



WRAP-UP

The Newsletter of the West Virginia Legislature

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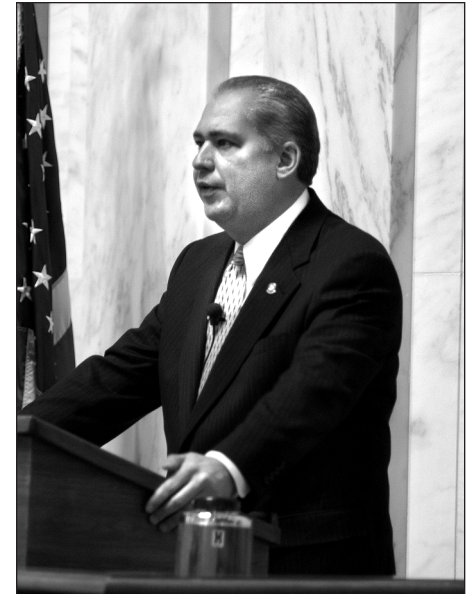
77th Legislature Enters Into New Year by Tackling Issues Early

Sharing a common overall goal of developing the state's economy, enhancing education and ensuring affordable and accessible health care to the citizens of West Virginia, members of the 77th Legislature returned to Charleston on Jan. 12th to take their legislative oaths of office.

Although their official 60-Day Regular Session is established to begin on Feb. 9th, which is a month later as set forth in the State Constitution for an inaugural year, none were surprised to be called into Special Session to address the immediate concerns of the state.

Issues on the Call included finding solutions to financing the unfunded liabilities within the workers' compensation system and state pension plans for teachers, judges and State Police; revamping the state ethics law; and restructuring state government for efficiency and effectiveness. In addition, a measure seeking approval of using remaining inaugural dollars to repair and renovate the Governor's mansion also was on their agenda. These measures were passed following a comprehensive and extensive six-day work week starting Monday, Jan. 24th and ending Saturday, Jan. 29th. (For detailed information on bill contents, please see inside.)

During the acceptance speeches of the President of the Senate Earl Ray Tomblin and Speaker of the House Robert S. Kiss, a continued call for cooperation among the membership was of key focus. Both leaders thanked lawmakers for the sup-



House Speaker Robert S. Kiss and Senate President Earl Ray Tomblin deliver their acceptance speeches to the 77th Legislature. Both leaders praised lawmakers for past accomplishments, but focused legislators on issues to be addressed in the upcoming Legislative Session.

photos: Martin Valent & Shane Evans

port of their leadership and pledged to continue working with each legislator first and foremost for the betterment of the citizens of the state. President Tomblin was elected President in 1995 while Speaker Kiss was elected to serve as Speaker in 1997.

"We are equally franchised in what we propose and pass in this chamber...in the best interests of the citizens first and other considerations second....There is no issue, no problem and no challenge too big or too tough which cannot be overcome through our common dedication and work to resolve them."

– President Earl Ray Tomblin

Legislative leadership also welcomed newly-elected members. At the close of the 2004 General Election, the make-up of both bodies changed. The House seats 68 Democrats and 32 Republicans while the Senate contains 21 Democrats and 13 Republicans.

The Governor will address a Joint Assembly of the Legislature on the evening of Feb. 9th to deliver his first State of the State Address. This address is designed to notify the legislative membership of the Governor's directives regarding his projections and plans for the state. In addition, he will deliver his budget into the hands of lawmakers so they may begin their work in balancing the state's budget.

"We all collectively begin our journey of 730 days, 17,520 hours, to do the work and business of this state...it looks like a long period of time – but in the continuum of time, and in the context of the total history of this state, it is but a brief moment. Whether that brief moment is one that shines is up to each of us."

– Speaker Robert S. Kiss

This is the first edition of Wrap Up for the 2005 Legislative Session. So that we can maintain an accurate mailing list or reduce duplicative mailings, we would greatly appreciate your calls to 1-877-565-3447 letting us know if you wish to continue receiving your copy, or by e-mailing us at: cglagola@mail.wvnet.edu.



Bills Passed Both Bodies

SB 1004 - Workers' Compensation

Senate Bill 1004, which transfers West Virginia's state-run Workers' Compensation program to a private mutual company, was passed in both the House of Delegates and the Senate Saturday, January 30, 2005, on the sixth day of the First Extraordinary Session.

As of today, the Workers' Compensation debt has mounted to an overwhelming \$4 billion - \$3 billion of which is unfunded. The "Unfunded Liability" is what the state will be required to pay to people who have already been awarded workers' compensation benefits. The \$3 billion, according to experts, is the total amount the state will be paying these individuals over the next 30 to 40 years. It is also the amount the state would have to pay if all workers' compensation benefactors would call in at the same time for their full award.

Immediately following the passage of this bill was the creation of eight separate funds for the different areas of Workers' Compensation. These funds are entitled "Old Fund," "New Fund," "Uninsured Fund," "Mutualization Fund," "Self Insured Security Risk Pool," "Self Insured Guar-

anty Risk Pool," "Private Carrier Guaranty Fund" and "Assigned Risk Fund."

When assets and a secure source of revenue are found sufficient enough to satisfy all of the old Workers' Compensation claims and a mutual company is established and qualified, a proclamation will be issued for the changes to take place.

The Workers' Compensation system will make its future payments from two separate funds. This will allow the separation of old debt from a new mutual fund program. This separation will assist with the transfer of Workers' Compensation responsibilities to private insurers. The private insurers will take over all claims awarded after July 1, 2005 and the benefits awarded prior to July 1, 2005 will be the responsibility of the state.

The Old Fund will be maintained by the State Treasurer's Office and contain any money left over from bond payments to pay the existing unfunded liability. The New Fund will receive approximately \$450 million to \$600 million from the Workers' Compensation Commission Fund currently established. This fund is responsible for claims made after July 1, 2005.

A Mutual Insurance Company Provisional Board will be established to monitor and aid the transition from the current government-managed program to the new private insurer program. The mutual company will begin to form in June but will not be up and running until 2006. An election will take place November 1, 2005 to determine a board of directors for the mutual companies.

In July 2005, the responsibilities of the Inspector General of the Workers' Compensation Commission (WCC) Fraud Unit will be transferred to the Insurance Commissioner. To finish out 2005, a proclamation will be issued on or before Dec. 31st establishing the new Mutual Fund Company. All responsibilities and operations handled by the WCC will become the jurisdiction of the Insurance Commission.

In 2006 an Industrial Council will be created to review and approve policies from the Insurance Commissioner, as well as establish operating guidelines and policies. In July 2006 the Insurance Commissioner, with the assistance of the mutual insurance company, will determine the workers' compensation rates for 2007 and 2008. As of July 1, 2008 the state will open up the new competitive market to all private insurers.

The bill will authorize the issuance of special revenue bonds to aid in the reduction of the old claim liabilities. The state's general payments of the bonds will be a flat line payment rather than the current increasing payment.

It is estimated that the cost to pay back these bonds and for reducing the old claims' liabilities on a pay-as-you-go basis will be \$230 million per year. The money for this yearly payment of will be coming from several sources including the Tobacco Master Settlement Fund, severance taxes on certain natural resource industries, insurance premium surcharges, video lottery terminal income and a redirection of Personal Income Tax from the General Revenue Fund.

A general breakdown of the funds to pay the yearly \$230 million are as follows:

- \$30 million from the state's Tobacco Master Settlement Agreement
- Approximately \$19 million will come in the first ten years from a bonus for joining the Tobacco litigation early
- \$80 million will be generated from a \$0.56 per ton severance tax on coal produced after Nov. 30, 2005
- \$8.5 million will be produced through a \$0.047 tax per million cubic feet, (MCF) of natural gas
- \$2.5 million will be yielded from a 2.78 percent tax on timber produced after Nov. 30, 2005
- \$45 million will be generated from premium surcharges paid by regularly insured employers
- \$9 million will be produced from premium surcharges paid by self-insured employers
- Seven percent of regular racetrack video lottery's net terminal income, used to pay racetrack purses, but will not exceed \$11 million per year
- Four percent of excess racetrack video lottery's net terminal income, used to pay racetrack purses, but will not exceed \$11 million per year
- \$45 million will be diverted annually from state Personal Income Tax dollars that would have gone to the state's General Revenue Fund

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We would like to thank committee Counsel Joe Altizer, Mark McOwen and Brenda Thompson for their expertise.



Bills Passed Both Bodies

SB 1003 - Ethics

In an effort to enhance public assurance, lawmakers passed Senate Bill 1003, which revamps West Virginia's ethics laws. Among other alterations, this bill increases financial disclosure requirements for public officials, candidates and lobbyists; increases fees and penalties; grants the Ethics Commission greater authority in initiating and conducting investigations; and, enforces stricter penalties for "double dipping."

This legislation created the Probable Cause Review Board, which will determine if there is probable cause to believe that a violation has occurred. After a complaint has been submitted to the Review Board, the Commission is prohibited from taking any further action. If the Review Board makes the determination that probable cause exists, then it will refer the investigation to the Commission.

Also, the bill grants the Commission authority to initiate and conduct investigations on possible violations on its own directive if it receives or discovers credible information that, if proven to be true, would merit further review. The Commission is authorized to commence investigations if a majority of its members cast an affirmative vote.

The bill also requires lobbyists to report all spending on public officials to the Commission and prohibits them from serving on the Ethics Commission. Lobbyists and their immediate family members who serve in public office must pardon themselves from voting on issues that could have a financial effect on the lobbyist.

In addition, the Commission will provide an annual mandatory training course to all lobbyists; the Commission is authorized to randomly review lobbyists to ensure compliance; annual reporting requirements were increased to three times a year, with lobbyists facing a potential loss of privileges for submitting late reports; and, lobby-

ists in violation of ethics laws are now subject to termination of lobbying privileges.

Lobbyists' registration fees have been raised from \$60 every other year to \$100, plus an additional \$100 for each employer they represent, and the maximum fines for ethics violations were increased from \$1,000 to \$5,000.

The bill also sets a 60-day period prior to elections when the Commission is prohibited from receiving or investigating complaints against candidates.

In addition, Commission members are prohibited from making statements regarding current or pending investigations. Similarly, prior to the probable cause decision, individuals who have brought a complaint to the Commission are prohibited from disclosing that a complaint has been filed or that an investigation is underway. They also are not to divulge any information they may have obtained while interacting with the Commission. Violations of these provisions could result in fines or dismissal of complaints.

Also under this measure, strict limitations on "double dipping" are enforced. Public employees are restricted from getting paid by two governmental entities for simultaneous work hours, unless their compensation is reduced accordingly or the employee utilizes paid vacation, personal, compensatory time or unpaid leave from public employment to fulfill commitments for another job.

Along with these provisions, this bill extends the statute of limitations for filing a complaint from one to two years; provides that political party officials are prohibited from filing complaints; makes it a misdemeanor offense to conceal information or otherwise commit a fraud in filing a financial statement; and, requires legislators, Board of Public Works members and individuals working for the Executive Branch by Executive Order to attend a training course every four years.

SB 1002 - Government Reorganization

Senate Bill 1002 relates to the reorganization of the Executive Branch of state government. The Governor will serve as Chairman and as a board member for seven agencies: the Economic Development Authority (EDA), the Public Energy Authority (PEA), the Water Development Authority (WDA), the Jobs Investment Trust (JIT), the Infrastructure Council (IC), the Housing Development Authority (HDA) and the School Building Authority (SBA).

Vice chairs of the agencies will be chosen by the members of the board. The Governor has the right to appoint or remove the executive director of each agency, with advice and consent from the Senate.

Additionally, the PEA regains powers it was initially granted when it was established, including the right to issue bonds and the ability to take private land for the construction of power plants. The number of members on the PEA has been reduced from nine to seven. The new membership will consist of the Governor, the Secretary of the Department of Environmental Protection, the Director of the Economic Development Authority and four public members. The terms of the current public members will expire March 31, 2005, and the Governor will appoint the new members.

The Bureau of Commerce has been renamed the Department of Commerce and encompasses all the divisions, offices, boards and commissions under the former Bureau, with the exception of the WDA and the EDA, which will become independent.

The Council for Community and Economic Development, located within the West Virginia Development Office, becomes an advisory board. The Executive Director of Development, who is appointed by the Governor, assumes the program approval and rule making authority formerly exercised by the council.

Due to this restructuring, the following programs will be approved by the Executive Director of the West Virginia Development Office: the Certified Development Community Program, the Tourism Development Act, the County Economic Opportunity Development Districts, the Municipal Economic Opportunity Development Districts, the Industrial Development and Commercial Development Bond Act, the Waste Tire Remediation Fund and the Infrastructure & Jobs Development Council.

West Virginia Legislature's Web site

Over the past year, the Legislature's Web site has undergone many changes to strengthen your connection to West Virginia's legislators and the laws that govern this state. By navigating the Legislature's Web site, you will discover how to contact your lawmakers, read bills online and track the status of specific legislation. The Legislature's online Bulletin Board maintains prompt information during legislative sessions through the Legislature's Calendars, Meetings, Abstracts, Indexes and Journals. Citizens also can view the entire West Virginia Code, interactive district maps, committee agendas and membership information at: <http://www.legis.state.wv.us>

SB 1001 - Governor's Mansion

Senate Bill 1001 authorizes the use of left-over contributions which were received by the inaugural committee to elect the Governor to be used for the enhancement of the Governor's Mansion.

The bill also created the Governor's Mansion Fund within the State Treasury. All deposits to this fund will remain for future expenses during the succeeding fiscal years. The money from this fund can be used for enhancement of the Governor's Mansion subject to the behest of the Secretary of Administration and at the discretion of the sitting Governor. The bill also states that any furniture, fixtures and equipment purchased with money from the Governor's Mansion Fund would become property of the State of West Virginia.

SJR 101 - Pension Bond Amendment

A joint resolution asking the citizens of West Virginia to approve an amendment to the West Virginia Constitution ratifying the sale of \$5.5 billion in revenue bonds to help pay down future liabilities in state pension

funds was adopted during a week-long special session.

Although the Legislature tackled several major issues during the special session, Senate Joint Resolution 101 was slated to easy passage, since members of the Legislature passed identical legislation, Senate Bill 175, during the 2000 Regular Session. The Supreme Court found the measure, named the Pension Liability Redemption Act, to be unconstitutional, requiring the Legislature to adopt a resolution placing the bond issue on the ballot. The Legislature first passed the Act believing that if the state is obligated to make the future pension payments, the bonds could be issued without a vote of the people.

Consistent with the Supreme Court's decision and in the spirit of the Pension Liability Redemption Act, the Legislature passed the resolution. If approved by voters in a special election, the state would sell bonds to pay down all or part of the future liabilities in the pension funds, with the bulk of the unfunded liability in the Teachers' Retirement System, and the remainder in State Police and judicial retirement funds. This will enable government officials to better manage the state's long-term debt by refinancing the current liabilities and obtain a fixed interest rate.

With the sale of these bonds, the state could "lock-in" pension debt payments of about \$350 million per year. Current estimates propose an allocation of \$348 million for the 2005-2006 fiscal year under the Legislature's current "pay-as-you-go" 40-year plan, but that price tag jumps to over \$400 million in 2007-2008 and to a staggering \$724 million by the 2033-2034 fiscal year.

As of June 2003, the Teachers' Retirement System's liability rests at \$5.05 billion; the State Troopers' Plan A sits at \$350 million; and, the Judges' Retirement System has \$44 million in unfunded liabilities.

Members of the Legislature adopted an amendment to the resolution not originally contained in the Governor's proposal. This amendment mandates that if any Legislature increases or expands the benefits within a pension plan they must provide a funding stream for the additional pension liability. The reasoning behind the change is to limit the reoccurrence of ballooned unfunded liabilities within the state's pension plans that has required the issuance of bonds currently proposed.

It is unknown if SJR 101 will be placed on the 2006 general election ballot or if a special election will be held within the next two years.

The West Virginia Legislature's Office of Reference & Information

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