



WRAP-UP

THE OFFICIAL NEWSLETTER OF THE WEST VIRGINIA LEGISLATURE

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During the 2008 Regular Session, a total of 2,134 bills were introduced (788 Senate bills, 1,346 House bills) and of those, 245 were passed by the Legislature. 12 bills were vetoed by the Governor. (pg. 39)

Budget Bill (SB 150)

As called for in the State Constitution, the Legislature must adopt a balanced state Budget each year to ensure financial stability for West Virginia. This year, the House and Senate accomplished this objective and collectively approved a nearly \$10.4 billion Budget Bill, which includes \$3.9 billion in General Revenue appropriations.

Committee Substitute for Senate Bill 150 (FY 2009) (Provided by House and Senate Finance Committees)

Governor's General Revenue Estimate:

\$3,902,733,000

Senate Bill 150 General Revenue Appropriations:

\$3,902,732,810

Committee Substitute for Senate Bill 150 Totals

| | |
|----------------------|--------------------|
| Road Fund | 1,191,937,541 |
| Other Funds | 1,384,272,607 |
| Regular Lottery | 170,096,512 |
| Excess Lottery | 330,700,000 |
| Federal Funds | 3,114,682,336 |
| Federal Block Grants | <u>304,526,316</u> |
| Total | \$10,398,948,122 |

Highlights of Committee Substitute for Senate Bill 150

SB150 contains several pay packages. Those pay packages include funding for:

- a \$1,600 across the board raise for Teacher's, total cost \$45,102,301
- \$700 raise for service personnel, total cost \$11,873,272
- 1% Principal Increment, total cost \$388,795

A 3% Raise for State Employees has been included provided that no State Employee shall receive less than \$700. The total cost for the raise which includes the \$700 floor is approx. \$22,750,000 in general revenue.

In addition to the 3% Raise for all state employees

- \$2,000 has been added to Corrections and Juvenile Services
- \$3,000 has been added for Mine Inspectors



Per Statutory salary enhancements and Legislation that has passed this Legislative Session, Legislators, Conservation Officers and State Police have received funding for raises.

Conservation Officer and State Police raises may vary based on their rank.

The Legislature also passed Legislation that will increase the Annual Increment for State and Higher Education Employees by \$10 per year of service, total cost approx. \$4,300,000 for all funds.

General Revenue Highlights

Legislative

Joint Expenses (item 3)

- TRAFFIC was restored back to the FY 2008 level.

Executive

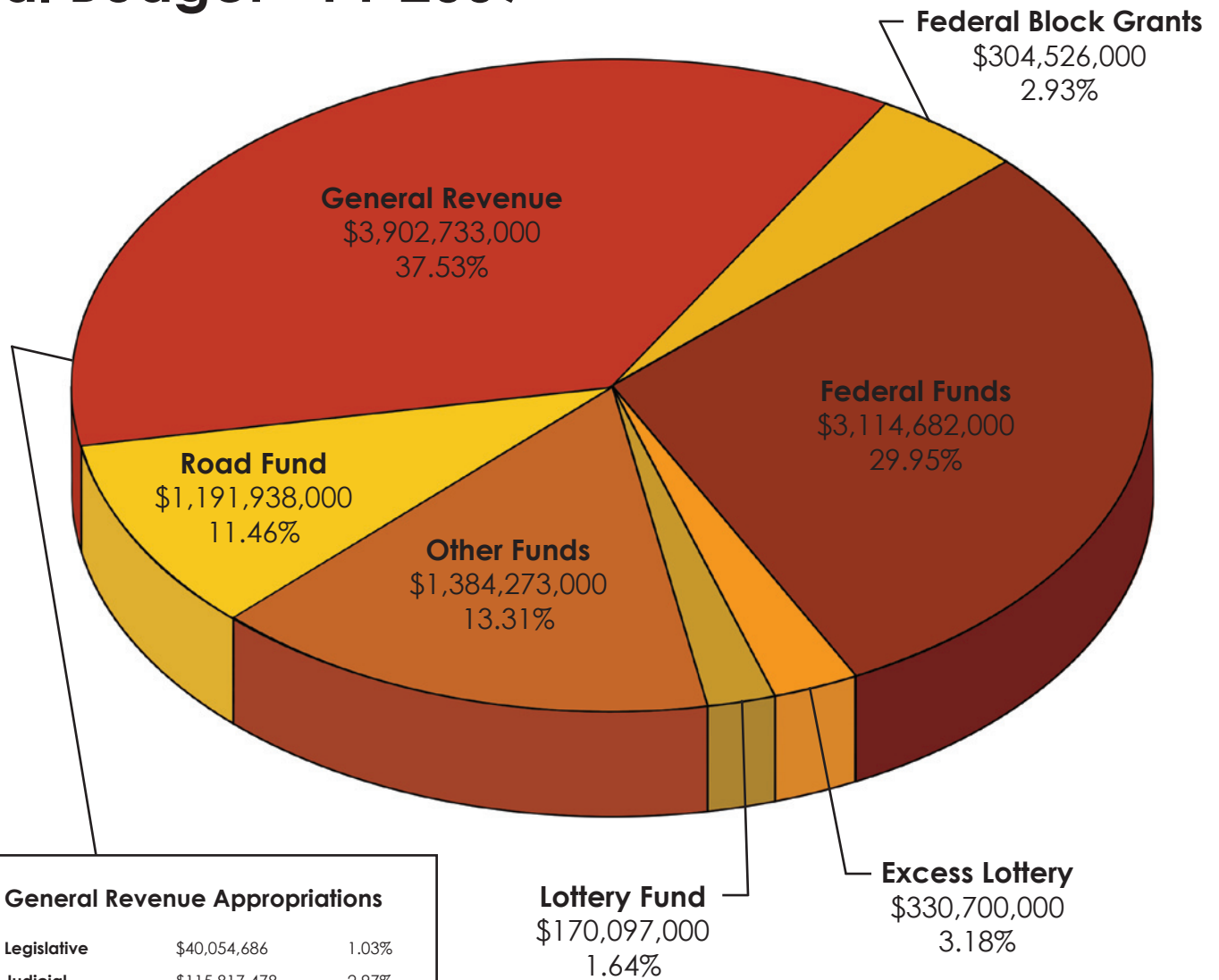
Treasurer's Office (item 9)

- \$250,000 was added for a Personal Finance Education Program

Know your bill number?

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on page 40.

Total Budget - FY 2009



General Revenue Appropriations

| | | |
|----------------------|------------------------|----------------|
| Legislative | \$40,054,686 | 1.03% |
| Judicial | \$115,817,478 | 2.97% |
| Executive | \$49,932,184 | 1.28% |
| Administration | \$107,397,798 | 2.75% |
| Commerce | \$70,026,662 | 1.79% |
| Education | \$1,835,355,055 | 47.03% |
| Education & the Arts | \$33,777,039 | 0.87% |
| Environment | \$8,369,266 | 0.21% |
| Health & Human Rcs. | \$861,943,046 | 22.09% |
| MAPS | \$318,832,627 | 8.17% |
| Tax & Revenue | \$30,688,899 | 0.79% |
| Transportation | \$7,770,185 | 0.20% |
| Higher Education | \$420,881,089 | 10.78% |
| Claims Against WV | \$1,886,796 | 0.05% |
| TOTAL | \$3,902,732,810 | 100.00% |

**Budget Total - All Sections
\$10,398,949,000**

Department of Agriculture (item 10)

- \$77,900 was added for two additional people within this office. These people will help to address issues of illness and disease in livestock and other animals.
- Funding was restored back to the FY08 level into the 4-H Camp Improvements line with an additional increase.

Attorney General (item 15)

- Funding was decreased out of the Personal Service line item and Unclassified line item and transferred to other agencies. This funding was needed in other agencies budgets to pay for Attorney Generals that work for those other agencies.

Secretary of State (item 16)

- \$500,000 that the Governor put in for Technology Improvements was decreased and will be put into a supplementary appropriation bill.

Administration

Office of Secretary (item 18)

- \$36,214 was transferred to the Public Defender Services Fund to help pay for an additional staff person to process attorney reimbursements.
- \$5,000,000 was included due to the passage of SB476, the sick leave buy back bill.

Division of General Services (item 21)

- \$68,000 was added for the Preservation, Maintenance of Statues & Monuments on Capitol Grounds.

Public Defender Services (item 26)

- Personal Services, Employee Benefits and the Unclassified were increased to pay for additional staff people to help with the processing of attorney reimbursements.
- \$3,500,000 was decreased because the new Public Defender Corporations provision did not pass.

WV Retiree Health Benefit Trust Fund (item 30)

- Was decreased from the Governor's number by approx \$29.2 million.

Department of Commerce

Development Office (item 35)

- Industrial Parks funding was eliminated and the funding was moved to the Local Economic Development Assistance Line Item.
- \$250,000 was added for Hatfield McCoy Recreational Trail

Department of Natural Resources (item 37)

- \$5,000,000 was eliminated for Land Purchase and may be considered in a supplementary appropriation bill.

- \$1,132,380 was added for SB477, Conservation Officer pay raise.

Dept. of Miners' Health Safety and Training (item 38)

- 3% funding was added for the Mine Inspectors.

Division of Energy (item 42)

- \$1,400,000 was added for mine, training and Energy academies that will provide training for individuals who are interested in mining and or energy technology industries.

Department of Education

School Lunch Program (item 43)

- The unclassified account was reduced by \$350,000.

State Department of Education (item 45)

- Several line items were adjusted due to the passage of the School Aid Formula Bill, HB 4588.
- \$15,000 was restored back into the line item for the WV Commission on Holocaust Education.
- \$8,000,000 was appropriated in Excess lottery for School Access Safety.
- Funding was added to Pendleton, Hardy, Hancock and Taylor for their County Board of Education deficits.
- \$500,000 included for a new line item called High Acuity Special Needs, due to the passage of HB 4588

State Aid to Schools (item 47)

- Funding was added for HB 4588, School Aid Formula bill. Funding was included for the \$1,600 Across the Board pay raise for teachers, \$700s for Service Personnel and a 1% Principals increment

Vocational Division (item 48)

- \$260,000 has been added for HB4477, which pays for GED Testing.
- \$150,000 was added to the Program Modernization line item.

Education and the Arts

Division of Rehabilitation Services (item 55)

- The amount of \$500,000 has been included for Centers for Independent Living.

Department of Environmental Protection

Division of Environmental Protection (item 57)

- \$567,475 has been included for the Water Resource Protection and Management Act pursuant to the passage of SB 641.



Final Wrap-Up

Department of Health and Human Resources

Office of the Secretary (item 59)

- The line item for Unclassified has been restored.

Division of Health (item 60)

- The line item for Primary Care Support has been increased by \$1,000,000
- The line for Unclassified has been increased by \$100,000 for the WV Cancer Coalition.
- The amount of \$13,000 has been added to the line item titled "Cancer Registry."
- The line for Primary Care Centers - Mortgage Finance has been returned to the level recommended in the Governor's Budget.
- The line for Emergency Response Entities - Special Projects has been increased to a total of \$1,000,000.
- The line for Health Right Free Clinics has been reduced by \$1,100,000 but will be funded in the amount of \$1,000,000 through a supplemental appropriation.
- The amount of \$75,000 has been added to the line item for Maternal and Child Health Clinicians and Medical Contracts for Oral Health.
- \$550,000 was added to the line for State Trauma and Emergency Care System for the consolidation of Medical Command Centers as mandated by legislative rule.

Consolidated Medical Services Fund (item 61)

- The line item for Institutional Facilities Operations has been increased by \$8,000,000 to pay for diversions from Sharpe and Bateman Hospitals.

Division of Human Services (item 64)

- The line for In-Home Family Education has been included at a total of \$1,000,000
- The line for WV Teaching Hospitals Tertiary/Safety Net has been increased by \$500,000 over the House Bill for a total increase of \$1,500,000 over the Governor's recommendation.
- Language has also been included beneath the fund to require that the Division expend any funds necessary from its Medicaid budget to eliminate the waiting list for the mr/dd waiver program

Military Affairs and Public Safety

Adjutant General - State Militia (Item 66)

- All line items in this fund have been rolled into the line for Unclassified to allow the General more flexibility to draw down additional federal dollars.
- Language has been included beneath the fund to provide that an amount not less than \$1,200,000 is for Mountaineer Challenge.

Division of Corrections - Correctional Units (Item 71)

- Funding has been included to allow for the 3% across the board salary increases in addition to the funding provided for the second year of a three-year pay package.
- The line item for Payment to Federal, Counties, or Regional Jails has been included at a total of \$20,000,000.

State Police (item 72)

- Funding has been included in the line for Trooper Retirement in the amount of \$260,000 pursuant to the passage of HB 4471.

Division of Veterans' Affairs (item 74)

- Funding has been included for Veterans' Grave Markers in the amount of \$15,750 pursuant to the passage of HB 4314; and
- Funding has been included in a line for Veterans' Transportation in the amount of \$975,000 pursuant to the passage of HB 4624 as amended in the Senate.

Division of Criminal Justice Services (item 76)

- The line for Community Corrections has been included at a total of \$3,500,000.
- Funding has been included for Child Advocacy Centers in the amount of \$1,000,000.

Department of Revenue

State Budget Office (Item 81)

- The line titled Annual Increment Increase that appeared in the House Bill has been eliminated and funding has been appropriately distributed throughout the Budget Bill pursuant to the passage of HB 4076.

Higher Education

Council for Community and Technical College

- Due to the passage of HB 3215, a total of \$5,200,000 was added. This funding was distributed to WV State CTC, WVU Parkersburg CTC, WVU Tech CTC, Fairmont State University and Marshall University.
- Funding was also added to New River CTC and Northern CTC because of their under funding issue that has been a problem for a number of years.

Higher Education Policy Commission (item 91)

- Funding was added for a 13 county consortium, Turkey Research at Raymann Memorial Farms, Jackson's Mill arena building/other infrastructure improvements and \$260,000 for the Alzheimer Registry.
- \$125,000 was restored back into WVU-Potomac States budget.

Road Fund Highlights

Department of Transportation

Division of Highways (Item 93)

- The line for Maintenance, Contract Paving and Secondary Road Maintenance has been included at a total of \$100,000,000.
- The line for Bridge Repair and Replacement has been increased by \$10,000,000 for a new total of \$50,000,000.

Lottery Fund Highlights

State Department of Education (item 248)

- The Unclassified was restored back to the FY 2008 level
- \$300,000 was added for 21st Century Fellows
- \$125,000 was added for SAS in Schools

Division of Culture and History (item 251)

- The Fairs and Festivals list was restored back into the Budget Bill with some changes.

Library Commission (item 252)

- \$2,000,000 was added to the line item for grants to public libraries. This will allow the Library Commission to increase the per capita rate from \$4.06 to \$5.16.

Bureau of Senior Services (item 253)

- The amount of \$500,000 has been added to the line for Legislative Initiatives for the Elderly to address immediate emergency needs at senior centers as they arise.
- The line for Senior Citizen Centers and Programs has been restored to the FY 2008 level.
- Funding has been included in the amount of \$250,000 for WV Senior Corps.

Community Technical College - Capital Improvement Fund (item 254)

- Was added due to the passage of SB 682, issuing bonds for Higher Ed.

Higher Education Policy Commission (item 255)

- \$1,000,000 was added to the WV Autism Training Center

GOVERNOR'S LINE ITEM VETOES

To view the complete Governor's Line-Item Veto Message for **Senate Bill 150**, please visit the Legislative Web site at:

<http://www.legis.state.wv.us>

2008 1st Special Session

House Bill 101 (TDC - TRS transfer) would allow transfer of assets from the Teachers' Defined Contribution (TDC) to the Teachers' Retirement System (TRS) if at least 65 percent of the actively contributing TDC members elect to do so. The TRS guarantees a pension based on final salaries and years of service. The TDC allowed enrollees to invest their funds for their retirement. Returns in these TDC accounts have proven to be sparse.

The bill provides a base benefit equal to 75 percent of a TRS pension, with options to buy-in for a full TRS pension that will vary, depending on what percentage of TDC participants opt to switch.

At least 65 percent of active enrollees must transfer. As they've been paying less of their salary into TDC, they would receive 75 percent of the other program's benefit. The legislation allows for makeup payments to ensure a full pension.

If between 65 percent to 75 percent transfer, the payment would reflect the actuarial difference between what they've contributed with what a comparable Teachers Retirement System member has paid. If more than 75 percent transfer, the makeup payments drop and instead reflect 1.5 percent of salary plus 4 percent interest.

Enrollees will be mailed personalized statements along with an explanatory letter that will accompany the transfer notices. Lawmakers budgeted \$2 million for this education process.

According to executive director of the Consolidated Public Retirement Board, enrollees have until May 12 to mail their notices as to whether they will transfer. They can also hand in their notices at their schools by May 5. Supervisors must mail in those notices by May 13,

House Bill 102 (Community & Technical Colleges) will replace the board of advisors with a board of governors at the following institutions of higher learning: Marshall Community and Technical College, Pierpont Community and Technical College, The Community and Technical College at West Virginia University Institute of Technology, West Virginia State Community and Technical College; and West Virginia University at Parkersburg. The institutional boards of governors for Marshall University and West Virginia University will consist of 16 people while the boards of governors of the other state institutions will consist of 12 people.



Final Wrap-Up

House Bill 103 (public employee & teacher retirement systems) will provide certain annuitants of the Public Employees Retirement System and the State Teachers Retirement System with a one-time bonus payment of \$600 to be paid on July 25, 2008. This one-time bonus payment applies to any retiree with at least 20 years of credited service who currently receives an annual retirement annuity of not more than \$7,000. Also, it shall be payable pro rata to any beneficiaries of a qualifying retiree who currently receives an annuity or other benefit payable by the system.

House Bill 104 (state actions and suits notification requirement) will require that notice be given to the Governor, the Department of Administration and the Legislature when certain actions, suits and proceedings on behalf of the state of West Virginia are filed.

According to the bill, “the Legislature finds that there are numerous actions, suits and proceedings filed against state government agencies and officials that may affect the public interest. Depending upon the outcome, this type of litigation may have significant consequences that can only be addressed by subsequent legislative action.

In addition, the bill states, “there are numerous actions, suits and proceedings filed on behalf of the State of West Virginia or a government agency that may affect the public interest. Depending upon the outcome, this type of litigation may have significant consequences that can only be addressed by subsequent legislative action.

“In such litigation, the Governor, Department of Administration and the Legislature may not be directly involved as parties. Additionally, the Governor, Department of Administration and the Legislature need advance notice of potential moneys that may become available as a result of seizure or forfeiture of assets under state or federal criminal law.

“The Governor, Department of Administration and the Legislature require more timely information regarding these actions ...and requires notice to the Governor, the Secretary of the Department of Administration, the President of the Senate and the Speaker of the House of Delegates of any action brought on behalf of the state or a government agency which may result in a judgment, award or settlement and when the state or a government agency becomes eligible for moneys from state or federal seizure or forfeiture of assets in criminal cases.”

Another section of the bill calls for the Governor, the Department of Administration and the Legislature to be informed of potential awards which could result in a settlement or judgment. Prior to entering into any

settlement agreement which directs how the money should be expended, the Governor, the Secretary of the Department of Administration, the President of the Senate and the Speaker of the House of Delegates are to be notified and provided copies of pleadings and related documents.

Senate Bill 1006 (appropriations) makes supplementary appropriations to various accounts totaling nearly \$30 million dollars. Agencies receiving appropriations include the: West Virginia Conservation Agency; Department of Administration - Office of the Secretary and Consolidated Public Retirement Board; Department of Commerce - West Virginia Development Office and WORKFORCE West Virginia; Department of Education and the Arts - Office of the Secretary; Department of Health and Human Resources - Division of Health - Central Office and Division of Human Services; Department of Military Affairs and Public Safety - Division of Corrections - Correctional Units; Higher Education Policy Commission - Administration - Control Account.

Senate Bill 1007 (appropriations) makes a supplementary appropriation of Lottery net profits to the Division of Natural Resources and the Lottery Senior Citizens Fund totaling just over \$12 million dollars.

Senate Bill 1008 (appropriations) makes supplementary appropriations to various accounts totaling over \$14 million dollars. Agencies receiving appropriations include the: Department of Administration - Public Defender Services; Department of Education - State Department of Education and State Department of Education - State Aid to Schools; Department of Education and the Arts - Division of Culture and History; Department of Education and the Arts - Educational Broadcasting Authority and State Board of Rehabilitation - Division of Rehabilitation Services; Department of Health and Human Resources - Office of the Secretary and Division of Health - Central Office; Department of Military Affairs and Public Safety - Division of Veterans' Affairs; Higher Education Policy Commission - Administration - Control Account.

Senate Bill 1009 (appropriations) makes a supplementary appropriation to the Employee Pension and Health Care Benefit Fund of over \$1.6 million dollars.

Senate Bill 1011 (appropriations) makes supplementary appropriations to various accounts totaling over \$214 million dollars from money remaining in the Lottery Commission's Excess Lottery Revenue Fund Surplus.

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.



2008 REGULAR SESSION - BILLS BY SUBJECT

Actions & Suits

House Bill 4019 (civil actions) modifies certain statutory venue in civil actions. State laws or court rules that establish the proper court to hear a case are often based on the convenience of the defendant. Rules of venue have already been developed to ensure that the defendant is not needlessly inconvenienced and provisions in this measure are clarified in a manner that is consistent with the common law doctrine of forum nonconveniens, which is Latin for an inconvenient court.

House Bill 4120 (civil actions) A new section has been added to the Code which indicates that no specific dollar amount or figure relating to damages being sought may be included in the complaint of any action to recover damages for personal injury or wrongful death.

However, the complaint may include a statement reciting that the amount in controversy satisfies the minimum jurisdictional amount established for filing the action. Furthermore, any party defendant may at any time request a written statement setting forth the nature and amount of damages sought.

The request shall be served upon the plaintiff who shall serve a responsive statement as to the nature and amount of damages sought within 30 days. If no response is served within 30 days after the receipt of service by the plaintiff, the party defendant may petition the court in which the action is pending to order the plaintiff to serve a responsive statement upon the requesting party defendant.

This section applies only to complaints filed on or after July 1, 2008.

House Bill 4141 (actions against the state) reduces the number of written status reports on civil actions brought against state government agencies that are required to be provided by the chief officer of the government agency to be provided by the President of the Senate and the Speaker of the House of Delegates. Currently, agencies are required to furnish one report every 60 days in every case pending against a state government agency. The bill would provide that reports are required only as requested by the President and the Speaker.

House Bill 4613 (structured settlements) requires that all structured settlement transfers from a personal injury or other claim must be approved by a circuit court judge.

The measure also eliminates the \$40,000 aggregate amount threshold and removes the restriction prohibiting the consumer to transfer future payments of the settlement.

The bill requires that the court appoint a guardian ad litem (a person, not necessarily a lawyer, who is appointed by a court to represent and protect the interests of a child or an incapacitated adult during a lawsuit) in all cases – not just as previously required for minors.

It adds the requirement that a guardian's decision is to be based on what is best for the recipient's dependents as well as the recipient of the settlement. A guardian also is to determine if a transfer was attempted or accomplished previously.

The bill requires that a recipient presents clear and convincing evidence that the transfer will alleviate a financial hardship he or she is facing; and furthermore will not subject the consumer's parents or dependents to financial hardship in the future. The judge must also ask and determine if the recipient and the guardian will face potential future harmful tax consequences and inform the recipient of the tax consequences.

And, the bill provides that attorneys fees and costs will be paid by the transferee.

Bill(s) related to this section:

House Bill 4355, pg.30

Acts

Senate Bill 13 (Dental Practice Act) clarifies definitions, powers of the board, rulemaking authority and temporary permits. The bill authorizes the Board of Dental Examiners to promulgate rules allowing dental hygienists to practice in public health settings under different degrees of supervision.

Senate Bill 553 (Permitting and Licensing Info Act) establishes the Permitting and Licensing Information Act and authorizes the Governor's Office of Technology to establish a permitting and licensing information system.

The legislation requires agencies which issue permits and licenses to submit the required permitting and licensing information to that office.

The bill also states that the submitting agency will continue to administer its own permitting and licensing procedures and charge and collect the appropriate fees.



Final Wrap-Up

Additionally, the bill sets forth the Office's authority and duties, and grants it rule-making authority.

House Bill 4304 (Anatomical Gift Act) repeals the current Anatomical Gift Act with a revised version that makes it easier to document a gift particularly with regard to organ donor notations on drivers' licenses and ID cards.

It also authorizes additional persons -- such as a medical power of attorney or health care surrogates -- to make anatomical gifts on behalf of an incapacitated person before death actually occurs.

The bill also resolves any ambiguities and conflicts between anatomical gifts and "Do Not Resuscitate" instructions.

Bill(s) related to this section:

Senate Bill 224, pg.27
Senate Bill 239, pg.34
Senate Bill 265, pg.34
Senate Bill 280, pg.16
Senate Bill 545, pg.35
Senate Bill 596, pg.35
Senate Bill 622, pg.29
Senate Bill 634, pg.37
Senate Bill 641, pg.38
Senate Bill 657, pg.16
Senate Bill 751, pg.38
House Bill 4080, pg.10
House Bill 4357, pg.36
House Bill 4404, pg.24
House Bill 4476, pg.33
House Bill 4684, pg.25

Agriculture

House Bill 4088 (farm equipment) For purposes of appraisal, the market value of dealer vehicle inventory, dealer motorboat inventory and farm equipment dealers inventory, as of the first day of July of each year, equates to the gross sales or total annual sales of the inventory of a farm equipment dealer during the preceding calendar year, divided by twelve, for a dealer with respect to which or whom sales were made during the entire preceding year.

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.

Alcohol

Bill(s) related to this section:

Senate Bill 657, pg.16
House Bill 4307, pg.22

Animals

Senate Bill 305 (animals) creates a new code provision authorizing county commissions to adopt ordinances, rules and regulations relating to the care and custody of abandoned, neglected or cruelly treated animals. Ordinances or rules should include but not be limited to provisions for adequate food, shelter, and veterinary care of animals. The bill also amends the standards and procedures to be applied by magistrates in hearings involving the seizure of abandoned, neglected or cruelly treated animals.

House Bill 4344 (cruelty to animals) strengthens and clarifies language that makes it illegal to intentionally, knowingly or recklessly mistreat an animal in a cruel and inhumane manner.

Appropriations

Senate Bill 673 Grants a supplementary appropriation of \$5,000,000 for the Department of Health and Human Resources Low Income Energy Assistance Program to provide assistance in the purchasing of heating fuel and weatherization.

Senate Bill 674 will make a supplementary appropriation to Department of Administration and Department of Military Affairs and Public Safety decreasing activity 516 by \$775,769.00, increasing activity 040 by \$775,769.00 and adding an unclassified transfer to activity 482 of \$25,000.00 all for the fiscal year 2008.

House Bill 4676 will continue the permissible appropriation of Public Employees Insurance Reserve Fund money to the Bureau for Medical Services of the Department of Health and Human Resources. This appropriation will expire on June 30, 2008.

House Bill 4692 (depositories of state money)) provides the depositories of state moneys the authority to place those moneys in certificates of deposit (CDs) that meet certain requirements in lieu of providing a bond or security.



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The bill specifies those requirements as: the funds are invested through a designated state depository selected by the treasurer; the selected depository arranges for the deposit of the funds in certificates of deposit in one or more banks or savings and loan associations in the United States, for the account of the state; the full amount of principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation; the selected depository acts as custodian for the state with respect to such certificates of deposit issued for the state's account; and at the same time that the state's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits from customers of other financial institutions wherever located in the United States equal to or greater than the amount of the funds invested by the state through the selected depository.

The bill also permits depositories of state moneys to insure deposits in excess of the amount insured by an agency of the federal government with a deposit guaranty bond issued by a bankers surety company.

House Bill 4712 (DMV) will increase the amount of funding for the Division of Motor Vehicles by \$1 million. This additional funding is intended to be used for the purposes of improving the use of booster seats, supplementing a grant to improve motorcycle safety through the implementation training and awareness programs, developing and implementing a state traffic safety information system, and improving security and reducing fraud within the Commercial Drivers License program.

House Bill 4713 will move excess funds from the Board of Risk and Insurance Management to the West Virginia Health Care Authority for the purposes of infrastructure and network support in the development of electronic medical records.

House Bill 4714 makes supplemental appropriations to the Crane Operator Certification Fund, the Miners' Health, Safety and Training Fund, the West Virginia Rehabilitation Center Special Account and the Fire Commission Fund from the balance of unappropriated funds for the fiscal year ending the thirtieth day of June, two thousand eight to same funds.

House Bill 4715 gives a supplemental appropriation of \$25,000,000 from Fund 9017 FY 2008 Org 0803 to the Division of Highways, Maintenance, Contract paving and Secondary Road Maintenance to amend and increase an existing item in the account for expenditure during the fiscal year ending the thirtieth day of June, 2008.

Audits & Auditing

Senate Bill 645 (audits) exempts city and county hospitals from audit requirements for local government offices and requires those facilities to annually file a copy of their audited financial statements with the State Auditor.

Bill(s) related to this section:

Senate Bill 654, pg.12

House Bill 4121, pg.29

House Bill 4494, pg.30

Attorneys

Bill(s) related to this section:

Senate Bill 492, pg.13

House Bill 4296, pg.15

House Bill 4619, pg.16

Banks & Banking

Senate Bill 292 (banks and banking) permits bond claims by the Commissioner of Banking to collect unpaid civil administrative penalties and unpaid examination invoices while allowing priority for pending consumer claims.

House Bill 2517 (out-of-state bank acquisition) gives the Board of Banking and Financial Institutions the authority to West Virginia banks to acquire out-of-state banks. A West Virginia bank must file with the commissioner, a copy of the application made to the appropriate federal regulator before it can acquire an out-of-state bank or an out-of-state bank holding company. The exception is if the acquisition involves a merger of a bank with and into a West Virginia bank.

Bill(s) related to this section:

House Bill 4692, pg.8

Boards, Bureaus & Commissions

Senate Bill 208 (state retirement) clarifies that retirement systems administered by the Consolidated Public Retirement Board are included for employer pick-up provisions for federal tax purposes.

Senate Bill 309 (appointed state officers) provides



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that when one person serves as both the Secretary of Transportation and Commissioner of Highways he or she shall be paid \$120,000 per year. Current law provides an annual salary of \$92,500 for the Commissioner of Highways and \$95,000 for the Secretary of Transportation.

Senate Bill 512 (Records Management and Preservation Board) changes the number of members on the Records Management and Preservation Board from 9 to 11 to accurately reflect the actual board membership.

House Bill 4036 (Respiratory Care Practitioners) grants the board of Respiratory Care Practitioners rulemaking authority and updates the requirements for a temporary student permit to practice respiratory care. The term of the student permit is six (6) months and can be renewed once for an additional six (6) months.

House Bill 4072 (Professional Engineers) clarifies that the Board of Registration for Professional Engineers is subject to a regulatory board review.

House Bill 4073 (West Virginia Board of Examinations in Counseling) clarifies that the West Virginia Board of Examinations in Counseling is subject to a regulatory board review.

House Bill 4078 (Blennerhasset Commission) terminates the Blennerhasset Island Historical State Park Commission and exempts the termination from the winding down provisions previously set forth in §4-10-12.

House Bill 4085 (Acupuncture Board) clarifies that the West Virginia Acupuncture Board is subject to a regulatory board review.

House Bill 4337 (Board of Barbers and Cosmetologists) increases the Board of Barbers and Cosmetologists' fees for 1 year commencing January 1, 2009. Specifically, the bill provides that: a licensing examination fee will be \$50.00; a license issued by the board, a fee of \$35.00; a reciprocal license fee issued to a person educated or licensed in another state to be \$100.00; and, a student permit fee, \$25.00.

Bill(s) related to this section:

Senate Bill 13, pg.7
Senate Bill 224, pg.27
Senate Bill 234, pg.23
Senate Bill 271, pg.26
Senate Bill 292, pg.9
Senate Bill 297, pg.17
Senate Bill 317, pg.23

Senate Bill 504, pg.11
Senate Bill 545, pg.35
Senate Bill 579, pg.27
Senate Bill 622, pg.29
Senate Bill 641, pg.38
Senate Bill 704, pg.25
Senate Bill 722, pg.23
House Bill 4010, pg.26
House Bill 4022, pg.14
House Bill 4449, pg.19
House Bill 4472, pg.19
House Bill 4607, pg.36
House Bill 4623, pg.33

Bonds

House Bill 4644 (forfeiture of bail) removes the current provision for forfeiture of bail when bail has been posted by someone other than the person under bail for a failure to comply with a condition of bail other than appearance.

Bill(s) related to this section:

Senate Bill 292, pg.9
Senate Bill 297, pg.17
House Bill 4692, pg.8

Charitable Organizations

House Bill 4080 (Uniform Prudent Management of Institutional Funds Act) will replace the Uniform Management of Institutional Funds Act of 1972 with the Uniform Prudent Management of Institutional Funds Act.

This act will provide statutory guidelines for management, investment and expenditures of endowments funds held by charitable institutions.

The act will also provide for diversification and pooling of assets and total return investment to implement whole portfolio management.

The act also allows an institution to appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established, in accordance with the donor's intent.

An institution also may prudently delegate the management of the institutional fund to an external agent if it does go



against a specific limitation of the donor.

The act further provides for donor restrictions on the management of the fund to be released or modified if certain conditions are met.

The application of this act governs institutional funds established after this date and only decisions made or actions taken on or after that date for institutional funds presently in existence

House Bill 4327 (charitable bingo and charitable raffles) will increase the compensation that may be paid to operators and employees of charitable bingo and charitable raffles to no more than 120 percent of the state minimum wage.

Child Welfare

Senate Bill 504 (child support enforcement) repeals the West Virginia Enforcement Commission and transfers a significant number of additional functions to the Bureau for Child Support Enforcement.

The bill also extends the statute of limitations for enforcing child support judgments under certain circumstances. A number of licenses are currently subject to suspension or revocation for non-payment of support.

This bill adds a business registration certificate to be suspended or revoked for non-payment of support. There is also an addition to the code that would codify the federal requirement that the Bureau conduct a review of the child support guidelines every three years.

Current code allows the Bureau to increase a child support obligor's obligation by \$100 when there is overdue support when the overdue support equals 6 months of support or 27 weeks if the order sets a weekly or bi-weekly amount.

This bill makes a change that would allow this amount to increase to \$200 if the obligor makes greater than \$65,000 per year and the overdue support is greater than one year of the obligation or 45 weeks if the order is weekly or bi-weekly. The bill also clarifies and makes additions to the manner in which the court may calculate income for a noncustodial parent.

Other changes would eliminate the requirement that the Bureau issue an annual statement of account and simply requires the Bureau to develop a procedure to contest statements of account.

There are also some minor changes to the child support modification section that clarifies current service of process procedure and cross-references to the Rules of Civil Procedure.

Senate Bill 736 (sale of property for persons with legal disabilities) amends sections dealing with the sale of real estate for persons with legal disabilities, including protected persons. The measure requires a conservator to petition the court or mental hygiene commissioner for the sale of property of a protected person and appoint counsel or a guardian.

In addition, it allows the court or the mental hygiene commissioner to order a background check of any person being considered for appointment as a guardian or conservator.

The bill also clarifies the provisions related to the appointment of adult protective services division or other agency to serve as a guardian when there is no other individual, nonprofit corporation or other public agency which is willing and equally or better qualified to serve in that capacity.

When there are no other persons or nonprofit corporations available to serve, the bill further clarifies the circumstances under which the sheriff may be ordered by a court to serve as the guardian.

Finally, the bill clarifies that a conservator may not be appointed when the protected person's total assets are worth less than \$600 or when the protected person's income is from Social Security, Medicaid, or less than \$50 per month.

House Bill 4075 (Guardian Angel Video Monitoring) establishes the "Guardian Angel Video Monitoring" program where the Department of Military Affairs and Public Safety, the State Police and the Division of Highways are to develop and implement a program to utilize all available video recording and monitoring devices to monitor Amber Alert suspect vehicles during an Amber Alert.

The bill requires the Secretary of the Department of Military Affairs and Public Safety to develop a plan to provide for the State Police to monitor and utilize video recording and monitoring devices during an Amber Alert, including: the use of any state or local video recording devices upon agreement with the local officials; and, the development of policies and initiatives to facilitate sharing of information with neighboring states when suspect vehicles may be crossing state lines.



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The bill also requires the Department of Military Affairs and Public Safety to submit its plan to the Legislature's Joint Committee on Government and Finance by December 1, 2008.

House Bill 4513 (newborn screenings) provides that newborn screenings are a covered benefit reimbursable to the birthing facilities by Public Employees Insurance Agency, the State Children's Health Insurance Program, the Medicaid program and all licensed health insurers.

House Bill 3065 (child abuse and custody) makes it a misdemeanor offense to report child abuse falsely.

Any person who knowingly and intentionally reports to a law enforcement officer, child protective service worker or judicial officer that another person has sexually abused or neglected a child when the accusation is false and when the report would influence a child custody decision will be charged with a misdemeanor. If proven guilty, the offender will be fined up to \$1,000 and sentenced to 60 hours of community service, or both.

In addition to any other sanctions imposed, the person convicted of falsely reporting child abuse when seeking custody will be required to attend and complete a court-approved parenting class.

Bill(s) related to this section:

House Bill 4023, pg.18

House Bill 4368, pg.18

Claims

Senate Bill 654 (claims against the state) allows the Legislature to find and declare the existence of a moral obligation to pay, with public moneys, each claim against specified state agencies and the State of West Virginia, by the named claimants, payable from the specified funds, and in the amounts of the awards made.

House Bill 4490 (payment for commodities or services) provides payment to certain claimants who provided commodities and/or services to the state, but who were not paid because the agency involved overspent its budget.

Bill(s) related to this section:

Senate Bill 659, pg.15

Senate Bill 671, pg.14

House Bill 4613, pg.7

Code Repealed

Senate Bill 258 (Huttonsville Correctional Center) repeals several outdated and redundant provisions in the statute that provided for the operation of the Huttonsville Correctional Center. The provisions, which included management of the Huttonsville facility, appointment and duties of a warden, and transfer of prisoners, are addressed in the statute that establishes the Division of Corrections, which has authority over the operation and control of the Huttonsville Correctional Center.

Senate Bill 262 (Denmar State Hospital) repeals outdated provisions of the West Virginia Code relating to Denmar State Hospital.

Bill(s) related to this section:

Senate Bill 237, pg.13

Senate Bill 257, pg.13

Commerce

Senate Bill 272 (telemarketing solicitation) fixes a statutory inaccuracy regarding where telemarketing solicitation is defined within the code.

House Bill 4290 (public moneys and securities) gives the State Auditor and Treasurer discretion to require electronic document filing and to waive any requirements for electronic filing including certification, notarization, or verification. It also expands the definition of the word "document" and permits the sale of state property by electronic commerce.

Consumer Protection

Senate Bill 340 provides a procedure to notify consumers when the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of personal information has occurred.

Corporations & Business Entities

House Bill 3201 (taxation) authorizes the tax commissioner to refuse, revoke, suspend, or refuse to renew a business registration certificate for a business that is the alter ego, nominee or instrumentality of a business in certain situations,



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and provides a clear definition of alter ego.

House Bill 4018 (corporations and business entities) reenacts the Small Business Linked Deposit Program that terminated on July 1, 2006. The bill provides that the program will be in effect from July 1, 2008, through July 1, 2013. The bill makes the following changes to the original program: extends loans from four years to seven years; increases loan cap from \$150,000 to \$250,000; redefines duties; and reduces interest rate from one percent to zero percent below the current market rate.

House Bill 4464 (corporations) adds additional exemptions to the requirement that foreign corporations obtain certificate of authority from the Secretary of State's Office before beginning business in the state.

Bill(s) related to this section:

Senate Bill 680, pg.35

House Bill 4079, pg.30

House Bill 4617, pg.34

House Bill 4628, pg.36

Corrections

Senate Bill 257 will repeal outdated provisions of the West Virginia Code relating to the operation of the penitentiary by the Commissioner of Public Institutions, the hiring of inmates as domestics and the hiring out of inmates by contract.

Senate Bill 263 (corrections) updates various statutory provisions related to the Department of Corrections as follows: updates the list of correctional facilities over which the Commissioner has jurisdiction and control to include Lakin Correctional Center, the Ohio County Correctional Center, the Beckley Correctional Center and the Martinsburg Correctional Center; authorizes the Commissioner to contract with the McDowell County Commission to house and incarcerate inmates at the Stevens Correctional Center; eliminates the Commissioner's authority to serve on the Commission for Distribution of Surplus Food, including authority to implement a pilot food program for delivery of leftover foods at correctional institutions; establishes the continued operation of the inmate benefit fund, including deposits of negotiated commissions from a private or public vendor contracted to operate the facility's commissary; clarifies that the warden of an assigned correctional facility is subject to the direction of the Commissioner; establishes that all correctional officers are responsible for enforcing the laws and rules necessary to maintain control, management and public safety; provides

that the Commissioner may designate correctional officers as peace officers with the authority to detain persons for violations of law on correctional facility property, to conduct investigations regarding criminal activity within a correctional facility and to execute criminal or other process in furtherance of those duties; establishes that a warden of a center for young adult offenders shall have the same qualifications, powers, and duties as other wardens and eliminates the requirement that he or she possesses, at a minimum, a college degree with a major in criminal justice or related field.

House Bill 4570 (regional jail employees) authorizes employees at regional jails to carry a firearm after they complete training as required for deputy sheriffs and are then issued a certificate by the regional director authorizing them to carry a firearm or concealed weapon while on duty. Employees carrying weapons must also have with them their signed certificate and may carry their weapons while traveling to and from for employment purposes. They may not carry the weapon when traveling to and from employment unless they have a license issued by the state. The bill also expands arrest power of regional employees allowing them to detain or arrest persons for any crime committed on regional jail property or escapees from regional jails.

Bill(s) related to this section:

Senate Bill 258, pg.12

Senate Bill 270, pg.15

Counties

Senate Bill 237 will repeal the requirement that elected county officials must file an annual report with their county commission and the state tax commissioner regarding the amount spent on the services of assistants, deputies and employees.

Senate Bill 492 (attorneys) requires all county prosecutors to be full time except on the mutual agreement of the county commission and the prosecuting attorney for all Class VI through Class X Counties, beginning January 1, 2009. The bill also provides a mechanism by which a prosecutor who has remained part time to become a full time prosecutor.

Senate Bill 570 (county commissions) allows a county commission to be involved in joint economic development efforts.

Senate Bill 784 (county governments) adds language to an existing code section and adds a new code section that allows county commissioners or citizens who want to change from a traditional county commission to another



form of county government. Specifically, this bill gives county commissions and citizens four possible options for new forms of county governance.

The first option is the Chief Executive - county commission plan, in which counties still have three county commissioners elected at large; Chief Executive is elected; commission is governing body; CEO has exclusive authority for the day to day operation and administration of the county; CEO salary set by Legislature; non-elected officers and employees appointed by CEO with approval of the commission and the CEO can not be a member of the commission or hold other elective office.

The second option is County Manager - county commission plan, in which county commissions still have 3 county commissioners elected at large; manager is appointed by commission; commission is governing body; manager has exclusive authority for the day to day operation and administration of the county; commissioners set salary of manager; non-elected officers and employees appointed by manager with approval of the commission and the manager can not be a member of the commission or hold elective office.

The third option is the County Administrator - county commission plan, in which county commissions still have 3 county commissioners elected at large; administrator is appointed by commission; commission is governing body; administrator has authority to direct day to day operation and administration of the county under supervision of commission; commissioners set salary of administrator; and the administrator appoints or employs subordinates and employees to perform the work for which the administrator is directly responsible to the commission.

The final option is a County Council in which 4 additional county commissioner are elected by an at large election.

Bill(s) related to this section:

Senate Bill 291, pg.15

Senate Bill 305, pg.8

Senate Bill 494, pg.20

Senate Bill 496, pg.20

Senate Bill 507, pg.20

Senate Bill 512, pg.10

Senate Bill 565, pg.32

Senate Bill 593, pg.26

Senate Bill 645, pg.9

Senate Bill 740, pg.27

Senate Bill 746, pg.21

House Bill 4028, pg.20

House Bill 4137, pg.25

House Bill 4527, pg.17

House Bill 4692, pg.8

Courts

Senate Bill 311 (jurors) authorizes judges to order jurors be drawn from another county or counties when jurors cannot be seated from the county in which the trial will be held in certain cases. The county in which the juror serves is to supply compensation for juror services.

Senate Bill 337 (VETOED) eliminates obsolete language and permits justices of the Supreme Court of Appeals to appoint full-time and part-time professional and clerical assistants necessary to perform the functions and duties of the office of the clerk. Those employees serve at the will and pleasure of the justices of the Supreme Court of Appeals. The justices shall establish the salary of any person employed to staff the office of the clerk. The bill also provides that if the position of clerk becomes vacant while the Supreme Court of Appeals is on vacation, the position may be filled by appointment by the justices.

Senate Bill 671 (judicial compensation) increases the compensation of the presiding judge of the Court of Claims by \$50 for each day he or she actually served. The bill also increases the base pay for the three judges of the Court of Claims to \$210 per day.

House Bill 4022 (public defenders) reduces the time to submit claims for legal representation by panel attorneys in indigent criminal cases from four years to 90 calendar days after the last date legal services are rendered. The Court may extend the time to submit claims if good cause exists for an extension. The bill also establishes the Indigent Defense Commission to provide assistance to Public Defender Services with regard to the general policies and procedures of the agency. It further lays out the powers and duties of the Commission. The bill also allows each judicial circuit to create a second public defender corporation with the approval of the newly created Commission.

Bill(s) related to this section:

Senate Bill 217, pg.28

Senate Bill 536, pg.28

House Bill 4019, pg.7

House Bill 4120, pg.7

House Bill 4388, pg.16

House Bill 4490, pg.12

House Bill 4619, pg.16

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.



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Courts - Circuit

Senate Bill 236 (elections) eliminates obsolete language relating to the circuit clerk's duties during elections.

Senate Bill 238 (courts) increases the jurisdictional limit for filing suit in circuit court from three hundred dollars to one thousand dollars.

Senate Bill 270 (corrections) takes away the responsibility from circuit clerks regarding handling and distributing inmates' moneys as inmates are now in regional jails, not county jails.

Senate Bill 291 (courts) authorizes the Governor to appoint an additional three circuit judges: one to the Twenty-second Judicial Circuit (Pendleton, Hardy and Hampshire Counties); one to the Ninth Judicial Circuit (Mercer County); and one to the Twentieth Judicial Circuit (Wayne County).

Senate Bill 781 (liens and fees) changes the fees for suggestee executions from one dollar to twenty five dollars, sets forth that service shall be effected according to the Rules of Civil Procedure, and that return receipt United States Mail shall be acceptable upon the debtor or his or her agent.

Bill(s) related to this section:

Senate Bill 481, pg.23

House Bill 4613, pg.7

Courts - Magistrate

Senate Bill 580 (unsigned citation payments) authorizes magistrate courts to accept unsigned copies of citations if payment of the citation has been received.

Bill(s) related to this section:

Senate Bill 305, pg.8

Crimes

Senate Bill 142 (crimes) modifies the provisions concerning expungement of criminal convictions. The bill lessens the time period from two years to one year before an individual who receives a pardon may be eligible for record expungement.

The bill lessens the time period from 20 years to five years after the discharge of his or her sentence upon the conviction

for which he or she was pardoned before a record may be expunged. It also modifies the expungement provisions for individuals who committed a misdemeanor between 18 and 26. Specifically, the bill expands those offenses that are not eligible for expungement to include violations involving the infliction of serious injury or the use or exhibition of a deadly weapon or dangerous instrument, and sexual offenses when the individual was over 18 and the victim under 12.

Additionally, the bill: establishes a filing fee for an expungement petition; requires the petitioner not be under investigation or arrest for another charge at the time of the expungement petition; sets requirements for an expungement petition; establishes additional notice requirements for the petition to include numerous specific governmental officials; and establishes the required action by the circuit court to address an expungement petition.

Senate Bill 145 (protection of property) allows persons to use reasonable and appropriate force in protecting their property or themselves in any place they have the right to be including motor vehicles. It adds immunity for the death of a person if killed during the commission of a crime by reasonable and appropriate force and adds that any such use of reasonable and appropriate force shall be a complete defense against any action.

Senate Bill 590 (health care workers) adds health care and protective services workers to the list of persons against whom physical assaults have enhanced criminal penalties.

Senate Bill 638 (VETOED) creates a new section that requires purchasers of catalytic converters or any material derived from catalytic converter be provided additional information from the sellers. The bill also sets penalties for knowing about failures to collect and provide information relating to the sale of catalytic converters or any material derived from catalytic converters.

Senate Bill 659 (claims due against the state) increases the amount of benefits for crime victims; increasing the allowable expenses for anything relating to funerals from six thousand to seven thousand dollars; and compensation to all claimants for the death of a victim from thirty five thousand dollars to fifty thousand dollars.

House Bill 4296 (crime victims rights) requires that prosecuting attorneys provide notice to victims of crimes of violence or next of kin in homicides when a habeas corpus proceeding vacates a conviction or sentence. The bill also insures that crime victims' rights of notice and participation have been afforded in conjunction with orders issued and proceedings directed as a part of any relief granted in response to a writ of habeas corpus.



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House Bill 4484 (stalking) revises the current criminal offense of stalking to incorporate the provisions of The National Center for Victims of Crime’s “Model Stalking Code for the States.” Current code requires that a certain relationship as a predicate element and leaves some terms undefined. The new code strengthens the law by not requiring any kind of relationship and eliminates loopholes by taking away certain defenses by specifically defining terms in the code.

Bill(s) related to this section:

Senate Bill 340, pg.12

Senate Bill 535, pg.28

House Bill 4344, pg.8

Disabilities

Bill(s) related to this section:

Senate Bill 185, pg.22

Domestic Relations

House Bill 4388 (domestic violence database) authorizes the West Virginia Supreme Court of Appeals to maintain a domestic violence database which contains certified copies of protective orders issued by West Virginia courts and courts of other states. The database will help keep police officers and the court informed as to protective orders that are currently in effect.

House Bill 4619 (domestic relations) requests that the Supreme Court of Appeals study the use of collaborative law procedures in the family courts and, should the Court find that the procedures would be an effective alternative approach to dispute resolution in family law matters, promulgate rules for the implementation of the collaborative law procedures. The bill also requests that the Court present its findings and any rules promulgated to the Legislature at the regular session of the Legislature, 2009.

Bill(s) related to this section:

House Bill 3065, pg.12

Drugs & Drug Paraphernalia

Senate Bill 657 (drugs and alcohol) creates the West Virginia Alcohol and Drug-Free Workplace Act. The bill

requires public improvement contractors to have and implement a drug-free workplace program that includes drug and alcohol testing, drug-free workplace policy posted at the construction site and drug-free workplace records and contents be available for inspection.

The bill requires that a contractor’s program must include, among other specific requirements, preemployment testing, random testing and reasonable cause testing. The bill also provides standards and protocols for testing and assistance for employees. Additionally, the bill sets forth penalties and confidentiality requirements.

Bill(s) related to this section:

Senate Bill 535, pg.28

Economic Development

Senate Bill 88 (economic development) authorizes property owners of brownfield sites or sites remediated pursuant to the Voluntary Remediation and Redevelopment Act and involved in the extraction and processing of coal, limestone, or other natural resources to apply to the Development Office to be designated a brownfield economic development district upon a showing that the brownfield economic development district when designated will create significant economic development activity. Once designated, the owner may be considered for site assessment loans and certain remediation loans from the Brownfields Revolving Fund. The Development Office is required to promulgate emergency rules by July 1, 2008 to implement the bill’s provisions.

Senate Bill 280 (economic development) permits certain remediation projects to be undertaken pursuant to the Municipal Economic Opportunity Development District Act, provided during the first 48 months following the creation of the district results in capital investment of more than \$50,000,000 and that the proposed remediation expenditures to be financed by bonds do not constitute more than 25 percent of the total cost. These bonds may not exceed a repayment schedule of 20 years.

The bill also clarifies and establishes that, in lieu of the state consumer sales and service tax, the rate or rates of a special district excise tax levied by the council of a municipality must be identical to the rate or rates of the state consumer sales and service tax. While the bill exempts sales of gasoline and special fuel, those fuels remain taxable pursuant to other state law. The bill grants the Tax Commissioner the discretion to require electronic filing of tax returns related to special district taxes and electronic payment of those



taxes. The Commissioner may also prescribe rules relating to special district taxes.

The bill also authorizes the sharing of tax information with bond trustees and authorizes secondary sharing of the information with the bond issuers, bondholders and bond counsel, and makes those trustees, bondholders and bond counsel subject to confidentiality requirements. Additionally, the bill requires, in certain circumstances, proceeds from the tax be deposited into the general revenue fund.

House Bill 4527 (economic development) changes the regulation of subdivisions and land development by cities and counties. The bill provides counties and cities with two land development options: 1) they may adopt a comprehensive plan and enact a subdivision and land development ordinance; or, 2) they may establish a planning commission, enact a subdivision and land development ordinance, and adopt a comprehensive plan for the area included in the subdivision and land development ordinance within three years of the enactment of the subdivision and land development ordinance.

Bill(s) related to this section:

Senate Bill 570, pg.13

House Bill 4628, pg.36

Education

Senate Bill 9 (hunter's safety program) requires the State Board of Education to promulgate a rule that makes a hunters' safety program a part of the mandatory curriculum of physical education classes offered in 8th through 12th grades. The program must be at least two weeks, and the program is voluntary in that individual students may choose not to participate in the program by participating in another physical education activity. The program shall include firearm safety instruction and the proper use of firearms. Any student who completes the program will be issued a hunters' safety card. The bill also makes legislative findings about firearm safety and the significance of hunting in West Virginia's culture, history and economy.

Senate Bill 201 (powers of governor) provides for the termination of retirement benefits in all state retirement systems of members who render less than honorable service. It also changes the definition of "former participant" to any person who is no longer eligible to receive any benefit under a retirement plan because full distribution has occurred, and provides for the retention of employer contributions in the plan of members of the Teachers' Defined Contribution

Retirement System whose benefits have been terminated for less than honorable service.

Senate Bill 287 (West Virginia Research Trust Fund) establishes the West Virginia Research Trust Fund consisting of legislative appropriations to be administered by the Higher Education Policy Commission (HEPC). Moneys in the fund are to be matched by private donations and then transferred to directed research endowments for Marshall or West Virginia University. The governing boards of each participating institution are authorized to create directed research endowments to receive funds distributed from the trust fund, including the matching moneys required to draw down the other moneys. Investment earnings accruing to a participating institution's research endowment may be spent to pay for salaries for new engaged research positions in energy and environmental sciences; nanotechnology and materials science; biological, biotechnical and biomedical sciences; transportation technology and logistics; or biometrics, security, sensing and related technologies; or to purchase basic infrastructure directly related to one of those areas of research. The governing boards of each participating institution are also required to submit to the HEPC a directed research endowment plan.

Senate Bill 297 (education) raises the definition of construction limit from five hundred thousand to one million dollars. It also authorizes the School Building Authority to issue revenue bonds using nineteen million dollars from the State Excess Lottery Fund, for use in building schools and making improvements to existing schools.

Senate Bill 595 (education) establishes goals and objectives for 2020 for both public and higher education, clarifies elements of the accountability system for public higher education and creates a committee to study capital projects and facilities maintenance needs in higher education.

Senate Bill 606 (VETOED) provides professional educators, who are regularly employed by the county board on a full-time basis, employment preference over other applicants when filling summer school program positions.

Senate Bill 682 (education) creates a special revenue account in the State Treasury to be known as the Community and Technical College Capital Improvement Fund. The bill specifies that amounts are to be transferred to the fund from the State Lottery to pay principal and interest on revenue bonds and refunding bonds issued or to be issued, on or after April 1, 2008, for community and technical college capital improvements. Additionally, the bill sets the maximum amount that may be allocated monthly at \$500,000 and the



maximum annual allocation may not exceed the lesser of the principle and interest requirements certified to the lottery director or \$5,000,000.

House Bill 3215 (community and technical colleges) removes the administrative link between Shepherd University and Blue Ridge Community and Technical College. The bill also removes the administrative links between the other community and technical colleges (CTCs) and its sponsoring institution. Marshall CTC, WV State CTC, The CTC at WVUIT, WVU Parkersburg, and Pierpont CTC each is given an independent governing board effective July 1, 2008.

The bill also inserts language stating that WVUP may continue to deliver all BA level programs it is currently delivering. CTC and former sponsoring institutions must divide assets and liabilities by December 1, 2008 and requires them to settle disputes jointly by the Commission and Council by January 1, 2009.

The bill also includes language protecting students who are enrolled in CTCs which become independent to ensure that they continue to receive financial aid to which they are entitled and that no additional graduation or completion requirements are imposed because of changes in institutional governance. The bill further defines the relationship between CTCs and its sponsoring institutions over the next three years.

House Bill 4023 (education) provides for the denial or suspension of a driver's license for any student who withdraws from school or fails to receive passing grades. The bill adds Driver's Eligibility Certificate to the list items required to be presented as a condition of receiving a driver's license for persons under the age of 18.

Specifically, the bill requires a school official to issue a Driver's Eligibility Certificate, upon the request of any student between 15 and 18 years of age who meets the following conditions: the student is enrolled and making satisfactory progress toward graduation in a school; the student does not have more than 10 consecutive or 15 total days of unexcused absence; the student has not been suspended or expelled for certain offenses under the Safe Schools Act; and the student has not been suspended for more than 10 total days.

The bill also provides that whenever a student between 15 and 18 years of age fails to comply with the requirements for receiving a Driver's Eligibility Certificate, the school official must notify the Division of Motor Vehicles (DMV). The student then has 30 days to request a hearing. If suspended, the DMV may not reinstate a license before

the end of the sixth calendar month following the date of suspension unless the student becomes 18 years of age.

House Bill 4117 adds certified school psychologists and nurses to the list of school personnel receiving \$2,500 per year salary supplements. Currently, certified speech-language pathologists, audiologists and counselors are eligible for this supplement. No more than 100 people currently receive the supplement in West Virginia; the bill will raise this number to 115.

Speech-language pathologists, audiologists and counselors working toward certification can receive \$600 for reimbursement of expenses related to attaining certification; just like the supplement, only 100 people statewide are eligible. The bill will make school psychologists and nurses eligible for this reimbursement and raise the limit from 100 to 115.

House Bill 4124 (education K-12) will require the addition of CPR and First Aid training to the health education curriculum in secondary schools.

House Bill 4368 (disruptive students) requires that once a student has been excluded from the classroom, school or school bus a second time in a single semester for disruptive behavior, subsequent offenses may be punished by transferring the student to an alternative setting. The current law allows this after three occurrences in a full year.

The bill includes a legislative finding that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The bill also establishes a Bill of Rights and Responsibilities for Students and School Personnel.

House Bill 4406 (education) enhances standards set by the State Board of Education including: limiting the one way transportation times for students as follows: elementary students to 30 minutes, middle, intermediate, and junior high school students to 45 minutes, high school students to 60 minutes. County school boards are not allowed to create new routes for any school included in a school closure, consolidation, or new construction for students in grades prekindergarten through five that exceed the elementary student limitation by more than 30 unless; county board adopts a separate motion requesting written permission to create the route and then receives written permission of the state board to create the route.

House Bill 4407 (VETOED) requires all new school buses be equipped with automatic tire chains for use during inclement weather.



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House Bill 4433 (student loans) increases the amount of medical student loans obtained from the state Health Education Student Loan Fund for study at West Virginia University School of Medicine, Marshall University School of Medicine, or West Virginia School of Osteopathic Medicine that may be cancelled annually for doctors that practice in an underserved area or a medical specialty from \$5,000 to \$10,000.

House Bill 4434 (higher education) creates a special revolving loan fund known as Energy and Water Savings Revolving Loan Fund to be administered by the Higher Education Policy Commission. The Fund is to consist of moneys appropriated by the Legislature, repayments of loans to state institutions of higher education, all moneys available from external sources and all interest and other income earned from the investment of moneys in the Fund. Loan money is to be used to provide loans to the institutions to finance projects that will achieve significant reductions in campus energy and water consumption and costs. Projects are to be considered on a competitive basis, with highest priority being given to projects guaranteeing the greatest reduction in energy and water consumption and costs and the earliest loan repayments.

House Bill 4449 (higher education) gives permission for the Higher Education Policy Commission and the WV Council for Community and Technical College Education to enter into lease-purchase agreements for capital improvements for the benefit of state higher education institutions or the Commission of Council.

House Bill 4472 (school personnel) adds a new section prohibiting a county board of education to declare vacant or post the vacancy of any job opening that has been vacated due to the death of the person holding the position sooner than 10 days following the death of the individual that was employed in that position.

House Bill 4477 (education) allows the State Superintendent of Schools to establish a Division of Technical and Adult Education Services in the State Department of Education, and provides that the State Board shall provide the GED exam free to individuals meeting certain requirements including passing a preparation course for the GED exam, and successfully passing a GED Practice Test.

House Bill 4478 (Autism Mentor Transfer Limitation) will prohibit the mid-year transfer of school personnel who are mentors for students who require one-on-one instruction. This prohibition is currently only applicable to students who are autistic or have been diagnosed with autism spectrum disorder. This bill will only allow transfer if the individual is not certified or if the transfer is in the best interest of the student.

House Bill 4554 (VETOED) changes the competency exam for school bus drivers employed on a regular status to once every two years and for regular status drivers on a probationary contract to once every year.

House Bill 4588 (public school support) changes some of the processes by which the State's public education system is funded each year. This bill removes the use of "adjusted enrollment", including the extra weighting of special education students, in calculating the school aid formula. Instead, the formula is calculated based on the net enrollment limits only which results in more state aid to the counties in need. Further, counselors and school nurses are removed from the foundation allowance for professional educators and funds them through the foundation allowance for professional student support services based on the number of counselors and nurses they currently have employed. The allowance is increased by three percent per year over the next five years.

Reductions in the ratios for professional educators are also made to account for removing counselors and school nurses, but the bill increases those ratios by two professional educators per each 1,000 students in net enrollment each year for the next five years. Any new positions created as a result of the increase must be positions that will enhance student achievement and are consistent with the needs as identified in each county board's electronic county strategic improvement plan. The bill also amends the definition of "net enrollment" for counties with a net enrollment of less than 1,400 students.

Funding changes have been made depending on which of the four density categories, (1) Sparse-density county, (2) low-density county, (3) medium-density county, and (4) high-density county, a county falls into. Implementation of the cost of the bill is spread over a five-year period, and includes hold harmless provisions during those five years.

Bill(s) related to this section:

Senate Bill 564, pg.37

Senate Bill 573, pg.31

House Bill 4500, pg.24

House Bill 4557, pg.25

Elections

Senate Bill 493 (elections) grants emergency powers to the Secretary of State in the event of emergencies to insure that all eligible voters have the opportunity to vote and to also safeguard the integrity of the election.



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Senate Bill 494 (voter verification) allows election officials to use an electronic poll book containing voter registration information to verify that registered voters are eligible to vote in an election. County clerks are the custodians of electronic poll books and are charged with keeping them in good repair. The bill also requires the county clerk to keep a printed poll book for the contingency of a malfunctioning electronic poll book.

Senate Bill 495 (elections) requires training programs for election officials to be conducted within 30 days before an election.

Senate Bill 496 (motor vehicles) adds the number on driver's licenses or nonoperator's licenses to the list of protected information not available for public access on voter registration lists.

Senate Bill 507 (elections) requires the county commission to provide and post in precincts notices regarding the effect of voting a provisional ballot in the incorrect precinct. It also requires the county commission to provide each precinct with a list of all precincts so that election officials can determine and convey to prospective voters the precinct in which they should be voting.

The bill also eliminates a provision defining "election official trainee" as one who voluntarily assists a standard receiving board and receives credits for community service towards a high school diploma and another dealing with appointment of election official trainees at any election by the governing body of the county commission or municipality where the election is held.

The bill clarifies that the prohibition on counting boards at special elections is a matter within the discretion of the county commission. Additionally, the bill makes technical changes regarding signatures to accommodate use of electronic media.

Senate Bill 514 (elections) will allow absentee voting by electronic mail.

House Bill 4328 (elections) permits state employees to serve as poll workers and as delegates to state and national political conventions without being considered as engaging in a prohibited political activity.

House Bill 4511 (zoning ordinance elections) modifies the standards by which zoning ordinances or amendments to zoning ordinances are adopted. Formerly, a petition to adopt a zoning ordinance required a petition signed by 15percent of eligible voters in the area to be affected. Now,

both new zoning ordinances and amendments to an existing, traditional or nontraditional, zoning ordinance requires a petition signed by only 10 percent of eligible voters in the area to be affected. Zoning elections can be conducted in conjunction with a primary election or a general election, or could be conducted as a special election. Written notification to landowners is now required when an amendment to a zoning ordinance involves a change to a parcel of land or decreases density of a parcel of land.

Bill(s) related to this section:

Senate Bill 236, pg.14

Emergency Services

Senate Bill 619 (emergency services) adds definitions for anticipated operator and unanticipated operator pertaining to automated external defibrillators. It also provides that a person cannot be held liable for civil damages for any act or omission in rendering medical assistance involving the use of an automated external defibrillator, if the assistance is rendered gratuitously and in good faith.

Bill(s) related to this section:

Senate Bill 224, pg.27

Senate Bill 650, pg.33

Energy

House Bill 4028 (counties and municipalities) permits counties and municipalities, in addition to state agencies, enter into energy savings contracts.

The bill also defines terms such as "energy- conservation measures," "energy-savings contract," and "qualified provider" and provides various requirements for assessing and entering into such contracts, including minimum savings to be sought, proposals from providers, terms to be included in such contracts and competitive bidding.

Bill(s) related to this section:

Senate Bill 474, pg.35

House Bill 4434, pg.19

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.

Environmental Protection

Senate Bill 501 (natural resources) transfers the West Virginia Stream Partners Program from the Division of Natural Resources to the Department of Environmental Protection. The bill also eliminates the fund provisions of the program as its moneys are appropriated in the budget bill.

Senate Bill 503 (environmental resources) authorizes the Secretary of the Department of Environmental Protection to require solid waste facility permit applicants and specified others connected with applicants and permittees to furnish fingerprints for the purpose of conducting state and federal criminal history checks.

Senate Bill 746 (environmental resources) establishes a recovered program for recycling of electronic devices; adding definitions for computers; specific criteria for covered electronic devices; recyclable material; and video display devices.

The bill allows counties to create specific plans for recycling in conjunction with various entities including retailers, manufacturers, recyclers, or local governments. It also adds five new sections to the article allowing the department to recommend legislative rules for recycling of electronic devices, requiring manufacturers of more than one thousand devices a year to follow the provisions of the plan for recycling, requiring these manufacturers to have their name clearly marked on the device, pay a registration fee to the department, prohibit covered manufacturers from selling any devices unless all requirements of the sections are met, state on the device if the manufacturers has instituted a covered take-back program, list a toll free number or website that explains the take-back program, submit a yearly report about their recycling program and results, and sets forth civil fines and penalties for manufacturers who do violate any of the provisions mandated.

House Bill 4438 (environmental protection) allows the expedited review of complete permit applications related to construction and permitting of minor stationary sources of air pollution. The bill allows permits for construction of major stationary sources to be issued within 365 days of a determination that the permit is complete.

The bill also provides that sources other than major stationary sources, including modifications that are not major modifications of existing major stationary sources, the Secretary of the Department of Environmental Protection has 90 calendar days after the determination

that the application is complete to issue a permit, unless an additional 30 calendar days for public comment is allowed. With respect to the construction of new nonmajor stationary sources, or modifications of nonmajor stationary sources, or modifications which are not major modifications to existing major stationary sources, or relocations of nonmajor stationary sources, after receipt of a complete application, the bill provides that the Secretary has: 60 days to issue or deny administrative permits (same as current rule); 45 days to issue a registration under a general permit (now 45 for Class I and 90 for Class II); and 45 days to issue temporary and relocation permits (now 60 for temporary and 45 for relocation.)

Additionally, the bill allows pre-permit construction for modifications of nonmajor stationary sources, or modifications that are not major modifications to existing major stationary sources. The bill sets forth the application process, including a requirement that the applicant publish notice with opportunity to provide public comment within 30 days. The Secretary may order construction to cease if he or she determines that the source is not likely to qualify for a permit. Additionally, with respect to the modifications of nonmajor stationary sources, or modifications that are not major modifications to existing major stationary sources, the bill identifies those activities that are authorized in advance of a permit, although the applicant bears the risk of proceeding without a permit.

There is also specificity in the bill to circumstances that would prevent an applicant from being approved and what types of facilities are eligible for this expedited process. The bill provides for limited appeals to the Air Quality Board. It also requires the promulgation of legislative rules by August 1, 2008. Finally, the bill requires that the Secretary report to the legislature in two years on the impacts of this new program.

Bill(s) related to this section:

Senate Bill 641, pg.38

Ethics

House Bill 4524 (ethics) makes several changes to the West Virginia Governmental Ethics Act, which regulates the ethical standards of public officers, employees and lobbyists. Under the bill, if a complaint is pending against a public official or public employee who is also a candidate for public office, then the commission would stay the processing of the complaint for the 60 days before the primary election or general election, or both, unless the candidate waives



the stay in writing. The bill also adds an exception to the general prohibition against the use of office for private gain; specifically, the use of bonus points acquired through frequent traveler programs is no longer prohibited as long as the their acquisition does not result in additional costs to the government. Several definition changes were made to eliminate possible loopholes in the current law.

Firearms & Weapons

Senate Bill (mental health registry) clarifies which persons are prohibited from possessing firearms due to substance abuse or mental illness. In addition, the bill establishes a process to report the names of persons to the central state mental health registry and authorizes reporting by registry to the National Instant Criminal Background Check System. The bill also requires that any information reported be treated as confidential. Finally, the bill allows a person deemed mentally unfit to possess a firearm to petition his or her local circuit court for reinstatement of this ability.

House Bill 4383 (state fire marshal retirees) allows state fire marshals, deputy fire marshals and assistant fire marshals to keep their service weapons upon retirement. The retiree must be retiring honorably with at least 20 years of service. Retirees who have been totally physically disabled as a result of their service are also eligible, regardless of years of service. The bill also provides that a weapon may not be awarded to a member whom the State Fire Commission finds to be mentally incapacitated or who presents a danger to any person or the community.

Bill(s) related to this section:

Senate Bill 9, pg.17

House Bill 4570, pg.13

Firefighting & Prevention

House Bill 4512 (licensed fire protection work) creates additional classifications of person who are required to obtain licenses from the State Fire Marshall before engaging in fire protection work. The additional classifications of licensees are engineered suppression systems installers and technicians, portable fire extinguisher technicians, and pre-engineered suppression systems installers and technicians.

Bill(s) related to this section:

Senate Bill 571, pg.38

House Bill 4383, pg.22

Funds

Bill(s) related to this section:

Senate Bill 476, pg.31

Senate Bill 501, pg.21

Senate Bill 505, pg.37

Senate Bill 519, pg.34

Senate Bill 622, pg.29

Senate Bill 682, pg.17

Senate Bill 751, pg.38

House Bill 4150, pg.23

House Bill 4287, pg.25

House Bill 4307, pg.22

House Bill 4471, pg.33

House Bill 4637, pg.37

House Bill 4676, pg.8

Gaming & Lottery

House Bill 4402 (compulsive gambling treatment) requires the Department of Health and Human Resources to develop specific criteria for a treatment program for compulsive gamblers. The bill exempts DHHR from bid procedures set out in rules of the Purchasing Division but, instead, requires the department to develop specific procedures for bidding and awarding this contract. The contractor may advertise the Compulsive Gambler's Treatment Program in any location where the Lottery Commission conducts operations, but the Lottery Commission's logo may not appear on advertising for the treatment program. This bill also clarifies that the Department of Health and Human Resources will be administering the grants and funds issued from the Compulsive Gambling Treatment Fund. Finally, the bill authorizes DHHR to request and obtain information to effectively monitor contract compliance and program effectiveness, without interfering with the contractor's operations.

House Bill 4307 (VETOED) limits the Greyhound Breeding Development Fund to greyhounds wholly or solely owned by bona fide residents of West Virginia. The bill also increase the allowed number of training track facilities to two and specifies that no more than \$1 million from the Breeder Development Fund can be used for construction and maintenance of each training track facility.

Additionally, the bill provides for distribution of one-half points to kennels required to race West Virginia whelped greyhounds on their active lists when the dogs finish in fifth, sixth, seventh or eighth place. These points are used to



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determine allocations from the Breeder Development Fund. The bill also requires at least three races featuring West Virginia bred dogs per race card.

While the bill does not require anyone to be a member of an association in order to participate in the Breeder Development Fund, it does require the Greyhound Owners and Breeders Association to submit an updated registry each month.

Bill(s) related to this section:

Senate Bill 505, pg.37

House Bill 4327, pg.11

Government Agencies

House Bill 4150 (flag purchases) requires that any American flag or state flag purchased through public funds by the state of West Virginia, any county commission or any county board of education be manufactured in the United States.

House Bill 4664 (purchasing procedures) updates the state's purchasing procedures. Specifically, the bill eliminates the central duplicating office, clarifies that the Purchasing Division does not administer leasing services, establishes that bids are based on written specifications in the advertised bid request, allows an award to be negotiated if bids exceed funds, and allows surplus property to be sold to the general public at a posted price. In addition, the bill requires vendors who are individuals to provide their city and state of residence and a business address as well as the same information for any partners or associates. For corporate vendors, its president, vice president, secretary, treasurer, general manager and any stockholder who holds at least 10 percent of the corporation's stock must provide their respective cities and states of residence and business addresses.

House Bill 4677 (Director of Personnel) will change the qualifications of the appointed director of the Division of Personnel. Currently qualifications for this position are a degree in business administration, personnel administration, public administration or its equivalence and five years of experience. This bill will change the qualifications to either the education or the experience.

Bill(s) related to this section:

Senate Bill 466, pg.38

Senate Bill 467, pg.38

Senate Bill 501, pg.21

Senate Bill 504, pg.11

Senate Bill 535, pg.28

Senate Bill 553, pg.7

House Bill 4094, pg.32

House Bill 4141, pg.7

House Bill 4490, pg.12

House Bill 4567, pg.30

Health & Health Care

Senate Bill 234 (maternal mortality) creates a maternal mortality review team in the Office of the Medical Examiner to study the causes of maternal deaths. The bill establishes a team of professionals to review all cases of women who die during pregnancy, at the time of birth or within one year of the child's birth. The bill also assures the confidentiality of the information discussed in the team meetings. Additionally, the bill requires the team to submit annual reports to the governor and the Legislature on its work and make recommendations for improvements.

Senate Bill 317 (medical licensing requirements) provides for a period of 10 years to pass all steps of the medical licensing examination. It also requires an appearance before the Board of Medicine for any applicant who has failed to pass any step of the licensing exam in three attempts for a determination as to any further necessary education evaluation or training prior to further consideration of licensure. Under the bill, the board may issue a restricted license to an applicant in extraordinary circumstances.

Senate Bill 481 (physician's assistants) authorizes physician's assistants to conduct a probable cause examination during involuntary custody to evaluate a person's mental health. Physician's assistants must be approved by the circuit court prior to performing such examinations.

Senate Bill 722 (professions and occupations) grants regulatory power to the Board of Pharmacy for ambulatory health care facilities and free clinics that dispense pharmaceuticals. These charitable clinic pharmacies are required to meet the minimum standards previously established for pharmacies. These pharmacies are exempt from licensing fees and can receive donated drugs. Like at retail pharmacies, only a licensed pharmacist is allowed to dispense drugs at an ambulatory health care facility or a charitable clinic pharmacy.

House Bill 3056 (pharmacist-administered immunizations) authorizes licensed pharmacists to administer immunizations for influenza and pneumonia.



These pharmacists would have to complete education requirements approved by the Board of Pharmacy with the consent of the Board of Medicine and the Board of Osteopathic Medicine. The bill allows these three regulatory boards to propose joint rules allowing pharmacists to administer other immunizations, such as hepatitis A, hepatitis B, herpes zoster and tetanus.

House Bill 4129 (licensing boards) establishes a special license for health care professionals who are retired and are donating their expertise in a clinic setting. These retirees would be immune from civil liability. The bill also requires the practitioner to submit required documentation to the appropriate board and to comply with continuing education requirements mandated by the board. The bill authorizes the various licensing boards to propose legislative rules relating to special requirements for the special limited licenses.

House Bill 4144 (physician's assistants licensure) updates statutory language to conform to national changes related to physician's assistants. The bill requires supervising physicians to be fully licensed without restriction or limitation and permits graduates of an approved program who have passed the national certifying examination for physician's assistants to obtain temporary licenses. The bill also requires a physician assistant who fails a recertifying examination to immediately notify the supervising physician and the Board of Medicine and immediately cease practice. The physician's assistant would be subject to an automatic license expiration until passage of the examination.

House Bill 4404 (discount medical plans) licenses and regulates discount medical plan organizations and discount prescription drug plans. The bill also sets forth licensing requirements for these organizations and identifies what is required to be filed with the Insurance Commission prior to licensure. The bill also establishes fees, time frames, renewal processes, notice requirements and other provisions needed to license such an organization. The bill establishes a minimum capital requirement of a positive net worth of \$150,000 and a surety bond in the amount of \$35,000. The bill also establishes miscellaneous administrative requirements, including the right to examine a licensee's business affairs, two years of record retention, written provider agreements, maintaining a list of services covered as well as fees and discounts, marketing restrictions and requirements, and annual reporting.

House Bill 4418 (health care-related infection reporting) requires hospitals to report health care-related infections to the federal Centers for Disease Control. These reports will

be required to be entered into the CDC's National Healthcare and Safety Network, which was created for the purpose of accumulating, exchanging and integrating information on infectious diseases. This bill also states that this reporting system cannot be used for civil litigation purposes. The bill establishes an advisory panel of experts on infectious diseases that will be responsible for providing hospitals with guidance and evidence-based practices in control and prevention of infections. The panel will also establish reasonable goals to reduce the number of infections in hospitals annually, develop advisories for the hospitals and review and recommend the manner of providing public information to the state Health Care Authority. Hospitals are required to initiate reporting no later than July 1, 2009.

House Bill 4474 (registered nurses) requires that a circulating registered nurse be present in the operating room during operative procedures.

House Bill 4495 (nursing titles) limits the use title "nurse" only to those persons who hold a professional license for Registered Nurse or Licensed Practical Nurse.

House Bill 4500 (Central Abuse Registry access) provides that any organization, business or agency that deals directly with children, the elderly or individuals with disabilities may access the state's Central Abuse Registry for the purpose of determining whether current or prospective employees have been convicted of any crime constituting abuse, neglect or misappropriation of the property of a child, incapacitated adult or an adult receiving behavioral health services. For the purposes of the bill, "employee" includes any volunteer or contractor who may have unsupervised contact with a child or an elderly or disabled person.

Bill(s) related to this section:

Senate Bill 13, pg.7

Senate Bill 262, pg.12

Senate Bill 590, pg.15

Senate Bill 619, pg.20

Senate Bill 645, pg.9

Senate Bill 650, pg.33

House Bill 4036, pg.10

House Bill 4124, pg.18

House Bill 4402, pg.22

House Bill 4513, pg.12

House Bill 4515, pg.29

House Bill 4624, pg.37

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.

Human Services

Senate Bill 286 (human services) provides personal civil immunity for adult and child protective services for certain actions in the course of their employment duties. This immunity does not extend to gross negligence or misconduct.

Bill(s) related to this section:

Senate Bill 476, pg.31

Insurance

Senate Bill 653 (Internet insurance sales) permits the use of Internet applications or other electronic applications for the sale of life or accident and sickness insurance.

Senate Bill 704 (viatical settlements) regulates the business of viatical settlements as an independent aspect of life insurance sales. A viatical settlement is the sale of a life insurance policy by the policy owner before it has matured. This bill authorizes the insurance commissioner to propose and promulgate rules, including emergency rules, to help limit fraudulent practices related to viatical settlements and protect insured persons. To help prevent fraud, all advertisements by these companies must provide clear and unambiguous statements of the practice of viatical settlements. In addition, viatical settlement companies are now required to acquire licensing for the company as well as its brokers.

House Bill 4137 (total loss claims) clarifies that upon notice of a claim for total loss by a municipality or county, an insurance company must notify the county or municipality in writing of any coverage in the policy providing for cleanup, removal of any refuse, debris, remnants or remains of the structure.

House Bill 4157 (existing policies) allows insurers that no longer have valid licenses to service existing policies, collect premiums and pay servicing commissions to agents of record.

House Bill 4557 (continuing education carryover) provides for carryover of hours of continuing education required for individual insurance producers into the following biennial reporting period. The bill allows insurance producers who are required to complete more than six hours of continuing education biennially, to carry over up to six credit hours into the following biennial reporting period.

Bill(s) related to this section:

House Bill 4079, pg.30

House Bill 4381, pg.39

House Bill 4513, pg.12

House Bill 4636, pg.39

House Bill 4670, pg.32

House Bill 4676, pg.8

Investments

House Bill 4287 (state pools and securities) clarifies that the funds, pools and securities maintained or invested in by the West Virginia Investment Management Board and the West Virginia Board of Treasury Investments are authorized investments for all local government funds.

House Bill 4684 (film industry investment) expands the scope of coverage and increases the tax credit of the West Virginia Film Industry Investment Act. Instead of only films, the bill expands the credit to include any feature-length motion picture; commercial; music video; television pilot, series or mini-series; or commercial still photography that incurs a minimum of \$25,000 in direct production and post-production expenditures in West Virginia. This bill also allows any excess tax credit to be transferred or sold. A sale is exempt from sales tax, use tax, corporate net income tax and personal income tax.

Bill(s) related to this section:

House Bill 4080, pg.10

House Bill 4357, pg.36

House Bill 4420, pg.36

House Bill 4567, pg.30

Labor

House Bill 4032 (electronic wages) permits employees and employers to enter into agreements authorizing payment of wages through an automated teller machine card or other means of electronic transfer.

Bill(s) related to this section:

House Bill 4038, pg.26

House Bill 4255, pg.34

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.

Law Enforcement

Senate Bill 207 (VETOED) provides that if an employer error in the records of any participating employer of the Deputy Sheriff Retirement System results in any person receiving from the system more or less than he or she is entitled to receive had the records been correct, the Consolidated Public Retirement Board is required to correct the error, and the employer is required to pay any interest that would be due on the contributions. The bill also removes any minimum amount for eligible rollover distributions and provides for termination of disability retirement benefits of a retirant who refuses to submit to a medical examination or provide a certification statement by his or her physician of continued disability. The bill also specifies that a member may have only one outstanding loan at a time, removes the option to purchase declining term insurance during the loan periods and allows a member who has fully repaid a loan to apply for a subsequent loan after 60 days.

Senate Bill 271 (State Police grievance procedure) removes obsolete language relating to the State Police grievance procedure and gives the State Police superintendent continuing authority to propose legislative rules establishing a grievance procedure.

Bill(s) related to this section:

Senate Bill 503, pg.21

Senate Bill 574, pg.31

House Bill 4082, pg.33

House Bill 4099, pg.28

House Bill 4206, pg.34

House Bill 4471, pg.33

Libraries

Senate Bill 593 (library funding) clarifies provisions related to library funding obligations on school levies created by special acts. The bill clarifies that the obligation is due and payable from the amount by which the levy exceeds local share – called the discretionary retainage – and the obligation may be reduced to the amount of this discretionary retainage. Any excess is available for the county board of education to budget at its discretion. The bill further clarifies that if an obligation for library funding is transferred to an excess levy, it remains an obligation of the regular levy until the fiscal year the excess levy becomes effective or, if not passed, would have been effective. Additionally, the bill contains a provision that if a county board chooses to

transfer the library funding obligation to its excess levy, the obligation must be a specifically described line item of the excess levy and the library funding obligation also must be made a part of any subsequent excess levy.

House Bill 4010 (VETOED) removes the restriction that members of the board of directors for libraries can only serve two consecutive five-year terms.

Licenses

House Bill 4038 (elevator inspection licenses) requires that all elevators be inspected annually inspectors must pass an examination approved by the commissioner of the Division of Labor. The bill requires that after Jan. 1, 2010, elevator mechanics must be licensed and possess a contractor's license or be employed by a licensed contractor. The bill sets forth qualifications and supervision standards for elevator apprentices, who must work under the supervision of a licensed elevator mechanic. The bill also provides for emergency licenses for natural disasters or work stoppages and temporary licenses if there is a shortage of licensed elevator mechanics. The Commissioner is authorized to issue cease and desist orders for unlicensed practice after Jan. 1, 2010. The bill establishes civil and criminal penalties for noncompliance. Additionally, the bill authorizes the Commissioner of Labor to promulgate rules to license elevator workers.

House Bill 4069 (driver's license vision screening) will require vision screening prior to the renewal of a driver's license. This bill will also extend the period of time required for notifying a licensee of his or her license's expiration from 60 days to 90 days so that the individual will have enough time to get a vision examination. This bill will prohibit the Division of Motor Vehicles from renewing licenses to individuals not meeting minimum standards and also from obtaining personal biometric identifying information, such as a retinal exam, under the guise of a vision exam.

House Bill 4139 (bioptic telescopic devices) creates a Class G driver's license that is available to those persons who cannot meet the Department of Motor Vehicle's (DMV) minimum vision standards (20/60) without using bioptic telescopic devices. The bill sets forth the criteria for obtaining a Class G license and instruction permit, including participation and successful completion of an approved driver training program and submission of a vision examination report showing that with the use of a bioptic device, the applicant can meet the minimum visual acuity and visual field standards and that there is no medical condition that



would cause the applicant's vision to deteriorate during the period of licensure.

The bill also sets conditions, restrictions and limitations for licensing, and authorizes the Division of Rehabilitation Services to promulgate the criteria for applicant enrollment in low vision driving courses and for establishing low vision driving courses. The bill provides that instruction permits are valid for one year and may not be renewed and that a Class G license is valid for no more than two years and may be renewed if the licensee submits a vision examination report showing no deterioration in the licensee's vision. The holder of a Class G instruction permit or driver's license may drive only during daylight hours. A licensee who has driven accident-free for 36 months may have the daytime driving restriction removed if he or she submits a recent vision exam report, participates in additional night driving training and passes a night driving examination. A Class G licensee must provide the commissioner of the DMV with an annual vision report. The commissioner may immediately suspend the Class G permit or license of any driver who is involved in an at-fault accident causing injuries or death, is guilty of more than one moving violation or violates the restrictions on the license. Additionally, the bill authorizes the commissioner to place other restrictions on the Class G permit or license.

House Bill 4331 (surrendered driver's licenses) makes several changes to the handling and issuance of driver's licenses and permits. The bill specifies that the application fee for a instructional permit or a driver's license covers the cost of two attempts at the written test. The bill also allows the Division of Motor Vehicles to accept valid U.S. passport in lieu of a certified copy of a birth certificate for verifying the age and identity of an applicant for license or permit. The bill provides specific penalties for violations of restrictions for instructional permits or intermediate driver's licenses; specifically, these violations carry a \$25 fine for a first offense, a \$50 fine for a second offense and a \$75 fine for subsequent offenses.

The bill provides exceptions to the use of the address of principal residence on a license if the applicant's address is suppressed due to court order or if the applicant is part of a state address confidentiality program. The bill additionally allows the DMV to issue an identification card to applicants who also possess a valid driver's license.

House Bill 4394 (subcontractors' exemption) exempts licensed subcontractors who work on manufactured housing installation from the Manufactured Housing Construction and Safety Standards Act.

Bill(s) related to this section:

Senate Bill 217, pg.28

Senate Bill 242, pg.28

Senate Bill 317, pg.23

Senate Bill 535, pg.28

Senate Bill 553, pg.7

House Bill 4129, pg.24

House Bill 4144, pg.24

House Bill 4157, pg.25

House Bill 4421, pg.36

House Bill 4512, pg.22

Local Bills

Senate Bill 224 (Jefferson County joint emergency services) allows the Jefferson County Commission to create, by ordinance, a Joint Emergency Services Board to manage and control the joint emergency services agency. The Joint Emergency Services Board shall possess all rights and responsibilities of emergency ambulance service authorities, county fire associations and county fire boards, not otherwise inconsistent with state law or local ordinance.

Senate Bill 579 will allow two nonresident members from Bluefield, W. Va. to be appointed to the Bluefield Sanitary Board.

Senate Bill 740 (Berkeley County Council) allows the Berkeley County Commission to increase the number of commissioners from three to five. The new body will be known as the Berkeley County Council. The question on the reformation will be included on the Nov. 4, 2008, general election ballot. The bill provides that three new members are to be elected, to staggered terms, at the 2010 general election, with the other two members being those members of the commission whose terms had yet to expire. If approved, the new council would become effective on January 1, 2011.

Mines & Minerals

Senate Bill 706 (coalbed liners) clarifies procedures for placement of a liner through mined out coal horizons. Specifically, the bill allows the liner to extend back to the surface and serve as the freshwater or coal protection casing, providing that it is constructed in accordance with existing state laws and regulations for such casing. If so constructed, the next string of casing running into the well must be at least 20 feet below the coalbed and cement must be placed



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between this string of casing and the liner from the bottom of the casing to a point 20 feet above the coalbed.

House Bill 4021 (mining safety) eliminates the requirement that battery-powered strobe lights be attached to caches of self-contained self-rescue devices. It also expands criminal penalties for the theft of certain coal mine equipment and property and establishes criminal penalties for illegal entry onto mine property to commit a felony or larceny.

House Bill 4348 (testing & certification fees) specifies that the Office of Miners' Health, Safety & Training is allowed to charge fees for necessary tests, certificates and mine safety publications.

Bill(s) related to this section:

Senate Bill 88, pg.16

Senate Bill 751, pg.38

House Bill 4041, pg.36

Motor Vehicles

Senate Bill 217 (driver's license revocation) reduces the time period for magistrate courts and municipal courts to notify the Division of Motor Vehicles of unsatisfied traffic-related tickets of nonresidents. This change is necessary to remain in compliance with the multistate Non-Resident Violator Compact. This bill also requires the DMV to suspend the license of resident drivers who fail to respond to appear in court when charged with a motor vehicle violation.

Senate Bill 242 (VETOED) permits drivers with less than 14 points on their license to earn a three-point reduction by completing a defensive driving course approved by the Division of Motor Vehicles. For drivers with 12 or 13 points, they may complete such a course and avoid a 30-day suspension as long as they provide proof of having completed an approved defensive driving course and pay the necessary \$50 reinstatement fee prior to the effective date of the pending suspension.

Senate Bill 535 (driving under the influence) modifies administrative and criminal penalties for driving a motor vehicle under the influence of alcohol or drugs. Specifically, the bill reduces the criminal and administrative sanctions for driving a vehicle with a lawfully suspended or revoked license and provides for concurrent sentences for driving a vehicle with a lawfully suspended or revoked license.

The bill also removes the mandatory 24-hour incarceration for a first offense of driving under the influence. However,

it creates an aggravated offense of driving with a blood alcohol concentration of 0.15 percent or more, which carries a minimum two-day jail sentence.

The bill also permits participation in the Motor Vehicle Alcohol Test and Lock Program for first offense of driving under the influence of alcohol but denies participation in the Program for persons whose driver's license is revoked for driving under the influence of drugs. The bill also reduces the minimum period of license revocation to 45 days if an offender participates in the Test and Lock Program. In addition, the bill increases the minimum periods of participation in the ignition interlock device for aggravating offenses.

The bill permits law-enforcement officers to be excused from hearings unless presence is requested by the party whose license is at issue and permits the adoption of a law-enforcement affidavit if the officer does not attend the hearing. The bill also provides a process for rejecting or modifying a hearing examiner's proposed findings. The bill transfers primary authority of the Safety and Treatment Program to the Department of Health and Human Resources and provides that a person whose driver's license is revoked for refusing to take a secondary chemical test is not eligible to reduce the revocation period by completing the program.

Further, the bill removes the Driver's Rehabilitation Fund from the jurisdiction of the Division of Motor Vehicles and places it under the jurisdiction of the Department of Health and Human Resources. The bill requires DHHR and DMV to propose legislative rules, and removes the requirement that victim impact panels be implemented pursuant to those rules.

Senate Bill 536 (Supreme Court vehicles) exempts vehicles operated by the Supreme Court of Appeals from registration requirements for state cars.

House Bill 2503 (ID cards) permits Division of Motor Vehicles to issue both a valid West Virginia driver's license and a state-issued identification card to the same person. Currently, only those individuals without a driver's license may obtain an identification card.

House Bill 2881 (antique vehicles) will extend the period of time that antique motor vehicles and motorcycles can be driven for recreational purposes from 4:00 p.m. on Fridays through Sundays, to noon on Fridays through noon the following Monday.

House Bill 4099 (warning lights) permits the use of red flashing warning lights on vehicles designated by the Secretary of the Department of Military Affairs and Public Safety for emergency response by the Division of



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Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services. The bill also permits red flashing warning lights on vehicles designated by the director of the Division of Homeland Security and Emergency Management for emergency response or emergency management, and class A vehicles of emergency response or emergency management personnel as designated by the Director of the Division of Homeland Security and Emergency Management and the county commission of the county of residence.

House Bill 4364 (motor vehicle dealers) amends various requirements for motor vehicle dealers. Specifically, the bill provides that the Department of Motor Vehicles may enter into agreements with other states to permit out-of-state dealers to issue or transfer vehicle registrations for West Virginia purchasers and vice-versa.

Further, the bill permits the Dealer Recovery Fund Control Board to make payments up to \$50,000 from the fund for claims against dealers by the DMV, retail purchasers or other dealers, while exempting claims against dealers by financial institutions for debt secured by inventory liens. The bill also increases from \$10,000 to \$25,000 the bond required of applicants for dealer licenses. The bill requires that licensees seeking renewal must have sold at least 18 vehicles during the preceding year; exceptions include those selling commercial vehicles weighing 26,001 pounds or more and those demonstrating extenuating circumstances. The bill also permits the DMV to require dealers to participate in an electronic temporary plate issuance system as a precondition for authority to issue temporary plates and to set forth the manner in which dealers notify the division of the issuance of temporary plates.

Finally, the bill excludes from the definition of “motor vehicle salesperson” certain classes of individuals and entities, including persons employed by commercial motor vehicle dealers selling vehicles weighing more than 26,001 pounds, auctions and financial institutions.

House Bill 4389 (traffic citations) removes the requirement that a person arrested for a violation of a traffic law be required to sign the citation as a written promise to appear in court as a condition of release from custody. Instead, bill provides the person must accept the summons as his or her promise to appear in court or to comply with the terms of the summons as a condition of release.

House Bill 4515 (health care provider reporting) provides that licensed health care providers may report to the Division of Motor Vehicles the names, addresses and birth dates of persons who they treat who have a disease

that impairs them and renders the person unable to operate a motor vehicle. The bill specifies that providers shall be immune from any civil liability if they choose to make a report concerning these persons.

Bill(s) related to this section:

Senate Bill 638, pg.15

House Bill 4023, pg.18

House Bill 4059, pg.31

House Bill 4069, pg.26

House Bill 4139, pg.26

House Bill 4331, pg.27

House Bill 4554, pg.19

Municipalities

Senate Bill 323 (storm water ordinances) allows municipal governments to adopt storm water ordinances. Any property owner that fails to comply with these ordinances would be required to pay for the costs of bringing his or her property into compliance. The bill also allows municipalities to terminate water service for users who fail to pay their storm water service fees.

House Bill 4121 (purchasing cards) authorizes local governments to participate in a purchasing card program administered by the state auditor.

House Bill 4156 (liens) allows a municipality to file a lien against real property in an amount that reflects the municipality’s costs incurred for demolition and removal of the dilapidated property.

House Bill 4386 (vacant property fees) authorizes municipalities to create and collect a semiannual vacant property registration fee.

Bill(s) related to this section:

Senate Bill 280, pg.16

Senate Bill 570, pg.13

Senate Bill 746, pg.21

House Bill 4028, pg.20

House Bill 4137, pg.25

House Bill 4692, pg.8

Natural Resources

Senate Bill 622 (Outdoor Heritage Conservation) establishes the Outdoor Heritage Conservation Fund to conserve



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unique lands for wildlife habitat, natural areas, hunting, fishing and recreation. The Board of Trustees for the fund will consist of the Director of Natural Resources, the Director of Forestry and nine other members, each with specific qualifications, to be appointed by the Governor with the advice and consent of the Senate. Half of the funds received are to be used by DNR to acquire real property for conservation purposes; the remaining funds are to be used for grants or debt service. The board has power to sue, contract, acquire and transfer interests in real estate, and to issue revenue bonds through the Economic Development Authority. The bill increases recording fees from \$10 to \$20, with \$11 being retained by the county clerk for operation of his or her office. The bill also provides that the remaining \$9 of the collected monies be divided equally between the Conservation Fund and the previously established Farmland Protection Fund.

Bill(s) related to this section:

Senate Bill 477, pg.31

Senate Bill 501, pg.21

Senate Bill 641, pg.38

Senate Bill 775, pg.30

Parks & Recreation

Senate Bill 775 (state parks & forests) creates a statutory list of all state parks and state forests. This bill also requires statutory approval to close, change the name or change the designated use of a state park or forest. It also clarifies the limitations on acquiring new land and constructing new buildings or facilities on state park or state forest property.

House Bill 4355 (civil penalties) allows the Hatfield-McCoy Recreational Authority to keep and use for their benefit the civil penalties collected for violation of authority rules.

House Bill 4567 (Stonewall Jackson Lake investments) provides additional opportunities to attract private investment for financing, construction and operation of additional lodging units at Stonewall Jackson Lake State Park. Specifically, the bill allows the director of the Division of Natural Resources to enter into contracts granting long-term usage and related rights and privileges to attract private investment for the financing, construction and operation of additional lodging units at Stonewall Jackson Lake State Park. The bill also requires the director to file emergency and legislative rules governing any such long-term usage contracts and related rights and privileges.

The bill requires that those rules, at a minimum, include that: no more than 100 additional lodging units may be

constructed; lodging unit contracts must conform to the provisions of contracts entered into by federal agencies or the National Park Service with private parties; anyone with a lodging unit contract has a renewal right not to exceed 99 consecutive years, assuming all contractual obligations are met and all federal laws are obeyed and provided that a renewal may be extended for more than 99 successive years if the director makes an affirmative determination that the renewal is in the best interest of the state and the park; and when a contract expires or is terminated all rights are transferred to the state and the state must pay the private party the fair value of that party's residual rights.

Bill(s) related to this section:

House Bill 4078, pg.10

Professions & Occupations

Senate Bill 253 (survey foot) specifies the United States survey foot and the associated conversion factor of one meter equals 39.37/12 feet are to be used for the purposes of the West Virginia Coordinate System of 1983.

House Bill 4079 (professional employer organizations) regulates professional employer organizations for insurance purposes. Under the bill, the insurance commissioner is allowed to establish licensure requirements and fees and examine business records and documents of the organization. The commissioner is also allowed to set forth legislative, emergency and legislative exempt rules regarding PEOs. The bill also gives the commissioner the authority to suspend or revoke a PEO's license with or without notice for specified reasons. This bill sets forth the minimum requirements for PEO agreements. The bill also directs the Joint Committee on Government and Finance along with other agencies to study the PEO sponsorship and involvement in employee health plans. Finally, the bill prohibits PEOs from self-funding health plans.

House Bill 4423 (steel keg recycling) specifies that stainless steel kegs cannot be legally considered scrap metal unless received directly from a beer manufacturer or authorized representative.

House Bill 4494 (professions and occupations) updates the requirements for accountants to reflect the changes in the accounting industry and to make it easier to practice electronically. Specifically, the bill clarifies references to auditing standards; reduces accountancy firm ownership requirements from 60 percent to a simple majority; and modifies education, examination and experience



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requirements for certificates. Further, the bill eliminates certain notice requirements for substantial equivalency practitioners, revises criteria to determine substantial equivalency practice privileges, and provides conditions for substantial equivalency practice privileges. The bill also allows out-of-state firms to practice in West Virginia without permits under certain circumstances and requires the West Virginia Board of Accountancy to investigate complaints from boards of other states. Finally, the bill allows certain services to be performed by persons or business entities without authorizations under certain circumstances.

Bill(s) related to this section:

Senate Bill 13, pg.7

Senate Bill 286, pg.25

House Bill 4073, pg.10

House Bill 4144, pg.24

House Bill 4337, pg.10

House Bill 4394, pg.27

House Bill 4495, pg.24

House Bill 4684, pg.25

Public Employees

Senate Bill 325 (public employees) clarifies that the matching program for the deferred compensation plan for state employees is available only to employees who receive compensation for 12 monthly pay periods or 24 semi-monthly pay periods during a fiscal year. The bill also requires any person or entity with information pertaining to an employee to disclose to the State Treasurer any information the Treasurer determines is needed for the operation of the state's deferred compensation plan. The bill further provides that any such disclosed information may be used by the Treasurer only for the operation of the state plan and that information is to be treated as confidential.

Senate Bill 476 (state personnel) creates the State Employees Sick Leave Fund in the State Treasury from moneys appropriated by the Legislature to pay state employees hired prior to July 1, 2001. The money is to be paid for unused sick leave days once per fiscal year if employees meet certain conditions, and in the event there are no funds available the employees will be paid in the order that they applied for payment as funds become available in the next fiscal year.

Senate Bill 477 (VETOED) changes the way in which conservation officers are paid. The salary increase based on length of service is changed to begin after two years of

service, instead of after five years of service, and is a cumulative increase of \$400 a year, instead of a cumulative increase of \$600 every three years. Also, beginning in July 2008 new conservation officers are to receive a \$3,000 hiring bonus.

Senate Bill 573 (teachers pay raise) increases the salaries of school personnel and teachers. The bill provides for a \$1,600 increase in the minimum salaries of public school teachers. The bill also increases the salary increment for principals and assistant principals by one percentage point. The bill also increases the minimum salaries of other school service personnel.

Senate Bill 574 (state Police) increases salaries for members of the West Virginia State Police.

Senate Bill 715 (public employees) clarifies the definition of "retired employee" for the purpose of the Public Employees Insurance Act. The bill requires state employers with employees who are, or are eligible to become, retired employees to participate in the Retiree Health Benefit Trust Fund. The bill allows non-state employers to opt out of the other post-employment benefits plan of the Fund after written certification by the employer that it has no retired employees or employees who are eligible for retirement. The bill provides that the agency is not liable to provide benefits once an employer opts out. Additionally, the bill directs the Finance Board to study the feasibility of adding oral health benefits to children of covered employees.

Senate Bill 780 (public employees) clarifies and revises certain provisions of the West Virginia Public Employees Grievance Procedure, including the definitions of discrimination, favoritism, harassment and reprisal. The bill also clarifies certain general provisions, including improper classification, decisions, reports and scheduling. When it is an appropriate remedy, the bill provides that back pay may be granted for one year prior to the filing of a grievance. The bill increases from 10 days to 15 days, after the grievance has been filed, before a level one hearing must be held. Additionally, the bill replaces the level two mediation-arbitration with private arbitration and establishes the requirements for a level three hearing.

House Bill 4059 (school personnel) permits a school bus driver to retain his or her employment or not be denied employment if he or she is a diabetic as long as the driver is adhering to proper medical treatment as prescribed by a physician.

House Bill 4076 (Legislator and state employees compensation) increases the basic yearly compensation



of West Virginia Legislators from \$15,000.00 to \$20,000.00. Additional compensation for the President of the Senate and the Speaker of the House of Delegates rises from \$50.00 to \$150.00 per day and the 80-day maximum that would have applied has been eliminated. Additional daily compensation for the majority and minority leaders in the Senate and the House of Delegates has been raised from \$25.00 to \$50.00. The bill increases from four to six the number of persons from each house who may receive an additional \$150.00 per day (up to a maximum of 30 days) and removes the requirement that the legislative business be performed in their Capitol offices. The bill removes the 80-day limit (per calendar year) that allows the President of the Senate and the Speaker of the House of Delegates to be reimbursed for incidental travel expenses related to their duties as presiding officers. The bill raises from \$115.00 to \$131.00 per diem allowances during any session for those legislators who not commute daily. The bill raises from \$115.00 to \$131.00 total per diem allowance, including travel, for those legislators who do commute. The bill also provides that every eligible state employee with at least one year of service will receive an annual salary increase of \$60.00 times the employee's years of service. For other state employees those who have a minimum of three years of service will receive a salary increase of \$60.00 per year for each year of service.

House Bill 4094 (public employees) requires state employees that receive advanced professional development training, paid by the state, who voluntarily leave within one year of the training for a non-state job that uses the training to repay the state a pro rata portion of the cost of the training. Members of the West Virginia State Police during his or her participation in the West Virginia State Police Cadet Training Program, members of the West Virginia National Guard, and employees of the Legislature, the Supreme Court of Appeals, the Attorney General, the Secretary of State, the Auditor, the Treasurer and the Commissioner of Agriculture are exempt.

House Bill 4147 (Capitol parking) will allow the Speaker of the House and the Senate President to designate parking during legislative and interim sessions in areas where the Department of Administration had previously authorized parking. The Speaker and President may employ persons as necessary to enforce the parking rules.

House Bill 4670 (insurance) permits the Public Employees Insurance Agency to charge interest of two and one half percent to employers on amount that are not paid in time. Interest begins compounding on the 31st day after the due date and shall continue to compound every thirty days until the amount is paid in full.

Bill(s) related to this section:

Senate Bill 227, pg.32

Senate Bill 309, pg.9

Senate Bill 536, pg.28

House Bill 4082, pg.33

House Bill 4524, pg.21

House Bill 4570, pg.13

House Bill 4623, pg.33

House Bill 4676, pg.8

Real Property

Senate Bill 565 (taxation) reduces the required notice period for a notice of increased valuation of real property, to 10 days prior to the first meeting in February when the county commission meets as the board of equalization and review and provides that the increase in the assessed valuation must be at least \$1,000 before the notice is required to be sent.

Senate Bill 696 (VETOED) provides for assessors to use the income method when assessing multi-family rental units classified as affordable housing in accordance with HUD regulations. The assessor will consider the rents and the impact of rent restrictions applicable to the property. Assessors also must consider the expenses, including the impact of any extraordinary expenses, associated with the operation of the property; as well as the impact of restrictions on transfer of title and other restraints on alienation of the property. The bill also specifies that federal or state income tax credits allowed with respect to property will not be treated as a part of the property or as income attributable to it.

Bill(s) related to this section:

Senate Bill 736, pg.11

House Bill 4156, pg.29

Retirement

Senate Bill 227 (VETOED) updates and clarifies several provisions to the State Teachers' Retirement System. The bill defines the term "employer error" and provides that if an employer error in the records of any participating employer or the retirement system results in any person receiving from the system more or less than he or she is entitled to receive had the records been correct, the Board is required to correct the error and the employer is required to pay any interest that would be due on the contributions.



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The bill also clarifies that in the circumstance where a member's service amounts to fewer than five years in any period of 10 consecutive years it does not automatically end the member's membership in the retirement system. Additionally, the bill removes any minimum dollar amount for eligible rollover distributions made on behalf of a member. The bill further allows a member who has fully repaid a loan to apply for a subsequent loan after 60 days.

Senate Bill 650 (retirement) adds definitions for "early retirement age", "full time employment", and "political subdivision" to state code. The bill specifies the date contributions are due and clarifies language relating to the purchase of prior service and provides for delinquency fees. Also the bill eliminates the minimum amount required for eligible direct rollover distributions and allows for rollover distributions totaling less than \$200.00.

House Bill 4082 changes the calculation of payments for members transferring from the State Police Death, Disability and Retirement Fund to the Public Employees Retirement System. Specifically, the bill will exclude lump sum payments for annual leave from the make-up contribution required upon transfer. The bill will also remove the minimum amounts required for rollover distributions under PERS.

House Bill 4471 (law enforcement) provides that in the event that, after July 1, 2008, in the event the unfunded liability of the State Police Retirement Fund falls below the 90 percent threshold, the employee rate of contribution increases to 13 percent of the amount of the employee's salary until the 90 percent, or better, funding level is again achieved. Once that funding level has been achieved the employee contribution rate will be reduced to the current 12 percent. The bill reduces the retirement age from 55 years of age with 20 or more years of service to 50 years of age after 25 or more years of service. Additionally, the bill provides that a trooper may retire, with reduced benefits, at age 52 with 20 or more years of service. The bill also updates language in the provisions for the State Police Retirement Fund, including annuity adjustments, refunds, redeposits, deferred retirement, disability awards, death, surviving spouses and dependents, exemption from taxation and military service credit. Additionally, the bill permits the State Police to collect and additional \$20.00 for performing private employment fingerprinting or fingerprinting for federal firearm permits.

House Bill 4623 (education) removes the requirement that the Higher Education Policy Commission and governing boards must get permission from the commission before

establishing supplemental retirement plans. The bill also gives governing boards the sole discretion to increase their contribution to employee retirement plans to one that exceeds the contributions of employees.

Bill(s) related to this section:

Senate Bill 201, pg.17

Senate Bill 207, pg.26

Senate Bill 208, pg.9

Senate Bill 541, pg.35

House Bill 4082, pg.33

House Bill 4129, pg.24

House Bill 4383, pg.22

House Bill 4386, pg.29

Roads & Highways

House Bill 4476 (roads and highways) authorizes private entities to acquire, construct or improve one or more transportation facilities. The bill also identifies what is required to be in the proposal and establishes the powers and duties of the affected state departments. The bill permits public property to be dedicated to the project. The bill establishes powers and duties of the developers, including the necessity to enter into a comprehensive agreement with the Division of Highways prior to acquiring, constructing or improving the qualifying transportation facility. The bill also provides that the Division of Highways may obtain federal, state or local funds for the project.

Additionally, the bill establishes material fault and remedies and prohibits governmental entities from pledging full faith and credit. The bill provides that in certain circumstances the Division of Highways may condemn property and requires other entities that have facilities that are affected or are to be crossed to cooperate with each other as necessary. When the comprehensive agreement terminates, the qualifying transportation facility is to be dedicated for public use. The bill further exempts the developer from taxes on the facility, property acquired or used by the developer for the facility and any derived income. The developer remains liable for other taxes.

Bill(s) related to this section:

House Bill 4244, pg.34

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.



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Rulemaking Review

Senate Bill 349 will authorize Miscellaneous Boards and Agencies promulgate legislative rules.

Senate Bill 373 will authorize the Department of Environmental Protection promulgate legislative rules.

Senate Bill 398 will authorize the Department of Health and Human Resources promulgate legislative rules.

Senate Bill 417 will authorize the Department of Revenue promulgate legislative rules.

Senate Bill 459 will authorize the rules of School Building Authority and Higher Education Policy Commission.

Senate Bill 712 will authorize the Coalbed Methane Review Board to propose legislative rules.

House Bill 4206 authorizes the State Police to promulgate a legislative rule relating to the West Virginia State Police Professional Standards, Investigations, Employee rights, Early Identification System, Psychological assessment and Progressive discipline.

House Bill 4209 will authorize the Department of Administration to promulgate legislative rules.

House Bill 4244 will authorize the Department of Transportation to promulgate legislative rules.

House Bill 4255 will authorize the Department of Commerce to promulgate legislative rules verifying the legal status of workers to be in the United States.

Safety

Bill(s) related to this section:

Senate Bill 9, pg.17

House Bill 4021, pg.28

House Bill 4075, pg.11

House Bill 4124, pg.18

House Bill 4407, pg.18

House Bill 4500, pg.24

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 40.

Secretary of State

House Bill 4465 (Secretary of State) provides statutory authority for the Secretary of State to utilize a pre-paid account for business customers that request services of the Secretary's office. The account is to be used to allow a customer of the Secretary of State's office to prepay for services, with payment to be held in escrow until services are rendered. This bill also provides that the assets of the prepaid fees and services account do not constitute public funds of the state and are available solely for carrying out the purposes of this section.

House Bill 4617 (electronic notification) permits the Secretary of State to receive verification of acceptance of service of process, notice or demand in an electronic format.

Bill(s) related to this section:

Senate Bill 493, pg.19

Senate Bill 495, pg.20

Senate Bill 496, pg.20

House Bill 4464, pg.13

Senior Citizens

Senate Bill 239 (taxation) adds a new article creating the Senior Citizen Tax Deferment Act, which allows senior citizens whose homestead meets certain requirements and are age 65 or older that own certain homesteads to defer any increase of property tax ad valorem over \$3,000.00 or 10 percent or more.

Sunset Legislation

Senate Bill 519 (environmental resources) extends the sunset provision for the Hazardous Waste Management Fee Fund from June 30, 2008 to June 30, 2013.

Taxation

Senate Bill 101 (taxation) creates an exemption from property tax for property owned by a non-profit entity that is used to provide electricity for citizens of West Virginia.

Senate Bill 265 (Special Aircraft Property Valuation Act)



limits the ad valorem taxation valuation for “special aircraft property” to the lessor of its fair market salvage value or 5 percent or its original purchase price. The assessor of the county in which an aircraft is located is charged with determining, in writing, whether an airplane, helicopter or jet is special aircraft property which is subject to valuation at its salvage value. The bill also requires the West Virginia Aeronautics Commission to provide a biannual report, beginning March 1, 2012, detailing the economic benefit of adopting the special valuation method (according to salvage value) for specialized aircraft property. The report is to include the number of new jobs created, the number of additional aircraft relocated to West Virginia, the number of new hangars built and the associated ad valorem property tax impact.

Senate Bill 474 (tax holiday) establishes a sales tax holiday on the sale of specific Energy Star qualified products, provided the sales price of the specified Energy Star qualified product is \$2,500 or less per purchase and is for noncommercial, home or personal use. The bill establishes the following dates for the tax holiday: September 1-7, 2008; September 1-30, 2009; and September 1-30, 2010.

Senate Bill 541 (taxation) will extend the state personal income tax (PIT) reduction to the gross income of retirees receiving pensions from employer-provided defined benefit pension plans that were terminated. If those retirees are being paid a “reduced maximum benefit guarantee” provided by the federal government because their plan terminated, then those individuals will get a downward adjustment of their federal adjusted gross income of the difference between what their reduced benefits are and what they would have been under the terminated plan. Previously, this adjustment was in effect for the taxable years beginning January 2001 through 2006. With the passage of this bill, the adjustment will extend the sunset provision to January 1, 2012, and make it applicable retroactively for 2007.

Senate Bill 545 (tax administration) amends various tax statutes relating to their administration by the Tax Commissioner. Specifically, beginning January 1, 2009, taxpayers that had a total annual remittance of any single state tax in the amount \$100,000 or more during the prior year is required to electronically file all their tax returns. The bill also allows the Tax Commissioner to combine assessments of different taxes owed as the result of a single audit of a taxpayer into a combined single assessment and record only one lien for all the taxes. Also beginning July 1, 2010, the Business Registration Certificate will be issued on a permanent basis, and remain in effect until the close

of the business or the involuntary cancellation, revocation or suspension of the certificate by the Tax Commissioner for cause. The cost of the new issuance is \$30.00.

The Tax Commissioner would be required to design a new tax return form that combines the reporting of the Consumers Sales and Service Tax collected by a vendor with the vendor's state Use tax liabilities. Require that beginning January 1, 2009, employers will be required to file withholding tax returns and pay the withholding taxes on (or as close thereto as the Tax Commissioner can make them) the due dates for filing federal tax withholding returns.

Senate Bill 552 (taxation) subjects the sale of wireless prepaid calling service to the 6 percent consumers sales tax in lieu of the \$3 wireless enhanced 911 fee. The Tax Commissioner is to provide a monthly payment from the sales tax revenue to the Public Service Commission for deposit into the wireless enhanced 911 fee account.

Senate Bill 596 (Sales Tax) amends and clarifies various statutes that implement the Tax Division's administration of the Streamlined Sales Tax Agreement between West Virginia and other states. The bill also amends sections dealing with the West Virginia consumer's sales and service tax and use tax. Specifically, this bill eliminates duplicate definitions, expands other definitions and clarifies definitions that have caused confusion in the tax code. Further, this bill rewrites other code sections to adapt to federal law. This bill also removes superfluous language, adds an additional circumstance in which an individual must be notified by the Tax Commissioner when otherwise confidential information about the individual is sought, and clarifies the powers of the State that may be exercised along with the application of confidentiality laws.

Senate Bill 680 (taxation) adjusts business tax statutes and addresses the business franchise taxes (BFT) and corporate net income tax (CNIT). Also, the bill relates to the combined reporting of business taxes, and various tax credits against those taxes, as well as provides a reduction in the CNIT. Specifically, this bill increases the percentage of a business tax that may be reduced by application of the Manufacturing Investment Tax Credit from 50 percent to 60 percent, effective for tax years beginning January 1, 2009, and thereafter.

The bill also conforms the apportionment of the BFT tax base of West Virginia domiciled financial organizations to the apportionment of the tax base of out-of-state financial organizations, effective January 1, 2009. The bill also clarifies that certain income of financial organizations that are taxable in another state are to be apportioned as



required by the CNIT statutes, nullifies certain allocations of corporate income relating to a corporate partner's distributive share, and voids the repeal of special apportionment rules for businesses in certain circumstances generally and for motor carriers and financial organizations.

Finally, the bill clarifies that filing for BFT purposes is required on the same basis as is required for filing for CNIT purposes, to exclude insurance companies from the combined reporting requirements except as required by the Tax Commissioner.

House Bill 4016 (taxation) updates the meaning of federal adjusted income and other terms in the West Virginia Personal Income Tax Act bringing them into conformity with meanings for Federal Income Tax.

House Bill 4017 (taxation) updates the meaning of certain terms used in WV Corporation Net Income Tax Act.

House Bill 4041 (taxation) provides for the equalization of taxation on natural gas and coalbed methane and dedicates certain amounts of tax revenue to the West Virginia Infrastructure Fund. The bill also grandfathers certain entitlements to the previous exemption for coalbed methane production.

House Bill 4357 (taxation) extends the Neighborhood Investment Program, which provides tax credits, to July 1, 2011. This bill also increases the total allowable tax credit to \$2.5 million dollars.

House Bill 4420 (Corporate Net Income Tax) relates to the manner in which the corporate net income tax is to be imposed on business entities. The tax will be imposed upon regulated investment companies and computed only upon that part of the net income of the regulated investment company, which is subject to federal income tax provisions. The dividend paid deduction otherwise allowed by a federal law in computing net income of a regulated investment company that is subject to federal income tax shall be added back in computing the tax unless the regulated invested company is a qualified regulated investment company.

The tax also will be imposed upon real estate investment trusts and is to be computed only upon that part of the net income of the real estate investment trust, which is subject to federal income tax provisions. The dividend paid deduction otherwise allowed by federal law in computing net income of real estate investment trusts that is subject to federal income tax will be added back in computing the tax unless the real estate investment trust is either publicly

traded on an established securities market; or, a qualified real estate investment trust.

House Bill 4421 (taxation) repeals the corporate license tax and replaces the resulting loss of revenue to the Secretary of State by creating a new annual report fee to replace the attorney-in-fact fee in the same amount (\$25.00 annually) as the old fee and allow the Secretary of State to keep the full amount of the fee. The bill requires corporations, limited partnerships, domestic limited liability companies and foreign limited liability companies are required to file the annual report. The bill also sets forth administrative and criminal penalties.

House Bill 4607 (taxation) clarifies and establishes that the rate or rates of a special district excise tax levied by a county or city in lieu of the state consumer sales and service tax must be identical to the rate or rates of the state consumer sales and service tax. While the bill exempts sales of gasoline and special fuel, those fuels remain taxable pursuant to other state law.

The bill grants the Tax Commissioner discretion to require electronic filing of tax returns related to special district taxes and electronic payment of those taxes. The bill also authorizes the sharing of tax information with bond trustees and authorizes secondary sharing of the information with the bond issuers, bondholders and bond counsel, and makes those trustees, bondholders and bond counsel subject to the same confidentiality requirements as the Commissioner's employees.

House Bill 4628 (small businesses) provides the same Economic Opportunity Tax Credit to small businesses that didn't qualify under the Economic Opportunity Tax Credit Act for 2002 because they didn't create at least 10 new jobs but met the other requirements of creating full-time permanent jobs with an annual salary of at least \$32,000 plus benefits. The credit allowed is \$3,000 per year, per new job created and filled, for five consecutive years beginning the tax year that the new job is filled and is applied first against business and occupation tax, then business franchise tax, then corporate net, and finally personal income taxes. If there are any unused credits in any tax year, they are forfeited and may not be carried forward or back to previous tax years.

Bill(s) related to this section:

Senate Bill 239, pg.34

Senate Bill 696, pg.32

House Bill 3201, pg.12

House Bill 4088, pg.8

Technology

House Bill 4637 (corporations) establishes the Broadband Deployment Council whose goal is to provide broadband service to the most rural areas of the state and develop a strategy and means to extend broadband service taking into consideration the considerable obstacles presented for construction of infrastructure due to West Virginia's mountainous terrain.

The bill establishes the council under the West Virginia Infrastructure & Jobs Development Council for administrative, personnel and technical support services and sets forth who will serve on the council and how they will be chosen. The bill also sets forth the powers of the council which include; providing consultation services, power to make and execute contracts, acquire real estate by various means, receive and dispense funds from various means, perform all other activities necessary to carry out its purpose.

The bill further provides the creation of the Broadband Deployment Fund which will be in a special state revenue fund and sets forth the various categorization of areas in need of broadband service, bestows ability on council to employ an outside consultant, solicit and consider public viewpoints as well as develop the guidelines for public funding assistance. Finally, the bill sets December 31, 2011 as the expiration date for the council.

Bill(s) related to this section:

Senate Bill 552, pg.35

Senate Bill 553, pg.7

House Bill 4075, pg.11

House Bill 4290, pg.12

House Bill 4617, pg.34

Transportation

Bill(s) related to this section:

Senate Bill 309, pg.9

House Bill 4406, pg.18

House Bill 4476, pg.33

Utilities

Bill(s) related to this section:

Senate Bill 101, pg.34

Veterans & Military Affairs

Senate Bill 505 (Veterans Cemetery Fund) creates in the State Treasury a special revenue fund known as the Veterans Cemetery Fund which is funded from the excess revenues from the veterans instant lottery scratch-off game as appropriated to the fund by the Legislature, gifts or other donations to the fund.

Senate Bill 564 (higher education) removes the age limitation for spouses of deceased service men and women to be eligible for special education benefits. The bill further repeals unclear language on granting tuition and fee waivers and changes the method of calculation limits on the percentage of tuition and fee waivers. Finally, the bill exempts all statutorily-authorized tuition and fee waivers, including those granted to higher education employees, their spouses, and dependents, from limits on the percentage of tuition and fee waivers granted by state institutions of higher education.

Senate Bill 634 creates the West Virginia Military Authority. The Authority is created to receive funds on behalf of the West Virginia National Guard and to administer programs that the federal government provides specifically for the Guard for national security, homeland security and other military related purposes.

House Bill 2967 (military affairs) creates the "West Virginia Remembers Program." The program provides, at the option of the classroom teacher, a forum where children in public schools may learn about military service, patriotism and courage in the defense of our country from veterans who volunteer to share their experiences in the educational setting. The bill also states that the program is not a part of a required curriculum.

Senate Bill 778 (veteran's affairs) furthers the power and duties of the Director of the Division of Veteran's Affairs. The bill authorizes the Director to provide resources, such as an internet website, to inform veterans of programs and services available to them through the state and federal government.

House Bill 4624 (veterans services) provides for a per diem of \$75.00 to volunteers who drive or transport veterans from their homes to veterans' hospitals or a local veteran's affairs office. A website is also created to inform veterans of programs and services available to them through the division and the state and federal governments.

Bill(s) related to this section:

House Bill 4075, pg.11



Water Resources

Senate Bill 466 (environmental resources) clarifies the assistance and programs the Water Development Authority may provide including a loan program in conjunction with the Department of Environmental Protection to bring deficient dams into compliance and development of storm water systems.

Senate Bill 467 (dam safety and administration) increases the civil administrative penalties for violation of the Dam Safety Act from not more than \$200 for each day the violation continues and not to exceed a maximum of \$400 to \$5,000 for each day the violation continues. Also fines are not to exceed a maximum of \$20,000 per day in fines.

The bill requires the Secretary of the Department of Environmental Protection (DEP) to develop a state list of deficient dams using a priority ranking system based on factors designed by the Secretary. The Secretary is to develop a loan application as well as loan eligibility requirements for loan applicants. Following approval, the Secretary is authorized to direct the Authority to enter into a loan agreement with the approved applicant. Provisions that must be contained in the loan agreement are specified in the code.

The Secretary is also authorized to assume full charge and responsibility over a deficient dam that is privately owned by a noncompliant dam owner and to seek monies from the fund. The obligation of the Authority to enter into agreements and to allow the Secretary to use monies in the fund is conditioned on the availability of the monies. Provisions are also made for the collection of money due to the fund.

Senate Bill 641 (environment) renames the Water Resources Protection Act to the Water Resources Protection and Management Act and also amends state code to include the management of water resources. Specifically, this bill requires the Secretary of the Department Environmental Protection (DEP) to make progress reports every three years on the development of State Water Resources Management Plan and any significant changes that may have occurred since the 2006 survey report. Further, the bill defines large quantity users to include persons who bottle water for resale regardless of the quantity withdrawn and also requires all large quantity users to register with DEP.

The DEP must create a water management plan which should consider: relationship between ground water and surface water as part of a hydrologic unit; regional or

watershed needs, objectives and priorities; federal, state and interstate water resource policies, plans, objectives, compacts, agreements and laws; local governments needs and priorities in comprehensive plans and zoning ordinances; water quality and quantity necessary to support beneficial uses; encourage multiple uses of available water; distinguish between long-term and short-term conditions and needs to ensure appropriate, cost-effective responses to problems; equal treatment for all similarly situated water users; once the plan is adopted by the Legislature the reporting requirements will be superseded by the plan, subsequent reports will be on the survey results and the plan; if plan is not adopted in 2013 a detailed report discussing all aspects of the plan and its development will be submitted every three years.

Senate Bill 751 (Surface Coal Mining and Reclamation Act) creates the Special Reclamation Water Trust Fund for funding reclamation and restoration of water treatment systems on forfeited sites. The Secretary of the Department Environmental Protection (DEP) is now permitted to expend money from the fund under certain circumstances. For tax periods beginning on July 1, 2008, persons conducting coal surface mining operations will remit a special reclamation tax until June 30, 2009, of 7.4 cents per ton of clean coal mined for deposit in the Special Reclamation Fund and the Special Reclamation Water Trust Fund. This tax previously expired, but is continued by this bill.

Before December 31, 2008, the Secretary shall determine the feasibility of creating an alternate voluntary program for operators to pay increased taxes into the Special Reclamation Fund in exchange for a reduced per-acre bond, and determine the feasibility of creating an incremental bond for disturbed areas in the permitted area, determine feasibility of a separate water reclamation bond or security account.

Bill(s) related to this section:

Senate Bill 323, pg.29

Senate Bill 579, pg.27

House Bill 4434, pg.19

Workers Compensation

Senate Bill 571 (workers' compensation) creates a rebuttable presumption that certain pulmonary diseases, cardiovascular diseases and injuries suffered by professional firefighters will be considered to be occupational injuries or diseases and did not occur with the willful intent of the employee to injure himself or herself.



Final Wrap-Up

House Bill 4381 (insurance) authorizes the Insurance Commissioner to develop a plan to provide workers' compensation coverage to employers who are unable to procure coverage in the voluntary market. The bill also provides that workers' compensation insurance is now covered under the Guaranty Association Act to provide a means of paying claims when a workers' compensation insurer becomes insolvent. It further goes on to state that limits on benefits payable by the guaranty association are not applicable to obligations arising out of workers' compensation insurance. This bill also eliminates the requirement that private insurance carriers maintain an office in this state.

House Bill 4636 (workers compensation) revises certain workers' compensation provisions. Specifically, the bill prohibits public contracts with employers who are in workers' compensation default and provides for the termination of licenses and permits held by employers in workers' compensation default. The bill also requires private carriers to collect from policyholders a 5.5 percent surcharge, and by June 30, 2013, and every five years thereafter, the Commissioner must review the surcharge percentage and determine a new percentage.

Additionally, the bill eliminates a variable surcharge percentage on new and renewed policies necessary to produce \$45,000,000 and replaces it with a fixed amount of 9 percent. The bill requires that any third-party administrator acting on behalf of a private carrier or self-insured employer must comply with the presently existing Third-Party Administrator Act.

Additionally, the bill modifies and establishes certain procedural provisions relating to the review of workers' compensation claims, including: when a claim is filed, the insurance provider is required to promptly provide the claimant information on the claims process; the time period a protest may be filed after a decision has been rendered is increased from 30 days to 60; conditional payment of benefits may be made; and rules relating to a trial return to work period for employees are to be proposed. The bill also increases the salaries of members of the Board of Review from \$85,000 to \$90,000.

Bill Status

For bill history information and full bill text of all Legislation from the 2008 Regular Session, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.

Veto Messages (12)

Senate Bill 207, pg. 26

Senate Bill 227, pg. 32

Senate Bill 242, pg. 28

Senate Bill 337, pg. 14

Senate Bill 477, pg. 31

Senate Bill 606, pg. 17

Senate Bill 638, pg. 15

Senate Bill 696, pg. 32

House Bill 4010, pg. 26

House Bill 4307, pg. 22

House Bill 4407, pg. 18

House Bill 4554, pg. 19

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Senate Bill 736, pg. 11

House Bill 4016, pg. 36

House Bill 4017, pg. 36

House Bill 4420, pg. 36

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