



WRAP-UP

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West Virginia Legislature Reflects Diverse Citizenry

by: Elizabeth Lee



Members of the House of Delegates and State Senate work on legislation generated by the needs, concerns, and interests of the state's diverse population.

photo: Martin Valent

They are doctors and farmers, educators and attorneys. They are miners and insurance agents, businesspeople and railroad workers.

At first, they may seem to have nothing in common. They may live in completely different areas of the state, or work in completely opposite industries. They aren't neighbors; they aren't classmates; they may be complete strangers.

But for 60 days, they are all alike in one respect: they are members of the 76th Legislature.

West Virginia has a part-time Legislature. Unlike other states where legislating is a full time profession, and Legislators are unable to have a job outside their work in government. While West Virginia Senators and Delegates work 365 days a year, they are only required to be working in the State Capitol for 60 consecutive days during the Regular Legislative Session and for any Special Sessions. The rest of the year, our Legislators have their own jobs and their own lives, many of which are far from Charleston.

America is a representative democracy, and sometimes, it is necessary to take a look at the people – not the politics – who work as its representatives.

As an area becomes more well-known for supporting a particular industry or lifestyle, the more likely it is that the representative from that area will have worked in a job that reflects the more specific interests of the people in that region.

For example, most of the farmers in the Legislature come from the agriculturally based eastern area of the state, while more miners from the southern coal fields. The northern panhandle, famous for its steel industry, has representatives who have actually worked in the steel mills.

Closer to Kanawha County, which is mostly comprised of businesses and the chemical industry, there are more lawyers, business professionals, engineers and technicians. Most of the medical professionals in the Legislature also come from the more metropolitan areas, where there are more people and more hospitals.

Educators are the only group that do not come from just one area of the state; however, as education is necessary and a major concern everywhere, this might not seem so unusual.

Of the 34 people in the Senate, a little more than one third work in some form of business. Six members are in the education field, while five Senators, or roughly 15 percent, are attorneys. The remaining 10 Senators work in a variety of fields, including insurance, healthcare, real estate development and mortuary science.

The top two professions for Delegates are business and law. Twenty-seven percent of the members of the House of Delegates are in the business field, while 18 percent are attorneys. Educators are the next largest group, with 17 Delegates making up this profession. Seven people work in insurance, and another seven are in healthcare, which includes two doctors, two nurses, two pharmacists and one senior citizens' daytime care organizer.

There are also five miners, a housewife, a Certified Public Accountant, two railroad workers, a school bus driver and a handful of farmers in the House, just to name a few.

All of the members of the Legislature have at least a high school diploma, but most have at least one college degree or have graduated from a vocational school. Several Senators and Delegates have two or three degrees from different universities. Most also received at least one degree from a West Virginia institution of higher education,

Bills Passed Both Bodies

Senate Bill 215 makes a supplementary appropriation to the Department of Health and Human Resources' Health Care Authority in the amount of \$1.25 million. The West Virginia Health Care Authority has been charged with the oversight and coordination of the assessment and implementation of the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This Act is to facilitate the exchange of health information in order to make financial and administrative healthcare transaction more efficient, while at the same time, protecting the privacy and security of those transactions. The improvement will fund assessment costs for Fiscal Year 2003.

Senate Bill 281 continues the Department of Environmental Protection. (Sunset Legislation)

House Bill 2077 will remove the requirement that the Joint Committee on Government and Finance be given reports on the Colin Anderson closure and relocation of the patients. The Colin Anderson Center, a state mental health hospital and facility, was closed December 31, 1996, and its patients were either transferred or de-institutionalized. Current state Code directs the Secretary of the Department of Health and Human Resources to submit monthly reports to the Legislature's Joint Committee on Government and Finance pertaining to the placement and monitoring of all residents transferred from the Colin Anderson Center.

House Bill 2778 will continue the West Virginia State Police. (Sunset Legislation)

House Bill 2803 will continue the Board of Barbers and Cosmetologists. (Sunset Legislation)

Senate Bill 56 would prohibit insurance companies, hospital service corporations, medical service corporations, health maintenance organizations (HMOs) and health care centers from requiring any person covered under an insurance contract to use a mail-order pharmacy in order to receive prescription drug benefits. The bill would also prohibit insurers from imposing an extra fee or a penalty upon the insured for using another pharmacy.

Senate Bill 400 would allow the Insurance Commissioner to disclose confidential information in certain cases in the course of his or her duty. The amendments would make these Code Sections consistent with provisions of the federal Gram-Leach-Bliley Act which are intended to encourage the exchange of information between state insurance regulators and federal banking agencies and to ensure that each party to the exchange will keep the information confidential and take reasonable steps to oppose efforts to secure disclosure of the information. This bill will add federal banking agencies to the list of entities with whom the insurance commissioner may provide certain confidential information.

Senate Bill 484 would amend the section that sets the scope of Article 20 (which deals generally with the regulation of insurance rates). The amendment would remove title insurance from the list of exemptions from the article. That is, the bill would make title insurance subject to rate filing and the Insurance Commissioner's rate review process.

Senate Bill 485 would authorize the Insurance Commissioner to enter into certain agreements and compromises concerning the liability of any person with respect to any tax, interest, surcharge, additional tax, fee, or fine. Prior to commencing a civil action, the Commissioner could enter into a written closing agreement to settle a tax dispute. Absent fraud, malfeasance or misrepresentation of a material fact, the agreement would be final and binding. For pre-suit closing agreements, the Commissioner's counsel must place an statement in the file as to the terms of the agreement and the reasons for the settlement. The Commissioner would be required to make a quarterly report to the Speaker of the House, the President of the Senate and to the Legislative Auditor which summarizes the amounts compromised, etc., and which would preserve the identity of the taxpayers.

Senate

As of 4:00 PM Wednesday, February 19, 2003, the 43rd day of the 2003 Regular Legislative Session 636 bills have been introduced in the Senate. Of those, 11 bills were passed this week and will be sent to the House of Delegates for consideration. Among those passed were:

Senate Bill 340 would authorize county commissions to adopt different building restrictions in specified areas designated a flood plain, mud-slide area or flood hazard. This would clarify that county commissions may set different building restrictions in different levels of a flood plain to allow property owners to secure the lowest appropriate rate for federal flood insurance.

Senate Bill 395 would grant the Family Court Judge the power to order grandparent visitation as temporary relief during the time period in which a divorce is pending. The bill also clarifies that all issues with respect to grandparent visitation will be heard in Family Court.

Senate Bill 461 would update sections of the Corporation Net Income Tax Act, by bringing them into conformity with their meanings for federal income tax purposes.

Senate Bill 462 would update sections of the Personal Income Tax Act, by bringing them into conformity with their meanings for federal income tax purposes.

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As of 4:00 PM, Wednesday, February 19, 2003, the 43rd day of the 2003 Regular Legislative Session, 1,073 bills have been introduced in the House of Delegates. Of those, 15 bills were passed by the House this week and will now go to the Senate for its consideration. Among those were:

House Bill 2203 would conform certain state traffic laws to federal regulations related to the use of seatbelts and Driving Under the Influence (DUI) so as to qualify for federal grants and avoid penalties against portions of federal-aid highway funds. The measure would establish the use of seat belts as a primary offense, meaning

House Bill 2433 relates to vocational-technical facility and equipment improvements through the School Building Authority. This measure would authorize the School Building Authority to require flood insurance for any facility within the 100 year flood plain at which authority funds are expended; authorizes the authority to encourage work-based learning opportunities for students on funded projects; as well as the authority to accept any gift, grant, contribution, bequest or endowment of equipment for benefit of authority or its projects; requires the authority to reserve no more than 25 percent of funds available for priority use for multi-use vocational-technical educational facilities which may include post-secondary programs; requires a 10-year major improvement plan as prior condition for distribution of funds; prohibits the distribution of funds to a county not prepared to commence expenditure during a fiscal year; requires up-to-date enrollment projections in facilities plans and updates; authorizes inclusion of facilities for community and technical college education in plans to construct comprehensive vocational facilities at existing high schools; provides an exception from requirement for comprehensive vocational facilities in counties served by a multi-county center or existing county center; establishes a planning process if such county elects to construct a comprehensive center; and, includes introductory vocational-technical

courses in middle school grades as part of effective schools for vocational-technical education.

House Bill 2511 would provide special license plates for members of the Nemesis Shrine, volunteers and employees of the American Red Cross, individuals who have received the Combat Infantry Badge or Combat Medic Badge, members of the Knights of Columbus and former members of the Legislature. The bill would provide that special registration plates may only be issued to nonprofit charitable and educational organizations currently authorized by law and would prohibit the Commissioner of Motor Vehicles from approving or authorizing additional nonprofit charitable and educational organizations to design or market special registration plates without prior authorization of the Legislature.

House Bill 2678 would change the ballot publishing dates before primary and general elections. The current law establishes a period eight to 14 days prior to an election. This measure would establish a new period of 20 to 26 days prior to an election. The measure also would: authorize certain (paper ballot)counties to count absentee ballots during an election period; alter absentee ballot signature requirements, allowing for facsimile signatures; provide for the changing of voting dates for early in person voting, by eliminating the Monday before the election (except in emergencies) and allowing for the two prior Saturdays before an election; provide for emergency early person voting the Monday prior to a Tuesday election, under special circumstances; provide for the processing of certain absentee ballots prior to closure of the polls for the purpose of determining legality; and, authorize certain changes in the early in person voting of absentee ballots.

House Bill 2729 would clarify that members of professional licensing board may be compensated only for days in which they attend official meetings or engage in official duties, and not for travel days.

House Bill 2748 would prevent mail order or internet sales of tobacco products to persons under 18 years of age. Essentially, the bill states that anyone who sells tobacco products through non-point of sales transactions would have to register with the state tax department, adopt a policy for verifying age of purchases, not deliver products except to verified addresses, and clearly mark the packages as tobacco products. The measure also would establish penalties, including a \$500 fine for failure to adopt a policy and \$1,000 to \$2,000 for a first offense within five years, \$2,500 to \$3,500 for a second offense, \$4,000 to \$5,000 for a third offense, \$5,500 to \$6,500 for a fourth offense, and a \$10,000 fine for a fifth offense. All offenses would be considered a misdemeanor and all fines collected would be deposited in the State's General Trust Account. United State's Postal service and package carriers are would be exempt as distributors.

House Bill 2794 would increase the service fee for worthless checks. The bill would provide any payee or holder of a check or draft order that is dishonored due to insufficient funds the ability to impose a fee of \$25, increased from \$15 stated in current law.

House Bill 2843 would enact the federally required provisions of the "Help America Vote Act of 2002." This legislation would bring West Virginia's election laws in line with recent federal changes.

House Bill 2870 would specify the jurisdiction of the Public Service Commission (PSC) over, and the application of public utility laws to, certain described electric generating facilities. The measure would require persons, corporations and other entities that intend to construct and operate electric generating facilities, or that intend to make or construct a material modification thereof, to obtain from the PSC a siting certificate, in lieu of a certificate of public convenience and necessity, for each facility or material modification thereof. The bill also would allow the PSC, under specified circumstances, to seek the imposition of civil or criminal penalties, or both such civil and criminal penalties for violations.

House Bill 2953 would create a mechanism to eliminate any actuarially projected unfunded liability in the Prepaid Tuition Trust Fund over a fixed period with funds from the Unclaimed Property Trust Fund in an amount not to exceed \$2 million annually. It also would

Locating Bill Status

The Legislature's website has implemented full bill content and bill status. To track legislation electronically, use www.legis.state.wv.us and click on bill status.

For those of you who may know someone who would like to receive a copy of legislation in braille, the Legislature can now accommodate this request. Use the toll-free line to request a copy of a bill at: 1-877-56-LEGIS (1-877-565-3447)

although several have degrees from an out-of-state college or university, and some have even graduated from Ivy League schools.

West Virginia Legislators mostly attended West Virginia University, Marshall University, Fairmont State College and Shepherd College. They attended one of these schools for a bachelor's degree, master's degree, doctoral or law degree.

Based on percentage, about the same number of Senators and Delegates attended WVU - about 41 percent of the Senators and 43 percent of the Delegates attended WVU. However, while 24 percent of the Senators attended Marshall, only about 15 percent of the Delegates attended that same university.

Nearly every Legislator is married, and most have children. Several have grandchildren, and a few even have great-grandchildren.

All of these people represent the many different faces of West Virginia. Their backgrounds are as diverse as the areas they represent, and reflect the needs, issues and ideas of their communities. Legislators are the voices of the people, but they are also people themselves.

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Senate Bill 486 would require certified public accountants to notify the Insurer's Board or Audit Committee of adverse financial condition. The bill would provide an additional safeguard against failure to properly disseminate information concerning the company's financial condition. Under current law, an independent CPA performing an annual audited financial report is required to give written notification to the Insurance Commissioner and "an officer or director of the insurer" of a material misstatement of the financial position or shortfall of the minimum capital or surplus required by the Code.

Senate Bill 488 would establish a minimum surplus for farmers' mutual fire insurance companies.

Senate Bill 206 would give teachers' aides the authority to supervise students undergoing in school suspension if the instructional duties are limited to handing out and collecting class work and not actual instruction.

Session Notes

February 17, 2003 - Last day to introduce bills in the Senate

February 21, 2003 - Last day to introduce bills in the House of Delegates

create the Prepaid Tuition Trust Escrow Account and provide for the transfer of funds in the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Account and to the General Revenue Fund, as well as provide for the investment and use of this money.

House Bill 2970 would establish increased ratios for the maximum number of professional educators and of service personnel per 1,000 students in net enrollment that are funded by the state starting in 2004-05 school year. Separate ratios would be established for counties with high and low student population density per square mile. The bill would further provide for \$2.5 million per year to be appropriation for the purpose of increasing the ratios beginning in the 2004 school year and concluding after 2015. Finally, the bill would direct the \$2.5 million per year allocated and appropriated for the total state basic foundation program for the purpose of increasing these ratios.

House Bill 3011 would require the Fire Commission to promulgate emergency rules on or before June 1, 2003, to establish minimum training and equipment requirements for firefighters and fire departments that have chosen to do rescue work which does not involve fire prevention and control.

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