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# Interim Highlights

## Agriculture & Agri-business

Having heard from a spokesman from the state agency of the Department of Natural Resources (DNR) in July regarding incentives for small landowners to open their properties to hunters and anglers, lawmakers sought a balanced opinion from corporate landowner Mead/ Westvaco.

According to the corporation's website, "MeadWestvaco Forest leases its land for recreational purposes. Tracts not leased are generally not leased for a reason. These tracts are not open for recreational purposes. However, in West Virginia, MeadWestvaco lands may be used for other recreational activities if those activities do not conflict with hunting and fishing, and in some cases, they may be used for permit hunting (Greenbrier County only)."

In 1970, Westvaco started up a free hunting permit program. It later charged a modest fee for hunting rights within its two public areas, consisting of 10,000 acres.

Because of the resulting degrees of property damage and vandalism done to the sites, the company gradually looked to local hunting clubs who had an environmental interest in maintaining their properties. The Westvaco spokesperson told lawmakers hunting clubs in Greenbrier County are self-insured with the company serving as a co-insurer.

The clubs have proven to manage better herd quality for future use and to reduce damage and promote regeneration of the land. These arrangements with local clubs result in posted properties, happy neighboring landowners, specific bordered hunting areas and more sportsmen and women participating in the hunts. According to the Westvaco spokesperson, hunting expeditions are family oriented assuring hunters of greater safety and better control of whom they will run into in the woods.

In addition, the clubs have annual meetings resulting in an open arena of communication with the DNR and some of their business meetings have concluded with an agreement of permitting camping spaces and ATV use.



*Legislative leaders hear a presentation provided by a representative of the the Legislature's Post Audit Division. Under the direction of the legislative auditor, the Post Audit Division is responsible for auditing the fiscal operations of state agencies.*

photo: Martin Valent

Also in attendance at the Agriculture & Agribusiness committee was the Deputy Commissioner of the Department of Agriculture (WVDA). Confirming that liability was the greatest concern of farmers and said most property owners post their lands for identification purposes. Farmers generally will open their lands if hunters request permission. These requests let landowners know exactly who is on their property.

The WV Farm Bureau has looked for farmers willing to work with the DNR but has found that there is little preparation by state agencies prior to a hunting season; therefore, hunters generally go to the farmer directly for permission.

The WVDA deputy told lawmakers that "if" trespassing is a problem, the "best solution would call for educating both hunters and farmers.

Lawmakers engaged in agricultural livelihoods indicated they would be pursuing a direction that would exempt landowners from liability and investigate a fee program for hunters as possible legislation.

## Interim Meeting Schedule & Agendas

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## Broadband - Select Committee B

The Chairman of the Tower Access Assistance Fund Review Committee updated the committee on his organization's current projects. The fund was established in 2005 to build



cell phone towers throughout West Virginia. Thus far the fund has paid for 15 towers in the state at a total cost of \$2.8 million.

All funds are generated by grants. The county commissions apply for grants to build towers and the review committee has a checklist to determine what applicants are selected. Any county in the state can apply and once approved, the county commission distributes the funds for the project.

Each tower costs between \$250,000 and \$300,000 to build depending on the location. The towers handle all cell phone and broadband service and are available to public safety entities. The fund receives approximately a million dollars a year and because the review committee employees are all volunteers, every cent goes to the projects.

The committee gives out grants once a year and the deadline for county commissions to apply is Nov. 1. Lawmakers are concerned that not all county commissioners know about the application process and want to encourage all county commissioners to apply. While the chairman assured lawmakers that e-mails and packets of information detailing the process have been sent to all county commissioners, he pledged to do more to raise awareness.

The Cabinet Secretary for the Department of Commerce updated committee members on the Broadband Deployment Council. While the formal structure of the council has not been set up, it was established to hear cases of people who can't get broadband access and to suggest solutions to those problems.

The council has not received appointments from the Governor's office and it appears the committee's goal of having broadband access throughout West Virginia by 2010 is now a long shot. The secretary said that even in areas where West Virginians can get service, the take rates of purchasing internet access are among the lowest in the country.

Lawmakers expressed frustration over what they perceive as a lack of progress in reaching the goal of statewide internet access by 2010.

The secretary noted that while the goal of access has been a slow progression, much progress has been made in the state with regard to citizens understanding the technology and raising awareness of the need for internet access in West Virginia.

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Children, Juveniles & Other Issues, Select Committee A

**Domestic Violence Registry**

The Committee on Children, Juveniles and Other Issues heard from West Virginia's Supreme Court Director of Court Services regarding the status of the statewide domestic violence registry during August interims.

During this past regular session the Legislature passed a bill, HB 4388, which authorized the West Virginia Supreme Court of Appeals to maintain a domestic violence database. The registry is currently not functional, according to the Court Director, due to the database being one that is rather complicated and must be developed by the National Crime Information Center, NCIC.

The NCIC, an extension of the FBI, is a computerized index of criminal justice information and is available to federal, state and local law enforcement, and other criminal justice agencies. It is operational 24/7.

In order to be in accordance with the NCIC, the database must obtain an error rate below 10 percent and the Director of Court Services told the committee that it is not quite there yet. It was hoped the database would be available throughout the state. Instead, the database will be up and running on a county-by-county basis, the director said. With this in mind, the director was unable to give the committee a definite date as to when the database would be up and running statewide but did say that she believes that some counties would have access by the end of the year.

The Director also told the committee the database is a project that has been talked about for some time yet very little had been done. She said this is no longer the case because in the past three years, Court Services has worked diligently in finding funding as well as gaining support from 27 various agencies to help create the database.

Economic Development, Joint Commission on

The members of the Joint Commission on Economic Development heard a report from a representative of the Legislature's Redistricting Office regarding the 2010 Census.

That office is currently in Phase 2 of Census 2010, which means it is collecting current data from counties and digitizing it for the 2010 Census TIGER, maps. Phase 2 is the most important component in preparing for the Census. The accuracy of the geographic data on the maps will af-



fect allocations of monies, accurate population counts; and most importantly, equal representation with the realignment of districts.

To date, the office has received data from 34 of the 55 counties. The Bureau of the Census, Geography Division is sending out paper maps for the 21 counties that have not responded. These will be sent to these counties to draw their Magisterial District Boundaries and their Precincts.

The representative further stated that County Commissions are responsible for the realignment of the Magisterial District boundaries and the Precinct boundaries. The counties should have their magisterial boundaries realigned as soon as possible to not interfere with election guidelines. Precincts are not political subdivisions and are therefore based on number of registered voters, not population.

The Redistricting Office also wanted to let the Commission know that they now have the ability to add ridge lines as Census Block boundaries. Also, counters from the Census Bureau will be going into communities armed with GPS devices to map people and add addresses to the database.

Also during the meeting, a representative from the Department of Commerce updated the commission on the proposed coal-to-liquid plant in Marshall County. ConSol energy is heading the efforts and it hopes to develop fuels such as methane, ethanol and 87 octane gasoline once the project is up and running. They hope to start work in 2012 and were able to come to West Virginia due to a potential tax break. It will receive a \$160 million in tax breaks if certain provisions are met regarding it's economic impact.

Education Subcommittee A - Public Education

**Safety and Productive Learning in Schools**

The committee heard from various representatives regarding the promotion of safe and productive learning environments in all West Virginia Schools.

A representative with the West Virginia Department of Education updated committee members on a pilot program, which the Governor appropriated \$100,000 dollars. The purpose of the program is to create innovative in-school suspension programs in four schools throughout the state: Philip Barbour, Woodrow Wilson, Riverside and Pocahontas High. The hope, according to the representative, is to reduce the number of out-of-school suspensions.

Representatives of the West Virginia Education Association (WVEA), West Virginia American Federation of Teachers (WVAFT), and West Virginia School Service Personnel Association (WVSSPA) addressed the committee on how to protect the reputations of the state's teachers who are wrongly accused of abuse or neglect.

According to all three, there is no doubt that the main objective in schools is to create a safe haven for students, but there also must be something done to protect the reputation of teachers and other school personnel who are vulnerable when accusations of abuse and neglect are made public before an investigation takes place.

The representative with WVAFT also voiced concerns with the investigation process performed by the Department of Health and Human Resources (DHHR). Under current West Virginia Code, once DHHR investigates and finds that the allegations made against a teacher or other school personnel are false, all records are kept on file. While the DHHR states that those records are private, the representative from the WVEA believes they should be expunged altogether because there is currently no easy method for having the record removed.

A representative for the Bureau for Children and Families addressed the committee on the reasoning for preserving all records on teachers. Under federal regulations as well as West Virginia Code, all information and records collected during an investigation on a teacher must be "filed and records preserved." The representative also informed the members that these records are not public information therefore cannot be accessed by the public. He also stated those records would not appear during a background check unless the teacher or school personnel's actions have been substantiated.

Education Subcommittee B - Higher Education

**Education Subcommittee B- Higher Education**

The Vice Chancellor for Science and Research provided committee members with a status report on the "Vision 2015- Science and Technology Strategic Plan."

Developed in late 2005, the plan, according to the Higher Education Policy Commission, "calls for West Virginia to grow its research enterprise by investing \$250 million over a 10 year span in order to recruit scientists and engineers, construct state-of-the-art science and engineering facilities and develop new technology-based businesses."



According to the report, West Virginia has currently invested \$76 million in academic research since the plan's creation.

Vision 2015 has numerous goals, which the Vice Chancellor went over with the committee. One of these goals is to increase the number of critical science and engineering researchers at WVU and Marshall. Current legislative appropriations of \$60 million will allow both universities to hire up to 46 researchers.

Another goal of Vision 2015 plan is to develop new in-state businesses in emerging technologies. West Virginia's current \$8.4 million investment has funded six research projects that resulted in five startup companies with five-year projected revenues of \$124 million, 10 patent applications and five patents, and two university research centers with industry partners, according to the status report.

Doubling competitive funding at West Virginia's universities and colleges from federal agencies every five years is another goal of Vision 2015, which according to the Vice-chancellor, is being met.

The Vice-chancellor also told committee members that there is a cooperative agreement between WVU and Marshall in establishing guidelines to determine who owns the intellectual property being developed through joint research projects.

Progress is also being made in increasing the retention and completion rates of Science and Technology students, the Vice-chancellor said.

The Vice Chancellor for Administration of the Higher Education Policy Commission (HEPC) thanked the committee for their support of community and technical college bond and advanced technology center funding. He also provided an update on efforts to sell the bond and build and/or renovate community and technical college facilities.

As a result of Senate Bill 682, in which the Legislature gave the HEPC the authority to issue lottery revenue bonds, the commission should be able to issue \$80 million in revenue bonds for community and technical colleges throughout West Virginia, the Vice-chancellor said. Under this same bill, the Legislature appropriated \$30 million to construct two advanced technical centers. The Vice Chancellor told the committee that the commission would issue bonds beginning in 2009 since December indicated unfavorable market conditions.

## Education Subcommittee C - Public School Finance

### Library Funding Obligations for Schools

The Superintendent of Kanawha County Schools addressed committee members regarding funds public libraries receive from schools and the resulting financial burden placed on all Kanawha schools.

In 2006, the Legislature, under court order by the state Supreme Court, increased local revenues for schools but were also directed to fund libraries as well.

Even with an increase in revenues, the superintendent stated that there is still a funding inequality among counties. The \$3.1 million extra funding for Kanawha schools provided through the legislation dwindles to \$300,000 after all of the excess levy bills for libraries are paid causing an inequity throughout West Virginia schools because only eight counties are required to pay library bills and the legislation provided increases to all schools. Those counties not required to pay for libraries are able to use those funds for salary increases or other programs that better benefit the schools, said the superintendent.

A number of committee members pointed out to the superintendent that the legislation allows all counties to make library funding part of their excess revenue levies, an option Kanawha County opted out of. Another member pointed out that throughout the country, West Virginia ranks 6th in state support of public libraries and ranks 50th for local funding of state libraries.

Counsel for the committee also presented a draft proposal for supplemental funding to support Limited English Proficient (LEP) programs. During Public School Finance's June meeting, the Office of International Schools Executive Director told committee members that to provide the essential programs and educational needs would cost approximately \$2,000 for each LEP student. Title III funds, only allocate \$267 for each LEP student in West Virginia.

The draft bill would appropriate \$274 for each LEP student on top of the \$267 already provided through Title III. There are currently 2,336 LEP students throughout West Virginia.

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## LOCEA

### HEPC Rule Changes

The Chancellor of the West Virginia Higher Education Policy Commission, (HEPC), requested the committee members' approval of revisions made to a few of HEPC's rules including Series 5 which deals with the guidelines for Governing Boards in employing and evaluating Presidents and other administrative heads.

Under House Bill 3215, passed during this year's regular session, the commission was required to revise these rules, the Chancellor said. He also told the committee that the Policy Commission had approved the changes to the rules during their last meeting and must now be approved by LOCEA before being filed with the Secretary of State's office. Some of the proposed changes include:

- All presidential appointments must be approved by the Commission
- The Policy Commission shall approve all search procedures prior to their implementation.
- Removes the provision allowing institutions, with the approval of the Policy Commission, to pre-designate an Interim President
- Presidents must have formal, structured evaluations every third year of their employment
- The Governing Board must conduct a written evaluation of the president at the end of his/her initial contract as well as a formal/structured evaluation.

The Vice-chancellor for Science and Research also requested LOCEA's passage of an emergency and legislative rule for the West Virginia Research Trust Fund, which was established during this year's regular session under Senate Bill 287. The rule had been approved by HEPC, but like the Series 5 rule changes, must be passed by LOCEA as well.

The rule establishes various criteria including:

- Eligibility requirements
- Requirement of an institutional research plan
- Designation of eligible uses of program funds
- Designation of the approval process for requests for distribution of matching money from the trust fund and makes provisions for an appeal process.

The committee agreed to change some of HEPC's rules.

Committee members also heard from the Acting Co-director and Chief Financial Officer for PEIA regarding the reporting of post employment benefits besides those given during retirement.

### Medical Education & Training Issues

A representative from the Higher Education Policy Commission gave an overview of a report on Medical Education and Training Issues.

The report concluded that West Virginia physicians are not adequately distributed across the state. In addition, the state's physician workforce may not have the appropriate mix of specialties. For example, more specialists in fields such as geriatrics are needed. Also, the state's physician workforce is relatively older, so a pipeline of younger physicians is needed to take their place.

Enrollment at the state's medical schools has grown significantly in recent years, with increasing enrollment of out-of-state students, lawmakers were told. The number of state medical graduates actively practicing in West Virginia has increased 360% over the past 25 years. West Virginia retains 40% of its medical school graduates in state, which is approximately equal to the national average. This retention rate has not varied much in 25 years.

Residency training is a stronger predictor of where a physician practices than medical school graduation. As medical school enrollment increases, more residency opportunities are needed or graduates will be forced to go out of state. The capacity of the state's allopathic residency programs has remained flat over the past decade, and fill rates for available positions in both allopathic and osteopathic residencies are significantly below national averages.

Regarding rural health, the Rural Health Education Partnerships (RHEP) infrastructure has steadily increased, with a significant increase in number of training sites, field faculty and weeks of training. There has been a modest increase in number of student rotations. According to the report, in recent years, the number of medical student RHEP rotations fell from 61% of the total RHEP rotations in 2002-03 to 40% in 2006-07. During the same time, the number of weeks of medical student RHEP rotations fell from 46% to 30% of the total RHEP rotations.

As to medical school accountability, the report concluded that standards for accrediting medical schools are continually being revised because of the dynamic nature of health care delivery and its impact on medical education. Nationally, accreditation standards have been tightened because of the expanded use of community training sites. Medical schools are required to exercise control over the content and delivery of the curriculum, regardless of where the instruction occurs. Practices that were acceptable 10-20 years ago in medical education may no longer meet new accreditation standards. It is more critical than ever that medical schools take respon-



sibility for all aspects of their educational programs and that they are held accountable for ensuring that resources are used in the most efficient and cost-effective manner.

Among some of the recommendations put forth in the report was one which highlighted the Policy Commission will need to address residency training, an area in which it has little actual authority. This would include opportunities to create new residency programs in specialties that have high fill rates in available training slots, the residency program potential of hospitals that have never had residency training in the past and programs that address the state's special demographics and needs, such as family practice, geriatrics, orthopedics, oncology, etc.

The Policy Commission may also wish to explore how information could be collected routinely at the state level, using the state physician licensure databases, to support workforce planning, the report added.

Also during the meeting, a representative from the Council for Community and Technical College System spoke about a study titled "A Study by the Community College Research Center Teachers College, Columbia University", which studied the role state policy plays in noncredit workforce development and the level of funding a state may provide.

The study recommended additional state funding to support noncredited workforce education with clear and targeted goals in order to better: promote workforce development; assist students to access credit programs; assist programs to become more accessible to low income individuals; and, promote career pathways.

The study also encourages efforts to increase coordination between credit and noncredit programs in order to promote innovation and suggests faculty involvement with employers.

Another recommendation of the study included better assessing students needs and support efforts to recruit non-credit students to credit programs that can help promote access and career pathways. Also recommended was the notion of exploring validation for all noncredit workforce education in order to allow for better portability, display evidence of skills and validation for industry standards.

Furthermore, there must be more collection of information on noncredit outcomes to document the value of noncredit education and determine whether, if funded, accountability is required.

### Higher Education - Deferred Maintenance Sub.

The committee heard a presentation on higher education facilities maintenance from the Co-Interim Director of Finance and Facilities for the Higher Education Policy Commission (HEPC).

Deferred maintenance is defined as work that has been deferred on a planned or unplanned basis to a future budget cycle or postponed until funds become available. This would include roof replacements, major building component repairs, mechanical equipment and underground utilities and roads and walkways. Failure to perform needed repair maintenance and renewal as part of normal maintenance management creates deferred maintenance.

Inevitably buildings and components deteriorate, become obsolete or need replacement. Under funding of major maintenance and capitol renewal leads to a backlog of deferred maintenance, which results in non-code compliant and unsafe buildings as well as unattractive buildings, and grounds that deter enrollment strategies essential to tuition-dependent institutions.

The funding of deferred maintenance is an institutional matter from school to school in West Virginia and some institutions have done a better job of addressing their deferred maintenance needs than others, perhaps because they have more capitol revenue to address their needs.

Currently the main sources of revenue for deferred maintenance are state appropriations, which have been infrequent (\$7 million in fiscal year 2006 and \$8 million in fiscal year 2008) and student fees that are regular and constant but inadequate after paying for debt service and other expenses.

The two principal fee sources for funding deferred maintenance are Educational & General and Operating fees. However in many cases, those fees are simply not enough. The director believes that it is impossible to fund all of the schools deferred maintenance needs from fees and that the state must step in to help.

The director offered a slew of recommendations, one of which suggestions was to move from one-time funding, which rewards institutions that are not properly investing in maintenance to a systematic approach that requires confirmed annual investments by maintaining a system-wide building inventory and annually running a building renewal formula which identifies that investment institutions should be making on a yearly basis to reduce accumulated deferred



maintenance. The director also asked lawmakers to consider one-time funding to remove obsolete facilities from institution inventories.

Lawmakers agreed in unison that the student should not bear the burden on deferred maintenance mismanagement and that the institutions, along with lawmakers, need to come up with inventive ways for schools to come up with more money.

Lawmakers also suggested that schools be stricter in getting bonds to build new buildings and urged them to make sure that these buildings were necessities and not simply wish lists for the schools. They encouraged HEPC to be strict with institutions with regard to master plans because building an unnecessary building is money that could be used to fund deferred maintenance. Other lawmakers suggested that when an institution submits a proposal for a new building it should include a detailed plan of how they plan to fund the project and maintain the building. The lawmakers also suggested constructing these buildings in energy efficient ways that will save the institutions significant money in the long run.

### Equal Pay Commission

#### Women's Right to Vote

Commission members heard and received literature from the Executive Director of the West Virginia Women's Commission on the importance of women voting.

In 2004, the Institute for Women's Policy Research released a report regarding the status of women in West Virginia. The state's overall grade for women's political participation was a D-. The director told the commission that 51 percent of the population in West Virginia are women who need to be better represented.

A study by the Institute for Women's Policy Research, handed out by the director, showed that only 14 percent of West Virginia's legislative body are women. The study also stated that women in West Virginia are the least likely in the country to vote .

The study did leave some positive information regarding women voters in West Virginia including the fact that 53 percent of registered voters in the state are women.

The Director also informed the commission of events throughout the country's history that was decided by one vote including when Texas joined the Union by one vote in 1845.

### Finance Subcommittee B

#### Upgrading Property Taxation in West Virginia

The committee heard a presentation from the Vice President of Business & Economic Research at Marshall University. The presenter outlined the importance of proper assessment of property taxes and the correlation it has with school support, as well as the penalties that could come under assessment.

State support under the Public School Support Program (PSSP) for local schools in 2006-2007 was over \$1 billion and the largest single expenditure in the General Fund. Local property taxes for schools totaled \$356 million. The state paid 75 percent of the PSSP with local property taxes picking up 25 percent statewide. School support from local property taxes ranged from a low of 11 percent in Wirt County to 49 percent in Pocahontas County

State aid to local districts is calculated using a seven-step formula that determines the amount of funding for each county district. Each district is required to pay a "local share" of that amount from their property taxes. The difference between the local effort and the formula amount is made up by state aid.

When a county assesses at less than the required level the amount the state provides that county district is increased. When the counties under assess their property taxes, state aid to education is improperly distributed with counties that under-assess getting the greatest benefit. Counties that properly assess are penalized and get less state money, causing their taxpayers to pay more for less.

The speaker said he believes that one of the main problems in property tax assessment in West Virginia is that assessors are not required to be as qualified as in other states. In West Virginia, they must be 18 and a resident of the county and must take training once they enter office.

He suggested establishing a systematic training program for those assessing property, with a curriculum of 150-180 hours with tests. He also suggested providing for mandatory step increases in salaries as various levels of training are completed. This would give assessors motivation to seek out training. Most other states already have this system in place.

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### Finance Subcommittee C

#### Alternative Wastewater

With studies showing 67% of households in rural areas of West Virginia having inadequate wastewater treatment facilities, the project director from the US Environmental Protection Agency (EPA) addressed lawmakers regarding an Alternative Wastewater Demonstration Cooperative Project in Lincoln County.

Funded by a WVDO Flex-E grant, the Lincoln County Commission and WVU Extension conducted a conference at Chief Logan Conference Center in February of 2008. The findings of the conferees, made up of people wrestling with the dilemma of wastewater management were provided to lawmakers in a summarized report. (For a full copy of the report, go to [www.canaanvi.org](http://www.canaanvi.org))

Prior to listing the recommendations put together at the conference, the EPA project director told members of the legislative subcommittee that “while resources are available for infrastructure funding are severely limited throughout West Virginia, very few resources are available to small, rural communities who have very little capacity to assume any debt for infrastructure funding.”

He noted Class II waste water systems consist of septic and secondary systems, which include a synthetic media where the effluent is purified either by a drip system or an LPP that sprays out the wastewater evenly.

In small communities where the average medium income is \$19,000 versus the average income of \$28,000 statewide, affordability of updated systems is not feasible. The Lincoln County Wastewater Demonstration Cooperative Project would call for approximately \$330,000 to establish Class II wastewater systems in 28 homes, \$12,000 a system. At that, Lincoln County would have no way to maintain the systems, the expert told lawmakers.

At that, the water-tight septic tanks are not always water-tight.

The other rural system is a direct discharge system in which waste returns to a creek after a filtration process. Problems with the direct discharge system can come with a too high water table, lousy soil conditions and small living plots. While the DEP and DNR require certain quarterly monitoring (pipes and levers), they do not monitor the discharge, which may contain high levels of fecal matter and e-coli.

Recommendations devised at the conference include:

- find a procedure to address leaking tanks and test direct discharge effluent
- explore ways for the state to intervene to mitigate risks when small PSDs take over maintenance
- require wastewater installers to receive continuing education to maintain their certification
- fund project manager positions to develop small community wastewater projects
- establish a pool of money for communities without sewers to develop wastewater systems
- require wastewater collection and treatment be considered at the same time as plans for water systems
- investigate ways to put unpaid sewage bills on county tax roles

Queries from committee membership included concerns over dollars to maintain urban 80-year-old systems, determinations on numbers of tanks actually leaking currently, and overall amounts of dollars required for the small communities.

Statements from lawmakers also indicated the need for counties to investigate, create and monitor new developments in actual costs and usage of new technologies.

### Forest Management Review Commission

A representative from the U.S. Forest Service appeared before the commission to discuss several issues relevant to the Monongahela National Forest.

The first issue relates to spraying for the gypsy moth in the national forest. The Gypsy moth is potentially the most destructive forest pest threatening West Virginia woodlands. Since its inadvertent introduction into Massachusetts in 1869, it has spread naturally south and west at approximately 5-10 miles per year. In the last 10 years, it has been spreading across the Eastern panhandle and northern counties of this state.

Spraying to combat this pest can be expensive but is well worth the money when the potential loss of high value sawlog and veneer quality trees and stands where moderate to high tree mortality is expected. Spraying must be done in May to early June when the caterpillars are small.

The West Virginia Department of Agriculture (WVDA) coordinates and conducts a cooperative regional suppression program between landowners and county commissions in the generally infested counties. Aerial spraying is done on a demand basis to minimize forest damage. Sign-up for the





program is through the WVU County Extension Office in any of the participating counties during July and August.

Another topic discussed involved All Terrain Vehicle(ATV) access and restrictions within the national forest. Currently, the use of ATV's is illegal on the Monongahela National Forest. Only registered and titled vehicles are allowed on forest development roads. ATV's are not currently registered by the State of West Virginia. Finally, the representative spoke briefly about the Monongahela National Forest Revised Land and Resource Management Plan, which can be accessed at [http://www.fs.fed.us/r9/mnf/plan\\_revision/Information/information.htm](http://www.fs.fed.us/r9/mnf/plan_revision/Information/information.htm)

A representative from the state Division of Forestry also provided a power point presentation regarding a status report on the West Virginia Forest Products Industries. The representative stated that now is a bad time for this industry. Low grade products such as railroad ties, by-products like sawdust and wood chips and pulpwood are in high demand. Meanwhile, high grade products such as red oak, cherry and high grade lumber are in low demand.

Reasons for the decrease in demand for high grade wood products can be traced to the sagging housing market, a decline in lumber production, a decreased logging capacity and rising fuel costs making exporting more expensive.

West Virginia has also seen a decrease in the number of sawmills throughout the state in the last three years from 192 mills in 2006 to 127 mills in 2008. The number of certified loggers has also declined from a high of 1,141 in 2004 to only 932 in 2008, a five-year low.

The speaker mentioned in the future West Virginia Forest Products Industries must do a better job of supplying an adequate logging force to better increase production. Also, profitability should be increased as the demand for paper, structural panels, by-products and both high and low grade lumber is increased. The speaker also stated, regarding a previous issue, that he did not think we would ever see ATV's in national park lands.

In closing, the commission discussed and adopted a resolution commending professional forestry in West Virginia for the enthusiasm with which it has adopted and adapted to sustainable forestry management.

The commission also prepared a letter to the state congressional delegation requesting restored funding for gypsy moth suppression and the Gypsy Moth Slow the Spread program to historical levels.

## Government Organization - Subcommittee B

### Board of Registration for Sanitarians

Counsel for Government Organization Subcommittee B presented a draft bill that makes some changes to West Virginia Code regarding the licensure of sanitarians, which was last updated in 1979.

One of the changes made under the draft bill is the current phrase of "registered sanitarian" changed to "licensed sanitarian" to more clearly define that a sanitarian in West Virginia must be licensed, not registered.

Any individual regulated by the board will be required to carry proof of valid licensure, permit or certification while performing his/her duties under the proposed bill.

The draft bill also makes minor changes to the membership of the Board of Sanitarians. The board would be composed of eight members appointed by the Governor instead of five. Added to the board would be two citizen members and a licensed sanitarian or a sanitarian-in-training.

Fees for renewal of licensure would also go up from \$20 to \$35 under this bill.

The bill will be brought up during a future meeting.

## Government Organization - Subcommittee C

The committee received literature and heard an analysis from the general counsel to the State Tax Department regarding the tax language of HB 4079, relating to Professional Employer Organizations.

While counsel said the bill was basically sound, he pointed out specific weaknesses in his analysis, including the tax effect of net out divisions and the number of things no longer included in determining sales tax.

Counsel also took issue with the 80 percent ownership rule applied to the bill. The rule states that control exists if there is ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote.

However, according to counsel, the 80 percent rule is normally applied to treat "component members" of a controlled group and "certain stock exclusions" and does not technically describe a commonly owned company. Counsel made



the committee aware of possible corruption and self-dealing associated with this rule and suggested the committee adopt a 50 percent rule more in line with IRS standards.

Counsel also outlined many other instances of intricate tax wording that needed to be tightened up before the bill is introduced. Following the presentation, the committee chair and members decided to have staff counsel draft a bill with the help of the tax department and insurance agency to address all of the tax issues brought up in the presentation. The new draft of the bill is tentatively planned to be brought before the committee at the October interim meetings.

## Government Organization - Subcommittee D

The committee heard a discussion of HCR 73, requesting that the Joint Committee on Government and Finance authorize a study of the structure and organization of the West Virginia Racing Commission, Athletic Commission and Lottery.

The committee received organizational charts showing the present structure of the Racing Commission, Athletic Commission and Lottery as well as the proposed organizational charts of how they would be set up if all three were operated under one umbrella.

A representative from the West Virginia Lottery addressed lawmakers' questions with regard to the proposed bill that would bring all three of these entities together under one department. The representative said that within 18 months of the bill going through they would have an idea as to the manpower they would need but he believed it would be much less than the combined total of the other three agencies, through attrition, creating significant savings.

Under the proposal, the Lottery and Racing Commission would cease on July 1, and the new organization, yet to be named, would be appointed by the Governor. Lawmakers showed concern over what type of person could lead the new commission and what type of skills he or she would specifically need to possess. The representative said that the lottery is much more like a business than any other agency in state government and that the commission would need its leader to have marketing experience as well as a background in finance and security. The commission would also need an expert on agriculture and veterinary science.

Lawmakers expressed concern that West Virginia Thoroughbred Breeders Association, one of the key entities involved in racing, is a private organization that has no government

oversight. The state has control over greyhound racing but not thoroughbred. The lawmakers were opposed to giving private entities so much control over a state agency.

The chairman of the committee wants the state to have total control and he also requested a study and comparison of the greyhound and thoroughbred associations to be discussed at the next interim meeting. A representative from the Racing Commission is expected to speak at the next interim meeting as well.

## LOCHHRA

The new Vice-chancellor of Health Sciences with the Higher Education Policy Commission (HEPC) spoke to the commission about his new role and the goals he hopes to achieve in the newly established position.

The Vice-chancellor, who holds this position on a part-time basis while serving as a practicing physician, explained that health science education can often be very complicated in that it offers unique services and struggles to strike an appropriate balance between education and economics.

He sees his role as overseeing the program to hit that balance between giving West Virginia students the strongest education to prepare them to be physicians and also coming up with the appropriate funding necessary to accomplish that goal.

According to the Vice-chancellor, very few if any qualified West Virginia students are denied admittance to state medical schools. In fact, in West Virginia and across the nation, enrollment for medical education has doubled or even tripled in recent years. Out-of-state medical students pay very high tuition to study in West Virginia, helping to foot the bill for the increased in-state enrollment and demand for the additional resources that come with that. Sixty percent of out-of-state tuition is used for health science education funding.

In addition to his desire to balance education and economics, the Vice-chancellor also wants to do a better job of retaining West Virginia students. While most in-state students choose to study in the Mountain State, (five of 10 leave the state a year) the goal is to keep them in West Virginia as practicing physicians. The Vice-chancellor noted that the biggest factor in where students go to practice is based on where they complete their residencies. He sees an immediate need for more residency opportunities in West Virginia.

To provide those opportunities, he mentioned that medical schools in the state must work together to develop programs



that provide more residency opportunities and keep our newest doctors in the state. They simply don't have enough resources to act as completely separate entities.

In closing, the Vice-chancellor spoke about the technological developments that continue to change the face of health science education. The curriculum is continually reinventing itself as medicine and medical technology changes and the HEPC, lawmakers and educators alike need to continue to be vigilant to ensure that West Virginia stays ahead of the curve in health science education.

The Manager of Employee Communications and Information with the Division of Personnel, spoke about the 90 day temporary employee issue discussed at the July meeting. The speaker informed the commission that in a 2006 amendment, six categories of temporary employment were paired down to one, which was 125 days or 1,000 hours.

The standard has since been to 90 days via the last legislative session and the manger informed the lawmakers of her belief that the system needs to be amended to reflect the intended and previously held 125 day standard.

## Infrastructure - Select Committee C

Lawmakers on this select committee heard a discussion regarding the recent tractor-trailer accident that left hundreds stranded on the West Virginia Turnpike for hours. A representative from the Parkways Authority, which oversees the West Virginia Turnpike, told members the accident and resulting delays served as a wake-up call for the need for better emergency planning.

The 2:05 p.m. accident involving a double-trailer truck hauling hazardous materials left about 1,400 vehicles stranded, some for as long as 14 hours. Since then, Parkways has worked with local emergency response agencies to improve communications and traffic diversion plans

The representative stated that the location of the southbound accident, on the curve south of the Chelyan toll plaza, contributed to the problem. That section of road, with a walled median and narrow shoulders, made it impossible for tractor-trailers to turn around in either direction. With the trucks blocking the roadway in both directions, it also made it impossible for other vehicles to turn around.

Parkways employees were diverting traffic off the Turnpike at the Chelyan and Sharon interchanges within 15 minutes, but a second tractor-trailer accident blocked access to the

Sharon exit. Meanwhile, the other alternate route, U.S. 60, was closed by a rockslide. The incident, he said, shows the need for better communication, among emergency responders and with the public.

Local radio stations were notified immediately that the Turnpike was closed, but many drivers never heard the reports. Also complicating communications was the lack of cell-phone service on the Turnpike south of the accident scene. Turnpike electronic message boards provided warnings of the road closure and the Division of Highways also set up temporary message boards, including one as far back as the Montrose exit of Interstate 64 in South Charleston.

A wrecker service provided bottled water to stranded travelers, and a Red Cross truck with food and beverages was traveling north to the scene that evening, but was turned back by State Police.

## Judiciary Subcommittee A

### Oil & Gas Drilling

The tripling of gas and oil drilling permits in recent years has brought attention to the need to update oil and gas law, which were last revised in 1983.

Appearing before the committee were a spokesman representing surface owners from Mountain State Justice and representatives speaking on behalf of the WV Oil and Natural Gas Association and the Independent Oil and Gas Association of West Virginia.

The surface rights spokesman requested that lawmakers look into their "fairly necessary" rights; and as they believe, "level the playing field between drillers and surface owners. "Fairly necessary" essentially means an agreement between the landowner and drillers regarding due regard to their property.

Presently, landowners have 15 days notification of intent to drill. As such, they have those 15 days to comment on the driller's plan. If no agreement between the two parties is made then the landowner has the option of getting a lawyer and seeking an injunction, which usually takes more than the 15 days to execute.

The Department of Environmental Protection (DEP) uses laws to protect the general public regarding environmental concerns, groundwater and soil erosion and sediment control but West Virginia's 2,500 wells are inspected by 14 DEP inspectors.



## Interim Highlights

Also, according to the surface owner rights spokesman, the 1983 Surface Damage Compensation Act was supportive to property owners but compensation oftentimes is below market value. A driller may perceive property as a field, the property owner may be looking to develop his land.

The spokesman said his group was not blocking drilling but was seeking changes in leasing and surface owner rights.

Some of the suggestions called for earlier notification that a driller would be coming onto the property, a pre-permit surface use agreement be put into play, a fair and equitable compensation for land damage and allowance either for a property tax reduction if having a well on the property reduces its value. The spokesman declared that increased severance taxes should continue to benefit county governments.

In opposition to any changes to the law were spokesmen representing oil and gas companies. Agreeing that the numbers of wells were increasing, the spokesmen noted the property taxes paid by the oil and gas industry in West Virginia increased by 47.78% from 2006 to 2007. Paying a total of \$88,125,964.33 in 2006, the industry paid \$130,235.363.45 in 2007.

In addition, the spokespersons noted gas and oil were vital to the growing energy needs of the nation and drilling added to the state's economy and the creation of jobs.

They also provided material indicating that natural gas "is the cleanest fossil fuel, releasing less of the emissions that cause global warming than coal or oil....Senior Democrats in Congress are getting behind natural gas, portraying it as an alternative fuel for transportation that can serve as a stopgap until renewable sources of energy, like solar and wind power, become economical on a broad scale." (New York Times, Drilling Boom Revives Hopes for Natural Gas, Clifford Krauss, August 25, 2008).

### Judiciary Subcommittee B

#### **Mini-trucks, Litter, Beverage Container Recycling and Landfill Avoidance**

Small engine, four-wheeled, gasoline powered motorized vehicles with a fully enclosed passenger compartment are being introduced in this country from Japan. With a single row of bench seating for a driver and passenger, a steering wheel and a flat-bed or lift as the rear part of the vehicle, "mini-trucks" are being imported as off-road vehicles to be used as farm equipment or on construction sites. While the

National Highway Traffic Safety Administration (NHTSA) has not applied its safety standards, some states have been enacting legislation to permit the use of the vehicles on public roads.

According to material provided by legislative counsel to committee members, "Illinois, Kansas, Louisiana, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Utah and Wyoming now permit the use of mini-trucks on specific portions of their public roads. Missouri calls for approval only by local ordinance and Illinois, Kansas, South Dakota and Tennessee require these vehicles to comply with NHTSA's low speed vehicle standards.

Lawmakers are continuing to investigate their usage within the mountain state. Presently, the committee is in the informational stage regarding any changes in state law.

Energy conservation also came into play during the committee's review of recycling plastic products at the August meeting of the Judiciary subcommittee. If people could reduce, reuse or recycle plastic bags then a savings from products derived from petroleum may redirect oil usage toward the nation's energy needs instead of filling up landfills.

Providing information to lawmakers were the executive director and assistant director of the WV Solid Waste Management Board. According to the spokesmen, West Virginians use an estimated 594,000,000 disposable plastic shopping bags annually. They noted that the amounts were estimated to provide 4.5 million pounds of potentially recyclable plastic per year.

Citing petroleum products, specifically grocery bags, as having the greatest biodegradable density levels, the speakers addressed the need to recycle the products. Current uses for recycling the bags include the manufacture of new decking material, The plastic bags comprise up to 50% of the raw material feedstock used to make the composite lumber materials, according to material provided by the waste management spokesmen.

Information gathered from the Kanawha County Solid Waste Authority noted that in 2007, 11 Kroger stores in the county recycled 1,688.49 tons of plastic bags. Since January 2008, the Kanawha County solid Waste Authority has shipped almost 30 tons of plastic bags to be recycled. The bags are currently valued at 8 cents a pound or \$160 a ton.

Interest in enacting legislation to manage the use of plastic bags consisted of requiring paper bags, banning the plastic bags altogether or to tax the bags.



Providing examples enacted in other states, the spokespersons noted:

- Oakland and San Francisco, California banned the bags.
- Illinois requires retailers that distribute the bags to consumers must implement a plastic bag collection and recycling program. (In Lake County, Illinois, a pilot program is being monitored by a legislative task force.)
- Seattle, Washington, enacted a “green fee” on disposable shopping bags at 20 cents per bag.
- Phoenix, Arizona, initiated a take-back program that works on a voluntary basis to encourage retailers to collect bags.

In all, the committee will continue to review not only plastic bag usage but also will be looking into a bottle return policy in the coming months.

### Judiciary Subcommittee C

#### Pharmacy Data Mining

A lawyer with the law firm of Hunton & Williams, who represent IMS Health and others, gave committee members a brief history of prescription restraint litigation in the United States during this month’s meeting.

The first case of prescription restraint litigation was in New Hampshire when a cardiologist was told by a friend that they overheard a pharmaceutical sales representative discussing how to be persuasive in prescribing their drugs. The cardiologist tells his wife, a member of the New Hampshire Legislature, about this who in turn introduced in 2006 House Bill 1346 which would require that all prescription information be confidential. The legislation was passed even though, according to the lawyer, no study had been done of whether the law would actually work or no investigation was performed on how pharmaceutical companies would respond. Two other states, Vermont and Maine, would pass legislation very similar to the one passed in New Hampshire.

Pharmaceutical companies responded by filing suit and stating that the New Hampshire law violates their first amendment rights as well as the commerce clause. After one year and a price tag of over \$1 million, the judge hearing the appeal held that the law did in fact violate the first amendment and held that communication of prescription information is protected by the first amendment. After the ruling, the state immediately appealed to the First Circuit Court where the case is still pending.

The lawyer informed the committee the outcome is very similar in the other two states as well. He recommended that the West Virginia legislature focus on alternative legislation

while litigation is pending not only because it is constitutionally required but because it is the least expensive means to achieve objectives.

The Associate Director for the Program on Information Justice and Intellectual Property at the American University, College of Law told committee members that the practice of data mining is a fairly new and began around 1993. As technology has evolved, there has been a shift in the way the data is used, the director said. Under current federal law, there is no way for a doctor to hide their name and even though a patient’s name is not revealed, they are still numbered and tracked, according to the director. Federal law and technological advances has made this data easy for pharmaceutical companies to obtain. He also told the committee that there is currently one sales representative for 2.5 doctors in one area due to this information.

The Director also stated that the core issue in this is the undue influence on doctors and what prescriptions they are giving their patients because there is a link between the data and the shift in prescriptions being prescribed.

In the case of the appeals taking place in the three states, the Director stated that this is not a free speech issue but more of a confidentiality law where privacy of doctors and patients is enforced.

### Parks, Recreation & Natural Resources Subcommittee

Lawmakers on this subcommittee heard a report regarding the Greenbrier River Trail Park and the update and repairs that have been made as well as future goals for the park. Opening up more access to one of West Virginia’s top streams and protecting 1,000 acres from development are among those goals as the Greenbrier River Trail continues to receive national recognition and attract tourism opportunities.

Motorized traffic is forbidden along the trail, which runs 78 miles from Caldwell to Cass which means if a person were to hike, bike or ride horses along the entire trail, it would be the equivalent of traveling from Charleston to Parkersburg.

It has recently received several accolades from national publications. Blue Ridge Outdoor Magazine recently considered it the No. 1 trail in the southeastern United States, and Backpacker Magazine rated it in its Top Ten.

The trail opened on land once used by the C&O Railroad which cut the railway through some steep and rough ter-



## Interim Highlights

rain, demanding constant supervision for rock slides and culvert damage.

A representative of the park stated that a Marshall University study, based on interviews with 268 users over a 17-day stretch in October 2000, showed that 64 percent of the visitors had college degrees, and 26 percent had some college instruction. In that period, the representative pointed out, the trail pumped some \$82,000 into the local economy. Charities benefit from a number of activities, and events such as the Great Greenbrier River Race remain popular.

While some advantages of the trail are apparent and easily documented, the facility offers the intangibles, such as blocking development and “unfavorable activities” that range from building unsightly shanties or using it as a trash dump.

The park operates on a \$90,000 budget that includes pay for the superintendent and four seasonal employees. Fifteen rustic campsites are available, and some recent improvements have included 14 new parking spaces accommodating 120 visitors, the addition of eight kiosk signs, and the repairs of 30 miles of surface. Projected improvements envisioned include reflective devices in tunnels and two destination-style campsites in Renick, WV for equestrians.

Another plus has been the increase in access to the Greenbrier River, where many old entrances have been shut off to swimmers and fishermen as landowners became increasingly wary of allowing visitors on their property because of the liability issue.

### Select Committee on PEIA , Seniors & Long-term Care

#### **WV Senior Centers & Services**

Introducing themselves as the “front line/front door” for senior care, directors associated with the West Virginia Directors of Senior and Community Services (WVDSCS), provided lawmakers with their concerns and solutions:

#1 - Immediate Repair Needs -currently, requests for emergency repairs to building or equipment parts and services takes a year or more to obtain; solution (according to the WVDSCS) allow for a \$500,000 budget line item whereas a county aging program would apply to the Bureau of Senior Services not to exceed \$35,000 for immediate repairs, not renovations.

#2 -Gasoline Costs regarding nutrition and transportation programs - currently most county aging programs can ac-

cess the Department of Transportation State Road Garages for gasoline although some county programs have been denied access; solution - provide the ability to obtain gasoline at the state rate at DOT garages or provide the aging programs exemption from state gasoline taxes.

#3 - Senior Center Operations - the original use of LIFE funds went to senior centers, which provide “soft services” (caregiver, support groups, individual client support, group support, outreach). Recently LIFE funding for soft services have been changed to reimbursement for units of services provided in “core services” (transportation, respite, lighthouse, personal care, homemakers services, home delivered meals and congregate meals) which are not always offered through senior centers; solution, provide a line item of \$2 million for senior center operations for needs specific to a county such as wellness centers, volunteer coordinators, staff benefits, special programs and operational costs including utilities and staff insurance.

#4 - Caregiver Training (family and relatives) allow for \$1 million to be allocated to county aging programs and senior centers to train family to take care of their family members suffering from Alzheimer’s and Dementia. The dollars would be divided into \$18,000 per county Title III provider.

#5 -LIFE funds and accruals, recently it has become an issue that purchases made with state dollars must be purchased and received prior to the end of the state fiscal year. Federal dollars allow for the purchase of items on an accrual bases, if the bid is complete, agreement to purchase signed and order placed prior to the end of the federal fiscal year. The purchase of the item has been obligated. The problem arises if an item that must be shipped arrives and June 30th can not be paid by state funds; solution, have the same regulations on state purchases as on federally funded purchases.

#6 - Medicaid Reimbursement rates - reimbursement rates for Medicaid Person Care reduced by 52% or \$13,50 an hour and the Title XIX Wavier Homemaker rate has remain unchanged until an increase of \$1 in 2000. Costs of providing services has increased significantly; solution, increase the rate to \$16 per hour.

#7 - Aged Disabled Resource Centers are not monitored; solution, since the county aging programs are local the WVDSCS would like the local Title III County Aging Program to be designated as the Single Entry point to Senior Services.

**Interim Meeting Schedule & Agendas**  
Please visit West Virginia Legislature’s Web site:  
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



## Pensions & Retirement, Joint Standing Committee on

Following up on the TDC-TRS transfer, the actuary of the Consolidated Public Retirement Board provided his actuary findings on the recent transaction.

According to material provided and explained by the actuarial expert, the final “actives” transfer percentage was 78.6% (14,925 members). 77.8% of active teachers transferred and 79.9% of active non-teachers transferred. While transfers of all ages occurred, fewer older members made the move than was expected and more young members transferred than was expected, with 76% of those members being under the age of 40.

The retirement fund will be totally funded by the year 2034 with a \$1 million net savings.

(The complex actuarial statistics and findings can be made available to the reader by contacting the Office of Public Information at 1-304-347-4831.)

## Regional Jail & Correctional Facility Authority, Legislative Oversight Committee on

The Director of the Division of Juvenile Services provided committee members with an informational update. The director briefly discussed the three different types of centers the director operates which are the hardware secure detention centers, the community-based short-term residential programs and the youth reporting centers.

The division operates six hardware secure detention centers which house pre-adjudicated youth which have been charged with a crime where if convicted by an adult could result in imprisonment.

The division operates three community-based short-term residential programs for males and females ages 12 to 18 who have a chronic pattern of inappropriate, impulsive behavior that prevents them from adhering to societal norms. The division presently has five youth reporting centers which are community-based alternatives offering court-ordered intervention and services to youth residing at home who otherwise would be placed in detention or further residential placement.

The director stressed the need and desire to keep the juveniles in state correctional facilities rather than sending them to facilities in border states. The cost of out-of-state placements is currently \$30 million per year and according to

his numbers the state could save \$15 million a year if these juveniles stayed in state.

The director then talked about the youth reporting centers specifically, outlining how they are used and how effective they can be. He reiterated that 70 percent of children could do well in these facilities and that all of the judges he had spoken to want to use these facilities as an alternative to incarceration.

These centers pick juveniles up after school, keep them for four hours and then either their parents pick them up or someone from the facility takes them home. While there, the students talk with counselors and psychologists and learn basic life skills. These students are under strict supervision and realize that if they fail here, incarceration is the next step. These centers are projected to save the state \$8.9 million this year, costing just \$50 a day for each juvenile as opposed to \$350 a day in out-of-state placement.

The division currently has five of these such centers in West Virginia with three or four more to be opened in 2009 and 2010. The director believes every county in the state could benefit from youth reporting centers.

## Veterans’ Issues - Select Committee B

“What is the WV Development Office (WVDO) doing to encourage business and job development for returning vets?” A spokesperson from WVDO’s Small Business Development Center (SBDC) appeared before Select Committee B with the response.

Following a summary of the small business center’s services provided to entrepreneurs throughout the state, the spokesperson told lawmakers the SBDC takes a “common sense” approach to assisting individuals interested in starting up or improving upon their businesses.

These services include assisting small businesses with financial, marketing, production, organization, engineering and technical problems, to name a few.

Veterans seeking small development encouragement can be reached through the websites:

- [www.wvdo.org](http://www.wvdo.org)
- [www.sbdcwv.org](http://www.sbdcwv.org)
- and
- [www.mgamble@wvsbdc.org](mailto:www.mgamble@wvsbdc.org)

### Volunteer Fire Departments - Select Committee F

The President of the Professional Fire Fighters of West Virginia introduced himself to the committee and briefly described how he recognizes that recruitment and retention of volunteer firefighters is not simply a problem in West Virginia, but a widespread issue throughout the country.

The President cited problems such as staffing, old equipment and funding among the host of problems facing volunteer fire departments statewide. He also pointed out that many volunteer firefighters work two or three jobs and that volunteerism has been impacted severely. He vowed to work with lawmakers in any way he can to remedy the problem.

The majority of the meeting was taken up by a retired chemical engineer who proposed the legalization of fireworks to fund volunteer fire departments. The proposal would allow all CPSC-approved fireworks to be used in West Virginia including rockets, roman candles, shells and firecrackers. The proposal would require buyers to be 18 year of age. The fireworks would also come with a safety brochure and all those using fireworks under the age of 18 would be required to wear eye protection.

Currently 18 states allow all CPSC-approved Fireworks. Sales of fireworks have doubled nationwide while injuries have been steadily declining over the years. The proposal would make West Virginia the first state to mandate protective eyewear and include a safety pamphlet with every sale.

A 10 percent fireworks fee in addition to the regular six percent sales tax is proposed and could be used to fund special needs such as a volunteer firefighter pension fund. Currently Indiana (five percent) and Texas (two percent) have a special tax on fireworks.

Using the 2006 numbers in which \$815 million dollars worth of fireworks were sold nationwide, approximately \$12.6 million would be projected to be sold in West Virginia in 2009. While the speaker admitted that figure might be high initially, he believes with in three to four years when the state has appropriate vendor infrastructure, those figures will be accurate.

Using those numbers the 10 percent fee would yield \$1.3 million in annual tax revenue in the long term. It is estimated that the industry could also produce close to 300 jobs in West Virginia.

Lawmakers were skeptical that West Virginians would take to buying the new products at home when it is well known that many citizens already purchase their fireworks in border states.

In closing, the Vice President of Government Relations for Brickstreet Insurance gave a very brief presentation and addressed a few questions regarding worker's compensation benefits for volunteer firefighters.

She noted that all volunteer firefighters were required to have worker's compensation and she established that if a volunteer firefighter is hurt in duty, he or she is paid his or her wages at 66 2/3 percent. There is no salary cap on that figure and the 66 2/3 percent of wages is tax free.

### State Water Resources, Joint Legislative Oversight Commission on

#### Stream Mitigation

A representative for the Huntington Corps of Engineers addressed the commission on stream mitigation and the rule released earlier this year that is intended to help clarify how to provide compensatory mitigation for unavoidable impacts to the nation's wetlands and streams.

According to an article by Reuters in May, Benefits of the compensatory mitigation rule includes:


- Fostering greater predictability, increased transparency and improved performance of compensatory mitigation projects
- Establishing equivalent standards for all forms of mitigation
- Responding to recommendations of the National Research Council to improve the success of wetland restoration and replacement projects
- Setting clear science-based and results-oriented standards nationwide while allowing for regional variations
- Increasing and expanding public participation -- Encouraging watershed-based decisions

The Corps of Engineers representative also explained to the commission the process in which a mitigation site is determined. Annually, there are 500 permits for mitigation a year. Around 15 percent of those permits are defense mitigation.



When a site is determined, a plan must be created to include:

- Long-term objective
- Baseline information
- Work Plan
- Maintenance Plan
- Time frames

Further information on mitigation procedure and permits can be found on the Huntington Corps of Engineers website at <http://www.lrh.usace.army.mil/>. 



## Interim Committee Information

For information on all Interim Committees, please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Joint" link.

## Bill Status

For bill history information and full bill text of all Legislation from the 1993-2008 Regular and Special Sessions, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.

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## 2008 Interim Committee Meetings

September 7 - 9 (Bridgeport)  
October 12 - 14  
November 16 - 18  
December 7 - 9  
January 11 - 13, 2009  
February 8 - 10, 2009

*All dates are subject to change.*