



WRAP-UP

The Newsletter of the West Virginia Legislature

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Saving the Best For Last: Lawmakers Set to Balance the Budget

by Justin Dearing

I'll never forget the first day of my state government course in college. The professor asked, "Do we really need state government?" A silence blanketed the room. Students pondered the question with great intensity. The professor proceeded to ask if we wanted safe roads to travel, traffic lights to tell us when to stop and go, police to enforce our laws and emergency services to save us from danger.

Well, of course we want those services. In fact, we need them. And for our state to function, the Legislature has to pass the Budget Bill. During the 60-Day Regular Session, the Budget must be balanced and approved according to the State's Constitution.

Before each fiscal year, which runs from July 1 to June 30 of the following calendar year, the Department of Administration receives budget requests from each state agency no later than Sept. 1. Also, on or before Sept. 1, each agency must submit two copies of its request to the Legislative Auditor who delivers it to the Finance Committees of each body.

"We're coming along fine. The staff is working daily and hourly to track pending legislation to determine its fiscal impact and monitoring the different agencies to check their status. What happens here (on the floor) determines the budget's final version. We're in better shape than in the past. We will not have to have a reduction as last year to balance the budget."

- Sen. Walt Helmick (D - Pocahontas), Senate Finance Committee Chairman

The Secretary of Administration conducts hearings with each agency regarding their requests. The Department of Administration compiles the agencies' requests and submits a report to the Governor who then drafts a budget.



Capitol Dome Restorations

As many visitors and travelers along the West Virginia Interstate have clearly noticed, the State Capitol's dome is undergoing major renovations. The structure is being re-gilded, with the solid gold layer that has been in place since 1988 being removed and replaced with gold leaf on a slate gray background - a historical French design originally envisioned for the dome by Cass Gilbert, the Capitol's architect. The new pattern is estimated to cost approximately \$214,500 less than the entirely gold design. In addition to the aesthetic restorations to take place in the next two years, workers also are laboring to meet many of the Capitol's general maintenance needs.

photos: Martin Valent & Shane Evans

A prepared budget is then submitted by the Governor to the House and Senate on the second Wednesday of each January, except under circumstances following a gubernatorial election whereby it is submitted by the second Wednesday in February. This extension allows an incoming Governor time to prepare a budget.

"There will definitely be an extended session this year. We cannot finalize the budget bill until all other bills have passed. I hope we can finalize the House version by Thursday morning (April 7) and then suspend rules on Friday (April 8) to get it passed to the Senate. We're not lacking in any areas; it's just a matter of putting things together to get to the bottom line. It's the same old issue of where the money goes."

- Del. Harold Michael (D - Hardy), House Finance Committee Chairman

Each body focuses on its own version of the budget during the Legislature's 60 Day Regular Session. The budget must contain a complete plan of estimated expenditures and revenues for the current fiscal year and the coming fiscal year, as well as an estimate of any surplus or deficit of revenue. The budget also must include an itemized estimate of funds for the Legislature, Executive and Judicial branches.

See **State Budget**, pg. 4



Bills Passed Both Bodies

As of 4:00 p.m., Wednesday, April 6, the 57th day of the 2005 Regular Session, 751 of bills have been introduced in the Senate. Of those, 205 have been passed. The House of Delegates introduced 1,362 of bills, with 229 passing that body. To date, 62 bills have completed legislative action.

Senate Bill 42 will provide a limitation of liability for clean-up costs for owners of property where waste tire accumulation has occurred because of others' activities. The Division of Highways will be authorized to recover funds from prior owners of the property in certain circumstances and also require notice of illegal waste tire piles to be filed with the county clerk by the Division of Highways.

Senate Bill 104 will repeal a section of the West Virginia Code relating to prisoners working for county court systems, as the county courts are now called county commissions.

Senate Bill 122 will allow state-chartered banks to organize as limited liability companies. A person can apply to the Commissioner of Banking to obtain a

Certificate of Authority to organize and operate as a bank if that limited liability company is formed to have perpetual existence, a centralized management, limited liability, free transferability of interests and if the Federal Deposit Insurance Corporation (FDIC) has ruled that the bank will be eligible for federal deposit insurance. An existing bank structured as a corporation also can apply to the Commissioner to reorganize and operate as a limited liability company.

Senate Bill 153 modifies the confidentiality provisions for proceedings before the Ethics Commission. The bill also will prohibit false information and determines the penalties for breaching the confidentiality provisions, and for submitting false information.

Senate Bill 183 allows a warden to give authorization to an inmate to withdraw money from his or her mandatory savings account in order to prepare the inmate for reentry into society.

Senate Bill 226 requires cross-reporting among child protective service workers, adult protective service workers, law-enforcement officers and humane officers when abuse or neglect of children, incapacitated or elderly adults, or cruelty or inhumane treatment to animals is suspected. The agencies will be required to report to each other within 24 hours of an abuse or cruelty investigation that results in reasonable suspicion.

Senate Bill 238 adds steel to current statutory provisions involving the purchase of scrap metals by various commercial entities. The bill also modifies the criminal parts of the law for offenders who violate the law.

Senate Bill 268 changes state law to conform to federal requirements under the Juvenile Justice and Delinquency Prevention Act, which states that any person over age 18 but under age 21 found in the possession of beer or liquor is guilty of a status offense instead of a misdemeanor. Those found guilty will be referred to the Department of Health and Human Resources for treatment, rather than the \$1,000 fine or six-month incarceration penalties assessed to a misdemeanor.

Senate Bill 287 will transfer the authority to set forth rules relating to water quality standards from the Environmental Quality Board to the Department of Environmental Protection. This bill also establishes requirements for water protection such as standards of purity and quality for groundwater.

Senate Bill 401 establishes the adoption or transfer of orders, resolutions, policies, rules and obligations of the governing boards of New River Community and Technical College and the Community and Technical College of Shepherd. The bill also arranges for the division of assets and liabilities between the institutions and their administratively-linked community and technical colleges, while also providing guidelines for financial audits.

Senate Bill 417 will provide for the organization and joint ownership of joint development entities by municipalities and certain authorities.

Senate Bill 491 eliminates provisions of current state law that allow West Virginia to enter into an agreement with other states regarding out-of-state parolee supervision.

Senate Bill 614 updates the meaning of certain terms used in the Corporation Net Income Tax Act. This bill also provides the Tax Commissioner with additional remedies for noncompliance and for errors in computing federal taxable income.

Senate Bill 623 will update the meaning of "federal adjusted gross income" and other terms used but currently not defined in the West Virginia Personal Income Tax Act by bringing the terms into conformity with the federal income tax meanings and purposes. The American Jobs Creation Act, signed into law in 2004, includes a federal tax benefit for certain domestic production activities. This new section of State Code will disallow the deduction when determining West Virginia personal income tax liability.

Senate Bill 657 clarifies that the current 60-day time limit for filing an appeal with the Office of Tax Appeals would not apply when other sections of the West Virginia Code assert different time limits. For example, a portion of the Code says that

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Bills Passed Both Bodies

when a jeopardy assessment is made against a taxpayer, that person is required to file a petition for reassessment within 20 days after receiving notice of the jeopardy assessment.

Senate Bill 692 requires a city manager only to be a resident of the city at the time of his/her appointment. The bill also removes an unconstitutional provision currently in the West Virginia Code which states that the mayor, a recorder and councilmen were required to have been assessed and also paid real or personal property taxes to a municipality for the year preceding their election.

House Bill 2128 allows the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority to establish an inmate furlough program so that inmates may attend funerals or make hospital visits to terminally ill family members. The Director will have the ability to determine which inmates are not likely to jeopardize public safety and could be granted a furlough or special escort through the program.

House Bill 2174 will require the Department of Health and Human Resources to develop a procedure to notify licensed professionals to report suspected child abuse and neglect by Jan. 1, 2006.

House Bill 2350 makes a technical correction to a portion of State Code that addresses the awarding of teaching certificates in West Virginia. The bill adds to existing requirements for receiving a teaching certificate that candidates must possess the minimum of a bachelor's degree or hold a certificate of eligibility issued by another state that certifies he or she meets all the requirements of the state for full certification.

House Bill 2381 requires public or private hospitals, nursing homes, assisted living

residences, unlicensed health care homes and residential care communities to allow patients to see nonrelative visitors, unless otherwise requested by the patient or legal designee. The patient or legal designee will have the option of refusing to see nonrelative visitors and the health care facility also retains the right to restrict any visitors who are causing harm or disrupting the facility.

House Bill 2477 will make changes to a bill passed last year that increased the amount of property persons subject to a forced sale or execution can protect as personal property. The 2004 bill failed to reference provisions in the Consumer Protection Act, and the proposed bill brings those two provisions into conformity.

House Bill 2497 allows a truck with four axles to tow a trailer with two axles, but the maximum weight cannot exceed 88,000 pounds, including a 10 percent tolerance.

House Bill 2527 will allow employees of multi-county vocational schools to administer performance tests for service personnel in the counties served by the school. Current law only permits employees of the county board of education to administer the tests.

House Bill 2813 removes the requirement that a public utility must first obtain a certificate of public convenience and necessity from the Public Service Commission (PSC) before it can apply for all other necessary franchises, licenses and permits.

House Bill 2960 will allow licensed restaurants to sell sealed bottles of wine for consumption off the premises if the wine is produced by a West Virginia Farm Winery.

House Bill 2973 allows stockbrokers or dealers, in addition to banks, to act as custodians of insurance company securities. Current law allows only banks to act as custodians. Giving stockbrokers such a position eliminates the need for physically transferring paper certificates that prove ownership of a security.

House Bill 2981 declares certain claims against the state and its agencies to be moral obligations of the state. The bill requires the State Auditor to issue warrants for the payment of several claims.

House Bill 3012 exempts property being acquired by the state, a county, district, city, village, town or other political subdivision, state college or university from property tax.

House Bill 3033 extends the temporary special reclamation tax on coal for an additional 18 months. The bill also requires the Secretary of the Department of Environmental Protection (DEP) to pursue cost effective alternative water treatment strategies and to conduct studies every two years on the Special Reclamation Fund. The bill also will allow the Secretary to implement a full cost bonding program, a water quality trust fund program or other funding mechanisms in lieu of the per ton coal tax or a portion of it.

House Bill 3105 creates a special revenue fund known as the "Occupational Safety and Health Fund" in the state treasury for the administration of an occupational safety and health program that is under contract with the federal Department of Labor.

House Bill 3106 allows the Public Employees' Insurance Agency to participate in the investment pools of the Investment Management Board and retain earnings on those investments.

House Bill 3219 amends provisions of the West Virginia Crimes Victim Compensation Act to designate that individuals authorized to act on behalf of a victim, dependent or third person include those who hold power of attorney or others who hold authority to submit claims.

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>

The House and Senate Finance Committees conduct hearings with agency representatives to determine how to balance the budget. The West Virginia Constitution prohibits the state from running on a deficit. The founding fathers of West Virginia knew that a state could not afford to pay out more than it collects.

If an increase in funding for one program decreases another's, lawmakers want to know where the money is spent so they can weigh the costs against the benefits. There are essential items of the budget such as education funds for schools and universities, healthcare programs, mental health programs and public safety. The state also must repay debts it has incurred. Funds left over are divided among many programs, but which programs and how much they receive is a topic for debate.

The Finance Committees are divided into subcommittees, which then take a closer look at the various agencies' requests.

Typically one house will pass its amended version first. The other house will usually amend that version by striking and inserting its own version. A conference committee, comprised of representatives from each house, will then be assigned to iron out differences in the bill.

Once passed, the Governor can approve or veto the bill or reduce items or parts of items within the bill using a line item veto. No other measure except the Budget Bill can receive a line item veto. If approved by the Governor it becomes law.

Through collaboration, the Legislative and Executive branch keep state government "chugging along." It is an elaborate process that allows West Virginia to look at where it has been, where it is presently and where it wants to be in the future.

On April 5, the Governor issued a proclamation to extend the session for six days so that lawmakers can take up the budget.

House Bill 3293 authorizes the West Virginia Regional and Correctional Facilities Authority to implement residential treatment programs for inmates who are abusers of alcohol and/or drugs. The treatment program will offer individual and group treatment activities for misdemeanor offenders. The program will last at least three months and will require participants to be segregated from the general inmate population if possible. Those successfully completing the program could be released from jail up to 30 days early.

House Bill 3357 makes technical changes in the West Virginia Code to definitions found in the section addressing the Streamlined Sales and Use Tax Agreement. It also states that West Virginia will have four representatives on the governing board of the Streamlined Sales and Use Tax Agreement.

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