



# WRAP-UP

The Newsletter of the West Virginia Legislature

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## Legislature Shows Appreciation for West Virginia Veterans

by: **Amanda Campbell**

When Virginia Link graduated nursing school from the McMillan Hospital School of Nursing in Charleston in April of 1942, she may not have known the life she was soon to lead. Link was eager to become a nursing instructor after graduation, but instead she joined the Army Nurse Corps in July 1942.

After Link received her training at Fort Knox, she volunteered for overseas duty and was soon deployed to Northern Africa to serve as a World War II nurse. As one of 233,985 West Virginians to serve in World War II, Link died in an automobile accident in September of 1943 defending America's freedom on foreign shores.

Virginia Link's sacrifice epitomizes a proud state that, per capita, has had more citizens serve in the Armed Forces than any other and one that is home to five veterans' affairs (VA) hospitals, seven VA clinics, eight special programs, a veterans' nursing home and a Veterans' Council. Each year, this brave and noble sector of society known as veterans is honored by the Legislature. This session, February 19 was deemed Veterans' Visibility Day by the Senate and House under separate resolutions.

Over the years, the West Virginia Legislature has created many laws to improve the welfare of veterans. Five veterans' bonus amendments to the state constitution have been ratified over the years, highlighting the importance of recognition and compensation for those who served our country in times of war.

West Virginia has 58,053 World War I veterans and 233,985 World War II veterans. Ratified in 1950, the first Veterans Bonus Amendment provided a bonus for veterans who served in either of the World Wars. A veteran serving in the continental United States could receive \$10 for each month served, those serving abroad could receive \$15 per month served.

West Virginians have been able to receive bonuses for serving in other wars too. The state had approximately 112,000 residents



### Veterans Memorial

The West Virginia Veterans Memorial is a distinguished, oval-shaped monument located within the State Capitol Complex. The memorial includes four figures representing the four major 20th century battles, one figure for each branch of the military. The memorial, created by Joe Mullins, was completed with the installation of the final sculpture in 1999.

photos: Martin Valent

that served in the Korean Conflict and 36,000 that served in the Vietnam War. The Legislature has created veterans bonuses for those wars as well.

The only bonus that can still be claimed is the Veterans Bonus Amendment for Kosovo, Afghanistan and Iraq, which was ratified in 2004. Certain time periods apply for this bonus, but this amendment applies to anyone who served on active duty during those periods. However, for Kosovo and Afghanistan, a veteran must have received a campaign badge or expeditionary medal for his or her service. The veteran receiving the bonus must have been a resident of West Virginia for at least six months prior to enlisting and must have been honorably discharged from service. The bonus is \$600 for veterans inside the combat zone. Veterans who did not serve inside the combat zone in Iraq and Afghanistan are eligible for a \$400 bonus. The bonuses are limited to one per person.

Legislative assistance for state veterans has stretched beyond these bonus amendments. In 2005, there was a growing difficulty to find someone to play "Taps" at military funerals. Many groups, such as the Veterans of Foreign Wars, the American Legion and Buglers Across America, agreed it was a problem across the state and the nation. In response, the Legislature passed House Bill 2286, which serves as an incentive for students to assist with "Taps". Now students are being encouraged to learn to play "Taps" and in return receive community service credit for playing at military funerals.

Due to the large number of veterans in West Virginia, a quality veterans' nursing home was crucial to provide nursing care to those who had served. During the 74th Legislative Session, Senate Bill 1005 was passed to authorize the sale of revenue bonds so the state could fund 35 percent of shared construction costs for a veterans' nursing home. A lottery scratch-off game also was created to fund a portion of the nursing home. Located in Clarksburg, the nursing home



# In the House

As of 4:00 p.m., Wednesday, February 21, 2007, the 43rd day of the 2007 Regular Session, 1,163 bills have been introduced in the House of Delegates. Of those, 59 have passed the House and will now go to the Senate for its consideration. They include:

**House Bill 2206** would prohibit a person who is not the owner of a dog from removing a dog's tag or collar without the permission of the owner, as well as forbid a person from turning off a radio-transmitting collar. The only exceptions to this provision is if the tag or collar must be removed to prevent injury to the dog or if it is removed by a law enforcement officer for a legitimate lawful purpose. Violation of this law would be a misdemeanor offense, punishable by eight to 40 hours of community service and/or a \$50 to \$150 fine.

**House Bill 2575** would modify current law relating to Commercial Driver's Licenses (CDL) to comply with federal law. The Division of Motor Vehicles (DMV) would be responsible for imposing civil penalties on any employer who permitted a driver to operate a commercial motor vehicle that is out-of-service, and if found in violation the employer would be fined \$2,750. The new provision would decrease the period

of suspension from 90 days to 60 days for driving a commercial motor vehicle without holding a valid commercial license, operating a commercial motor vehicle while the license is suspended, or operating an "out-of-service" vehicle. In addition, the DMV would immediately disqualify a driver's privilege to operate a commercial motor vehicle upon notice from the Assistant Administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Under this bill, the DMV Commissioner would be authorized to suspend or revoke the CDL of any person who is convicted of an offense in another state that would have been grounds for a suspension or revocation in West Virginia. An employer would also be liable for an infraction of federal, state or local regulations pertaining to railroad highway grade crossings, and upon conviction he or she would be required to pay no more than \$10,000.

**House Bill 2745** would increase the maximum fine for providing alcohol to a person under 21 years old from \$100 to \$250.

**House Bill 2825** would eliminate an antiquated provision in state law that allowed private clubs to segregate on the basis of race or color and still obtain a license to sell alcoholic beverages.

**House Bill 2956** relates to civil actions filed in state courts and would amend two sections of state law relating to the legal power of out-of-state plaintiffs. The bill would give plaintiffs a diminished ability to try their case within the state when the basis for the lawsuit does not directly pertain to West Virginia. The burden of proof is placed on the defendant to show that a West Virginia court is not the proper location to pursue that lawsuit. The state could be inappropriate for reasons such as: lack of access to sources of evidence, proximity of witnesses, need to view a property and other factors that precipitate an expedient discovery phase and civil trial.

**House Bill 2718** would allow each of the four counties with racetracks (Jefferson, Kanawha, Ohio, and Hancock) to elect whether or not to allow table games at those existing locations.

**House Bill 2972** would enforce a requirement that voters fill in a separate area on an electronic voting ballot if he or she is also going to write-in a candidate. Ballots that do not have the separate marking for a write-

in candidate would no longer be counted in an effort to lessen the need for county commissioners to inspect each ballot.

**House Bill 2955** would continue a flat-rate excise tax on motor fuel at approximately 20 cents per gallon until August 1, 2013.

**House Bill 2875** would modify the procedure for filling a vacancy on a county commission in the event that the commissioners cannot agree on a candidate. Currently, the commissioners must decide who will fill the seat and in the event that a quorum cannot agree on a candidate within 60 days, each county commissioner would write the name of a nominee from the same political party as the vacated seat to be submitted and drawn out of a container by the Chief Justice of the County's Circuit Court; with the chosen candidate becoming the appointed county commissioner. Under the bill, the decision would have to be made within 30 days from when the seat is vacated, and if the commissioners cannot agree, the county executive committee of the vacating county commissioner's political party would choose the replacement from within their membership.

**House Bill 2544** would increase the penalty for causing death by driving under the influence from one-to-10 years to three-to-15 years in a state correctional facility.

**House Bill 2804** would eliminate the timetables that are set up to monitor various stages of utility relocations for highway projects and place the responsibility and costs on the utility company for failure to comply with proper removal notices. Under the bill, the Division of Highways would be required to reimburse utility companies for subsequent relocations due to plan changes after a project has begun construction and would authorize meetings between the Division of Highways and utilities to maintain schedules.

**House Bill 2933** would exempt from current nursing licensing provisions the care of the sick when done in connection with the religious beliefs of a church or other spiritual organization at the request of the afflicted recipient. To qualify, treatment must be given in the recipient's home or at a non-medical healthcare institution.

**House Bill 3117** would clarify that a person cannot submit a bid to perform work as a contractor with the state of West Virginia unless he or she has a state contractor's license.

## The West Virginia Legislature's Reference and Information Center

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# In the Senate

As of 4:00 p.m. Wednesday, February 21, 2007, the 43rd day of the 2007 Regular Session, 745 bills have been introduced. Of those, 88 have been passed the Senate and will now go on to the House for its consideration. They include:

**Senate Bill 68** would allow the Director of the Office of Miners' Health, Safety and Training to take into account a coal mine's failure to comply with previous warnings when deciding whether to issue an order to shut down the mine for reasons of there being an "imminent danger." The bill also limits the use of "belt air" as mine ventilation and requires the inspection and review of mines that currently use it.

**Senate Bill 76** relates to establishing underage drinking as an unlawful act rather than a status offense. Buying alcohol while underage would result in a misdemeanor and may result in a fine of \$50 and possible jail time of 72 hours. Anyone who buys alcohol for a minor would be fined up to \$100 and be jailed up to 10 days.

**Senate Bill 116** would clarify state voyeurism laws, and would exempt law-enforcement officers during a criminal investigation and lawful security surveillance.

**Senate Bill 177** would create a new Division of Energy in the Department of Commerce. It would also require the Public Energy Authority to develop a five-year energy policy plan to be presented to the Governor and the Joint Committee on Government and Finance before December 1, 2007.

**Senate Bill 204** would require magistrate court judges to assess the cost of juries (for the total of their embarkment, mileage, etc.) at their actual cost rather than current the flat rate of \$200.

**Senate Bill 219** would prohibit smoking in a motor vehicle when those under 14 years of age are present. This would only be a secondary offense, meaning someone could not be pulled over for the infraction, but found to have transgressed only after having been pulled over for another reason.

**Senate Bill 387** This bill provides that an honorably discharged veteran may not be denied the opportunity to have a bronze military grave marker placed on his or her gravesite.

**Senate Bill 395** would modify the definition of "intractable pain" (meaning difficult to manage) in the law so that it would come into accordance with the one recommended by the Federation of State Medical Boards. This definition change is already being used by the W. Va. Board of Medicine and the Board of Osteopathy in their policies pertaining to the use of controlled substances to manage pain.

**Senate Bill 399** relates to the issuance of drivers' licenses. Any driver's license given up upon relocating to another state must be destroyed and the original state must be notified. For an instruction permit, the applicant must pay five dollars to take the written test and may re-take it up to two times. The organ donor option section would also be provided in this section. This bill also states that a level one instruction permit holder, 18 years of age and younger, may not use a wireless communication device while driving unless contacting a 911 system. Penalties range from a \$25 first offense, to a \$75 maximum fine.

**Senate Bill 411** relates to the founding of the West Virginia Correctional Center Nursery Act. The center would allow imprisoned pregnant women to keep their infants with them in a special housing unit. In order to be eligible to participate in the program the inmate must be pregnant at the time she is delivered into the custody of the Division of Corrections, give birth on or after the date the program is implemented and she and the child must meet any other criteria established by the division.

**Senate Bill 414** would raise the fees charged by circuit clerks for various services, such as garnishing a person's salary and executing the seizure of one's property to provide the payment of a legal judgment.

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## Completed Legislative Action (Week of February 14-21, 2007)

**Senate Bill 142** will provide a penalty for illegally possessing, possessing with intent to distribute or distributing iodine crystals or an iodine matrix at a concentration greater than two percent in order to deter illegal drug activity. The provision will not apply to legitimate use by public or private primary and secondary schools, institutions of higher education and licensed veterinarians or health care facilities. It also will not prohibit the transfer or receipt of any betadine or povidone solution with an iodine content that does not exceed 10 percent in containers of eight ounces or less or any concentration of iodine that does not exceed two percent in containers of one ounce or less that is sold over the counter, so long as these solutions are used solely for their intended common household use. The maximum penalty for violating this provision is a \$10,000 fine.

**House Bill 2120** will set minimum standards for candidates for municipal judge. These candidates will have to submit to a criminal background check by the State Police. The candidate will have to pay all costs associated with the check. If the background check reveals convictions for certain misdemeanors and/or felonies, the candidate will be deemed ineligible. The bill will also require municipal judges who are not licensed attorneys to attend continuing education classes.

**House Bill 2285** will update the meaning of federal adjusted gross income and other terms used in the West Virginia Personal Income Tax Act. This will apply any changes made to the federal Internal Revenue Code in 2006 to the state code. Such bills are passed annually to explicitly keep state tax laws up-to-date.

**House Bill 2314** will update the meaning of several definitions related to the state's corporate net income tax. This will apply any changes made to the federal Internal Revenue Code

See **Completed**, pg. 4

## West Virginia Legislature's Web site

Designed to strengthen your connection to West Virginia's legislators and the laws that govern this state, the West Virginia Legislature's Web site provides you with access to various resources, including contact information, legislation and educational materials. 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>

**Veterans** - continued from pg. 1

broke ground in 2003. The construction of the building is complete and is currently in the final stages of inspection.

While bills and bonus amendments were passed to give thanks to the men and women who bravely served our country, the value of our Armed Forces goes beyond mere monetary expression. Serving and having served in conflicts past and present, these men and women have made sacrifices for our country that are sometimes taken for granted. However, our service persons' greatest contribution is that they afford the rest of us the luxury of living lives free of the troubles they struggled to eradicate, a noble endeavour worthy of recognition. That is why, beyond the financial support offered or the holidays celebrated, perhaps the greater thanks is to let these awards of merit and bravery act not as ends in themselves, but instead as continued reminders that, without what they have done, we very well might not be able to carry on what we do.

**In the Senate** - continued from pg. 3

**Senate Bill 489** relates to the duties of the Workforce Investment Council in the development of a strategic five-year state workforce investment plan that would attempt to establish a public agenda with goals of promoting the success of the state. This would attempt expressly, among other things, to find jobs for PROMISE scholars in West Virginia.

**Senate Bill 530** would allow political parties to authorize a voter who is not a member of a political party (i.e. an independent), or not affiliated with any party appearing on the general election ballot to vote in the party's primary election.

**Senate Bill 603** relates to the 21st Century Schools Technology Initiative and would replace and enhance current technology used in the state's classrooms. This bill would bring technology in public schools up to date with that which is now available across the country.

**Completed** - continued from pg. 3

in 2006 to the state code. Such bills are passed annually to explicitly keep West Virginia tax laws up-to-date.

**House Bill 2917** will eliminate the requirement of accelerated payments of the consumer sales and service tax and personal income withholding tax for the last month of the fiscal year. Currently, taxes due by certain businesses for the first 15 days of June have to be paid by June 23; taxes for other months are due during the next month. The bill will remove the accelerated payment requirement starting in July 2007.

These bills now will go to the Governor for his consideration.

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## The West Virginia Legislature's Office of Reference & Information

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