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## Week seven bills reviewed

By Howard M. O’Cull, Ed.D.

The following W. Va. Senate and House of Delegates bills were introduced Feb.23-27, 2004. Today (March 1) is the 48<sup>th</sup> day of the regular session. Friday (Feb. 27) was the last day to introduce House bills. (Bills may originate in committee, and the provision doesn’t apply to supplementary appropriation bills, and House resolutions or concurrent resolutions.) March 23 was the last day to introduce Senate bills. Bills are included in two primary categories—”Public Education” and ”Education-Related” bills. Other measures of interest are included in the category of ”Briefly.” Senate proposals are listed first.

If you want to receive a copy of any bill, please contact me at [hocull@wvsba.org](mailto:hocull@wvsba.org) or 304.346.0571.

A total 94 education and education-related bills are reviewed in this issue.

— O’Cull is W. Va. School Boards Association executive director.

## PUBLIC EDUCATION

### Class Size

#### Special ed. limit proposed

**House Bill 4730.** Proposed §18-20-1e would limit the number of special education students placed in regular education classrooms. According to bill provisions, ”the number of exceptional students served in one instructional period shall not exceed eight students at the early childhood education level or 10 students at the middle and adolescent education levels.”

Sponsored by Dels. Linda Sumner (D-Raleigh) and Mary M. Poling (D-Barbour). Introduced Feb. 27. Referred to House Education Committee.

*(Similar proposals have been introduced in past sessions.)*

### County Boards

#### EC rulings may set precedent

**Senate Bill 620.** Revised §6-9A-11 would give precedential application to W. Va. Ethics Commission *Advisory Opinions* regarding the state’s Open Meetings Laws. This means the *Opinions*, once issued, would apply to ”any governing body or member thereof that acts in good faith reliance on (the *Opinion[s]*), giving that (governing body or member thereof) an absolute defense to any civil suit or criminal prosecution for any action taken in good faith reliance on

the *Opinion*.”

Currently, the rulings apply only to the requester.

The revised section says the *Opinions* would be “binding on the parties requesting the *Opinion*.”

There are three Senate sponsors, including lead sponsor Sen. Jesse O. Guillis (D-Greenbrier). Introduced Feb. 23. Referred to Senate Judiciary Committee. There is a companion House bill.

## Outsourcing contract ban

**Senate Bill 703.** Proposed §5A-3-37b and §5A-3-37c would create the “Jobs Preservation Act of 2004.” The legislation, in part, would prohibit “any company that has had a net loss of (100) or more employees in the state during the prior calendar year and the loss was caused by the relocation of (100) or more jobs from this state to a site that is located outside the United States shall, for a period of seven years, be ineligible to enter into a procurement contract with the state or a local government.”

These companies also couldn’t receive “any government grants or loans from the state or a local government” or “use industrial development revenue bonds from the state and a local government.” The W. Va. Department of Labor and Employment is to provide written notice of any company so identified, forwarding that information to “each local government” (among other entities).

### Local Government Defined

Local government is defined as a “county, city, municipality, town, school district, junior college district, a local improvement and service district, special district, or any other independent local entity having the authority...to levy taxes or impose assessments.”

There are other provisions.

Sponsored by Sens. Edwin J. Bowman (D-Hancock) and nine other senators. Introduced Feb. 23. Referred to Senate Government

**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 WWSBA, unless specifically stated.

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Organization Committee, then Senate Finance Committee.

The House companion bill is **House Bill 4645**. It is sponsored by Dels. Richard Thompson (D-Wayne) and six other delegates. Introduced Feb. 26. Referred to House Industry and Labor, Economic Development and Small Business Committee, then House Finance Committee.

## Calendar bill introduced

**House Bill 4590.** Revised §18A-5-2 allows a county board, by vote of the board, to extend the instructional year “as necessary” to provide for 180 instructional days when schools are closed due to inclement weather or other similar conditions.

Under terms of the bill, “the time lost by the closing of schools may not be counted as days of employment and as meeting a part of the requirements of the minimum term of (180) days of instruction.”

There are other provisions.

Sponsored by Del. Charles V. Trump IV (R-Morgan). Introduced Feb. 23. Referred to House Education Committee, then House Finance Committee. A fiscal note is requested.

*(Similar proposals have been introduced in past sessions.)*

## Vendor preference suggested

**House Bill 4659.** Revised §5A-3-37 would create a vendor preference for state purchasing and purchases by political subdivisions of the state. The “preference” applies to vendors who “(maintain)...headquarters or principle (places) of business within West Virginia, accounting for more than (50 percent) of its revenue and the vendor’s bid does not exceed the lowest qualified bid from a nonresident vendor by more than (2.5 percent) of the latter bid, and if the vendor has certified the residency requirements (of the statute) and made written claim for the preference, the time the bid was submitted.”

Sponsored by Del. Ron Walters (R-Kanawha) and two other Delegates. Introduced Feb. 26. Referred to House Government Organization Committee, then House Finance Committee. A fiscal note is requested.

Also refer to **House Bill 4693**. It would increase the resident vendor’s preference bid ratio from 2.5 percent to 5.0 percent.

Sponsored by Del. Greg Howard (D-Cabell). Introduced Feb. 27. Referred to House Government Organization Committee, then House Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

## Litigation fund may be set up

**House Bill 4660.** Revised §5-3-5 would establish an “Attorney General’s Litigation Support Fund.” The fund would consist of moneys “designated by a court as reasonable attorney fees and related expenses received by the (Attorney General)...as a result of any fees, fines, restitution, forfeitures, penalties, costs, interest, or any administrative proceedings, or in settlement of any claim asserted by or against the people of West Virginia, the State of West Virginia, or any of its departments, agencies, institutions, officers, employees, or political subdivisions thereof.”

Moneys in the fund would be subject to legislative appropriation only.

Funds received in litigation settlements that are “in excess of

the actual expenses of the Office of the Attorney General pursuant to the litigation or the issue settled shall, after payment of any attorney fees and related expenses to the Attorney General's Litigation Support Fund...be deposited in the (state treasury)."

### **Political Subdivision**

There are exceptions. In case of political subdivision settlements, "... (The) remainder of the recovery shall be transmitted to the treasurer of such political subdivision for deposit in its general fund..."

The Attorney General would have to certify the expenses his or her office has incurred in pursuing litigation.

The bill has a section relating to detailed record-keeping required of the Attorney General and stipulating his or her use of moneys in the Litigation Support Fund.

It also creates a new section which relates to accountability for funds recovered by the Attorney General's Office relative to litigation, saying "accountability for assets or funds recovered by the (Attorney General) or other officer or agency of the state is essential to the public trust, and is even more critical when the Attorney General or other officer of the state was party to the action that resulted in the recovery by virtue of the public office he or she holds."

There are numerous other provisions, all of which are meant to bring accountability to funds procured by the Attorney General through various litigation.

There are four House sponsors, including lead sponsor Speaker Robert S. Kiss (D-Raleigh). Introduced Feb. 26. Referred to House Finance Committee.

## **Computer hacking crime set**

**House Bill 4716.** Revised §61-3C-4a would make all "unauthorized accessing" of the computers of the state or a political subdivision a crime. NOTE: This bill makes technical corrections to an existing law.

Sponsored by Del. Armstead. Introduced Feb. 27. Referred to House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## **Bill concerns delinquent taxes**

**House Bill 4728.** This legislation revises several sections of Code. It would allow county commissions, emergency ambulance authorities, county boards, urban mass transit authorities and library boards of directors to enter into intergovernmental agreements with other county tax-levying bodies to fund collection of delinquent personal property taxes.

NOTE: There is some question as the legality of county boards being able to enter into these agreements.

There are six House sponsors (all from Kanawha County), including lead sponsor Del. Sharon Spencer. Introduced Feb. 27. Referred to House Judiciary Committee.

## **Curricula**

### **Bill of Rights may be taught**

**Senate Bill 622.** Amended §18-2-9 would require students to receive one- and one-half years' instruction in the study of the Decla-

ration of Independence and other founding American historical documents, including the Bill of Rights. Students would have to receive this instruction prior to high school graduation.

Students also would be required to study the historical, political and social environments at the times these documents were written.

The "founding" documents as well as "basic instruction in geography, United States history, United States government, and the government of the state of West Virginia, local governments in West Virginia..." would have to be studied before students "may participate in secondary level courses involving the study of social problems, global economics, socialism or communism..."

There are three Senate sponsors, including lead sponsor Sen. Lisa Smith (D-Putnam). Introduced Feb. 23. Referred to Senate Education Committee, then Senate Finance Committee.

The House companion is **House Bill 4675.** There are five House sponsors, including lead sponsor Del. Tim Armstead (R-Kanawha). Introduced Feb. 27. Referred to House Education Committee.

*(Similar proposals have been introduced in past sessions.)*

## **Bill addresses three-year-olds**

**House Bill 4705.** Revised §18-5-44 would allow a county that is "predominantly rural (and which has) limited availability of day care facilities (to) continue to enroll three-year-old students if that county enrolled three-year-old students in the (2003 school year)."

The bill requires the W. Va. Board of Education to promulgate rules "setting standards for determining whether a county's rural population and day care availability warrant the continued enrollment of three-year-old students."

Under current law, during the 2004 school year, no county board is to enroll students "who will be less than (age four) prior to (September 1) for the year they enter school," except as may be required by federal law or regulation.

Sponsored by Dels. Stanley Shaver and Larry A. Williams (both D-Preston). Introduced Feb. 27. Referred to House Education Committee, then House Finance Committee. A fiscal note is requested.

This bill is the same as **Senate Bill 592.** (Refer to Issue 12 of *The Legislature.*)

*(Similar proposals have been introduced in past sessions.)*

## **Elections**

### **Print-out would be required**

**Senate Bill 634.** Revised §3-4A-9 would require that electronic voting machines be equipped to print out a verifiable record of the votes cast by a voter. (Each voter who receives the print-out would, in turn, hand the document to the appropriate poll worker. The document then would be preserved in the event of a contested election or recount.)

Sponsored by Sen. Larry A. Rowe (D-Kanawha). Introduced Feb. 23. Referred to Senate Judiciary Committee.

### **New reporting limit proposed**

**House Bill 4700.** Revised §3-8-5a would lower the threshold for reporting campaign expenditures from individuals, firms, associations, or committees contributing to an electoral campaign from \$250

to \$100.

Sponsored by Del. John Overington (R-Berkeley). Introduced Feb. 27. Referred to House Judiciary Committee.

## Bill relates to levy elections

**House Bill 4735.** Revised §18-9-1 would allow school levy elections to be held during the Primary Election.

Sponsored by Del. Jack Yost (D-Brooke). Introduced Feb. 27. Referred to House Education Committee, then House Judiciary Committee.

A related bill is **Senate Bill 581**. It would require levy and bond elections to be held on the same day as Primary or General Elections. Refer to Issue 12 of this publication.

*(Similar proposals have been introduced in past sessions.)*

## Juveniles

### Bill aims at instate placements

**House Bill 4649.** This bill would revise several sections of law and is aimed at achieving greater in-state placement of children in the custody of the W. Va. Department of Health and Human Services. The bill specifically develops an expanded “multidisciplinary treatment planning process” for children who are the victims of abuse or neglect.

Under current law, multidisciplinary investigative teams include the prosecuting attorney, a local Child Protective Services case-worker from the W. Va. Department of Health and Human Resources, and a local law-enforcement officer. A “child advocacy center representative” would be added if “such a program operates within the county.”

As stipulated by current law, treatment teams are responsible for assessing, planning, and implementing a “comprehensive, individualized service plan for children who are victims of abuse or neglect. These plans become operable when, among other reasons, the “court is considering placing the juvenile in (DHHR’s) custody or placing juvenile out-of-home at (DHHR’s) expense.

#### Comprehensive Assessment

Before such a placement can occur, the proposed statute would require the team to “obtain and utilize a uniform comprehensive assessment of the child, (based on) a standard uniform comprehensive assessment instrument or protocol...”

Under terms of a “multidisciplinary treatment planning process,” a “court-appointed special advocate” would be included if that volunteer program operates within the county. (Other members include the child’s parents, other immediate family members, the child’s attorney, guardian ad litem, if any, and the prosecuting attorney.”

If “out-of-home” placement is considered best for the child, “the team shall first consider placement at facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if there are no in-state facilities available or suitable to meet the needs of the child.” Courts, if making such recommendations, must “make specific written findings supporting (their) conclusion that no in-state facility or program was available or suitable to meet the needs of the child.”

#### Child Welfare Panel

The bill also creates a child welfare oversight panel, consisting of 12 members. It includes, as ex officio members, the Secretary of

DHHR, the secretary of the Department of Military Affairs and Public Safety and the State Superintendent of Schools.

Three members are to represent the general public, three members who are “representative of professionals in the child welfare system and three members who are the representative of foster parents and children in the child welfare system.”

The co-chairs of the legislative task force for juvenile detention, foster care and adoption are also ex officio members.

The agency is responsible for “general monitoring, oversight and evaluation of the child welfare system.” One duty is to “(develop) a plan...for the purpose of creating a process and strategy for assessing youth placed out of state, identifying needed community services for their return to the state and initiating discharge plans for the actual return of youth to in-state placements as soon as appropriate, based on the youth’s individual needs.”

The panel also is to advise the W. Va. Department of Education concerning children in out-of-home placements receiving “education services, including, but not limited to a plan for on-grounds schools at residential facilities.”

The group would have several other duties.

Panel meetings would be confidential. Members of the staff and panel may not “disclose to any person or governmental official any identifying information about any specific child about which the panel is provided information.

There are other provisions.

The bill has four House sponsors, including lead sponsor Del. Jon Amores (D-Kanawha). Introduced Feb. 26. Referred to House Judiciary Committee.

Also refer to **House Bill 4724**. It relates to adding members to multidisciplinary investigative teams.

Sponsored by Dels. Barbara Evans Fleischauer (D-Monongalia) and six other Delegates. Introduced Feb. 27. Referred to House Judiciary Committee.

Another bill is **House Bill 4598**. It would restrict courts from requiring conditions on the out-of-home placement of children that are inconsistent with existing licensing regulations, including rules governing the use of restraint techniques (among other prohibitions).

Sponsored by Del. Virginia (D-Summers) and two other Delegates. Introduced Feb. 24. Referred to House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

### Domestic violence placement

**House Bill 4692.** Revised §48-27-403 would provide for the temporary detention of juvenile perpetrators of domestic violence. The stipulation would apply when “no responsible adult can be found into whose custody the juvenile child could be released.” Thus, “until a responsible adult can be found into whose custody that juvenile may be delivered or until a detention hearing may be held...”

There are seven House sponsors, including Del. Bill Hamilton (R-Upshur). Introduced Feb. 27. Referred to House Judiciary.

### Records may be released

**House Bill 4733.** One of several bills on this subject, this proposed legislation would make juvenile records “open for inspection” in cases involving “violence against another person.” Upon “a written or oral request, the juvenile’s name and the offense he or she is

charged with or convicted of involving violence against another person shall be provided.”

The bill amends §49-5-17.

There are six House sponsors, including lead sponsor Del. Rusty Webb (R-Kanawha). Introduced Feb. 27. Referred to House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## ***School Aid Formula***

### **Capacity-building addressed**

**Senate Bill 650.** Revised §18-9A-10, §18-9A-11, and §18-9B-13b would make the following revisions in statutes regarding the school aid formula:

1. School aid formula “Step VII”—“Foundation Allowance to Improve Instructional Programs” would be funded through an appropriation of “at least \$33 million.”

2. An appropriation of \$5 million would go to schools having been identified as “seriously impaired” and schools that haven’t met adequate yearly progress for two consecutive years under the federal No Child Left Behind Act, as appropriated by the W. Va. Board of Education. The award would be based on criteria established by the WVBE, with the first priority for funding to go to schools identified as seriously impaired, and then schools having failed to meet AYP “on test assessments for at least two consecutive years.”

3. The WVBE annually would make a report to the Legislature concerning schools that received “capacity building moneys the previous year and what impact these resources had on removing a school from the seriously impaired list or the list of schools failing to meet (AYP).”

4. The bill would provide \$8 million for the “Foundation Allowance for Safe Schools,” with the state superintendent granting county boards “awards for pilot or innovative alternative education programs.” Programs would have to meet certain criteria, including “(serving) the most students in the alternative program.” Priority is given to elementary school programs that use “in-school suspension and requirements that alternative students work their way back into the regular classroom through improved behavior.” Middle/junior high school programs and secondary school programs providing at least 16 hours instruction per week, including requirements that students work their way back into the regular classroom through improved behavior, would receive priority.

5. Additional growth in local share would be appropriated for a \$570 teachers’ salary increment for teachers who have between 21-28 years of service. The salary provision would be funded proportionate to the growth in local share, first being applied to the increment at year 21 and then until year 28 is funded up to the amount “the yearly increment in growth in local share allows.” Any additional moneys then would be used to fund across-the-board salary increases for teachers and service personnel.

6. A “Reserve Allowance for Salary Enhancements” would be established by the W. Va. Department of Education. It would be funded in an amount “equal to the reduction in the amount of funds required (under the SAF) as a result of a decrease in net and adjusted enrollments from the preceding year.” Moneys in this fund would be used to “enhance the salaries of professional educators and service personnel.”

Sponsored by Sen. Robert H. Plymale (D-Wayne). Introduced Feb. 23. Referred to Senate Education Committee, then Senate Finance Committee. A fiscal note is required.

*(Similar proposals have been introduced in past sessions.)*

## ***School Facilities***

### **U.S. Motto display proposed**

**Senate Bill 623.** This bill would require the U.S. Motto – In God We Trust – to be displayed on public buildings.

Refer to **Senate Bill 493** for more detail. That proposal is reviewed in issue 10 of this publication – Feb. 16, 2004.

Sponsored by Smith and three other senators. Introduced Feb. 23. Referred to Senate Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

### **Competitive bidding revision**

**Senate Bill 694.** Revised §5-22-1 would amend laws relating to competitive bidding, redefining “lowest qualified responsible bidder.”

Under terms of the statute, that definition would include the bidder showing proof that he or she is “ready, able and willing to timely furnish the labor and materials required to complete the contract.”

The bill would have to comply with all applicable state laws, and must supply a surety bond “or other such surety as may be authorized by the contracting public entity.”

No contracts could be awarded to bidders who fail to meet these provisions.

In cases of low bidders whose proposals are rejected by the governmental entity, the public agency is to provide a written reason for the rejection – “documented in writing with reasonable detail the basis for such determination.”

After bids are awarded, all bid files of the public agency and all bids submitted in response to the bid call would become subject to public inspection.

There are penalties for public officials who award bids in violation of the section.

The statute would be known as the “West Virginia Fairness in Competitive Bidding Act.”

There are three Senate sponsors, including lead sponsor Sen. Brooks McCabe (D-Kanawha). Introduced Feb. 23. Referred to Senate Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

### **Wage law exemption proposed**

**House Bill 4699,** introduced by Del. Overington, would exempt public projects receiving federal assistance and subject to federal labor standards from the state’s prevailing wage laws.

Introduced Feb. 27. Referred to House Judiciary Committee, then House Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

**The Legislature**

## School Employees

### Full reciprocity proposed

**Senate Bill 609.** Under terms of this legislation, which would establish a newly proposed §18-2-19, the W. Va. Board of Education would be directed to study the “feasibility of a policy to move to full reciprocity for all teachers and administrators holding current, valid certificates or licenses in another state.”

A report relating to such would be due by Jan. 1, 2005.

Sponsored by Sen. Hunter. Introduced Feb. 23. Referred to Senate Education Committee.

### Bill amends HRC Act

**Senate Bill 610.** Revised §5-11-2 would essentially limit groups covered by the W. Va. Human Rights Commission to only those groups specifically enumerated in the state’s Civil Rights Act. The amendment would say that “no other persons or groups shall be added (for coverage by the Act) by any agency or political subdivision of this state (through agency/subdivision enactment of)...any ordinance, statute, regulation or rule.”

There are 12 Senate sponsors, including lead sponsor Sen. Karen Facemyer (R-Jackson). Introduced Feb. 23. Referred to Senate Judiciary Committee.

### Arbitration bill introduced

**Senate Bill 684.** Revised §29-6A-4 would allow state employees to select binding arbitration as opposed to a Level IV grievance hearing. Three arbitrators would be selected. Employers would bear the cost of arbitration. The arbitrator’s decision would be final and binding with no right of appeal by either party.

Sponsored by Sen. Hunter. Introduced Feb. 23. Referred to Senate Judiciary Committee, then Senate Finance Committee.

The House companion is **House Bill 4695.** Sponsored by Del. Tom Louisos (D-Fayette) and five other Delegates. Introduced Feb. 27. Referred to House Judiciary Committee, then House Finance Committee.

A fiscal note is requested for the House bill.

*(Similar proposals have been introduced in past sessions.)*

## W. Va. Dept. of Education

### Background checks proposed

**Senate Bill 624.** One of several measures introduced this session, this measure would require state employing units to conduct background checks on prospective employees, employees considered for promotions or transfers and individuals seeking to provide services through personal service contracts.

Sponsored by Sen. President Earl R. Tomblin (D-Logan). Introduced Feb. 23. Referred to Senate Judiciary Committee, then Senate Finance Committee. A fiscal note is requested.

NOTE: Several sections of code would be amended.

### Timely telephone bill paying

**Senate Bill 700.** Revised §5A-3-54 would require state agencies to make timely payments on invoices for telephone services under the “Prompt Payment Act of 1990” as well as prompt payment for other purchases of services/commodities.

There are four Senate sponsors, including lead sponsor Sen. Shirley Love (D-Fayette). Introduced Feb. 23. Referred to Senate Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

### AG representation outlined

**House Bill 4661.** Revised §5-3-1 require the W. Va. Attorney General to provide legal services upon the request of state agencies, including requests made by the “head of any state educational, correctional, penal or eleemosynary institution.”

The bill removes a provision of law prohibiting state agencies from paying any person, firm, or corporation for legal services.

Sponsored Speaker Kiss and three other Delegates. Introduced Feb. 26. Referred to House Finance Committee.

### Hiring levels may be established

**House Bill 4676.** This newly proposed section of law would require state agencies, by July 1, 2004, to have no more employees than they had as of Jan. 1.

The bill then creates a mechanism for departments or separate spending units required to create new positions or hire new employees (as a result of court orders) so that agencies don’t exceed the number of employees as of Jan. 1.

This provision would be operable through reductions in the number of other employees hired by the agency.

Sponsored by Del. Tim Armstead (D-Kanawha) and six other Delegates. Introduced Feb. 27. Referred to House Government Organization, then House Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

## EDUCATION-RELATED

### Alcohol

### Blood test may be required

**House Bill 4703.** The intent of this legislation is to allow law-enforcement officers to seek a warrant to draw blood from a person arrested for DUI when the person refuses to submit to a secondary chemical test.

There are four House sponsors, including lead sponsor Sen. John Pino (D-Fayette). Introduced Feb. 27. Referred to House Judiciary Committee.

### All-Terrain Vehicles

### Helmets would be required

**Senate Bill 632.** Revised §17C-24-1 regulates ATV-riding, requiring

helmets. It also would restrict “where” ATVs could be operated, and would require certain ATV safety devices. It also would allow counties and municipalities to provide for stricter (or less strict) ATV regulations. There are several other provisions.

Sponsored by Sen. Russell Weeks (D-Raleigh). Introduced Feb. 23. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

NOTE: The Legislature has agreed to compromise House/Senate ATV legislation, which has been debated for the last seven years. *(Similar proposals have been introduced in past sessions.)*

## ***Children’s Health Insurance***

### **Subrogation rights added**

**House Bill 4655.** Proposed §5-16B-10 would give the Children’s Health Insurance Program the right of subrogation, meaning that submission of an application to the CHIP for medical assistance is an assignment of the right of the applicant or legal representative to recovery from personal insurance or other sources, including third parties. At the time the application is made, the CHIP shall include a statement that explains that the applicant has assigned all rights and legal implications by making medical assignment to CHIP.

If other parties cover a claim, CHIP has the right to recover those funds. If a CHIP recipient has received a claim or action, the agency would be reimbursed to the extent of medical services paid on behalf the recipient.

There are several other provisions.

Sponsored by Del. Michael and six other Delegates. Introduced Feb. 26. Referred to House Banking and Insurance Committee, then House Judiciary Committee.

## ***Child Welfare***

### **Case disposition to be noted**

**Senate Bill 630.** Companion to **House Bill 4773**, this legislation would require the W. Va. Department of Health and Human Resources to develop a procedure to notify licensed professionals who are mandated to report child abuse and neglect of the disposition of the investigation and the status of the case.

The proposed section would be §49-6A-2.

Sponsored by Sen. Rowe. Introduced Feb. 23. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee.

### **Bill creates adoption registry**

**Senate Bill 641.** This legislation would establish a voluntary adoption registry, which could provide for the release of identifying information about birth siblings to an adult adoptee. There would be certain conditions regarding the release, including the requirement that the birth parent/parents have registered their willingness to have the information released, or if the birth parents are deceased.

Sponsored by Sen. Rowe. Introduced Feb. 23. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee.

Under terms of **Senate Bill 676**, another adoption-related bill, the W. Va. Department of Health and Human Resources “may not

deny grandparents or other relatives adoption or guardianship of (a) child except when the criminal records check reveals that (a court) has convicted the prospective foster or adoptive parent (grandparent) of a felony including” such crimes as child abuse/neglect, spousal abuse, a crime against children (such as child pornography convictions), a crime involving violence, physical assault, battery or a drug-related charge.

DHHR also is to consider adoptions involving “other relatives” besides grandparents, and is to assist grandparents or other relatives adopting children with “any improvements to their home or other assistance necessary to obtain custody of the child.”

Sponsored by Sen. Donna J. Boley (R-Pleasants) and two other Senators (by request). Introduced Feb. 23. Referred to Senate Judiciary Committee.

### **Murdered spouse custody set**

**Senate Bill 647.** Proposed §48-28-1 would provide that custody of the child or children of the parent murdered by his or her spouse is to be placed with the most suitable member of the victim’s family.

This is one of several bills on the subject.

There are three Senate sponsors, including lead sponsor Sen. Steve Harrison (R-Kanawha). Introduced Feb. 23. Referred to Senate Judiciary Committee. NOTE: Refer to past issues of this publication for other bills.

### **Bills relate to foster care**

**Senate Bill 660.** This legislation would create a “Bill of Rights for Foster Parents.” It outlines several “rights” and responsibilities of foster parents vis-à-vis state agencies and entities such as the W. Va. Department of Health and Human Resources. The bill also delineates factors which would negate a parent or parents from becoming foster parents,, including certain crimes and felonies.

There are several other provisions.

#### **Foster Children’s Bill of Rights**

Also refer to **Senate Bill 693**. It would establish a “Bill of Rights for Children in Foster Care,” outlining several “inherent rights” for these children, one of which is the inherent right to “receive education, training and guidance to prepare for a useful and satisfying life.”

#### **Enhanced Rights – Foster Parents**

Another related bill, **Senate Bill 662**, provides “enhanced rights” for foster parents to become adoptive parents of children for whom they have been care providers.

Sponsored by Sens. Boley and two other Senators (by request). Introduced Feb. 23. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee.

#### **Foster Home Removal**

Also refer to **Senate Bill 669**. It relates to the procedure for removal of a child from a foster home, including enhanced due process for foster parents. Parents who don’t object to the removal of the child could waive their right to protest removal. In hearings regarding possible removal of foster children, foster parents could bring advocates to the conference, child psychologists, teachers or other professionals “who work with the child or family and who can give input into the decision.”

The bill has other provisions relating to appeals of decisions to remove a foster child as well as the presumption that, unless proven otherwise, it is in the “best interest of the child for the child to remain

in a safe and stable placement and maintain established relationships in order to prevent serious emotional problems such as attachment disorders...”

Additionally, the bill provides foster parents and relatives various visitation rights (on a bi-weekly basis). If natural parents’ rights have been terminated, the foster parent visitation period is longer.

The bill also relates to rights of children having no legal parents, giving persons having custody and former relatives and foster care providers “the same rights to due process and to custody of the child as a natural parent, unless the person waives their rights.” (The bill says this will eliminate ‘legal orphans.’)

### **Abuse, Neglect**

In case of removal from the home because the child might be abused or neglected, there must be an “element of real danger that a child will be abused if left in the home.” According to the bill, the “constant changing of placements shall be determined to be abuse and neglect which directly causes mental and emotional problems for children...”

Lastly, the bill says “unsubstantiated allegations shall be immediately and completely expunged from the record, including computer, paper and interoffice memos, to protect the innocent party’s constitutional rights and to prevent future investigations from being tainted by the false allegations.”

All measures are sponsored by Sens. Boley and two other Senators (by request). All were introduced Feb. 23. All bills were referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee.

## **Citizens review panel for CPS**

**Senate Bill 661.** Proposed §49-6F-1 et. Seq. would create a multidisciplinary citizen panel to review the policies, procedures and, when appropriate, specific cases handled by Child Protective Services.

The 15-member panel, to be appointed by the governor, would be comprised of individuals representing a diverse array of interests, including persons representing parents and grandparents, prosecuting attorneys, youth, domestic violence advocates, social service providers, court-appointed special advocates (CASA) and others. (No specific educational interests are cited.)

The purpose of the panel is to “examine the policies and procedures of state and local (CPS) agencies and where appropriate, specific cases, (evaluating) the extent to which the agencies are effectively discharging their child protection responsibilities...”

Areas of review include certain statutes (federal and state) relating to child abuse and neglect, foster care, child fatalities, and the W. Va. Child and Family Services plan.

The panel’s proceedings would be confidential, and the panel would have immunity from liability.

There are several other provisions.

Sponsored by Sen. Boley and two other Senators. Introduced Feb. 23. Referred to Senate Judiciary Committee, then Senate Finance Committee.

Also refer to **Senate Bill 706**. It has identical procedures. Sponsored by Sen. Kessler and five other Senators. Introduced Feb. 23. Referred to Senate Judiciary Committee, then Senate Finance Committee.

The House companion is **House Bill 4610**. It is sponsored by

Del. Fleischauer and six other Delegates. Introduced Feb. 25. Referred to House Government Organization Committee, then House Finance Committee.

Also refer to **Senate Bill 677**. It would create an Office of Child Protection Ombudsman, authorizing the ombudsman to investigate and monitor DHHR’s Division of Child Protective Services to determine if it complies with federal guidelines.

Under terms of this bill, the ombudsman also could investigate complaints against circuit and family law masters concerning alleged failure to adequately protect children.

The ombudsman’s office would have to operate under legislative rules.

Sponsored by Sen. Boley and two other Senators (by request). Introduced Feb. 23. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## **Temporary custody proposed**

**Senate Bill 680.** Revised §49-6-3 would allow a court considering temporary custody of a child (pursuant to child abuse/neglect) to preserve the family if a parent has previously committed murder, voluntary manslaughter or malicious wounding of another child.

(Under current law, a court need not make such reasonable efforts to preserve the family if a parent has committed murder, voluntary manslaughter or malicious wounding of another *child of the parent*.)

Sponsored by Sen. Jeffrey V. Kessler (D-Marshall). Introduced Feb. 23. Referred to House Judiciary Committee

## **Bill covers group homes zoning**

**Senate Bill 682.** The purpose of this legislation, which would create Proposed §8-24-50c, is to promote development and maintenance of family-based programs for children and adults needing care at the community level by exempting these facilities from zoning restrictions.

Sponsored by Sen. Kessler. Introduced Feb. 23. Referred to Senate Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## **Custody changes: Technicalities**

**House Bill 4619.** This legislation would make technical changes in laws relating to child custody, child support, parental planning and spousal support. (Certain laws are repealed in one Chapter of law and replaced in another.)

Sponsored by Del. Webb. Introduced Feb. 25. Referred to House Judiciary Committee.

## **Bill relates to child guardians**

**House Bill 4621.** Proposed §44-10-3 would transfer jurisdiction from the county commission to the family court for appointment and revocation of guardianships of minors.

Sponsored by Del. Jack Yost (D-Brooke). Introduced Feb. 25. Referred to House Judiciary Committee. NOTE: There are several bills relating to this topic.

## Bill covers pediatric dentistry

**House Bill 4652.** Proposed §30-4A-5a would require pediatric dentists who administer general anesthesia to pediatric patients to comply with state requirements for personnel, operating facilities, equipment, monitoring processes, recovery and discharge procedures.

These procedures are based on guidelines from the American Academy of Pediatric Dentists, especially effective use of pharmacological conscious sedation, deep sedation and general anesthesia.

There are other provisions.

Sponsored by Del. Flesichauer and six other Delegates. Introduced Feb. 26. Referred to House Judiciary Committee.

## Sibling visitations allowed

**House Bill 4666.** This measure would provide for visitations between half-siblings and step-siblings. The bill includes within the jurisdiction of family courts the right to such visitations.

Sponsored by Del. Webb. Introduced Feb. 26. Referred to House Judiciary.

## No kids under 8 on mopeds

**House Bill 4698.** This legislation would prohibit children under age eight from being passengers on motorcycles or mopeds on public roads.

Sponsored by Dels. James H. Morgan and Margarette Leach (both D-Cabell – by request). Introduced Feb. 27. Referred to House Judiciary Committee.

## *Consumers Sales Tax*

### Bill reduces food tax

**Senate Bill 627.** Revised §11-15-9h would enact the “Family Meal Tax Relief Act of 2004,” reducing the sales tax on groceries by one percent each year for the next two fiscal years.

In FY05, the food tax would be reduced from six percent to five percent, and to four percent in FY06.

The grocery tax reduction would be offset partially by increasing special taxes on certain products, including beer, wine and tobacco products in the first year and cigarette products in the second year.

There are several other provisions. NOTE: This bill has been introduced during the past several years.

Sponsored by Sen. Rowe. Introduced Feb. 23. Referred to Senate Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

### E-commerce exemption

**Senate Bill 644.** Companion to **House Bill 4501**, this measure would create sales tax exemptions to encourage high technology companies. For a review of the House proposal, refer to Issue 12 of this publication.

There are 27 Senate sponsors, including lead sponsor Sen. McCabe. Introduced Feb. 23. Referred to Senate Finance Committee. A fiscal note is requested.

## Amusement ride exemption

**House Bill 4656.** Revised §11-15-9h would provide a tax exemption for purchases of design and engineering services and materials and equipment directly used in construction of new or replacement amusement rides (or for leases of amusement rides) to qualified operators in long-established W. Va. Amusement parks having historical character (Camden Park – Cabell County).

There are seven House sponsors, including lead sponsor Del. Morgan. Introduced Feb. 26. Referred to House Finance Committee.

## *Controlled Substances*

### Personal use exemption lifted

**Senate Bill 705.** Revised §60A-1-101 would remove the personal use exemption from the criminal offense of manufacturing a controlled substance. (Under current law, ‘manufacture,’ as relating to controlled substances, doesn’t include “...the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance.”)

Sponsored by Sen. Kessler. Introduced Feb. 23. Referred to Senate Judiciary Committee.

### ‘Threshold quantities’ set

**House Bill 4694.** Proposed §60A-4-401a would establish certain threshold quantities of controlled substances to trigger prima facie evidence of one’s intent to deliver drugs, including 45 grams of marijuana, three grams of cocaine, and three grams of methamphetamine. (Other drugs and quantities are listed.)

Sponsored by Dels. Richard J. Iaquina (D-Harrison) and six other Delegates. Introduced Feb. 27. Referred to House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## *Flooding-Related*

### Relief for damaged property

**Senate Bill 642.** Revised §11-1-2 would provide tax relief for taxpayers whose property is damaged, destroyed or rendered unuseable by natural or man-made disasters or emergencies such as flooding.

Sponsored by Sen. Rowe. Introduced Feb. 23. Referred to Senate Finance Committee. A fiscal note is requested.

### DOH priority: Flooded roads

**House Bill 4662.** Revised §17-3-6 would require the Division of Highways to grant priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress to and from residential areas, schools and downtown districts, and hinder access by emergency response vehicles.

Sponsored by Dels. Armstead and three other Delegates. Introduced Feb. 26. Referred to House Finance Committee. A fiscal note is requested.

*(Similar proposals have been introduced in past sessions.)*

## Gaming

### 1-800-GAMBLER line

**House Bill 4512.** This bill has several provisions, one of which is to establish a gambling prevention fund to be used to educate youth and others about the dangers of gambling and gambling addiction.

Sponsored by Del. Webb and two other House sponsors. Introduced Feb. 17. Referred to House Judiciary Committee, then House Finance Committee. A fiscal note is requested.

## Higher Education

### Faculty would be state workers

**Senate Bill 612/HB4609.** The purpose of this legislation is to include faculty employees at state institutions of higher education as state employees for purposes of increment pay. The bill would amend §5-5-1, a definitional section of law.

Sponsored by Sens. H. Truman Chafin (D-Mingo) and Michael Oliverio (D-Monongalia). Introduced Feb. 23. Referred to Senate Education Committee, then Senate Finance Committee. A fiscal note is requested.

Also refer to the companion measure, **House Bill 4609**. It has seven House sponsors, including lead sponsor Del. Flesichauer.

### E-mail protections sought

**Senate Bill 633.** Proposed §18B-2A-6 would prevent disclosure of the electronic mail addresses of higher education students, faculty members and staff. The bill also would require screening of electronic mail coming into state institutions of higher education, and provides a penalty for persons who persist in sending unsolicited commercial electronic mail after having been requested to disengage in this practice.

There are other provisions. Sponsored by Sen. Plymale. Introduced Feb. 23. Referred to Senate Education Committee, then Senate Judiciary Committee.

### PROMISE would be renamed

**Senate Bill 640.** The purpose of this legislation is to rename the PROMISE Scholarship the "PROMISE Forgivable Student Loan Program."

Sponsored by Sen. Harrison. Introduced Feb. 23. Referred to Senate Education Committee.

### Community colleges measure

**Senate Bill 657.** This 194-page bill is the Senate's version of legislation to create a system of community and technical colleges. It has been approved by the SEC. The House Education Committee has approved similar legislation.

Sponsored by Sen. Plymale. Introduced Feb. 23. Referred to Senate Education Committee, then Senate Finance Committee.

(For copies of either piece of legislation, please contact the W. Va. School Boards Association at 304.346.0571.)

## Fee waiver extended

**House Bill 4629.** Revised §18B-10-7 would extend tuition provided in this section to include the spouse and children of emergency medical service personnel and members of the National Guard who have died in the line of duty. (It currently covers children and spouses of law-enforcement officers, correctional officers, conservation officers or registered firefighters.)

Sponsored by Speaker Kiss and six other Delegates. Introduced Feb. 26. Referred to House Education Committee, then House Finance Committee.

## Measures concern abortion

**House Bill 4636.** The purpose of this bill is to prohibit the distribution of RU-486, an abortifacient, by any college administrator, employee or other official of a college or university.

Sponsored by Del. John N. Ellem (R-Wood). Introduced Feb. 26. Referred to House Health and Human Resources Committee, then House Judiciary Committee.

A similar bill, **House Bill 4680**, would prohibit a business or organization from performing abortions in a public facility. The bill is sponsored by Del. Craig P. Blair (D-Berkeley). Introduced Feb. 27. Referred to House Health and Human Resources Committee, then House Judiciary Committee.

Also refer to **House Bill 4732**. It would prohibit anyone hired by the Higher Education Policy Commission from instructing students in how to perform an abortion. There are several other provisions. Sponsored by Del. Ron Walters (R-Kanawha). Introduced Feb. 27. Referred to House Health and Human Resources Committee, then House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## Bills relate to WVU rifle team

**House Bill 4687.** Proposed §18B-2A-6 would require the governing board of W. Va. University to maintain the competition rifle team program and the rifle range for a period of not less than three years pending a legislative study.

There are seven House sponsors, including lead sponsor Del. Fleischauer.

A related bill, **House Bill 4689**, would prohibit the WVU governing board from eliminating the competition rifle team program.

It is sponsored by Del. Flesichauer and six other Delegates. Introduced Feb. 27. Referred to House Education Committee, then House Finance Committee.

NOTE: Both bills request a fiscal note.

## Rifle team donations okay

**House Bill 4688.** This legislation would allow persons to donate to the WVU rifle team. WVU officials would create a special revenue account for the money.

Sponsored by Del. Fleischauer and six other Delegates. Introduced Feb. 27. Referred to House Education Committee, then House Finance Committee.

A related bill, **House Bill 4736**, would authorize the WVU governing board to impose, collect and distribute a fee to be used to

finance the rifle team if the university's student body shows support for the measure.

Sponsored by Del. Cindy Frich (R-Monongalia) and two other Delegates. Introduced Feb. 27. Referred to House Education Committee, then House Finance Committee.

## HEPC would be abolished

**House Bill 4712.** The bill note says the purpose of this proposed legislation is to provide autonomy and flexibility to certain institutions of higher education (community and technical colleges).

Its provisions don't apply to Marshall and W. Va. University.

The bill would abolish the existing Higher Education Policy Commission, allowing each of the listed institutions – community and technical colleges – to operate in the manner it determines to be most effective and efficient.

There are other provisions.

Sponsored by Speaker Kiss and five other delegates. Introduced Feb. 27. Referred to House Education Committee, then House Finance Committee. A fiscal note is requested.

*(Similar proposals have been introduced in past sessions.)*

## Personal Income Tax

### Child credit may be allowed

**Senate Bill 607.** This measure is the same as **House Bill 4558.** Revised §11-21-6 would allow an additional personal income tax exemption of \$500 for each dependent child of an individual or husband and wife whose aggregate adjusted gross income is \$25,000 or less, beginning in the tax year after December 31, 2003.

Sponsored by Sen. Harrison. Introduced Feb. 23. Referred to Senate Finance Committee.

The House bill is reviewed in issue 12 of this publication.

*(Similar proposals have been introduced in past sessions.)*

## Property Tax

### Retirement homes exemption

**Senate Bill 547.** This legislation is the same as **House Bill 4697.** Revised §11-3-9 would exempt from taxation property used exclusively for retirement homes.

Sponsored by Del. Morgan (by request). Introduced Feb. 27. Referred to House Finance Committee.

Sen. Evan Jenkins (D-Cabell) sponsored the Senate bill.

*(Similar proposals have been introduced in past sessions.)*

### No taxes when disasters occur

**House Bill 4535.** Proposed §11-3-32 would provide relief from taxation for property damaged or destroyed in a disaster, which results in a declaration of such either from the governor or the federal government.

There are six House sponsors (all Kanawha County Delegates), including lead sponsor Del. Sharon Spencer (D). Introduced Feb. 19. Referred to House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

## Public Employees Insurance

### Smoking cessation coverage

**Senate Bill 659.** This legislation would require the Public Employees Insurance Agency to cover the costs of smoking cessation services.

Sponsored by Sen. Billy Wayne Bailey (D-Wyoming). Introduced Feb. 23. Referred to Senate Banking and Insurance Committee, then Senate Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

## Teachers Retirement System

### COLA proposed for retirees

**Senate Bill 599.** Proposed §18-7A-26t would provide a Cost of Living Adjustment to TRS retirees who are at least age 65 and who have been receiving a TRS annuity for at least five years. The supplement would be five percent of the retiree's annuity.

Sponsored by Del. Campbell. Introduced Feb. 26. Referred to House Finance Committee.

*(Similar proposals have been introduced in past sessions.)*

### Bill relates to HEPC work

**Senate Bill 636.** Proposed §18-7A-13a would retroactively extend the time period for which persons retiring under the Teachers Defined Benefit Retirement System are allowed to become employed by an institution of higher education without loss of retirement benefits.

Sponsored by Sen. Plymale. Introduced Feb. 23. Referred to Senate Education Committee.

### Bill makes technical revisions

**House Bill 4603.** This bill would make certain technical clean-up in laws relating to the W. Va. Teachers Retirement System.

Sponsored by Del. Tom Campbell (D-Greenbrier). Introduced Feb. 25. Referred to House Pensions and Retirement Committee, then House Finance Committee.

## Technology

### Bill relates to "Spam"

**House Bill 4710.** This legislation would strengthen current law against the dissemination of "spam" on the Internet.

The legislation creates several penalties, including a \$1,000 fine for each unsolicited commercial e-mail advertisement transmitted in violation of the act, up to \$1 million per incident.

There are several other provisions.

Sponsored by Del. Webb. Introduced Feb. 27. Referred to House Judiciary Committee.

### Technology panel created

**House Bill 4719.** The purpose of this legislation is to create a Joint

Technology Commission. (It would have non-legislative members.)

Refer to Issue 8 of *The Legislature* for a similar bill. It has legislative members.

There are five House sponsors, including lead sponsor Del. Brent Boggs (D-Braxton). Introduced Feb. 27. Referred to House Government Organization Committee, then House Finance Committee.

## *Unemployment Compensation*

### **Video conferencing allowed**

**Senate Bill 689.** This bill would allow evidence at Unemployment Compensation hearings to be submitted by “alternative means” such as videoconferencing.

Sponsored by Sen. Edwin J. Bowman (D-Hancock). Introduced Feb. 23. Referred to House Judiciary Committee.

### **Bill relates to UC rates**

**Senate Bill 691.** Under terms of this bill, there would be a change in rates for an employer where wages and contribution information is not provided to the Commissioner. (This is for computation of the contribution rate.) The bill also relates to failure to pay contributions, with an automatic increase in rates for such failure to make contributions.

There are other provisions.

Sponsored by Sen. Bowman. Introduced Feb. 23. Referred to Senate Judiciary Committee.

### **Definition would change**

**Senate Bill 692.** This legislation also is sponsored by Sen. Bowman. It would clarify the definition of “most recent work.” If the individual’s last period of employment was not covered and the employee left this “noncovered” employment without good cause, he or she would be disqualified from receiving UC benefits.

The same would apply if he or she were discharged from employment.

Introduced Feb. 23. Referred to Senate Judiciary Committee.

A related bill is **House Bill 4651.** Under its provisions, if an individual who provides notice of future voluntary resignation, but is required to leave his or her employment prior to the prospective resignation date, that person would remain qualified for UC from the time the notice is given to the employer until the end of the notice period, or 30 days, whichever period is shorter.

Sponsored by Del. Don Caruth (R-Mercer) and six other delegates. Introduced Feb. 26. Referred to House Judiciary Committee.

## *W.Va. Legislature*

### **Annual reports by CD-Rom**

**House Bill 4595.** The purpose of this bill is to require that the annual reports of all state agencies, as presented by the governor and state agencies to the Legislature, are to be in CD-rom format.

Sponsored by Del. Boggs and two other delegates. Introduced Feb. 24. Referred to House Government Organization Committee.

### **Interim meeting pay reduced**

**House Bill 4717.** This bill would reduce and restrict compensation expense claims for legislators, including reducing interim compensation, and prohibiting members from receiving more than three days’ per diem expenses during an extended legislative session. Legislative travel would be restricted to the continental U.S. Additionally, no more than five members from each house could receive reimbursement for travel to legislative conferences, meetings, and seminars, and no legislator could be reimbursed for out-of-state travel more than once annually.

A last bill provision requires the Legislature to provide a “digest” of the budget bill.

Sponsored by Dels. Craig P. Blair (R-Berkeley) and Del. Mitch Carmichael (R-Jackson). Introduced Feb. 27. Referred to Senate Finance Committee.

## *Workers Compensation*

### **Bill concerns mediator fees**

**House Bill 4646.** Under terms of this bill, if a mediator is involved in a Workers Compensation matter regarding the “duration, extent or amount of benefits,” one-half his or her fee is to be paid by the employer, and the other half of his or her fees is to be paid by the claimant.

If the mediation doesn’t involve the duration, extent or amount of benefits, the fees and expenses of the mediator are to be borne by WC and assessed as an expense of the claim chargeable to the employer.

Sponsored by Dels. Trump and two other delegates. Introduced Feb. 26. Referred to House Judiciary Committee.

*(Similar proposals have been introduced in past sessions.)*

### **Standard set for injury**

**House Bill 4713.** The purpose of this legislation is to set a “clear and convincing” standard for determining whether an employer acted with “deliberate intention” in causing a worker injury.

This standard would waive the employer’s immunity from suit under applicable WC laws.

Sponsored by Speaker Kiss and five other delegates. Introduced Feb. 27. Referred to House Judiciary Committee, then House Finance Committee. A fiscal note is requested.

*(Similar proposals have been introduced in past sessions.)*

## **BRIEFLY**

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*A listing of bills whose introduction illustrates trends, issues facing other entities and agencies of government and proposed statutory disposition. The listing is not exhaustive.*

**Senate Bill 606** would establish a traffic control signal monitoring system to monitor violations of stoplight laws involving running of red lights. There are other provisions. **Senate Bill 635** relates to drivers of motorcycles and their responsibilities in regard to vehicle detection devices which are inoperable due to the size of the motorcycle. Also refer to **House Bill 4681.** It would implement a pilot

project in Berkeley, Jefferson and Morgan Counties involving the installation of flashing traffic signals that would be operable between 11 p.m. – 6 a.m. at certain intersections in those counties. The Legislature would be provided various statistics regarding how the program worked. The bill relates to primary roads where the speed limit is more than 35 miles per hour... **Senate Bill 621** would increase circuit clerks' and county clerks' salaries... **Senate Bill 665** would increase circuit clerks' salaries. Also refer to **House Bill 4665**. It increases the family court secretary-clerks' salaries... **Senate Bill 648** relates to nonpartisan election of judges. This is a legislative perennial... **Senate Bill 651** would prohibit use of privately retained prosecutors or assistant prosecutors... **Senate Bill 652** would require candidates for statewide offices to have been residents of the state for six months prior to filing for office... **Senate Bill 653** states that a judge becoming eligible for retirement is not required to contribute to the Judges' Retirement System. Another retirement bill is **Senate Bill 670**. It relates to Municipal Pension plans and their solvency. Also refer to **Senate Bill 611**. It would allow employees of non-state public employers to use the deferred compensation plan implemented by the Consolidated Public Retirement Board for employees of state employers... **House Bill 4596** relates to the Municipal Policemen and Firemen Pension and Relief Funds...

### County Airport Authority

...**Senate Bill 654** would allow one member of a county airport authority to be a citizen of a county contiguous to the county in which the authority is located, regardless of the state of residence... **Senate Bill 669** would allow continued employment of a spouse of a newly-elected county commissioner with tenured service with a county agency to keep their job... **Senate Bill 701** would allow some municipalities to impose a municipal occupational tax. Also refer to **House Bill 4696**... **Senate Bill 702** is the "Keep Jobs in West Virginia Act." It declares that state officials don't have authority to bind the state under rules of international trade agreements. Also refer to the companion measure, **House Bill 4644**... **Senate Bill 707** would establish a social workers code of ethics... **Senate Bill 709** relates to the state purchasing card. It is one of several such bills... **House Bill 4582** would limit Division of Labor elevator inspectors to state-owned elevators... **House Bill 4586** would provide that liquidated damages for failure to pay a terminated employee's wages owed can't exceed the amount of actual damages in any claim... **House Bill 4594** would create an office of inspector general within the W. Va. Department of Health and Human Resources... **House Bill 4600** would limit annexation rights of municipalities... **House Bill 4602** would allow members of the state police to engage in certain political activities while out of uniform. (The corresponding Senate bill has passed that body.)... **House Bill 4607** would confer the duties of the Industrial Revenue Bond Allocation Committee to the West Virginia Economic Development Authority... **House Bill 4615** would allow licensed lottery agents to sell on-line lottery games that don't utilize an interactive electronic terminal device. It also would allow use of player-operated ticket dispensers for play of on-line lottery games in private clubs and Class A beer taverns... **House Bill 4617** would allow certain municipalities to purchase real estate at tax sales...

### Background Checks – Municipal Judges

**House Bill 4632** would require criminal background checks of persons applying for municipal judgeships... **House Bill 4639** would increase the size of the W. Va. Library Commission to 10 members. (It currently consists of five members.) One member would have to be

a blind person... **House Bill 4654** would authorize the sheriff to enforce traffic laws within homeowners' associations or subdivision property... **House Bill 4642** would restrict political subdivisions from conducting business selling tangible personal property in competition with private enterprises... **House Bill 4647** would establish a procedure for the state Economic Development Authority to address employment and economic development problems of minority populations in West Virginia. Also refer to **House Bill 4667**... **House Bill 4653** would conduct a study of the Upper Area New River. It would relate to potentially opening the area for float trips and bateau style boats... **House Bill 4679** relates to the design-build procurement act, including duties of the state Design-build board... **House Bill 4682** would provide for a fee to be charged to persons copying records in the county clerk's office by digital photography or means other than using the clerk's equipment... **House Bill 4690** relates to licensing of exotic entertainment, including matters regarding where such businesses can be located... **House Bill 4711** would create a West Virginia Tourism Authority... **House Bill 4722** would impose some taxes on the transfer of property and car-licensing, dedicating the proceeds to the W. Va. Affordable Housing Trust Fund... **House Bill 4734** would provide that municipalities are free of legal prohibitions to raise fines for municipal ordinance violations, with the only restriction being that the amount of the fine be reasonable.

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### **Proactive Architecture Inc.**

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## GOLD

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### **Lindab Inc.**

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### **MS Consultants Inc.**

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### **Ronald A. Williams Ltd.**

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<b>SB641</b>	<b>SB692</b>	

# Bill addresses administrative assistants

In legislative action Friday (Feb. 27), the House Education Committee approved two measures: **House Bill 4737** would “reopen” the allowance for members of the Teachers’ Retirement System to purchase retirement credits for the period of time they are receiving Workers’ Compensation temporary disability.

Upon return to work, the employee would have to make a lump-sum payment within two years of their return equal to both the employer and employee share of the retirement contribution.

The years of service that may be purchased must exceed two.

The bill also allows this time to be counted toward the experience increments of service personnel, as it currently does for professional educators.

The other bill, **House Bill 4738**, would create two new school service personnel positions, that of “administrative assistant” and that of “Cook IV.”

Administrative assistants are those personnel assigned to the county board central office who perform administrative duties either independently or with minimal supervision.

“Cook IVs” would be personnel who are employed to serve meals in centralized kitchen which are then transported to satellite schools and, where needed, they assist in preparing reports, supply requisitions, and inventories.

The administrative assistant position is Pay Grade H, and the Cook IV position is Pay Grade D.

In committee action, Thursday (Feb. 26), the Senate Education Committee adopted the following measures:

- **Senate Bill 434.** This bill relates to exemptions from consumers sales and service tax, clarifying that the exemption from tax for durable medical goods, mobility-enhancing equipment and prosthetic devices purchased with prescription was not intended to be repealed when the Legislature adopted **House Bill 3014** during the 2003 regular session.

The bill also removes some obsolete language and makes other technical clean-ups. Lastly, it would exempt sales tax on items purchased exclusively for use in school classrooms by school teachers. The W. Va. Tax Commissioner is required to promulgate rules specifying the items exempt and a method by which teachers identify themselves as qualified to make the purchases.

- **SB592.** This bill would allow county boards in “predominantly rural” areas where limited day care services are available to “continue to enroll three-year-old students if that county enrolled three-year-old students in the (2003 school year.)

- **SB636.** This legislation would retroactively extend the time period for which persons under the Defined Benefit Retirement System are allowed to become employed by an institution of higher education without loss of retirement benefits.

- Three higher education measures, including a bill relating to community and technical colleges.

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## The Legislature

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