



WRAP-UP

The Newsletter of the West Virginia Legislature

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State Lawmakers Rapidly Respond to Mine Rescue Procedures

Less than three weeks after the tragic Sago mine accident in Tallmansville, WV in which 12 miners lost their lives, a second mining tragedy in Logan County last week claimed two more West Virginians. With the eyes of the nation once again focused on the Mountain State, members of the State Legislature acted quickly to develop life-saving legislation in regard to mine and industrial emergencies.

Although the investigations into the causes of these mine accidents that have impacted so many of the state's citizens are still ongoing, the West Virginia Legislature worked diligently throughout the day on Monday, January 23rd to see to the approval of legislation directly affecting mine safety regulations.

Following the Aracoma Coal Mine disaster, Senate President Earl Ray Tomblin took an historical step by leaving his podium and introducing a measure from the Senate floor. In an unprecedented speech, President Tomblin appealed to his colleagues to suspend the Constitutional Rules that call for a bill to be read on three consecutive days, and enact immediate and necessary changes to current mine safety laws.

In less than eight hours, members of both the State Senate and House of Delegates discussed and passed Senate Bill 247, which mandates immediate and crucial upgrades in West Virginia's rescue technology and provides for better communication among local and state officials and mine operators when an accident occurs.

Along with the passage of this measure, the first of its kind, the Speaker of the House of Delegates Robert "Bob" Kiss developed a special House Committee on Mine Safety to further study mine safety issues. This bi-partisan committee will look into additional policy changes that can be made during the current 60-day Session.



State Flag Hangs at Half-Mast

For the second time in less than three weeks, the West Virginia state flag hangs at half-mast outside the State Capitol Building to honor coal miners who lost their lives. Two coal miners passed away after rescue teams were unable to save them following an underground fire at the Aracoma Alma Number One Mine on Thursday, January 19. This disaster followed the Sago Mine tragedy where 12 miners died after an underground explosion on January 3. In response to the recent tragedies, the State Legislature passed a bill that greatly increases safety regulations and standards coal mining companies must follow. The accidents also have prompted the Federal Government to discuss the deficiencies in current mine safety.

photo: Shane Evans

With the passage of Senate Bill 247, West Virginia has taken the lead in mandating the usage of this technology in every mine within its borders and has once again forged ahead in establishing mine safety standards. In 1968, the federal government passed the Mine Safety and Health Act in response to the devastating mine explosion that killed 78 miners in Farmington. And in 1972, Congress revamped federal laws pertaining to settling pond construction after 125 people were killed by flooding caused by an impoundment break along Buffalo Creek.

As lawmakers in Washington D.C. take notice of the major developments in mine safety contained within Senate Bill 247, the West Virginia Legislature's unanimous approval of this measure is proof of its steadfast dedication to improving mine safety efforts here in the Mountain State. Although the bill is not a cure-all to prevent further mine tragedies, it is a major step in developing policies that can aid in the rescue of mine accident victims.



In the House

As of 4:00 p.m., Wednesday, January 25, the 15th day of the 2006 Regular Session, 754 bills have been introduced in the House of Delegates. Of those, 17 bills have been passed by the House and sent to the Senate for its consideration. The following 15 bills also were passed by the House since Thursday, January 19:

House Bill 2329 would authorize a court to order a defendant to contribute monetarily or through service hours to a local crime victim's assistance program or juvenile mediation program. The defendant convicted of a felony or misdemeanor who caused physical, psychological or economic injury or loss to a victim, in addition to other penalties, could be required to use personal time or money to particular non-profit causes approved of by circuit court judges.

House Bill 2448 would create a new felony offense for the theft of mail and the possession of stolen mail. If convicted, the defendant would be imprisoned for a period of 1-5 years with a fine of no more than \$2,500. However, misdirected or misaddressed mail would be exempt from this measure.

House Bill 2945 would prohibit solicitors who request water samples from state residents from doing so unless they attach a

note that would identify the name of their company, the address and telephone number. Violators would be charged \$200 for each violation.

House Bill 3212 would establish a misdemeanor offense for first-time intimidation against public officers and employees, jurors, witnesses and informants, including elected and appointed officials. A felony would be established for second time offenders.

House Bill 3213 would establish various offenses of assault and battery against any person who operates a vehicle used for public travel. Those found guilty of malicious assault on a driver could receive 3-15 years in a state correctional facility. If the attack is committed without malice, making it an unlawful assault, a person could be sentenced to 2-5 years in a correctional facility.

House Bill 4011 would create a special unit within the state police specializing in child abuse and neglect investigations. It would be named the State Police Child Abuse and Neglect Investigations Unit and would focus on identifying, investigating and prosecuting criminal child abuse and neglect cases, in coordination with Child Protective Services. The investigation unit would include a minimum of six State Police members as well as five regional members who would coordinate investigations with other law enforcement personnel for cases of suspected child abuse or neglect.

House Bill 4012 would create a state child abuser registry and establish penalties for persons convicted of child abuse or neglect for failure to properly report registration information. A registrant would be required to provide their full name, including aliases and nicknames. Furthermore, the registrant's address, social security number, fingerprints, a description of the registrant's crime(s) and the address where they intend to work would be included in the registry.

House Bill 4019 would repeal the section of State code that directs the Legislature to prepare and distribute a digest or summary of the Budget Bill each year after its passage.

House Bill 4021 would create a pilot program of health care participants to provide primary and preventive health services for a prepaid fee. Participants in this program would be health care clinics and private medical practitioners. A Commission on Health Care Reform would be established with this legislation and the Appalachian State Health Plan would be created to provide health care coverage to state citizens.

House Bill 4037 would correct definitions that would apply to the assessment of real property. This legislation would provide that all real property "used and occupied exclusively for residential purposes" is taxed as Class II property. Also, this legislation would allow a second home to be classified as Class II property. The amendments in this bill would be effective retroactively for July 1, 2005, for tax year 2006 and thereafter.

House Bill 4038 would allow surplus personal computers and technology owned by state organizations to be donated and transferred to county school boards for educational purposes. Donated technology would be inspected by state authorities to ensure that it meets the minimum criteria for use within the public school system. If approved, the computers would then be advanced to the State Agency for Surplus Property and the Department of Education.

House Bill 4040 would require voter approval before a closure or consolidation of certain schools with grades eight or below in situations when new building construction or an addition of two or more classrooms are involved, provided the closure or consolidation was not included in a local bond issue levy approved by the voters. Before any decision of a county board on a proposal to close or consolidate a school can be finalized, the board would be required to conduct a public hearing. Also, a petition of voters is required for elections to be held.

House Bill 4048 would prohibit the use of eminent domain for private interests. With this bill, eminent domain could not be used for the purposes of private retail, office, commercial, industrial or residential development. This would not apply to property that is considered to be in blighted or slum areas.

House Bill 4049 would create the "Higher Education Grand Fund." Furthermore, this measure would expand eligibility for the PROMISE scholarship to particular students who attend high school outside of West Virginia, due to a parent(s)' involvement with the U.S. military. Funding for the PROMISE Scholarship would be capped at 2 percent growth per year; thus, any higher education provider in the state would be required to set tuition hikes at 2 percent as well.

House Bill 4069 would continue the Rural Health Advisory Panel until July 1, 2009. The Rural Health Advisory Panel oversees the administration of the West Virginia Rural Health Education Partnerships and advises the Vice Chancellor for Health Sciences of the Higher Education Policy Commission.

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In the Senate

As of 4:00 p.m., Wednesday, January 25, 2006, the 15th day of the 2006 Regular Session, 276 bills have been introduced in the Senate. Ten bills have been passed by the Senate, including **Senate Bill 247** (see pg. 1), which has completed legislative action.

One measure passed this week was **Senate Bill 13**, which would require cross-reporting of suspected abuse or neglect of individuals or animals. If a child protective service worker, adult protective service worker, law-enforcement officer or humane officer responded to an alleged incident of domestic violence or animal cruelty, he or she would be required to report any suspicion of further abuse or neglect, unrelated to the current incident, of a child, an incapacitated or elderly person, or an animal to the local child protective services agency of the Department of Health and Human Resources or the county humane officer. This measure will now go to the House for its consideration.

A Sampling of Bills Introduced In the Senate

Senate Bill 219 would prohibit a minor with a learner's instructional permit or provisional license from using a handheld or hands free cell phone while driving unless he or she is contacting a 9-1-1 system.

Senate Bill 222 would create a fund to reimburse group life insurance premiums for National Guard members called to active duty in combat areas by establishing a Service Members' Group Life Insurance Reimbursement Fund in the State Treasury administered by the Department of Military Affairs and Public Safety. The provisions of this bill would apply only to premiums paid on or after the date the bill would be passed.

Senate Bill 223, which relates to the examinations of insurance and health care entities, would increase the time insurers, rating organizations and certain health care entities may respond to examination reports from the Insurance Commissioner. The bill also would clarify the Insurance Fraud Prevention Act to apply to certain health care

entities and increase the minimum period in which examinations of certain health care entities must be conducted by the Insurance Commissioner.

Senate Bill 225 would provide a one-time supplement for public employee and teacher retirees who have been members of the retirement system for more than 10 years and for retirees who have been members for more than five to 10 years. The bill also would exempt the one-time supplement from West Virginia taxes.

Senate Bill 231 would prohibit an individual who has violated the terms and conditions of his or her probation or home confinement from being granted parole until he or she serves a minimum of one year in prison or until he or she is eligible for parole provided that the individual will not be up for parole for at least one year.

Senate Bill 236 would expand the definition of child abuse or neglect regarding the "imminent danger to the physical well-being of the child" to include a parent or parents who habitually abuse or are addicted to alcohol, controlled substances or drugs to the extent that they are no longer able to maintain proper parenting skills.

Senate Bill 245 would create the Consolidated Local Government Act. This measure would establish processes for municipalities and counties to consolidate, or for a county to consolidate with its principal city, to form a metro government.

Senate Bill 246 would provide a salary supplement of \$2,500 and expense reimbursements to professional personnel who have a nationally recognized certification in speech-language pathology, audiology or counseling.

Senate Bill 253 would change the PROMISE Scholarship Program to the PROMISE Forgivable Student Loan Program and defer repayment of the loan while the student is enrolled in a West Virginia institution of higher education or working in West Virginia after graduation. The loan would be for-

given each year the graduate who received the PROMISE files a West Virginia resident personal income tax return and completely forgiven after four years of filing.

Senate Bill 258 would prohibit any individual other than the owner of a dog, including hunting dogs, from removing identification tags, collars or apparel from a dog or disabling a device worn by a dog to aid in its retrieval without the permission of the owner. A person who would violate this provision would be guilty of a misdemeanor penalty and, if convicted, either would be confined to jail between 90 days and six months, and/or fined \$100.

Senate Bill 260 would create a registry of convicted clandestine drug lab operators. This registry would provide information regarding such criminals and direct the Criminal Identification Bureau of the State Police to establish a Web site for the public to use to access information regarding the registry.

Senate Bill 264 would designate English as the official language for West Virginia. The bill would not require or prohibit any state agency or political subdivision from providing any documents, information, literature or other written materials in any other language.

Senate Bill 265 would add to the West Virginia Veterans Memorial Monument the names of all West Virginians who died while serving the United States in the Kosovo, Afghanistan or Iraq conflicts.

Senate Bill 267 would prevent the Public Employees Insurance Agency (PEIA) from raising retired employees' premiums more than 5 percent above premium rates starting January 1, 2006, until the Legislature creates a cost of living adjustment for retired employees receiving annuities from public retirement plans administered by the Consolidated Retirement Board.

Senate Bill 268 would require a mandatory alert when natural gas or other petroleum product pipeline facilities are seen damaged during commercial activities near pipeline facilities. Individuals violating the provisions would suffer a civil penalty of no more than \$100,000 per day until the violation is corrected, and/or would be guilty of a misdemeanor and be fined \$10,000.

Senate Bill 276 would create a special unit within the State Police known as the Child Abuse and Neglect Investigations Unit which would focus on child abuse or neglect cases and help Child Protective Services identify criminal violations.

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>

Brief Summary of Senate Bill 247

Senate Bill 247, passed by the Legislature on Monday January 23, 2006, seeks to provide additional safety and rescue provisions to enable expeditious response and prolong survivability within a mine after an accident occurs. The bill touches upon three major concepts: additional oxygen supplies; upgrades in specific technologies; and, greater streamlining of response efforts within local and state entities.

The bill requires oxygen apparatuses to be strategically placed throughout underground mines to provide extended caches of breathable air for those trapped by a mining accident. These breathing devices could provide valuable time for miners who find themselves barricaded underground. In addition, battery powered strobe lights and lifeline cords could be connected to these caches for visibility and access.

The use of wireless technology is a major component of the new safety regulations, including the required use of wireless emergency communication devices and wireless tracking systems. With communication a key aspect in rescue efforts, utilizing wireless devices that will keep those miners who are underground in contact with those on the surface will be crucial to their recovery.

Along those lines, the use of wireless tracking systems to provide real-time monitoring of the actual location of each miner underground may enable rescue teams to have the ability to know where to start searching and possibly reach those trapped in a more expeditious manner. This tracking information, however, could not be used against a miner in non-emergency situations.

To avoid further delay in the response and recovery when a disaster hits, the bill requires the mine operator or

foreman in charge of the mine to notify local authorities or contact the newly created statewide Mine and Industrial Accident Emergency Operations Center within 15 minutes of realizing an accident has occurred.

This center, which is to be maintained by the Division of Homeland Security and Emergency Management, will become the official and primary state government communications hub for dealing with mine and industrial accidents. The Division also will be required to establish a 24-hour statewide telephone hotline to increase communication in disaster response.

Complete bill information, including bill history and complete bill text, of **Senate Bill 247** can be found on the Legislature's homepage at:

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

The West Virginia Legislature's Office of Reference & Information

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