



WRAP-UP

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Detailed budget process directs state expenditures

by Amy Kaczynski

Each year, the Legislature faces a task that surpasses all others in its degree of difficulty, time consumption and veracity. On top of their various duties, the members of the House of Delegates and Senate must focus on balancing the budget. The budget process is one that affects the entire population of West Virginia and is seen as the most important piece of legislation passed each year. Surprisingly, despite the significance of the process, very few people understand it. While most citizens are aware that the budget determines what services are offered by the state, few know that it also regulates the quality of these services and the amount of taxes the people of the state must pay.

The challenge of actually creating the budget begins approximately one year prior to the beginning of the affected fiscal year. The process starts with each spending unit, such as a state agency or program, estimating the funding they will need for the upcoming fiscal year. In most cases, spending units use the same amount of funds from its current fiscal year, after subtracting any one-time appropriations. Anything above the previous year's amount must be submitted separately in an "improvement package," which will justify the need for the additional funds.

Scheduled to be received by September 1st, these requests are then reviewed by the Secretary of Administration, who holds budget hearings for the programs and agencies to discuss their estimated spending. This gives programs a chance to provide additional information, answer questions and bring any specific needs to the forefront such as legislative and federal mandates or court ordered funding.

The next phase of this process passes responsibility over to the Governor who creates the Governor's Executive Budget. Having absolute power to cut and add where he or she sees fit to address the needs and priorities of the state, the Governor also establishes the official revenue estimates of the state. The budget is developed on a cash basis, including only expected revenues and expenditures for



Oftentimes the State Capitol has been referred to as the "jewel of the valley." Its maintenance depends on dollars secured from a balanced budget. *photo: Martin Valent*

the fiscal year plus any surplus balances available for appropriation. The Governor is not legally required to submit a balanced budget.

The West Virginia Constitution requires the proposed budget be submitted to the Legislature on the second Wednesday of January each year, except the years following gubernatorial election, at which time the budget is submitted on the second Wednesday of February. Once in the hands of the Legislature, it is given to both the House of Delegates and Senate Finance Committees for consideration. Each committee holds another series of budget hearings with each department to review their funding for the upcoming fiscal year. The committees then present a Budget Bill to each legislative body. If differences occur, a conference committee is called to work out a compromise. When an agreement is made, the bill is once again presented to both bodies for approval.

The Legislature is required by the State Constitution to pass a balanced budget. To reach this standard, the estimated revenues and unappropriated fund balances must be equal to or greater than the appropriations made in the proposed budget. If this measure is not passed by a majority of the members in at least three days prior to the end of the 60 day legislative session, the Governor must extend the session for a longer period, to ensure the Budget will be ready for passage.

Once passed by both bodies, the Budget Bill then becomes the Budget Act and is reported back to the Governor so he may approve, veto or disapprove and reduce items or sections. If it is approved, the Act will become a law and if not it is returned to the two legislative bodies for further consideration. The Budget Act must be approved or disapproved in five days after it is presented to the Governor. If this does not happen, the Act will become law as if it had been signed by the Governor.

After the budget becomes law, the funds become available at the beginning of the new fiscal year which begins on July 1st. To receive their funding, each department is asked to submit a spending plan for three-month periods, that must be approved by the Commissioner of Finance and Administration.



In the Senate

As of 4:00 PM, Wednesday, March 3rd, 2004, the 50th day of the 2004 Regular Session, 733 bills have been introduced in the Senate. Of those, the following bills have been passed by this body since February 25th and will go to the House of Delegates for its consideration.

Senate Bill 34 would prohibit a bank from charging a state business for fraudulent Internet transactions. Under this legislation, a bank issuing a credit card to an individual or entity licensed to do business in the state would not be allowed to charge more than \$250 for each fraudulent transaction performed without a credit card. This provision would not apply to banks participating in the investigation of a fraudulent transaction.

Senate Bill 89 would require the promulgation of legislative rules to encourage the beneficial use of water treatment plant sludge, enhance resource recovery and meet recycling goals. Among other rules, restrictions of pollutant levels and criteria to protect ground and surface water would be implemented.

Senate Bill 119 would enhance the criminal penalties for obtaining money, property or

services worth \$1,000 or more by false pretenses from individuals over 65 years of age. Upon conviction, an individual would be subject to confinement in a state correctional facility for 2 to 20 years and/or a maximum fine of \$5,000.

Senate Bill 148 would create the Tax Amnesty Program of 2004. This program would direct the Tax Commissioner to establish a two-month tax amnesty period in 2004. During this designated time, a taxpayer could apply for amnesty from taxes due between January 1st, 1986 and January 1st, 2004. If the taxpayer pays the amount due, then the Commissioner would waive all penalties and 50 percent of the interest. Also, the individual would not be subject to any criminal penalties.

Senate Bill 149 relates generally to the Department of Tax and Revenue. Among other modifications, this bill would change the department's name to the Department of Revenue and specify the duties of the Secretary of Revenue, who would be the State Budget Director. In addition, the budget section of the Department of Administration's Finance Division would be transferred to the Department of Revenue.

Senate Bill 161 would create the Model Health Plan for Uninsurable Individuals Act. Upon passage of this legislation, the Insurance Commissioner would conduct a study to determine the feasibility of establishing a state program for administering health insurance coverage to uninsured individuals. The Commissioner would report findings, recommendations and necessary legislation to the Legislature before January 1st, 2005.

Senate Bill 229 would expand counties covered by the Route 2 and Interstate 68 Authority. If passed, this legislation would provide for coverage of Cabell, Mason and Jackson Counties beginning on July 1st, 2004. The Authority's membership would be increased from 20 to 26, with two members from each of the newly-covered counties.

Senate Bill 230 would define "federal flood insurance" and create a special revenue fund known as the "flood insurance tax fund." This fund would consist of all federal flood insurance premium taxes collected and any appropriations, gifts, grants or contributions

Bills Passed by Both Bodies

Senate Bill 52 would allow motorcycle registration plates to be fastened in vertical position. The bill also would require those obtaining a registration plate to be fastened in vertical position to pay a one-time fee of \$25 to cover the additional cost and services necessary to issue the special registration plate.

Senate Bill 209 requires a review of certain state leases and purchases by the Joint Committee on Government and Finance. Under this legislation, the Secretary of Administration is required to provide the Joint Committee with copies of contracts or agreements for real property surpassing \$1 million at least 30 days before the sale. Upon receipt, members of the Committee have 30 days to review the contract or agreement.

Senate Bill 268 would continue the Division of Motor Vehicles until July 1, 2006.

Senate Bill 269 would continue the Division of Purchasing within the Department of Administration until July 1, 2008.

Senate Bill 324 would continue the Division of Personnel, which was which was created in 1989 to provide leadership in personnel management for the executive operating agencies of state government, including administration of a merit system (i.e. civil service).

to the fund. The funds would be used for activities that promote and enhance flood-plain management and for sub-grants to local governmental units and other eligible entities.

Senate Bill 285 would allow state-chartered banks to organize as limited liability companies if the Federal Deposit Insurance Corporation (FDIC) determines they are eligible for deposit insurance. Under this legislation, a bank would have the ability to apply to the Banking Commissioner for the certificate of authority to operate under this status. The limited liability bank would be required to have a continual lifetime, centralized management, limited liability and free transferability of interest.

Senate Bill 316 would provide procedures for determining the daily costs for certain inmates by extracting certain provisions from

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In the House

As of 4:00 PM, Wednesday, March 3rd, 2004, the 50th day of the 2004 Regular Session, 1,371 bills have been introduced in the House of Delegates. Of those, the following bills have been passed by this body since February 25th and will go to the Senate for its consideration.

House Bill 2132 would provide retirement service credit to teachers at private colleges and universities. A teacher at a private college or university would be granted credit provided that the member pays to the system double the amount contributed during the first full year of current employment, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board.

Committee Substitute for House Bill 2423 relates to the authorization of awarding high school diplomas to certain surviving veterans. The bill would award high school diplomas to veterans of World War I, World War II, the Korean Conflict and the Vietnam Conflict, provided that a veteran of the Korean Conflict or the Vietnam Conflict attended high school at the time he or she left prior to graduating and served in the armed forces of the United States.

Committee Substitute for House Bill 3004 would prohibit a person who is not the owner of a dog from removing tags, collars or apparel from a dog without the permission of the owner.

Committee Substitute for House Bill 4027 would establish a Voluntary Environmental Excellence Program and provide for incentives to those businesses that exceed minimum environmental law requirements. Those members who participate in the program would be eligible for certain benefits which may include more self-monitoring, regulatory flexibility and recognition of environmental leadership.

Committee Substitute for House Bill 4031 would increase the salaries of state Supreme Court justices, circuit court judges and family court judges.

Committee Substitute for House Bill 4116 would provide tuition and fee vouchers for stu-

dents who sound Taps during a military honors funeral. The bill would authorize the State Board of Education to create, distribute and provide general guidelines, contact information and technical assistance for the establishment of school level programs that encourage capable students in grades six through 12 to sound Taps. The sounding of Taps through this bill would be conducted on a standard or valved bugle, trumpet, cornet or flugelhorn during military honors funerals held in this state. Under this bill, the State Board would also distribute an appropriate summary and contact information to the colleges and universities in the state so that they may establish similar programs for their students. The bill also would provide that credits toward community service or work based learning requirements of the county can be awarded to a student for the registry and sounding of Taps during military honors funerals.

Committee Substitute for House Bill 4117 relates to copies of medical records. The bill would require a health care provider to furnish the records upon receipt of a written request or a facsimile of a medical authorization form. Also, the bill states that medical bills would not be considered medical records and therefore be provided without charge. The cost of medical records would be maintained at 75¢ per page and a search fee of \$10.

House Bill 4252 would allow the purchase of up to four years of CETA (Comprehensive Employment and Training Act) time in the Teachers Retirement System.

House Bill 4280 would make available to retired participants in the Public Employee Insurance Agency (PEIA) the optional dental, vision, audiology and hearing aid services included in insurance plans that are available to current participants. The cost would be covered by the retiree who must pay entire cost including administrative costs.

House Bill 4560 would require that firefighters and security guards employed by the Adjutant General of the National Guard be members of the National Guard.

Bills Passed by Both Bodies

House Bill 4132 relates to the West Virginia Guaranteed Workforce Program. The bill updates several terms already established in State Code by replacing the Governor's Office of Community and Industrial Development with the West Virginia Development Office; the Job Training Partnership Act (JTPA) with the Workforce Investment Act (WIA); and, the Joint Commission on Vocational, Technical and Occupational Education with the West Virginia Workforce Investment Council. Also, the bill increases the maximum amount of money authorized for training and retraining of employees from its current \$1,000 to \$2,000 per employee. In addition, the legislation establishes that funding may be provided to the program by the Legislature and deletes language that provides for a transfer of funds from the West Virginia Economic Development Authority.

House Bill 4286 repeals a section of the State Code relating to coverage for alcoholic treatment because it is superseded by another part of the Code. The section of State Code regarding group accident and sickness insurance coverage for alcoholic treatment is repealed because provisions contained in the Mental Health Parity legislation supersedes this section.

House Bill 4308 provides immunity from civil damages to any worker, contractor, engineer or architect who, in good faith, provides services or materials for the installation of universal accessibility features if the action is done without pay. Also, to receive immunity, the accessibility feature that was built must be in accordance with applicable state and federal laws.

House Bill 4449 will allow both residents and nonresidents to apply for and obtain a Class Q hunting permit, which authorizes an individual permanently disabled in the lower extremities to hunt from a motor vehicle during designated hunting seasons. Prior to this legislation, only disabled residents of West Virginia were allowed to secure this permit.

House Bill 4484 allows the Board of Medicine to issue a limited license to practice medicine and surgery without examination. Individuals authorized to receive this license will be anyone appointed to a state medical school who holds a license from another country. The Board will determine if the license has the equivalent requirements as those in other states, the District of Columbia, Puerto Rico or Canada.

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)

House Bill 4022 - All-Terrain Vehicle Safety Regulation Act

On Thursday, February 26, 2004, the Legislature adopted a Conference Committee report regarding House Bill 4022, more commonly known as the All-Terrain Vehicle Safety Act. Upon adoption of the report, both the House of Delegates and State Senate passed the bill, codifying regulatory provisions relating to ATVs.

The bill establishes that no ATV can be operated on any Interstate Highway except by public safety personnel responding to emergencies. Also, no ATV can be operated on road or highway with a centerline or that has more than two lanes, except to cross. Individuals may operate an ATV on the shoulder of any road or highway, except for Interstate Highways, for up to 10 miles when traveling from one field, trail or area of operation to another. A maximum speed limit of 25 miles per hour was established on the shoulders.

According to the bill, no person under the age of 18 can operate an ATV without wearing a helmet. In addition, the bill would ban passengers under the age of 18 from riding with an operator who is also under the age of 18 unless they have, at minimum, a level two intermediate driver's license. The bill also develops safety awareness courses which will be offered by the State Division of Motor Vehicles. Upon completion of a safety course, a operator will receive a certificate stating his accomplishments. These safety courses must be established by September of 2004. By January of 2005, all operators under the age of 18 must have a certificate of completion before they will be able to operate an ATV in West Virginia.

Local government authorities, including municipalities, county commissions and homeowners associations may regulate in any manner, or even prohibit ATV operation.

(SENATE, cont.)

the Regional Jail and Correctional Facility Authority's rule relating to these expenses. This bill would require the Authority to adopt and approve a schedule of anticipated expenditures for each regional jail. If costs exceed the approved schedule by more than 10 percent in a line item, then the Executive Director would add a temporary surcharge to the daily cost of each inmate. This surcharge would cover the actual expenditures.

Senate Bill 447 relates to the powers and duties of municipal courts to collect certain moneys. This bill would create a manner for recovering outstanding fines and fees from an individual's failure to appear in municipal courts.

Senate Bill 480 would exempt nonprofit licensed nursing homes from registration under solicitation of the Charitable Funds Act. These nursing homes would not be required to file an annual registration statement with the Secretary State.

Senate Bill 663 would prohibit nursing homes, residential board, care homes and assisted living facilities from soliciting or coercing residents into giving them money or other assets.

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