

The Legislature

West Virginia School Boards Association



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Bill Edition

Bills Introduced Jan. 20 - 24, 2004

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Week's bills reviewed

By Howard M. O'Cull, Ed.D.

The following W. Va. Senate and House of Delegates bills were introduced Jan. 20-24, the first full week of the 2004 regular legislative session. Bill reviews are included in two primary categories—"Public Education" and "Education-Related" bills. Other measures of interest are included in the categories of "Miscellaneous Bills" and "Briefly." Senate proposals are listed first.

If you want to receive a copy of any of the reviewed bills, please contact me at hocull@wvsba.org or 304.346.0571.

A total 69 education and education-related bills are reviewed in this issue.

— *O'Cull is W. Va. School Boards Association executive director. He is a registered lobbyist for WVSBA.*

PUBLIC EDUCATION

Class Size

150 pupils would be maximum

Senate Bill 236. Revised §18-5-18a would limit the total number of pupils a teacher is required to teach to a total of 150 pupils in all classes combined.

Sponsored by Sen. Anita Skeens Caldwell (D-Mercer). Introduced Jan. 20. Referred to Senate Education Committee, then Senate Finance Committee.

A fiscal note is requested.

(Similar proposals have been introduced in past sessions.)

County School Boards

Motions wouldn't need a second

Senate Bill 240. First introduced last year, this measure states that governing bodies or agencies having seven or fewer members would not have to have a "second to a motion presented to the board."

The bill would revise §6-9A-5.

Sponsored by Sen. John R. Unger II (D-Berkeley). Introduced Jan. 21. Referred to Senate Government Organization Committee.

(Similar proposals have been introduced in past sessions.)

Members couldn't act singularly

House Bill 4109. Revised §18-5-5 would prohibit county board members who "(act) in an individual capacity separate from the setting of

a county board convened for the transaction of business “from (making) obligations on behalf of the board, (committing) the board’s funds, (utilizing) the board’s property, employees or services without prior knowledge and consent of the board.”

It also would prohibit members who act individually from administering the school system, hiring board employees, supervising or evaluating board employees or students, and from disregarding “the policies of the board or rules of its schools.”

Members also would be prohibited from attempting to “exercise any other authority relating to the county schools or school board outside the scope of authority expressly provided by statute.”

Members, however, would be able to act independently in matters “expressly authorized by law.”

County board members who violate this section of law would be “personally liable for all costs and personal judgments incurred as a result of the violation, including attorney fees.”

There are seven House sponsors, including lead sponsor Del. David G. Perry (D-Fayette). Introduced Jan. 22. Referred to House Education Committee, then House Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

County Superintendents

Posting would be required

House Bill 4064. Revised §18-4-1 would require county boards to post the position of county superintendent for at least 30 days prior to making an appointment. The posting requirement doesn’t apply to reappointment of a superintendent or appointment of an interim superintendent.

The Legislature provides county board of education members, state policymakers, school administrators, and others information, opinion and commentary regarding West Virginia legislative issues. This publication does not necessarily reflect the official views, opinions or policies of the WVSBA, unless specifically stated.

West Virginia School Boards Association
PO Box 1008
Charleston, WV 25324
(304) 346-0571
(304) 346-0572 fax

WVSBA.ORG

William J. Raglin (Kanawha), President
wjraglin@charter.net

Howard M. O’Cull, Ed. D., Executive Director, Editor
hocull@wvsba.org

Jason B. Keeling, Executive Assistant
jkeeling@wvsba.org

Also refer to **House Bill 4081.** Adopted by the House Education Committee, this measure adds additional language saying that county superintendents, at the expiration of their terms, “shall be eligible for reappointment for additional terms of not less than one, nor more than four years.”

House Bill 4081 is on House Consent Calendar, Second Reading.

House Bill 4064, introduced Jan. 19, has seven House sponsors, including lead sponsor House Education Chairman Jerry L. Mezzatesta (D-Hampshire).

House Bill 4081 also has seven sponsors, including lead sponsor Del. Mezzatesta. The measure was introduced Jan. 20.

Both bills were referred to House Education.

Educational Technology

State plan would be required

House Bill 4072. The purpose of this legislation is to create the state Education Technology Strategic Plan. The measure has been approved by the House of Delegates. For more information, please refer to *The Legislature*, Issue 3.

There are seven House sponsors, including lead sponsor Del. Randy Swartzmiller (D-Hancock). Introduced Jan. 19. Referred to the House Education Committee, then House Finance Committee.

The bill’s states as its purpose the intent to “establish a unified approach to the administration and allocation of funds appropriated for technology in the public schools of this state...”

The W. Va. Board of Education would be required to “allocate and expend funds in accordance with (the plan).”

(Similar proposals have been introduced in past sessions.)

School Aid Formula

Enrollment step must be funded

Senate Bill 198. Revised §18-9A-15 would require the state school aid formula step relating to increased enrollment to be funded.

Current law states that if the amount of formula funds allocated for this purpose isn’t sufficient, county allocations are to be reduced proportionally, with the moneys then to be distributed to the affected counties.

Existing law also allows the governor to “request a supplemental appropriation at the next legislative session for the reduced amount (of funds needed).”

Sponsored by Sen. Herb Snyder (D-Jefferson). Introduced Jan. 19. Referred to Senate Education Committee, then Senate Finance Committee. A fiscal note is requested.

(Similar proposals have been introduced in past sessions.)

Impact fee proof may be asked

Senate Bill 245. Revised §8-12-14 would authorize municipalities to require proof of payment of county school board impact fees before issuing building permits for construction of residential structures.

Sponsored by Sen. Snyder. Introduced Jan. 21. Referred to Senate Education Committee, then Senate Finance Committee. The bill requests a fiscal note.

(Similar proposals have been introduced in past sessions.)

School Facilities

Enrollment trends may prevail

Senate Bill 244. Revised §18-9D-16 would establish increased student enrollment as the prevailing criterion in funding decisions made by the School Building Authority of West Virginia.

Sponsored by Sen. Snyder. Introduced Jan. 21. Referred to Senate Education Committee, then Senate Finance Committee.

(Similar proposals have been introduced in past sessions.)

School Personnel

Drug treatment plan proposed

House Bill 4079. The purpose of this legislation is to establish a fairly extensive system for treatment of substance abuse (non-violent drug-dependent criminal offenders) through “rehabilitative treatment programs” rather than incarceration, especially for first-time offenders or for certain “repeat” offenders who, in the judgment of the courts, could benefit from such programs.

“Rehabilitative treatment programs” would vary, but include community drug treatment programs, outpatient treatment, halfway house treatment, narcotic replacement therapy, drug education/prevention courses, vocational training, family counseling, literacy training, community service, and inpatient or residential drug treatment “as needed to address dependence, special detoxification, or relapse situations.”

Incarceration ‘Less Likely’

According to the Bill’s statement of finding, such a treatment approach for non-violent drug-dependent criminal offenders will result in persons who are “less likely to abuse drugs and commit future crimes, and (who will be more) likely to live healthier, more stable, and more productive lives.”

The bill has several sections relating to the prevention program both for first-time felony offenders and misdemeanor drug offenders.

Commitment to the program would be in lieu of incarceration.

Those persons who are enrolled in these type treatment programs could be incarcerated under certain circumstances, including additional criminal behavior, especially drug-related criminal behavior, or violation of treatment guidelines.

The program would be funded as a special revenue account of the state, and could be augmented through donations of funds, grants and similar initiatives.

There are several other provisions.

The bill has three House sponsors, including lead sponsor Del. Barbara A. Fleischauer (D-Monongalia). Introduced Jan. 20. Referred to House Judiciary Committee, then House Finance Committee.

(Similar proposals have been introduced in past sessions.)

Genetic privacy act proposed

House Bill 4106. First introduced last year, this measure would regulate genetic testing. It is proposed by a national legislative group.

For purposes of insurance, insurers could request information derived from genetic testing for use in connection with an accident

and health insurance policy, as long as the information is not used for a “non-therapeutic purpose as it relates to the (insurance policy).” The legislation would define “non-therapeutic” purposes as including requiring the release of the results of the genetic test as a condition “precedent to the payment for the tests or for any other purpose.”

Employers

Employers would be allowed to use genetic testing information only as allowed by existing law, and within the requirements of the federal Americans with Disabilities Act, and any other related federal or state statutes.

In dealing with genetic information, employers could release genetic information only to an employee’s “authorized representative.” Employers also could release the information to authorized agents or employees of health facilities or health care providers if those persons are “authorized to obtain the test results (and if) the agent or employee provides patient care and the agent and employee has a need to know the information in order to conduct (tests or provide treatment). . . .”

There are several other provisions, including a section dealing with genetic testing information of minors and its release, including provisions relating to parental notification.

The information would be exempt from the Freedom of Information Act.

The proposal has extensive sections relating to definitions, defining genetic testing as “a test of a person’s genes or chromosomes to determine inherent properties or to identify genetic abnormalities.”

There are six House sponsors, including lead sponsor Del. Barbara A. Hatfield (D-Kanawha). Introduced Jan. 22. Referred to House Health and Human Resources Committee, then House Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

School Safety/Security

Deputies could provide security

Senate Bill 266. Under provisions of this bill, a county commission, in cooperation with the county sheriff, would be permitted to contract with public or private entities, including use of off-deputy sheriffs from other counties, to provide police or security services. The contractual arrangements would have to be deemed by the county commission to be in the “public interest.”

Any “entity” contracting with a county commission would be required to indemnify the county, county commission, sheriff, deputy sheriffs and other personnel from any liability arising out of the contracted employment.

In cases involving a public disaster or emergency where reassignment of contracted personnel is required, neither the county commission, the sheriff nor deputy sheriffs are liable for any damages incurred, according to a bill provision.

There are other sections.

Sponsored by Sen. Unger. Introduced Jan. 22. Referred to Senate Government Organization Committee.

The Legislature

School Transportation

Loads to be securely fastened

Senate Bill 212. A legislative perennial, this bill would require the mandatory covering of vehicles hauling coal, cinders, gravel, sand, stone, wood chips or “any other like material...” in order to prevent the escape of the material(s).

Sand or other material could be dropped in inclement weather to secure traction, or water “or other substance” could be sprinkled on a roadway in cleaning or maintaining the roadway.

Those convicted of violating the statute would be guilty of a misdemeanor, subject to a fine of \$250 or less.

Sponsored by Sen. Larry A. Rowe (D-Kanawha). Introduced Jan. 19. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Vehicle definition would change

Senate Bill 223. Revised §46A-6A-2 would change the definition of “motor vehicle” to include vehicles weighing over 8,000 pounds for consumer protection purposes and for new motor vehicle warranties. This provision would apply to pickup trucks and vans subject to registration as Class A or, as proposed, Class B vehicles.

Sponsored by Sen. Jon B. Hunter (D-Monongalia). Introduced Jan. 20. Referred to Senate Judiciary Committee.

Red lights could be stop signs

Senate Bill 235. The purpose of this bill is to allow red lights, between midnight and 6:00 a.m., to be treated as stop signs “while no pedestrians or other traffic are present or within close proximity.”

“Local authorities” could, by ordinance, “prohibit motorists from availing themselves of the provisions of this (proposed statute).”

Sponsored by Sen. Hunter. Introduced Jan. 20. Referred to Senate Transportation Committee.

Student Scholarships

Vouchers possible for ‘Taps’

House Bill 4116. Revised §18-2-10a would provide a \$25 tuition and fee voucher redeemable at state institutions of higher learning for Grade 6-12 students who sound “Taps” during a military honors funeral for a deceased veteran.

The bill’s provisions also would apply to students enrolled at state institutions of higher education.

The W. Va. Board of Education would administer the program by creating a “tuition and required fees voucher form,” which funeral directors would award.

The WVBE would have to develop additional program details, but cannot charge a fee for the form or for the distribution of the form.

Additionally, the WVBE is to “encourage schools to grant an excused absence to a student...who sounds ‘Taps’ during a military honors funeral for a deceased veteran.”

Funeral directors would issue the tuition and required fees voucher.

There are other provisions.

Sponsored by Del. Larry A. Williams (D-Preston) and six other House sponsors. Introduced Jan. 23. Referred to House Education Committee, then House Finance Committee. The bill requests a fiscal note.

Del. Williams is House Education Vice Chairman.

EDUCATION-RELATED

Alcohol

DUI would be set at .08 percent

Senate Bill 226. This fairly extensive bill would establish the DUI limit as 0.08 of one percent of body weight. It also has a number of other provisions relating to sentencing, fines and DUI conviction.

NOTE: A DUI measure has gone to a House/Senate Conference Committee.

Sponsored by Sen. Rowe. Introduced Jan. 20. Referred to Senate Judiciary Committee, then Senate Finance Committee. The bill requests a fiscal note.

(Similar proposals have been introduced in past sessions.)

Club hearing would be required

Senate Bill 233. Under terms of this bill, the Alcohol Beverage Control Commissioner would be required to hold a public hearing prior to issuing a first-time license for a private club or upon the transfer of a license to a private club at a new location. A public hearing would be required to be held in the county where the club is to be located.

Sponsored by Sen. Unger. Introduced Jan. 20. Referred to Senate Judiciary Committee, then Senate Finance Committee. A fiscal note is requested.

(Similar proposals have been introduced in past sessions.)

Retail option may go to county

Senate Bill 248. Revised §7-1-300 would grant county commissions the right to sell liquor if there are no private retail establishments that sell liquor within a 30-mile radius. The bill amends a section of Code “removing” the state from retail liquor sales.

Sponsored by Sen. Donna J. Boley (R-Pleasants). Introduced Jan. 21. Referred to Senate Judiciary Committee, then Senate Finance Committee. A fiscal note is requested.

(Similar proposals have been introduced in past sessions.)

Scan devise defense may be used

House Bill 4101. This bill would establish as scanner technology devise malfunctions as a defense for the sale of alcohol to persons under age 21.

There are seven sponsors, including lead sponsor Del. Tim Ennis (D-Brooke). Introduced Jan. 22. Referred to Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Open containers ban proposed

House Bill 4110. Introduced in past legislative sessions, this bill would make the state's criminal and penalty laws applying to the use and display of beer and alcoholic beverages in motor vehicles conform to federal statutes. (It prohibits the consumption of an alcoholic beverage or the possession of an open alcoholic beverage container in the passenger area of a motor vehicle that is located on a highway or the right-of-way adjacent to a highway.)

There are three House sponsors, including lead sponsor Del. William F. Stemple (D-Calhoun). Introduced Jan. 22. Referred to House Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

All-Terrain Vehicles

Helmets would be required

Senate Bill 215 is introduced by Sen. Michael Oliverio (D-Monongalia). It would require persons under age 18 who operate ATVs to wear helmets. It also would prohibit persons under age 18 from riding an ATV with another person who also is under age 18, and exempts farmers and commercial ATV-users from its provisions. It also provides for local or county regulation of ATVs.

Introduced Jan. 19. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

'No riding after sunset'

Senate Bill 252. This fairly extensive bill is similar to **SB215**. It would prohibit persons under age 18 from riding an ATV after sunset unless accompanied by a parent or guardian. It also prohibits riding an ATV in a "careless or reckless" manner, and allows law enforcement administrators to enter private lands in pursuit of an ATV when a violation of law has occurred.

There are several additional provisions relating to safety, safety equipment, acceptable ATV speed limits, and a requirement that landowners provide written permission before an ATV can be operated on private property.

There are five Senate sponsors, including lead sponsor Sen. Snyder. Introduced Jan. 21. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

The House companion is **House Bill 4121**. There are six House sponsors, including lead sponsor Del. Corey Palumbo (D-Kanawha). Introduced Jan. 23. Referred to Senate Judiciary Committee.

A related bill is **SB253** (same sponsors). One additional provision would allow for the riding of an ATV on paved roads and highways during a declared state of emergency. It has several other extensive provisions, one of which authorizes the Division of Natural Resources to regulate ATV safety on properties within its jurisdiction, and authorizing the Hatfield-McCoy Recreation Area Authority to regulate ATV operation within H-MRA properties.

Again, there are several other provisions.

Introduced Jan. 21. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

The House companion is **House Bill 4120**. There are five House sponsors, including lead sponsor Del. Palumbo. Introduced Jan. 23. Referred to House Judiciary Committee.

Roll-over protection proposed

Senate Bill 264. This bill has provisions similar to the above bills, and would require a roll-over protection system on all ATVs sold in West Virginia within three years of the bill's passage.

Sponsored by Sens. Mike Ross (D-Randolph) and Shirley Love (D-Fayette). (Sen. Ross chairs the Senate Transportation Committee.) Introduced Jan. 22. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

NOTE: The House of Delegates has passed a bill relating to ATV safety, and the Senate is considering similar legislation.

(Similar proposals have been introduced in past sessions.)

Child Welfare

Bill relates to caretaker custody

Senate Bill 213. The purpose of this legislation is to provide a presumption to continue custody in a caretaker-relative when the caretaker-relative has had custody of a child or children for at least eight of the last twelve months of the year. This provision would apply in those cases when a change in custody petition is sought.

Additionally, the caretaker-relative would continue to have temporary custody of the child until the end of the school year (in terms of a custody petition) unless authorities determine this arrangement isn't in the child's or children's best interest.

Sponsored by Sen. Rowe. Introduced Jan. 19. Referred to Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Bill would correct code cite

Senate Bill 224. The purpose of this legislation is to correct an erroneous reference to a statutory article concerning adoption of an abandoned child.

Sponsored by Sen. Hunter. Introduced Jan. 20. Referred to Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Bill concerns guardians

Senate Bill 234. The purpose of this legislation is to transfer the duty of appointing guardians for minor children from county commissions to circuit courts, except in those situations where a parent has made the appointment in his or her will, or where the parents agree as to whom will be appointed.

Sponsored by Sen. Karen Facemyer (D-Jackson). Introduced Jan. 20. Referred to Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Juveniles' compact proposed

House Bill 4055. This rather extensive bill, introduced in past legislative sessions, would create the Interstate Compact for Juveniles.

These are among bill provisions:

- The bill relates to juveniles, delinquents and status offenders "who are on probation or parole and who have absconded, escaped or run away from supervision and control and in doing so have

endangered their own safety and the safety of others.” It also relates to juveniles who have run away from home “and in doing so have left their state of residence.”

- The bill would require these juveniles to be provided “adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state.”
- The bill also seeks to return juveniles to the state requesting their return; to provide for the “effective tracking and supervision of juveniles,” and to establish various data collection mechanisms.
- Under bill provisions, the Compact would encourage contracts for the “cooperative institutionalization in public facilities... for delinquent youth needing special services,” and coordinate “the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders.”

Pending Charges

- Another Compact provision would result in resolution of pending charges (detainers) against juveniles prior to their release or transfer to the community.
- The bill also would result in coordination of the implementation and operation of the Compact (There are several other provisions.)
- Compacting states would be required to establish an executive committee which would have the power to act on behalf of the Interstate Commission during periods when the Commission itself isn’t in session. The executive committee would oversee Interstate Compact staff.
- Courts in all states covered by the Compact would be required to enforce its provisions.
- A state Compact Council would be established. While each state can determine the makeup of its council, there must be at least one representative of the legislative, judicial and executive branches of government, as well as representatives of “victim groups,” and the state compact administrator or designee.
- A total 35 states must agree to the Compact before it becomes effective.

Sponsored by Del. Rick Staton (D-Wyoming). Introduced Jan. 16. Referred to House Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Consumers Sales Tax

Data processing may be exempt

Senate Bill 243. The purpose of this legislation is to update the data processing exemption as covered under consumers’ sales tax.

Sponsored by Sen. Unger. Introduced Jan. 21. Referred to Senate Finance Committee. A fiscal note is requested.

Crimes

Domestic violence pact urged

Senate Bill 258. This bill has numerous provisions, one of which would require domestic violence protective orders issued in other states to be honored and enforced in West Virginia, using procedures similar to the protective orders approved by other states who

adopt the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

The bill also would, among other provisions, increase penalties for domestic violence violations.

There are six Senate sponsors, including lead sponsor Sen. Caldwell. Introduced Jan. 22. Referred to the Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Worker assault would be crime

Senate Bill 267. Proposed §61-2-15b would make it a crime to commit assault and battery against a public employee.

The bill stipulates that its provisions apply to “any person employed by the state of West Virginia or any political subdivision of the state.”

Sponsored by Sen. Joseph M. Minard (D-Harrison). Introduced Jan. 22. Referred to Senate Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Breaking/entering intent added

House Bill 4091. Revised §61-3-12 would provide the “intent” to commit “a crime” as an element of the offense of breaking and entering of any dwelling other than a residence. This language would replace the existing statutory provision, which defines the offense of breaking and entering to “commit a felony or any larceny.”

Sponsored by Del. Mike Hall (D-Putnam). Introduced Jan. 21. Referred to House Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

Offenders would get own plates

House Bill 4099. Under terms of this controversial bill, registered sex crime offenders would be issued special driver’s licenses and motor vehicle registration plates that identify the holder or owner as a registered sex offender.

There are other provisions.

Sponsored by Dels. Swartzmiller and Ennis. Introduced Jan. 21. Referred to House Roads and Transportation Committee, then House Judiciary Committee.

Burglary tools would be defined

House Bill 4124. Revised §61-3-11a would define “burglary tools,” which would include picklocks, keys, crowbars, pry bars, jacks or bits, as well as nitroglycerin, dynamite, gunpowder or other explosive materials. These tools also would include acetylene torches, electric arcs, burning bars, thermal lances, etc., or “any tool, instrument or device that has been adapted, designed or used for committing or facilitating the commission of burglary or larceny.”

Sponsored by Del. Swartzmiller and three other delegates. Introduced Jan. 23. Referred to House Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

<p>W V S B A ’ s</p> <p>WINTER</p> <p>CONFERENCE</p>	<p>February 13/14</p> <p>Charleston Marriott</p>
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Flood-Related

Flood agency may be created

Senate Bill 219. Refer to **Senate Bills 49 and 83.** It is reviewed in *The Legislature*, Issue 2. **Senate Bill 219** also relates to the authority of county commissions to create a floodplain enforcement agency.

Sponsored by Sen. Rowe. Introduced Jan. 19. Referred to Senate Judiciary Committee.

A related bill is **Senate Bill 231.** This measure allows county commissions to create flood plain enforcement agencies to enforce building codes that will comply with the National Flood Insurance Act.

Sponsored by Sens. Robert H. Plymale (D-Wayne) and Brooks McCabe (D-Kanawha). Introduced Jan. 20. Referred to Senate Government Organization Committee.

Senate Bill 230 would divert taxes collected on federal flood insurance policies to a special revenue fund in the state Treasurer's Office. These funds would be used for enhancing floodplain management. The bill also would add technical staff and sub grants to local governments.

Sponsored by Sens. Plymale and McCabe. Introduced Jan. 20. Referred to Senate Banking and Insurance Committee, then Senate Finance Committee. The bill requests a fiscal note.

(Similar proposals have been introduced in past sessions.)

Higher Education

Measure concerns retirees

Senate Bill 36. This measure would grant a modification to adjusted gross income taxes of higher education employees who retire under a retirement plan other than the Public Employees Retirement System or the Teachers Retirement System.

Sponsored by Sen. Hunter. Introduced Jan. 14. Referred to Senate Education Committee, then Senate Finance Committee. A fiscal note is requested.

Also refer to **House Bill 4114.** This bill would raise the allowable earnings limit of higher education faculty who retired under the earlier severance program.

Sponsored by Del. Doug Stalnaker (D-Lewis). Introduced Jan. 23. Referred to House Pensions and Retirement Committee, then House Finance Committee.

(Similar proposals have been introduced in past sessions.)

Bill relates to university status

Senate Bill 46. Under terms of this bill, the governing board of an institution of higher education could determine when that institution may become a university, after the institution has met the eligibility requirements established by the Higher Education Policy Commission.

Sponsored by Sen. Unger. Introduced Jan. 14. Referred to Senate Education Committee.

(Similar proposals have been introduced in past sessions.)

'State' would become university

Senate Bill 80. The purpose of this bill is to change the name of W. Va. State College to W. Va. State University.

Sponsored by Sen. Rowe. Introduced Jan. 14. Referred to Senate Education Committee.

(Similar proposals have been introduced in past sessions.)

Pay increase would be given

Senate Bill 116. The intent of this legislation is to reinstate mandatory incremental salary increases for higher education classified employees, based on years of service. There would be no cap on the number of years of service.

Sponsored by Sen. Roman W. Prezioso Jr. (D-Marion). Introduced Jan. 14. Referred to Senate Education Committee, then Senate Finance Committee. A fiscal note has been requested.

Also refer to **Senate Bill 195.** It is a related bill. There are 10 Senate sponsors. Originating in Senate Education Committee Jan. 16. Sen. Plymale is lead sponsor.

(Similar proposals have been introduced in past sessions.)

Fellowship program proposed

Senate Bill 154. This legislation, introduced on behalf of the governor, would establish a Distinguished Graduate Student Fellowship Program and Marshall University and W. Va. University. The bill discusses, in detail, how the program would operate, its funding and various other provisions.

Sponsored by Sens. Tomblin and Sprouse. Introduced Jan. 14. Referred to Senate Education Committee, then Senate Finance Committee.

The companion measure, **House Bill 4025**, is sponsored by Dels. Kiss and Trump. Introduced Jan. 14. Referred to House Education Committee, then House Finance Committee.

Both have been sponsored at the request of the governor.

Bills cover fee simplification

Senate Bill 165. Another bill of the governor's, this measure relates to tuition and fee simplification for institutions of higher education.

Sponsored by Sens. Tomblin and Sprouse. Introduced Jan. 14. Referred to Senate Education Committee, then Senate Finance Committee.

The companion measure is **House Bill 4034.** It was introduced Jan. 14. Sponsors are Dels. Kiss and Trump. Referred to House Education Committee, then House Finance Committee.

Both measures were introduced at the request of the governor.

Flexibility plan introduced

Senate Bill 169. Also a proposal of the governor's, this measure would provide increased management, finance and purchasing flexibility as well as personnel practices for institutions of higher education. The bill also creates a research challenge fund for research and development at colleges and universities.

Sponsored by Sens. Tomblin and Sprouse. Introduced Jan. 14. Referred to Senate Education Committee, then Senate Finance Committee.

The companion measure is **House Bill 4035**. It is sponsored by Dels. Kiss and Trump. Introduced Jan. 14. Referred to House Education Committee, then House Finance Committee.

Both bills have been introduced at the request of the governor. The funding mechanism for this legislation, to be secured from net terminal income of racetrack video lottery terminals from reduced distributions for tourism promotion, is included in **Senate Bill 197** and **House Bill 4059**. Both bills have been introduced by the Senate President and House Speaker and the respective Minority Leaders at the request of the governor. Introduced Jan. 19. The Senate measure has been referred to the Senate Judiciary Committee, and then Senate Finance Committee. The House bill has been referred to the House Finance Committee.

Both measures call for fiscal notes. NOTE: The “tourism aspect” of this legislation has proven controversial.

Student fees could increase

Senate Bill 183. This legislation would authorize institutions of higher education to increase fees of students attending more than full-time (more than 16 hours per semester for undergraduate students, and 12 hours for graduate students). Fees would be increased at the discretion of the institution’s governing board. Each increase would be prorated at one-ninth of the full-time rate per credit hour.

Sponsored by Sen. J. Frank Deem (R-Wood). Introduced Jan. 16. Referred to Senate Education Committee, then Senate Finance Committee. A fiscal note is requested.

Group to get HEPC reference

Senate Bill 201. This legislation would update references about members of the state Steel Advisory Commission and the commission’s relationship to the state University System Board of Trustees and state College System Board of Directors so that the reference is to the Higher Education Policy Commission.

Sponsored by Sen. Bowman. Introduced Jan. 19. Referred to Senate Government Organization Committee.

GSC may get graduate program

Senate Bill 263. This legislation would add Glenville State College to the number of institutions of higher education in the state that may need the need for graduate education in its region.

Sponsored by Sen. Minard. Introduced Jan. 22. Referred to Senate Education Committee, then Senate Finance Committee.

Political Activity

Troopers could politic

Senate Bill 208. Revised §15-2-13 would allow members of the W. Va. State Police to participate in political activities when not on duty and not wearing a uniform

Sponsored by Sen. Unger. Introduced Jan. 19. Referred to Sen. Judiciary Committee.

(Similar proposals have been introduced in past sessions.)

The Legislature

Vehicle signage would be nixed

House Bill 4095. Introduced by six Republican delegates and one Democrat Delegate, this bill would amend the state Ethics Commission statute so that “elected or appointed officials (including county board members and county superintendents) may not use their names or likenesses on any vehicles, promotional materials, commercials, printed advertisement or public service announcements owned, paid for or produced by the state or any political subdivision.”

The bill, however, wouldn’t prohibit these officials from using their names and likenesses on any official record or report, letterhead, document or certificate issued in the “course of their duties as elected or appointed officials.”

The lead sponsor is Del. Kelli Soboyna (R-Cabell). Introduced Jan. 21. Referred to the House Judiciary Committee.

‘No building naming’ proposed

House Bill 4098. Revised §4-13-1 would prohibit the naming of a publicly-funded building, road, structure or project after a living elected official.

The prohibition applies to all governmental bodies in the state.

There is a provision relating to fines for violating the statute.

Sponsored by Del. Linda Sumner (R-Raleigh). Introduced Jan. 21. Referred to House Judiciary Committee.

Contributions are to be known

House Bill 4102. Under terms of this bill, which also amends the state’s Ethics Act enacted in 1989, persons who are appointed to any state board or commission or employed in state government are to disclose political contributions made during the prior seven years.

There are seven House sponsors, including lead sponsor Del. Bill Hamilton (R-Upshur). (All other sponsors are Republican Delegates.)

Introduced Jan. 22. Referred to House Judiciary Committee.

Public Employees Insurance

Board size would increase

Senate Bill 256. Revised §5-16-4 would, among other things, increase the membership of the Public Employees Insurance Agency Finance Board to eight members (currently six), one of whom would represent retired employees. Four members would be appointed by the governor rather than three.

Sponsored by Sen. Hunter. Introduced Jan. 22. Referred to Senate Government Organization Committee, then Senate Finance Committee. A fiscal note is requested.

(Similar proposals have been introduced in past sessions.)

Public Employees Retirement

Pensions couldn’t be reduced

House Bill 4088. Revised §5-10-25 would prevent a reduction in the annuity of a Public Employees Retirement System retiree who retires with disability retirement at age 65.

Three House sponsors, including lead sponsor Del. Richard

Browning (D-Wyoming). Introduced Jan. 21. Referred to House Pensions and Retirement Committee, then House Finance Committee.
(Similar proposals have been introduced in past sessions.)

Supplement would be given

House Bill 4089. Revised §5-10-22h would provide a one-time supplement to PERS retirees, including retirees who, as of July 1, are under age 65 and who have been granted disability retirement. These persons must have been retired for five consecutive years to receive a 5 percent annuity benefit.

The provisions also apply to retirees who, as of July 1, are at least age 65 and who have been annuitants for the past five years. They would also receive a 5 percent annuity.

There are other provisions.

The sponsors are the same as for **HB4089**. Introduced Jan. 21. Referred to House Pensions and Retirement Committee, then House Finance Committee.

A related bill is **House Bill 4105**. It would increase the PERS multiplier for a retirement annuity from 2.00 to 2.25 percent.

There are four House sponsors, including lead sponsor Del. Browning. Introduced Jan. 22. Referred to House Pensions and Retirement Committee, then House Finance Committee.

All bills have fiscal note requests.

(Similar proposals have been introduced in past sessions.)

Bill relates to deferred plans

House Bill 4090. This legislation would allow a state employer (or other public employer) to contribute to deferred compensation plans or to match employee contributions.

Sponsored by Del. Browning and two other delegates. Introduced Jan. 21. Referred to House Pensions and Retirement Committee, then House Finance Committee.

Property Tax

Omissions could be corrected

Senate Bill 261. Revised §11-3-5 would allow county assessors to create a supplemental assessment for personal property that was omitted from the record books.

Sponsored by Sen. Minard. Introduced Jan. 22. Referred to Senate Judiciary Committee.

Rehabilitative Services

Bill would fix inconsistency

Senate Bill 199. The purpose of this legislation, according to the Bill Note, is to correct the statutory inconsistency of appointments made to the Commission for the Deaf and Hard-of-Hearing relative to the terms and number of appointees.

Thus, the measure corrects a statutory inconsistency.

Sponsored by Sen. Edwin J. Bowman (Hancock). Introduced Jan. 19. Referred to Senate Government Organization Committee.

House Bill 4049 is the House companion measure. It is sponsored by Del. J.D. Beane (D-Wood). Introduced Jan. 16. Referred to Senate Government Organization Committee.

NOTE: Bowman and Beane chair the respective Senate and House Government Organization Committees.

(Similar proposals have been introduced in past sessions.)

Bill would clarify statute

Senate Bill 227 would make certain clarifications in statutes relating to the Ron Yost Personal Assistive Services Act.

Assistive services allow persons who are disabled or incapacitated to live at home with the use of wheelchairs, motorized personal vehicles, and various health maintenance activities.

Sponsored by Sen. Bowman. Introduced Jan. 21. Referred to Senate Health and Human Resources Committee.

The House companion measure is **House Bill 4085**. It is sponsored by Del. Beane. Introduced Jan. 21. Referred to House Government Organization Committee.

(Similar proposals have been introduced in past sessions.)

Teachers Retirement System

Members could rejoin TRS

House Bill 4073. This measure—there is an identical Senate Bill—would allow teachers who withdrew from the state Teachers Retirement System, electing to join the Defined Contribution Retirement System, to exercise the option to return to the TRS.

Sponsored by Del. R. M. Thompson (D-Raleigh) and Nancy Houston (D-Monongalia). Introduced Jan. 19. Referred to House Pensions and Retirement Committee, then House Finance Committee. A fiscal note is requested.

(Similar proposals have been introduced in past sessions.)

Tobacco-Related

Bill would increase excise tax

Senate Bill 255. This measure would increase the excise tax on cigarettes and other tobacco products.

Revenues generated would be used to fund the state Medicaid program and “tobacco education.”

NOTE: This is the governor’s ‘cigarette tax’ bill.

Sponsored by Senate President Earl R. Tomblin (D-Logan) and Minority Leader Vic Sprouse (R-Kanawha). Introduced Jan. 22. Referred to Senate Finance Committee.

The companion measure is **House Bill 4100**. It is sponsored by Dels. Robert S. Kiss (D-Raleigh) and Charles V. Trump IV (R-Morgan). Introduced Jan. 22. Referred to House Finance Committee.

Kiss and Trump are House Speaker and Minority Leader, respectively.

(Similar proposals have been introduced in past sessions.)

Unemployment Compensation

‘Set-off’ could be eliminated

House Bill 4077. This bill would eliminate the set-off against Unemployment Compensation benefits for persons who are receiving Social Security benefits.

Sponsored by Dels. Tom Campbell (D-Greenbrier) and Ray Canterbury (R-Greenbrier). Introduced Jan. 20. Referred to House Finance Committee.

MISCELLANEOUS BILLS

Prescriptions could be denied

Senate Bill 220 would allow persons who fill medical prescriptions to refuse to dispense any substance that can be used as an abortifacient or that can be used as part of an abortion-related procedure. There are other provisions.

Cost-of-living study proposed

Senate Bill 216 would require the Bureau of Employment Programs to conduct comparative cost-of-living studies within the 55 counties, reporting findings to the Legislature's Joint Committee on Government and Finance. The studies would have to be submitted by December 1 annually.

BRIEFLY

A listing of bills whose introduction illustrates trends, issues facing other entities and agencies of government and proposed statutory disposition.

Senate Bill 200 would require the State Police Superintendent to make an annual report to the Legislature regarding the effectiveness of its efforts in recruiting minorities. The companion bill is **House Bill 4051**. **Senate Bill 204** would allow for sale of unused excess strategic research and development credits by taxpayers eligible to claim the credit. **House Bill 4058** is the House companion measure. **Senate Bill 205** would allow legislators to receive Public Employees Insurance Agency coverage if they were to pay the same share as state employees. (They current pay a proportionate "individual share of the full cost for all group coverage..."). **Senate Bill 206** would make it unlawful to sell products created, wholly in part, by county or regional inmates. **Senate Bill 209** would require acquisitions, rental contracts, leases or other long-term agreements for state office space, buildings or grounds (over \$5 million) to be presented to the Legislature's Joint Committee on Government and Finance for approval. **Senate Bill 210** would repeal the corporate license fee, as explained by the governor in his State of the State address. There is a companion House bill. **Senate Bill 217** would allow state Troopers who have 20 years' service to retire at age 50 rather than 55. Other retirement proposals include **House Bill 4017**. It would increase the Deputy Sheriff Retirement System contribution from 9.5 percent to 10.5 percent.

Deputy Sheriffs Retirement

House Bill 4075 would allow some law-enforcement employees of the Division of Protective Services to become members of the Deputy Sheriffs Retirement System. A related House Bill, **House Bill 4056**, would increase the cost of sheriff process fees to augment the deputy sheriffs retirement fund. **Senate Bill 221** relates to public-private transportation proposals. There is a companion House Bill. **Senate Bill 225** would provide an 18 percent increase in the annual base

salary of state police personnel. **Senate Bill 228** relates to "destination tourism," creating a Tourism Development Advisory Board. An example of this type tourism interest is arts and crafts. **Senate Bill 229** would expand the counties covered by the West Virginia Route 2/Interstate 68 Authority to include Cabell, Mason and Jackson Counties. **Senate Bill 237** would limit the time in which a purchaser of erroneously or nonexistent real estate offered a sheriff's sale may claim a refund. **Senate Bill 238** would increase the surcharge on fire/casualty insurance by one percent to benefit municipal police and firefighter retirement funds. **Senate Bill 241**, a related measure, would establish the Western West Virginia Highway Authority. It would include representatives from Cabell, Mason, Jackson, Putnam and Wayne Counties. **Senate Bill 242** relates to civil justice reform. It is introduced by Sen. Majority Leader Vic Sprouse (R-Kanawha). **Senate Bill 249** would allow a county commission to continue to receive the hotel tax on property annexed by a municipality where the tax has been pledged for a specific debt. According to the Bill Note, this is to allow for retirement of the debt. Also refer to the companion bill, **House Bill 4119**. **Senate Bill 250** requires municipalities to notify county commissioners of proposed annexations without election. A related bill is **House Bill 4063**. It would limit annexation authority of municipalities, requiring certain public hearings before annexation can occur.

Licensing Board Web Sites

Senate Bill 259 would require state licensing boards to have Web sites accessible to the public. **House Bill 4113** is the companion measure. **Senate Bill 260** would allow members of the state Design-build Board to be reimbursed for travel and other necessary expenses while engaged in official meetings. Also refer to the companion bill, **House Bill 4112**. **Senate Bill 262** would allow the Department of Administration to sell certain real estate at Crites, Buffalo Creek (Logan County). **Senate Bill 272** would create a State Police Review Board. Also refer to **House Bill 4125**. The board would hear complaints against State Police personnel. **Senate Bill 271** would require collection of racial profiling data. The House companion is **House Bill 4126**. **House Bill 4047** would create a High Growth Business Investment Tax Credit. **House Bill 4065** would provide for reciprocal licensure of physical therapists from other states or countries. **House Bill 4066** would increase certain county fees, dedicating revenues raised to Courthouse Facilities Improvement Fund. **House Bill 4080** would "disburden" a citizen who uses a defibrillator on an individual suffering cardiac arrest. They wouldn't be subject to any civil or criminal liability. **House Bill 4097** relates to payment of bond services. **House Bill 4103** would eliminate any reduction in benefits for state police officers who are disabled on the job when they attain age 55. **House Bill 4107** would allow game proceeds from charitable bingo and charitable raffles to be transferred. **House Bill 4115** would allow civil process servers employed by county sheriffs to carry deadly weapons. **House Bill 4118** would increase circuit clerks' salaries. **House Bill 4123** would allow the state Supreme Court to create a panel of senior magistrate court clerks, granting them authority to fill vacancies where needed.



On the Web at:
WVSBA.ORG

W V S B A ' s
**WINTER
CONFERENCE**

Charleston Marriott Hotel

Thursday, February 12, 2004

Note: Please use afternoon for individually arranged board/superintendent visitations with legislators; contact the WVSBA staff for more information.

7:00 - 9:00 p.m. WVSBA Executive Board meeting

PROGRAM

Friday, February 13

8:45 a.m. Legislative Visitations (individually arranged); buses depart for Capitol

1:00 p.m. First General Session (interactive)
Building Community Outreach for Public Education and Building Public Support; Jamie Vollmer, keynote speaker.

4:15 FY05 Annual Business Meeting

5:30 Buffet Dinner

7:15 - 9:00 Session with gubernatorial candidates

Saturday, February 14

8:15 a.m. Buffet Breakfast

8:45 Second General Session
Emergent School Facilities Policy in West Virginia

11:15 Workshops
a. Kids Hope USA
b. Monongalia County Bond Issue Strategies
c. No Child Left Behind: County Board Requirements

12:45 p.m. Conference Adjournment

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McDowell bill before Wise

Based on various newspaper and related press accounts, Gov. Bob Wise is expected to sign **House Bill 4111**, legislation that allows the W.Va. Board of Education, in takeovers, to assume control of county board properties.

The bill was adopted by the Senate Friday, after having been passed by the House of Delegates Thursday.

The Senate suspended its rules requiring a bill to be read on "three separate days" in order to pass the measure, which essentially allows the Army Corps of Engineers to receive title to property in McDowell County for use in constructing new school facilities.

The issue has been debated by the local board for several months. A decision, according to various press accounts, must be made by March 1. There is some indication, the a judicial interpretation may be sought as well, based on a MetroNews article.

In Thursday's House Education meeting, legislators appeared stunned the local board would essentially forego about \$50 million for school construction.

County board reaction in West Virginia has been mixed, based on comments received by the WVSBA staff, with most board members supporting the state stance. A few members say the issue wasn't thoroughly discussed by legislators, although the House and Senate leadership has known about the situation for some time.

The board voted 3-2 last Tuesday not to cede property rights to the corps. For more information, refer to the Jan. 30 issue of *The Legislature*.

— Howard M. O'Cull, Ed.D., WVSBA executive director.

The Legislature

West Virginia School Boards Association
PO Box 1008
Charleston, WV 25324