Coalition and the West Virginia Manufacturers Association, has not produced concrete data on how much more pollution would be allowed.

While the "harmonic mean" method is recommended by the U.S. Environmental Protection Agency, supporters of the bill include lawmakers and industry lobbyists who haven't, in recent years, been interested in following federal EPA guidance on other issues. And West Virginia has maintained, following a large policy fight over the issue in the 1990s, a rule that is more protective than the EPA, an approach that also is acceptable to federal officials.

Joining industry officials Monday in supporting the bill — and taking the podium as the first speaker at the public hearing, was Woody Thrasher, who left his role as leader of his own engineering and environmental consulting firm to be Gov. Jim Justice's secretary of commerce.

"I'm very passionate about this legislation," Thrasher told lawmakers.

Without offering any evidence or examples, Thrasher insisted that the state's rule costs West Virginia jobs. Thrasher said anyone who is concerned about improving the health

of West Virginians should be focused first on creating more jobs.



“Look around at the OxyContin problem we have,” Thrasher said. “You know what that stems from, a lack of a job. You give those people jobs and that’s how we’re going to make West Virginians healthy.

“If you want to help the health of our citizenry, give me the opportunity to attract industry and not shoo them away,” Thrasher said.

Others who spoke in favor of the bill included lobbyists for the manufacturers association, the West Virginia Coal Association, the West Virginia Chamber of Commerce, the West Virginia Oil and Natural Gas Association, and the state Business and Industry Council. Some of those officials tried to paint opponents of the legislation as being against economic development and just having a “knee-jerk reaction” to be against anything proposed by industry.

Chris Hamilton, chairman of the Business and Industry Council, said West Virginia’s environmental standards have “hampered and discouraged growth in our state for decades” and urged lawmakers to “end this ridiculous practice.”

But Steve White, director of the Affiliated Construction Trades Foundation, said his group of construction unions is not aware of any recent economic development projects that have asked the state to make the change to harmonic mean stream flow in discharge permit calculations.

“We like to build things. We like to build power plants, chemical plants and pipelines,” White said. “We’re somewhat perplexed why we’re up against this particular issue at this particular time, when there are so many other, more important issues.”

A few hours after the public hearing, during Monday’s House floor session, Pushkin

invoked a little-used House rule that called for a vote on whether to simply reject the bill right away, when it was brought up for the first of three readings needed before a bill can be passed.

“I don’t need any more debate,” said Pushkin, who opposes the bill. “I’m trying to save the body time so we can get to the real legislation that is going to create jobs.”



Pushkin’s motion failed on a vote of 72-25.

Later, Delegate Shawn Fluharty, D-Ohio, pointed out that the manufacturers group is continuing to promote the legislation as a job-creation measure, despite one of its lobbyists, Charleston lawyer Dave Yaussy, having testified under oath last week to the Judiciary Committee that he couldn’t identify how many jobs would be coming to West Virginia if the bill becomes law.

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