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June 15-17, 2009

West Virginia Legislature's
Office of Reference & Information

Interim Highlights



An Instrument that Establishes the Agenda

Senate President Earl Ray Tomblin and Speaker of the House Richard Thompson both wield the gavel in their respective chambers. When the legislature is in session, the President & Speaker preside over and control the pace of the floor session.

photos: Martin Valent

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.

2nd Extraordinary Session - 2009

Six appropriation bills were passed during the Second Extraordinary Session, held June 15-17, 2009. The Legislature appropriated approximately \$31.6 million during the brief session, which took place amid the scheduled June interim committee meetings.

Senate Bill 2001 makes a supplementary appropriation of Lottery Net Profits to various accounts. Agencies and departments included in this appropriation of \$5.76 million includes: State Department of Education; Community and Technical College Capital Improvement Fund; and, Higher Education Policy Commission.

Senate Bill 2002 makes a supplementary appropriation of \$853,728 from General Revenue to the Department of Administration.

Senate Bill 2003 makes a supplementary appropriation of \$15.33 million from General Revenue to various accounts. Accounts include: Governor's Office - Civil Contingent Fund; Treasurer's Office; Secretary of State; Department of Commerce; Department of Education and the Arts; Department of Environmental Protection; Department of Health and Human Resources; Department of Military Affairs and Public Safety; West Virginia Council for Community and Technical College Education; and, the Higher Education Policy Commission.

Senate Bill 2004 supplements, amends and increases items from the State Road Fund to the Department of Transportation in the amount of \$4 million.

Senate Bill 2005 makes a supplementary appropriation from General Revenue to the Department of Education and Arts in the amount of \$644,938.

Senate Bill 2006 makes a supplementary appropriation from the State Excess Lottery Revenue Fund to the Department of Education in the amount of \$5 million.

Bill Status

View completed legislation:

http://www.legis.state.wv.us/Bill_Status/bill_status.cfm

Children, Juveniles & Other Issues, Select Committee on

The June meeting was largely organizational in nature. The committee touched on its past work and discussed its charge and plans for the coming year.

The committee reviewed House Bill 2465, relating to child abuse and neglect. This bill was previously recommended by the committee in the 2008 and 2009 regular sessions but failed to pass each time. The committee discussed the parts of this legislation they would like to continue to emphasize.

The committee also discussed ways to improve recruitment and retention of child social workers as well as how to develop better foster care outcomes and make foster care transition programs more accessible.

Economic Development, Joint Commission on

Interim study resolutions to be taken up for study during the include, but may not be limited to, research benefits regarding gray energy, the use of alternative fuels and biofuels, a review of green initiatives and a proposal regarding the expansion of the State Rail Plan.

SCR 4 calls for a study on how West Virginia can be positioned as a national leader in research, innovation and commercialization of gray energy and energy efficiency technologies, products and processes.

Elected and appointed federal leaders have determined that a major policy initiative of the new administration is to determine how to increase the nation's energy efficiency, reduce carbon emissions into the environment and create new jobs and businesses related to these efforts.

The use of certain "gray energy technologies and processes", including energy efficiency measures, energy recycling, biomass, cofiring and cogasification of biomass-based fuels with fossil fuels and wood pellets, have been determined to be cost effective methods of reducing carbon emissions.

The resolution indicated West Virginia's energy security, environmental quality and economic vitality could be enhanced by the development of efficient energy methods.

Since West Virginia has a competitive advantage and a head start in implementing gray energy technologies due to the presence in the State of Recycled Energy Development Inc.'s waste heat recovery/power generation project at the West Virginia Alloys plant in Alloy, lawmakers believe West Virginia could be a national leader regarding gray energy technologies.

SCR 51 calls for a study of the potential beneficial use of alternative fuels and biofuels by state government and private industry.

According to the resolution, the use of alternative fuels and biofuels by state government and private industry creates economic opportunity for the in-state production of alternative fuels and biofuels, such as coal-to-liquids and biodiesel, and the use of alternative fuels and biofuels provides the opportunity for the state to create new jobs in a green industry. As such, the Legislative interim committee will study the potential benefits of using the alternative fuels.

SCR 54 calls for a study of public policy initiatives that promote the development and implementation of green building standards, green energy workforce and energy demand-side management in the public and private sectors, as well as potential tax credits.

An initiative financed by a commitment of billions in federal dollars serves as a catalyst to the green energy.

The demand for skilled trained green jobs and products is imperative to future economic development in the state and, as such, training programs within the community college/vocational-technical system could be developed.

The United States Green Building Council has developed standards known as the Leadership in Energy and Environmental Design standards to assist in determining the most relevant and useful standards to serve as a cornerstone for developing training programs.

To serve as an enticement for the construction of green buildings (those complying with designated Energy Star programs), lawmakers will study the feasibility of offering credits against certain state taxes, such as the West Virginia corporation net income tax, the business franchise tax and the West Virginia personal income tax.



SCR 53 calls for a study of the State Rail Plan and its possible expansion, in addition to the funding, manpower, compliance issues regarding short-line railroads and the possible need for increased authority of the State Rail Authority, which is responsible for funding and maintaining short-line railroads owned by the state.

The resolutions notes the state should consider the need to expand the use of short-line railroads and the associated issues related to the State Rail Authority, including such items as manpower, authority, expansion, commuter rail service such as the Maryland Area Regional Commuter (MARC) train service in this state, intermodal transportation in conjunction with the West Virginia Public Port Authority and compliance with federal regulations.

LOCEA

During June’s interim meeting, committee members were presented with an unofficial list of study assignments for the year. Some of those topics that could be taken up include teacher quality issues and special services for special needs children. The committee may also study college and career readiness as well as the constitutionality of citizenship requirements for teachers.

There will also be three select education committees although the focus of those select committees is still being decided. However, counsel informed the committee that it is unlikely one will deal with public school finance, which has been a select committee in the past.

Finance, Joint Standing Committee on

Members of the Joint Standing Committee on Finance held an organizational meeting to assign members to subcommittees and the topics those subcommittees will be discussing.

Aside from general issues regarding the budget and other financial matters, the committee has been assigned three study resolutions.

House Concurrent Resolution 77 requests a study of compensating state troopers for off-duty time when required to to work while on standby.

Senate Concurrent Resolution 57 requests a study regarding proposed new state business and occupation tax on high-voltage electric power transmission lines.

Senate Concurrent Resolution 59 requests a study on improving and updating severance tax on natural gas and oil.

Members were given their assignments and committees will begin working on their assigned topics next month during July Interim meetings.

Gov’t Organization/ Gov’t Operations - Joint Meeting

During two meetings of this Joint Committee, members heard presentations from various state agencies and departments detailing the work and mission of each section.

During the first meeting, the Department of Education and the Arts and its agencies provided their missions, objectives and progress of initiative currently underway to the joint committee. The Division of Culture and History spoke regarding the opening of the brand new State Museum, located in the Cultural Center, which was slated to open June 21st to the general public.

A representative from the Library Commission told members that he has seen a spike in use around the state during this economic downturn and many library patrons are using library resources to help find employment or hone skills to better their chances at finding jobs. Also, citizens are using the libraries to watch DVDs or VHS movies instead of paying for a video rental service and borrowing books to read instead of purchasing.

Others providing information to the committee included the Division of Rehabilitation Services and the Commission for National and Community Service.

The next meeting included a presentation by the West Virginia Department of Education (WV DOE) in regard to its missions and objectives.



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Members were told that West Virginia schools were ranked by Education Week’s “Quality Counts 2008 Report” sixth in the nation based on: chance for success; K-12 achievement; standard; assessments and accountability; transitions and alignment; the teaching profession; and school finance.

West Virginia Pre-K programs were ranked in the top 10 nationwide by the “State of Preschool: 2008 State Preschool Yearbook,” compiled by the National Institute for Early Education Research at Rutgers University, for providing access to preschool programs and dedicating money to the effort.

Also, West Virginia was one of four states chosen to participate in a National Endowment for the Arts (NEA) intensive three day institute designed to help state policymakers, educators, advocates and artists design arts education plans for their states.

Overall, the representative stated that the WV DOE is doing a better job of serving school student today than at any time in our past history.

Members will meet again next month to hear more presentations from other state agencies and departments.

LOCHHRA

Initiating the first of its 2009 interim meetings, the Co-chairs of the Legislative Oversight Commission on Health & Human Resources Accountability (LOCHHRA) provided committee members with a new directive for the study group. Starting this year, the Commission will not make policy but, instead, will review policy made by the Department of Health and Human Resources (DHHR).

With the creation of the Select Committee on Health, a policy-forming committee, LOCHHRA is following the intent of it’s originating legislation which calls for it to examine all actions of the various agencies within the DHHR. According to statute, the powers, duties and responsibilities of the Commission include conducting a continuing investigation, study and review of the practices, policies and procedures of the health care and social services agencies in West Virginia.

Among other charges, the Commission is also to conduct studies on the amount of funds expended by hospitals and

other health care providers for services to persons who are unable to pay; to study the extent to which persons forego needed medical services because of insufficient financial resources; to follow how the state is maximizing federal programs and moneys; to review and study the Medicaid program and it’s financial impact on the state; to study the effects of rural health networks; and, to study the impact for primary health services delivered by a hospital ER as compared to the cost of a true emergency situation, to name a few.

The statute also allows the Commission to meet during any Legislative Session, as opposed to solely meeting during interims.

Reports covering the DHHR’s April activities, Medicaid and the Children’s Health Insurance Program (CHIP) were provided to lawmakers as was a listing of bills passed during the 2009 Regular Session affecting their oversight responsibilities.

Simply stated, the Commission will be working “to ensure adopted policies come into play in the real world,” according to one Co-Chair.

Judiciary, Joint Standing Committee on

During June’s interim meeting, committee members were informed by counsel from all three select committees on study assignments for the upcoming year.

Subcommittee A

Judiciary Subcommittee A will be studying various issues including the potential of expanding voting by mail outside of municipal elections. During the recent regular session, a bill was passed that allows individuals to vote by mail for municipality elections. The subcommittee will study voting by mail to see if it would be beneficial to the state to expand the practice.

Another issue Subcommittee A will be studying is touch screen voting. A bill during the regular session called for the banishment of touch screen voting. The bill did not pass but the subcommittee will be studying the issue as to whether it should be banned, limited, or expanded.



Judicial elections will be another subject studied in the upcoming months. Through executive order by the governor, an independent commission on judicial reform has been created. A report from the commission will be released in November, which the committee will be reviewing.

Other topics to be studied by Judiciary Subcommittee A include:

- Updates to disclosure requirements of election funds
- Mining around West Virginia cemeteries
- Creation of a select committee on a same sex marriage ban
- Workplace safety issues
- Oil and Gas drilling practices

Subcommittee B

Judiciary Subcommittee B has numerous issues as well that they will be covering during the year including the possibility of mandatory coverage by health insurers of all expenses associated with pregnancy and childbirth. The subcommittee will also study the prospects of expanding medical coverage for individuals with specific diseases such as Downs Syndrome.

The committee will also be studying other issues including:

- Workers Compensation reform
- Railroad track safety
- Carbon dioxide cap and trade proposals

Subcommittee C

Judiciary Subcommittee C will be reviewing the prison overcrowding conditions and causes this year after the recommendations of an independent council, created by executive order, are released July 1st.

The subcommittee will also be reviewing penal laws and criminal penalties to make sure that no sections of the code are outdated and penalties and punishments are appropriate to the crimes.

Other subjects to be studied by the committee include:

- Illegal drug abuse trends study
- Mandatory sex offender registration
- Effective participation in the use of the interlock devices
- Update rewards in the Court of Claims

Parks, Recreation & Natural Resources Subcommittee

The committee heard a presentation on recreational boating safety from the State Hunting and Boating Safety Education Coordinator. The coordinator reviewed 2007 boating accident statistics in the United States. Compared to the previous year, the number of deaths dropped from 710 to 685, however, injuries rose from 3,474 to 3,673 and damage rose from \$43,670,424 to \$53,106,496. Alcohol abuse is a known leading cause for most boating accidents.

Over two-thirds of all fatal boating accident victims drowned, and of those, 90 percent were not wearing a life jacket. Only 14 percent of deaths occurred on vessels where the operator had received boating safety instruction.

Closer to home, West Virginia is one of 13 states with a fatality rate equal to or greater than 10 deaths per 100,000 registered boats. Most accidents in West Virginia involved boaters with between 100-500 hours of operating experience.

The coordinator's solution to this problem is boater education. An online course in boater safety is now available, much like the one currently offered on hunter safety. He also thinks legislative action could help make West Virginia's waters safer.

Currently, a conservation officer can only pull over a boat for probable cause. The coordinator would like the DNR to be able to pull a boat over for a basic safety check. These safety check areas would be announced ahead of time and publicized to boaters.

Select Committee on PEIA , Seniors & Long-term Care

Members on this Select Committee heard a brief presentation from a representative of the State Police regarding the recently enacted Silver Alert system, designed to go into effect when cognitively impaired persons go missing similar to the Amber Alert system for missing children. The system must provide for the use of video image recording devices for search purposes during a Silver Alert and must provide for notice and broadcasting the alert.



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The system will go into effect on July 9th although the rules governing this system still must be finalized between the State Police and the Department of Military Affairs and Public Safety (MAPS). Members were told that much of this provisions enacted through this measure have been ongoing and would continue. The representative also wanted to clear up a misconception regarding the program. The system is designed to help locate any cognitively impaired person, regardless of age similar to a situation last year when a young hiker was lost in the Dolly Sods area.

The representative promised to keep the committee updated as to the progress and development of the rules and provisions of the Silver Alert System

Pensions & Retirement, Joint Standing Committee on

The committee discussed Huntington’s proposal regarding relief for their municipal pensions fund during the June meeting.

In the proposal the existing plan would be re-amortized over a 40-year period. This action would create a more level financial commitment on the city’s behalf.

New hires for the police and fire departments would be placed into a new plan. These plans would be tailored after the existing State of West Virginia retirement plans, public safety plan B and emergency medical services.

The proposed legislation would not require any new state money. Although no new funding sources would be sought, the city of Huntington is requesting the state to continue making contributions to their pension plan at the current rate. That money would then be allocated for the existing and proposed plan.

Regional Jail & Correctional Facility Authority, Legislative Oversight Committee on

The committee heard information updates from various agency representatives during June’s interim meetings and also received a written interim report from the Executive Director of the Regional Jail and Correctional Facility Authority.

Agency representatives briefed committee members on the escape of three men from an inmate road crew adjacent to Mount Olive three weeks ago. The inmates have now been apprehended. Approximately 200 inmates are out working on similar crews each day in West Virginia. To qualify for these jobs inmates must have committed a nonviolent crime as well as have a history of good behavior.

Committee members were briefed on the separation of inmates ages 18-21 from younger inmates in juvenile facilities across the state. This separation was in response to various assaults and sexual assaults that put the younger inmates in danger. While this separation is working in lowering the incidents of crime, the need for constant separation is putting a strain on the facility and requiring more staff.

Various projects were discussed including connecting a gas line to Huttonsville Correctional Center in Randolph County as well as the transfer of a correctional training facility from West Virginia Tech to Glenville State College.

State Water Resources, Legislative Oversight Commission on

In accordance to SCR 15, adopted during the 2007 Session, lawmakers are studying the effects of underground injection of coal slurry on human health and the environment.

The resolution requires the Department of Environmental Protection (DEP) and the Bureau for Public Health to jointly design and conduct a comprehensive study on the effects of underground injection of coal slurry, including the following:

1. An analysis of the chemical composition of coal slurry, including an inventory of organic and inorganic compounds;
2. A hydrogeological study of the migration of coal slurry or its constituent contaminants from injection wells into the ground waters or surface waters of West Virginia;
3. An analysis of the effects of the coal slurry and its constituent contaminants on human health;
4. A study of the effects of coal slurry and its constituent contaminants on public health in communities where it is determined that coal slurry or its constituent contaminants have migrated into ground waters currently or historically used for domestic purposes;

5. An environmental assessment of the effects on surface water and aquatic ecosystems of the migration of coal slurry or its constituent contaminants into surface waters.

Following a two-year study, the Secretary of the DEP provided findings for Phase I of the study. The complete report can be found at: http://www.wvdep.org/Docs/17295_SCR%2015%20Appendix%20I.pdf

Summary Findings (taken from the DEP's Slurry Report)

- There are significant spatial and temporal water quality impacts within the watersheds of the study area from various mining activities, therefore distinguishing impacts on surface waters from deep mine slurry injection is not possible given the scope of this study.
- A review of the water quality data available for the mine pools concludes that slurry injection activities increases the concentrations of total dissolved solids, sulfates and in some cases manganese downgradient of the injection site.
- The water quality of a private well located within the study area, was influenced by mining activities that included slurry injection, however, the exact contribution from the various mining sources could not be determined. Although influenced by mine water, the well did not exceed standards set for safe drinking water at public water supplies.
- The study did not determine impacts to the surrounding groundwater from slurry injection. There was insufficient information on the groundwater resources to make a determination.
- All of the deep mines evaluated in this study are partially below drainage. The majority of the mine workings are located below surface drainages with the exception of entries located at the up dip end of the mines. Conceptually, waters associated with the deep mine workings below drainage are less likely to impact surrounding ground waters due the low permeability of the strata surrounding the pools. Therefore, it is less likely for the slurry and its constituents located in the deep pools to impact the surrounding ground waters. However, this study does not provide evidence to confirm this statement nor does it disprove it. Additional comprehensive and site-specific investigations would be required and includes identification and monitoring of the surrounding ground waters.
- Based on the sample results, the inorganic and organic chemical composition of the coal slurry is similar to that

of the coal seams. Accordingly, this similarity creates difficulty in isolating water quality impacts due solely to the injection of coal slurry in underground mines.

- Three of the five deep mines within the Power Mountain study site had documented "black water events". Coal slurry flowed from the deep mine to the surface due to increased water pressure within mine. These events have the potential to impact surface and groundwater resources. The report did not address these episodic events.
- WVDEP-IUC compliance DMR data showed exceedences of UIC permit limits for the coal slurry injectate. Total Petroleum Hydrocarbons (TPHs) and total chromium were the most common parameters that exceeded the limits."

At the conclusion of his remarks, the DEP Secretary listed a number of recommendations.

- cease injection moratorium because of inadequate data
- develop coordination with inspectors and coal injectors;
- implement better ground and surface water monitoring;
- early quality determination of mine pool prior to injection;
- include water sampling as part of the mine permitting process;
- ensure water sampling data be made electronic;
- ensure electronic quarterly reports;
- ensure testing companies submit electronic reports; and,
- provide a GIS layer to show injection sites.

The above-listed recommendations, among others, should be implemented by 2010 for use as a historic database.

Above all, the Secretary of the DEP told lawmakers, the DEP staffers did not have enough information to provide much of an answer regarding damage to surface or underground water quality to be caused by coal slurry along.

Phase II of the plan involves a contract between the WV Department of Health and Human Resources's Bureau for Public Health Office of Environmental Health Services and West Virginia University. With Phase I being conducted by the DEO and the federal Office of Surface Mining (OSM), Phase II consists of WVU collaborating with the state agencies to develop a Public Health Assessment required to make critical public health decisions.

The agreement between the state and WVU is effective April 1, 2009 and will continue through March 31, 2010.

Veterans' Issues - Select Committee on

Committee members met in June to adopt organizational rules as well as to review topics for the year's interim meetings.

Under a resolution from this year's regular session, the committee will continue to look at issues from last year's interim meetings including Post Traumatic Stress Disorder (PTSD) affecting returning military and their families and higher education resources for service men and women.

The co-Chair of the committee also told the committee that he hoped that tricare would also be studied this year. Tricare is the health care program which serves active duty service members, retirees, their families, survivors and certain former spouses worldwide. 



Red, white & blue flowers adorn the capitol grounds in time for 4th of July festivities.

Interim Committee Meetings 2009

June 15-17
July 14-16
August 10-12
September 14-16
October 13-15
November 17-19
December 7-9
January 10-12 2010

Dates subject to change.

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