



# WRAP-UP

The Newsletter of the West Virginia Legislature

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## House & Senate Clerks Provide Procedural Framework For Legislative Sessions

by: Cassie Copen

Each day while the House and Senate are in session, lawmakers follow parliamentary procedures, sometimes so routinely, they do so without thinking about the specific rules and structure involved in holding a floor session.

However, House Clerk Gregory Gray and Senate Clerk Darrell Holmes think more about this process during each session than anyone else, not only because it is their job, but also because of their love for the legislative process and their role in it.

“Rules of procedure provide a road map, a framework for the sessions,” House Clerk Gray said. “Someone has to direct the process for people to follow.”

Gray and Holmes lead the members of the House and the Senate during each session by serving as custodians of the official records, keeping the Journal, preparing the electronic voting systems, assisting in taking the count of votes and supervising the clerical business of the houses.

Both Clerks are nominated and elected every two years by the members of the chamber they serve.

Members of the House of Delegates first elected Gray in 1996 and have continued to elect him for 10 years. Gray first came to the West Virginia Legislature in 1973, when he worked under former House Clerk, C.A. Blankenship. His duties included a variety of tasks, including file clerk, messenger, proofreader and gopher.

“Something I will never forget about my responsibilities was that I had to make sure the coffee pot was always fresh,” Gray said.

In his first years of service, Gray was greatly influenced by the House Parliamentarian Oshel Parsons, who took him under his wing. Parsons stressed the importance of the record, proofreading, committee assignments and, according to Gray, he instilled the importance of respecting the House as an institution.



### House & Senate Clerks

House Clerk Gregory Gray (left) and Senate Clerk Darrell Holmes (right) have been integral components of the West Virginia State Legislature for many years. Each day, Gray and Holmes work diligently to provide a variety of services that help to ensure an efficient and well-managed legislative process.

photos: Martin Valent & Shane Evans

“He [Parsons] told me once that it didn’t matter what they did on the floor, as long as the record is correct,” Gray said. “Because when we’re long gone, it’s the record that stays here – not us.”

When Parsons passed away in 1978, Gray became the House Parliamentarian. Upon his election to House Clerk in 1996, Gray combined the two positions into one because he said he believes the two positions are important to the duties of the House Clerk.

Gray is responsible for 75 part time employees during the regular session and special sessions. When the Legislature is not in session, he oversees 49 full time employees.

Another major responsibility for Gray when the Legislature is not in session is preparing, organizing and distributing the Acts of the Legislature – one of the largest publications printed by the West Virginia Legislature. Published each year, the book is the official record of all bills passed by both houses that have become law and resolutions adopted.

While the House Clerk is responsible for proofreading the bills and resolutions published in the Acts of the West Virginia Legislature, Gray said they only perform grammatical edits, never making a correction that would change the meaning of the law.

Senate Clerk Holmes also has a long history of service in the West Virginia Legislature. Before being elected to the position in 1989, Holmes had 15 years of legislative experience.



# In the House

As of 4:00 p.m., Wednesday, February 22, the 43rd day of the 2006 Regular Session 1,370 bills have been introduced in the House of Delegates. Of those, 89 have been passed by the House and sent to the Senate for its consideration. Some of the bills that passed the House this week and have been sent to the Senate are:

**House Bill 2548** would establish the Diabetes Care Plan Act to set up care plans for students with diabetes by county boards of education. School nurses would develop an individual care plan for any student diagnosed with diabetes, involving the parents, teacher, student and other appropriate school personnel.

**House Bill 3258** would permit the sale of nonintoxicating beer within a certain distance from a church only with consent from that church. The license to sell nonintoxicating beer within 300 feet of a church may be refused if the church notifies the Alcohol Beverage Control Commissioner, in writing, that they object to the operation and location of the business.

**House Bill 4075** would dedicate money to the Regional Jail Partial Reimbursement Fund in the State Treasury. For every fee for service received in any criminal case against any re-

spondent convicted in circuit court, the court clerk would, at the end of each month, pay \$40 into the Regional Jail and Correctional Facility Authority Fund, \$5 into the Court Security Fund and \$30 into the Regional Jail Operations Partial Reimbursement Fund.

**House Bill 4116** would reflect the changes in today's timber market by raising the amount that timber in a Wildlife Management Area may be sold without a sealed bid. The price would be raised from \$500 to \$5,000.

**House Bill 4120** would allow water service to be terminated if there are delinquent sewer bills where service is owned and operated by a homeowners' association or privately owned public utility.

**House Bill 4243** would change the threshold by which a vehicle is determined to be totaled. When calculating the damage cost, this bill would not allow the replacement cost for the air bag restraint safety system to be included.

**House Bill 4272** would remove Class Q licensees from the entitlement on a Class BG (big game) stamp. The stamp allows for hunting of deer during archery and muzzle-loader seasons, and bear, turkey and boar during their respective seasons.

**House Bill 4283** would give preference to West Virginia veterans in the awarding of competitive bids for state contracts. A successful bid would be awarded to an individual resident who is a veteran and has lived in-state for four years if they do not exceed the lowest qualified bid from a non-resident vendor by more than 3.5 percent of the latter bid. A bid also would be won for completing the project if at least 75 percent of the vendor's employees are residents of West Virginia for at least two years.

**House Bill 4291** would allow a court to deny custody to a parent if they subjected another child or any child residing in the same household or under temporary custody to abandonment, torture, chronic abuse or sexual abuse. This would protect not just the child subject to the abuse, but any other child living in the residence as well. The same would apply if a parent were to commit murder, manslaughter or serious bodily injury to a child.

**House Bill 4406** would remove the requirement to evaluate certain classroom teachers at least every three years. Teachers with five or more years of experience who have not received an unsatisfactory rating or evaluation would be excused from being evaluated unless the principal determines it necessary or if the teacher requests it.

**House Bill 4470** would update the definition of the Medicare Supplement Policy. The

## Bills Passed Both Chambers (week of February 16-22)

**Senate Bill 505** will extend the time for the Fairmont City Council to meet as a levying body to put forth an election to the voters of the city for a municipal excess levy. The time frame for this election has been extended until May 19, 2006. The excess levy, if approved by the voters, would provide funding for the operation, maintenance and repair of the streets and roadways of Fairmont.

policy would not include Medicare advantage plans established under Medicare Part C, outpatient prescription drug plans established under Part D, or any health care prepayment plan (HCPP) that provides benefits.

**House Bill 4481** would establish policies for using ballot-scanning devices for tabulating election results. The use of these devices would be permitted, provided: the county would need at least one precinct ballot-scanning device in each precinct; no print out or tabulation results could be done at the precinct; the tabulation memory device could be removed only after the polls close and the votes could only be counted at the central counting center on the night of election; all voters at the precinct would be required to use the ballot scanning device as a condition of completing their vote; and, if the optical scan ballots from each of the precincts are counted at the central counting center on election night and the results from that count are published on election night. Then, the county could turn off the over vote switch on the central counting device since every ballot would have been evaluated for over votes by the precinct scanning device.

**House Bill 4482** would provide for the filing of affidavits of heirship with deed records and require that the estate be administered before the heirs can deed the property to someone else. If an estate involving an interest in real property passes to a decedent's heirs, then a copy of the affidavit would be recorded by the clerk of the county commission and indexed in the general index of deeds in the name of the decedent.

**House Bill 4483** would make the use of a fictitious name with intent to misrepresent the geographic origin or location of a business an Unfair Trade Practice. This bill would protect against deceptive trade practices of services or product suppliers in print advertisements and from calls to local telephone numbers being rerouted or forwarded to a business location that is outside the state of West Virginia.

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

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# In the Senate

As of 4:00 p.m. Wednesday, February 22, the 43rd day of the 2006 Regular Session, 774 bills have been introduced in the Senate. Sixty-three bills have been passed by the Senate and sent to the House for its consideration. The following bills are a sampling of those passed by the Senate since Thursday, February 16:

**Senate Bill 47** would require that a governing body or a planning commission couldn't discriminate in regard to housing. Moreover, they would not be able to require a factory-built home or its owner to obtain a permit. However, the provisions of this bill would not exempt factory-built homes from meeting the structural requirements of a historic preservation district.

**Senate Bill 112** would establish an Alzheimer's Disease Registry to be housed at West Virginia University. This registry would serve as a central information database for Alzheimer's disease policy and planning. The registry would provide a central database of individuals with Alzheimer's disease or related disorders. The information collected for this registry would be confidential, and no publication of information could be made that identifies the patient by name.

**Senate Bill 183** would allow members of Lions International to receive special registration plates. To receive such a plate, Lions members would be required to prove that they are members of Lions International. The Division of Motor Vehicles (DMV) would charge an application fee of \$10 as well as those fees that are already required by law. This special fee would compensate the DMV for additional costs and services required for issuing a special registration. These fees would be collected by the DMV and deposited in a special revolving fund to be used for the administration of this section.

**Senate Bill 223** would change the manner in which health care and insurance agencies are examined by increasing the times that inspectors, such as insurance agents and health care entities, have to respond to reports from the Insurance Commissioner. The Commissioner previously had one year to respond, but the provisions of this legislation would require that at least once every five years they would be required to visit each

health care corporation and examine its financial condition and business methods.

**Senate Bill 236** would expand the definition of child abuse so it includes parental alcohol and substance abuse. These new provisions are defined as being an "imminent danger to the physical well-being of the child." The definition would be expanded to include: abusing parent(s) or guardian(s) who have habitually abused or are addicted to alcohol, controlled substances or drugs to the point where they are unable to exhibit proper parenting skills.

**Senate Bill 439** would strengthen the one-call system requirements for excavation work in the vicinity of pipelines by increasing the number of emergency response agencies to be notified in the event of resulting damage. An added provision to this legislation would require the operator of an underground facility to notify the excavator that the operator went to the site but did not leave a temporary marking of the location of underground facilities because there were no lines in the area of the proposed excavation or demolition. Another added provision would require that each intended operator report immediately to the appropriate medical, law-enforcement and fire prevention authorities about any break or leak in underground facilities. This provision also states that any damage to the facility that is made during the excavation be reported as well.

**Senate Bill 467** would modify the employee group requirements for group life insurance. The provisions in this legislation would provide that the premium for group insurance policies be paid from the employer's funds or from funds contributed by the insured employees. They could also be paid collectively by both. The provisions of this legislation would conform to the National Association of Insurance Commissioner's model language.

**Senate Bill 468**, which relates to group accident and sickness insurance requirements, would remove the provision that stated if the premium is paid by the employer and employees jointly, then the group would not make up less than 70 percent of all employees or not less than 75 percent of all employ-

ees of any class or classes as they are determined by the conditions of employment.

**Senate Bill 548** would define "basic universal design" to mean the design of products and environments that are usable by all people, to the greatest extent possible, without the need for adaptation or specialization as it relates to the basic universal design features.

**Senate Bill 614** would add that after providing a 30 day notice to employees, the State Auditor would have the ability to provide electronic notification of payment for all direct deposit recipients. With this provision, an employee would have the ability to choose to receive electronic notification 30 days before the electronic notification is regularly made. This choice would have to be clarified by an employee on a form provided by the Auditor. This would be made effective July 1, 2006.

**Senate Bill 631** would clarify the warrant and complaint process when a parent or guardian fails to comply with school attendance laws and a magistrate finds probable cause to believe that a guardian has committed an offense. This legislation would add that more than one legal guardian could be charged in a complaint. Initial service of a summons or warrant would be attempted within 10 calendar days upon receipt.

**Senate Bill 632** clarifies electioneering communications, including definitions. This bill would exclude candidates for federal offices from the requirement to disclose electioneering communications. Moreover, the provisions of this legislation would not prohibit a corporation from directly communicating with its stockholders and executive personnel and their families on any subject.

**Senate Bill 634** would exempt certain projects of West Virginia University and Marshall University from the Design-Build Procurement Act. The provisions of this legislation would require that a project consist of the alteration of a building(s). Some criteria that a higher education institution must meet to be exempt from the requirements of the Act would include: if the development agreement provides that all construction contracts require the payment of prevailing wages and that all costs of design and construction can be financed and paid for by the developer.

**Senate Bill 635** would require that boards of education take out flood insurance on certain buildings that they own and the buildings' contents. Any building that is within the identified flood hazard area on a flood hazard boundary map, labeled as a regulatory 100 year flood-plain and has a replacement value greater than \$300,000, would be required to be insured by a board of education.

## 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>

In 1974, he was elected to the West Virginia House of Delegates as a representative from Kanawha County. After serving in the House for eight years, Holmes continued his political career in the Senate, where he served until 1989.

While Holmes had served as a lawmaker from 1974 to 1989, his passion for the legislative process lead him to becoming the Senate Clerk, a position Holmes says he has truly appreciated over the years.

“It has been an experience I have enjoyed,” Holmes said. “After serving in the Senate I thought it would be interesting to be here full time.”

One aspect of the job Holmes says he loves most is meeting lawmakers from different districts across the state.

“Each member comes from a different environment and has their own personality,” he said. “It makes each session unique and memorable.”

Holmes explained he has enjoyed learning

the positive and negative effects about proposed measures. He also said that all legislation that passes might not have a direct impact on the entire state, but it does have an important effect upon a certain district.

“I can read legislation and have my opinion, but it is enjoyable to hear both sides,” he said. “No matter what legislation is introduced, someone is influenced by it tremendously.”

While the Senate is in the regular session or a special session, Holmes oversees 110 part time employees; however, when the Senate is not in session, he is responsible for 39 full time employees.

The Senate Clerk also is responsible for the other major publication printed by the West Virginia Legislature. Each year, the West Virginia Blue Book is produced by the Senate Clerk’s Office. It is a detailed guide of the year’s officials in the executive, legislative and judicial branches of state and federal government. The book includes the Constitutions of

both the United States and West Virginia, as well as information on state and federal agencies, counties, municipalities and other organizations.

Holmes said he also enjoys his duties when the Legislature is not in session, including arranging visits for groups and meeting with them once they arrive to discuss the legislative process.

For more than 30 years, both Holmes and Gray have played a role in the legislative process, an experience neither one would change.

“It has been tremendous to have been here since 1974,” Holmes said. “Very few people have the privilege to serve the Senate.”

As Holmes continues to perform a duty he considers a privilege, Gray also continues to be grateful for his position as House Clerk.

“I like my job a lot,” Gray said. “I cannot imagine anything I would rather have done.”

## **The West Virginia Legislature’s Office of Reference & Information**

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