West Virginia's Bitter End

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Democrats and Republicans alike are misleading voters to the bitter end in West Virginia's special election for governor.

- A Republican TV ad says Acting Gov. Earl Ray Tomblin "voted to raise taxes on job creators." But the "job creators" supported the measure in question, which shored up the state's unemployment compensation fund and avoided borrowing from the federal government. One business group counted the bill among its legislative "victories."
- A Democratic TV ad says GOP challenger Bill Maloney "will end incentives that create jobs." This is a distortion. It's true Maloney wants to end certain incentives, but he favors others aimed at attracting businesses and creating jobs.
- A Republican TV ad makes the exaggerated claim that the new federal health care law would "destroy jobs."

The West Virginia gubernatorial election has been one of the most dishonest campaigns of the year, as we wrote in "West Virgina Race Goes to the Dogs" on Sept. 26. It finally ends Oct. 4, but not before both sides take some more shots at each other.

RGA Taxes the Truth

In "Referee," which first aired Sept. 24, the Republican Governors Association dresses up an actor as a football ref to "blow the whistle" on Tomblin's vote "to raise taxes on job creators."

RGA, Sept. 24: On TV, Earl Ray says he's for lower taxes. But Tomblin voted to raise taxes on job creators.

The source for this claim is a 2009 editorial in the *Charleston Daily Mail* that criticized a federal minimum wage law and a state unemployment compensation law. Although the editorial doesn't mention it, the state bill was sponsored by Tomblin as Senate president.

***Daily Mail*, July 9, 2009**: Joblessness in West Virginia may also be affected by a state tax increase. Because pressure on the state's unemployment compensation fund eroded its reserve, the state's taxes on employers for unemployment compensation will increase by $70 million a year on July 31. The taxable wage base will rise from the first $8,000 of a worker's wages to $12,000. Employers' taxes for that purpose therefore will rise dramatically.

Business groups initially opposed the legislation, which was requested by then-Gov. Joe Manchin. But they worked with Tomblin and other legislative leaders to come up with a final version that had broad support. In the end, Tomblin's bill was supported by the West Virginia Chamber of Commerce, which also has endorsed Tomblin. It also was praised by the West Virginia chapter of the National Federal of Independent Business. It passed with overwhelming support in the House (71-29) and Senate (30-4).

Both business groups supported the bill because they did not want to see the state borrow money from the federal government to shore up the fund. Why? A condition of the federal loan would have required the state to raise its unemployment tax rate until the loan was paid off. Instead, the chamber said it "worked with legislative leaders to craft" a "balanced solution." The bill did several things, including temporarily increasing the taxable wage base from $8,000 to $12,000 and tightening the eligibility requirements. The tax base will drop to $9,000 once the fund balance reaches $220 million.

The West Virginia chapter of the NFIB praised the bill for improving the fund's solvency: "One of the reasons the fund's solvency has improved is due to the reforms enacted by state lawmakers in 2009. These reforms include toughening eligibility requirements and raising the base wage on which unemployment taxes are collected from $8000 to $12,000." The group said it was "worth noting that West Virginia is one of the few states that has avoided borrowing from the federal government to pay unemployment benefits."

The legislation, so far, has worked as intended. On May 16, state officials announced that the fund would remain solvent for the rest of the year. In a May 3, 2011, blog post, the NFIB touted the law as one of its legislative "victories" and noted that "there hasn't been a tax increase for West Virginia's business community in nearly a decade."

The RGA's use of the referee may be seen by some as clever, but upon further review, we find that the ref blew the call on this one.

Jobs Attack, Redux

As we wrote in our last article, America Works USA wrongly accused Maloney of wanting to "eliminate business incentives for everyone" in an ad called "Greedy Millionaire." In fact, Maloney said he wanted to create incentives that are "open to everybody."

The group, which is funded in part by the Democratic Governors Association, has a new ad called "This is West Virginia" that makes a similar claim. While not false, the new ad distorts Maloney's position on luring businesses to West Virgina and creating jobs.

America Works USA, Sept. 29: We already knew Maloney wants to end the tax incentives that can create new jobs — even though he used government incentives to make himself a millionaire.

The new ad says Maloney "wants to end the tax incentives that can create new jobs." It's true he wants to end certain tax breaks, but he does want to make tax changes to attract businesses and jobs. In a Sept. 7 debate, Maloney said he wants to "make it easy for everyone to get tax breaks and quit giving away the store to special interests and lobbyists that happen to work for a big company that gets tax breaks." In an April 19 Associated Press article, Maloney stated his opposition to special tax breaks. But the article also says that Maloney wants to change the tax code to eliminate the personal property and inventory taxes that he claims discourage manufacturing plants from locating in the state.

"I think if we can get rid of this thing they call personal property tax we can actually have some chemical plants come into this valley and have some steel mills come back to Weirton, and we can grow other parts of the economy," Maloney told the Associated Press.

Two TV stations initially rejected the new ad after a complaint was filed with the West Virginia Broadcasters Association. The complaint claimed the new ad falsely accused Maloney of wanting to eliminate tax incentives. The association found that the sources cited by America Works — the Sept. 7 debate and the April 19 AP story — were insufficient evidence to show that Maloney wants to eliminate tax incentives. Those were the same sources used in the "Greedy Millionaire" ad. America Works changed the citations used in the ad and the stations have accepted it, according to the independent news website West Virginia Watchdog.

The new citation, however, does little to change our judgment of the ad. America Works cites a Sept. 1 *Charleston Gazette* story in which Maloney's spokeswoman Michelle Yi is quoted as saying: "Instead of handing out tax breaks to insiders, Bill Maloney would cut taxes for everybody. That's the right thing to do."

The new ad is not wrong. Maloney does want to end certain tax incentives that can create jobs. But it distorts Maloney's position. He does support tax changes to lure new businesses to West Virginia — just not the tax incentives favored by America Works and Tomblin.

New RGA Ad, Old Exaggerated Claim

Another ad from the Republican Governors Association criticizes Tomblin for not joining a legal fight to block the federal health care law, but it makes the exaggerated claim that the law would "destroy jobs."

The RGA ad says that "Tomblin is implementing Obamacare in West Virginia," while "a majority of America's governors are fighting in court to stop" the law. Tomblin, the state Senate president, became acting governor when Joe Manchin won his U.S. Senate race last year.

It’s true that Tomblin has said he won’t join federal lawsuits filed by some states claiming the individual mandate in the federal health care law is unconstitutional. But the ad is a little off when it claims “a majority of America’s governors” are involved in the court battle. Twenty-eight states have filed or joined these lawsuits, but it’s the attorneys general that have done so, not governors. (The National Conference of State Legislatures lists 27 states; Oklahoma also has filed a suit.) And two of the Republican attorneys general are in states with Democratic governors — Washington and Colorado — who support the law. A third state, Michigan, has a Republican governor who is moving forward with setting up a state insurance exchange. That state joined the suit in 2010, when its then-Democratic governor strongly disagreed with the move. So, that means at least half of the governors in the country are either implementing the health care law or not actively supporting the lawsuit.

Tomblin hasn’t sounded enthusiastic about the law, but he has said he won’t join the lawsuit. The *Charleston Daily Mail* reported that Tomblin told the paper’s editorial board that he didn’t support the mandate, but believed a change should come at the federal level. “Filing a lawsuit simply is not going to change that federal law; it’s going to take an act of Congress to change the provisions of the bill,” he told the *Daily Mail*.

The ad also makes the questionable claim that “experts say the Obama health care plan will make our economy even worse,” adding at the end of the TV spot that the law will “destroy jobs.” But the “experts” shown on screen are opinion pieces from the conservative Heritage Foundation and the libertarian Cato Institute. Both argue that the requirements on employers to provide insurance coverage, and offer a minimum standard set of benefits, would drive up costs, hurting business and job growth.

We have yet to see how the federal health care law will play out once fully implemented, but the “experts” over at the nonpartisan Congressional Budget Office have said the law’s impact on jobs would be “small.” Specifically, CBO’s analysis said the law would “reduce the amount of labor used in the economy by a small amount—roughly half a percent—primarily by reducing the amount of labor that workers choose to supply.” So, most of the impact would come from workers deciding to work less — some will get subsidies to buy insurance and won’t have to work an extra job, or they’ll be able to retire earlier and feel more secure in their ability to get health care.

We have consulted other experts on this topic, and they also have said the impact on jobs would be “small” or “minimal.” The Lewin Group estimated a total loss of 150,000 to 300,000 low-wage jobs. It, like CBO, didn’t estimate what the increase in health care or insurance sector employment would be.

CBO did say that some of the reduction in labor would come from businesses decreasing the number of full-time, low-income workers, because the companies would either have to provide health care for those workers or pay a penalty — and that’s one point made in the Heritage Foundation column. Still, the RGA offers thin support for its claim that “experts” say the federal law “will make our economy even worse.”– *Eugene Kiely and Lori Robertson*