



## Bill Edition

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## Week Two Bills Reviewed

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

Listed below are the West Virginia House of Delegates and Senate bills introduced Feb. 14-18, 2005, the first full week of the 2005 Regular Session. Bills are listed topically, beginning with public education bills. A series of public education-related bills follows. Lastly, some measures are cited briefly. Senate bills are listed first.

A total 108 bills are reviewed.

For a copy of any bill, please contact the West Virginia School Boards Association: 304.346.0571. You also may contact WWSBA Executive Director O'Cull: [hocull@wvsba.org](mailto:hocull@wvsba.org).

Bills also are posted on the West Virginia Legislature's Web site: [www.legis.state.wv.us](http://www.legis.state.wv.us).

NOTE: Listing is not exhaustive.

—O'Cull is WWSBA executive director.

## PUBLIC EDUCATION

### *County Boards of Education*

## Preferences sought for firms having half of revenue in state

**HB2287.** The purpose of this legislation is to provide a resident bidder preference to state corporations that maintain their principal place(s) of business in the state and who receive over 50 percent of their revenue from business conducted in West Virginia.

Sponsored by Dels. Ron Walker (D-Kanawha) and James H. Morgan (D-Cabell). Introduced Feb. 14. Referred to House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bill relates to municipal boundary adjustments

**HB2542.** Proposed §8-6-5 relates to municipal annexation. In cases of minor boundary changes, the municipality would apply to county commission where the "major portion of municipality lies and every county commission where the territory is to be annexed (by minor boundary adjustment)."

Under terms of current law, minor boundary adjustments relate to territory such as streets or highways used for several governmental purposes such as emergency services.

Various hearings are required for minor boundary adjustments

and the potential impact on police and fire protection, among other matters, with affected parties having rights to support or oppose the proposed annexation.

There are various other provisions, including a major bill section relating to appeal of minor boundary adjustment decisions to circuit courts.

There are two House sponsors, Del. Richard Thompson and Don Perdue (both D-Wayne). Introduced Feb. 17. Referred to the House Political Subdivisions Committee, then House Judiciary Committee.

## Renaming of buildings

**House Bill 2344.** Proposed §4-13-1 would prohibit any governmental entity of the state from naming any building, road, structure or project for a living elected official (at any governmental level).

Any “executive, board member or director authorizing the naming of any publicly-funded building, road, structure or project for a living elected official... (would be) personally liable to the governmental entity involved for any costs incurred by that entity as a result of the violation.”

A related Senate bill would prohibit the renaming of public monuments, public memorials, streets, bridges, structures, parks, preserves, reserves, or “other public area of the state dedicated in memory of or named for any historic figure or historic event (from being renamed or rededicated) on behalf of a political officeholder until that officeholder has been deceased for a minimum of (10) years.”

The measure is **Senate Bill 206**.

The House bill is **HB2344**. There are four House sponsors,

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including lead sponsor Del. Linda Sumner (R-Raleigh). Introduced Feb. 15. Referred to the House Judiciary Committee.

**SB206** was introduced by Sen. Minority Leader Vic Sprouse (R-Kanawha). Introduced Feb. 16. Referred to Senate Government Organization Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Members couldn’t act in capacity separate from board

**HB2365.** Revised §18-5-5, relating to the corporate nature of a county board, would prohibit individual board members from acting on behalf of the board in an “individual capacity separate from the setting of a (county board) convened for the transaction of business...”

Accordingly, individual county board members couldn’t “make obligations on behalf of the board, commit the board’s funds, utilize the board’s property, employees or services without prior knowledge and consent of the board.”

In addition, the individual member couldn’t “administer the school system, hire board employees, supervise or evaluate the board’s employees or students, disregard the policies of the board or rules of its schools or attempt to exercise any other authority relating to the county schools or school board outside the scope of authority expressly provided by statute.”

### Fines

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

There are four House sponsors, including Del. David Perry (D-Fayette), lead sponsor. Introduced Feb. 15. Referred to the House Education Committee, then the House Judiciary Committee. *Similar proposals have been introduced/considered in past sessions.*

## Boards couldn’t discriminate based on legislative involvement

**HB2395.** Proposed §18-5-46 would prohibit “a duly elected (county) board member (from discriminating) against any applicant for employment, job placement or advancement on the basis of the applicant’s service in the Legislature.”

A similar statutory provision would prohibit county superintendents from such employment discrimination (§18-4-13).

There are three House sponsors, including lead sponsor Del. Robert D. Beach (D-Monongalia). Introduced Feb. 16. Referred to the House Education Committee, then the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Boards couldn’t employ legal counsel for grievances

**HB2401.** Revised §18-5-13(L) would prohibit county boards from employing legal counsel “for the purpose of dealing with employee grievances.”

NOTE: This bill has other provisions dealing with the Educa-

tion and State Employees Grievance Board. Those sections will be reviewed with several grievance-related bills introduced last week.

There are two House sponsors, Del. Mike Caputo (D-Marion) and Dale Martin (D-Putnam). Introduced Feb. 16. Referred to the House Government Organization Committee, then the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bill seeks to remove racial citations; archaic Codes

**House Bill 2466.** Proposed §18-5-32 and §18-14-1 would eliminate several legal citations relating to race, including deletion of an obsolete provision concerning the Cooperative Extension Service.

Another bill provision relates to striking obsolete language relating to Bluefield State College.

There are three bill sponsors, including lead sponsor Del. Sharon Spencer (D-Kanawha). Introduced Feb. 17. Referred to the House Education Committee, then House Finance Committee. (The last such purging of Code in regard to these type references occurred in the 1990s.) *Similar proposals have been introduced/considered in past legislative sessions.*

## National Motto display encouraged for public facilities

**HB2481.** This is the same as **Senate Bill 60.** It would encourage state and local governmental entities to “prominently display” the National Motto, “In God We Trust,” on public property, including buildings.

Refer to Issue 3 of *The Legislature*.

The House Bill has seven House sponsors, including lead sponsor Del. John Overington (R-Berkeley). Introduced Feb. 17. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## County Superintendents

### Superintendents would give names for Challenge Academy

**HB2461.** Revised §18-4-11(8) would require county schools superintendents to “maintain a database of each student who drops out of school... (and to) report the names and mailing addresses of (these) students to the state superintendent of schools and the Director of the Mountaineer Challenge Academy (MCA)...”

The MCA provides a boot-camp type program for school dropouts aimed at securing various educational and life-skills programs. The facility is located in Preston County.

Sponsored by Dels. William F. Stemple (D-Calhoun) and Larry A. Williams (D-Preston). Williams is HEC vice chairman. Introduced Feb. 17. Referred to the House Education Committee, then the House Finance Committee.

NOTE: In past discussions of this proposal, some concerns have been raised about personally-identifiable student information. *Similar proposals have been considered in past sessions.*

## Curriculum

### Education Initiative cited for arts promotion in the state

**HB2364.** Revised §18-2D-1 would express legislative recognition that the Appalachian Education Initiative serves a meaningful purpose in “promoting the role of art education in the public schools, and that the services of such organizations support public education in the state.”

The proposed amendment is in a section of Code relating to community education which may be established “in cooperation with other governmental agencies and community service organizations.”

There are three House sponsors, including lead sponsor Beach. Introduced Feb. 15. Referred to the House Education Committee, then House Finance Committee. NOTE: This legislation was adopted by the House last year, but died in the Senate. *Similar proposals have been introduced/considered in past legislative sessions.*

## Inter-County Transfers

### Students could attend school in neighboring counties

**HB2463.** Revised §18-5-16 would allow the state superintendent of schools to “designate ...school choice zones,” based upon “multiple appeals” received from the same geographic area of a county relating to proposed student transfers to another county.

Based on such a designation, students residing in the “school choice zone may transfer from the sending county to the receiving county if the student wishes.”

If a student transfers to a “receiving county after his or her area of residence has been designated a school choice zone, the student (is to be) counted in the (receiving county’s) net enrollment.”

There are other provisions (current law) relating to return of a student to his county of residence, including language that allows the county of residence to “issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the (state school aid formula).

The bill has several additional sections.

There are four House sponsors, including lead sponsor Del. Caputo. Introduced Feb. 17. Referred to the House Education Committee, then House Finance Committee.

## Juveniles/Youth

### Some placements discouraged

**SB200.** Revised §49-5D-3a would prohibit out-of-state placements of juveniles placed in the custody of the Department of Health and Human Resources as a result of a multi-disciplinary treatment team recommendation. There is an exception if out-of-state treatment or service is in the best interests of the child or unless the necessary treatment or service isn’t available in the state.

There are 26 Senate sponsors, including lead sponsor Sen. Pres. Earl Ray Tomblin (D-Logan). Introduced Feb. 16. Referred to the Senate Judiciary Committee, then the Senate Finance Committee.

Also refer to **HB2334**, the companion House bill. There are six House sponsors, including Speaker Bob Kiss (D-Raleigh). Introduced Feb. 14. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Criminal responsibility age would be 15; other sections

**SB204.** Revised §49-5-1 would lower the age of criminal responsibility from age 18 to age 15, although a juvenile age 15 but less than age 18 could petition the court to be treated as a juvenile (§49-5-10). The bill also would require that a convicted sex offenders under age 18 would be required to register as sex offenders, based on procedures outlined in current law (§15-12-2). Finally, the bill would prohibit sealing of records of juveniles convicted of “a violent crime, a sexual offense or Driving Under the Influence (DUI) (§49-5-18(h)).”

Sponsored by Sen. Andy McKenzie (R-Ohio). Introduced Feb. 16. Referred to the Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Juveniles would pay to Crime Victim’s Program

**HB2329.** Revised §61-11A-4 would allow courts, in addition or in lieu of restitution, to require that a juvenile defendant be required to contribute monetarily, or through hours of service, to a local crime victim’s assistance program or juvenile mediation program.

The provision would apply in cases of a juvenile’s commission of a misdemeanor or felony causing “physical, psychological or economic injury or loss to a victim.”

There are other provisions.

There are three House sponsors, including lead sponsor Del. Tim Ennis (D-Brooke). Introduced Feb. 14. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Juvenile Services would be eligible for federal funds

**HB2404.** Proposed §49-5E-9e would direct the Department of Health and Human Resources and the Department of Military Affairs and Public Safety to establish a state health plan and to enter into Memoranda of Understanding so that the Division of Juvenile Services could become eligible for federal funds for youth in its custody.

The agencies would be required to submit their plans and Memoranda of Understanding to the Legislature’s Joint Committee on Government and Finance by Oct. 1. The bill also outlines a requirement for monthly progress reports regarding plan completion.

There are five House sponsors, including lead sponsor Del. Margarette Leach (D-Cabell). Introduced Feb. 16. Referred to House Government Organization Committee, then House Finance.

## Teen court funding plan outlined; \$5 fee collection

**HB2492.** Revised §49-5-13d would establish a funding mechanism for teen courts, based on a \$5 fee collected for guilty judgments or pleas of nolo contendere for motor vehicle violations or for felonies or misdemeanors.

Teen courts allow juvenile defendants an alternative procedure to circuit court proceedings for committing status offenses or acts of delinquency which, if they were adults, would be considered misdemeanors.

Under terms of this bill, circuit court clerks would collect the fees for which they would receive a five percent retainer fee.

There are seven House sponsors, including lead sponsor Del. Marshall Long (D-Mercer). Introduced Feb. 18. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## School Employees Generally Bill addresses teacher preparation; clarifies law

**HB2350.** According to the Bill Note, this proposal is aimed at correcting a technical interpretation of provisions of law relating to teaching certificates awarded in other states, subject to background checks.

According to the Note, some states initially award certificates of eligibility for certification purposes only awarding the actual teaching certificate when the teacher is employed in the state.

The bill would require certificates to be awarded on basis of a certificate of eligibility if the holder were to meet all other requirements for certification except employment.

There are four House sponsors, including lead sponsor Del. Robert A. Shadler (R-Mineral). Introduced Feb. 15. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Salaries/Benefits Service personnel would get mileage at state rate

**SB192.** Proposed §18-5-47 would require school service personnel to be “reimbursed for mileage expended in the course of his or her employment at a rate consistent with the state mileage reimbursement rate (if using their own vehicles).”

Sponsored by Sen. John Blair Hunter (D-Monongalia). Introduced Feb. 15. Referred to the Senate Education Committee, then Senate Finance Committee.

## Good Friday would be holiday

**HB2310.** Revised §2-2-1 would make Good Friday a legal holiday. There are four sponsors, including lead sponsor Del. Perry. Intro-

duced Feb. 14. Referred to House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Service workers would receive \$500 early retirement bonus

**HB2384.** Revised §18A-2-2 would ensure that school service personnel are eligible for a statutory \$500 early retirement bonus as teachers are.

The measure was first considered last year, passing the House of Delegates, but dying in the Senate.

Sponsored by Dels. Doug Stalnaker (D-Lewis) and Ennis. Referred to the House Pensions and Retirement Committee, then the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Grievance Procedure

### Bills would require mediation, arbitration for grievances

**HB2293.** Under terms of this bill, mediation would be required for Level IV grievances if involving a suspension and dismissal, or as requested by an employer or grievant for other matters.

Mediation also could be required “prior to a Level II hearing” upon request of the employer or grievant.

Grievance board hearing officers must have proper training if conducting mediation.

#### Arbitration

Under a newly-proposed section of law, §18-29-10a, a grievant would be entitled to submit the grievance to arbitration prior to the matter reaching Level IV. The arbitrator must be mutually agreed upon by the two parties.

The bill includes extensive procedures relating to arbitration, including presentation of facts, witness testimony, rules for the conduct of the arbitration, etc.

The arbitrator’s decision would have to be made in 30 days. The decision would be binding, although such a judgment could be set aside by a circuit court if the “award was procured by corruption, fraud or undisclosed conflict of interest, or if the arbitrator exceeded his or her authority.”

There are three House sponsors, including lead sponsor Del. Jon Amores (D-Kanawha). Introduced Feb. 14. Referred to House Education Committee, then House Judiciary Committee.

**HB2295** is a similar bill.

There is no right to appeal the arbitrator’s decision, which is final and binding on all parties.

The bill outlines has various procedural or sections.

It is the same as **SB80**. Refer to Issue 3 of this publication.

There are four House sponsors, including lead sponsor Del. Tom Louisos (D-Fayette). Introduced Feb. 14. Referred to House Judiciary Committee, then House Finance Committee.

A related bill, **HB2401**, would change the composition of the Education and State Employees Grievance Board by adding four additional employee-representatives, including two representatives

of the state’s largest labor union, one representative of the “largest school service personnel organization in West Virginia,” and one representative of the “largest teacher organization in West Virginia.”

NOTE: This bill also prohibits use of county board fees to pay lawyers for representation in grievance matters.

Sponsored by Dels. Caputo and Martin. Introduced Feb. 16. Referred to House Government Organization Committee, then House Finance Committee.

A final bill, which relates to public employees, would clarify that state “statutory employers” are subject to the grievance procedure. That bill also makes some stylistic changes in current Code.

Sponsored by Dels. Stalnaker and Greg Butcher (D-Logan). Introduced Feb. 18. Referred to House Judiciary Committee. *Similar proposals have been introduced/sponsored in past legislative sessions.*

## Salary Proposals

### Principal salary increments would be increased

**HB2396.** Revised §18A-4-3 would provide a one percent increment increase in principal salary increments, based on the number of teachers supervised. That increase would be effective until July 1. The increment would increase an additional four percent after July 1.

There are three House sponsors, including lead sponsor Del. Williams. Introduced Feb. 16. Referred to the House Education Committee, then House Finance Committee.

A related bill, **SB180**, would amend §18A-2-9 so that principals would receive a 220-day employment term (215-days for assistant principals).

Additional bill provisions require employment of assistant principals when the school population exceeds 300 students.

A final bill provision requires employment of “one secretary in each school who has the same employment term as the principal for whom he or she works.”

Sponsored by Sen. Tracy Dempsey (D-Lincoln). Introduced Feb. 14. Referred to Senate Education Committee, then Senate Finance Committee. *Similar legislative proposals have been introduced/considered in past legislative sessions.*

### Service workers pay increase would be based on housing

**HB2349.** Proposed §18A-4-8j would provide school service personnel salary increases based on residential housing costs.

The employee would receive a two percent annual salary increase for each 10 percent that residential home prices in the employee’s county exceed the statewide average for residential homes.

There are other provisions.

Sponsored by Dels. John Doyle (D-Jefferson) and Overington. Introduced Feb. 15. Referred to the House Education Committee, then House Finance Committee.

#### Sanitation Worker Pay Grade

A related bill, **HB2464**, would change the school service per-

sonnel Pay Grade of “sanitation worker” from Pay Grade “F” to “G.” Pay Grade “G” is the second highest Pay Grade.

Sponsored by Dels. Mary Poling (D-Barbour) and Dale Stevens (D-Cabell). Introduced Feb. 17. Referred to House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Salary augmentation proposed

**HB2370.** Proposed §18A-4-5e and §18A-4-8j would create a salary augmentation for school employees (and public employees), by providing a .5 percent increase for every 1 percent that the employee’s resident county per capita income exceeds the state’s average per county per capita income.

The proposed public employee section is §5-5-6.

Sponsored by Dels. Doyle and Walter Duke (R-Berkeley). Introduced Feb. 15. Referred to House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Medicaid workers would get school raise; one of two bills

**HB2375.** This is the same as **HB2012**. Refer to Issue 3 of this publication.

There are three House sponsors, including lead sponsor Del. Brady Paxton (D-Putnam). Introduced Feb. 16. Referred to House Health and Human Resources Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bill rewards National Certification; additional pay

**HB2456.** This is the companion to **SB48**. Refer to Issue 4 of *The Legislature*. There are six sponsors, including lead sponsor Del. Williams. Introduced Feb. 17. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *School Transportation*

## School crossing signs would be lime green-colored

**HB2359.** Proposed §17C-3-11 would require school crossing signs to be lime green. Sponsored by Dels. Perry and Gerald Crosier (D-Monroe). Introduced Feb. 15. Referred to House Roads and Transportation Committee, then House Finance Committee.

## Residential speed limits could be modified in some areas

**HB2366.** Revised §17C-6-1(2) would allow Division of Highways to set a speed limit at less than 25 miles per hour in any “business or

residence district.”

There are six House sponsors, including lead sponsor Del. Ennis. Introduced Feb. 15. Referred to the House Roads and Transportation Committee, then the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Intersections to be clear

**HB2379.** Revised §17C-8-5 would require local authorities to ensure that “property owners...keep property adjacent to intersections clear of obstacles in the line of sight for operators of motor vehicles up to (100 feet).”

Sponsored by Dels. Perry and John Pino (D-Fayette). Introduced Feb. 16. Referred to House Roads and Transportation Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *W. Va. Board of Education*

## Bill relates to beverage sales

**SB170.** The amended §18-2-6a has been rewritten.

It has these provisions:

1. During a school day, an elementary school, middle school or junior high school cannot sell beverages other than “nutritious beverages,” which are defined as water, 100 percent fruit juice and low-fat milk. “School day” is defined as the period 30 minutes before arrival of students and one hour after the last instructional period.

2. During a school day in high school, at least 75 percent of the beverages offered for sale are to be nutritious beverages. Nutritious beverages, however, are the only beverages which can be sold during breakfast and lunch. However, “if a high school sells beverages, nutritious beverages shall be sold at a price at least (25 percent) less than prices of other beverages.”

3. Beverage contracts must be bid competitively.

4. If students are given beverages free of charge, they can receive only nutritious beverages, as defined by the statute.

5. For violations, various assessments can be posed by the state superintendent, including loss of revenue for one week to six-months, depending on the number of violations.

6. Moneys collected through violations would be provided to the W. Va. Department of Education for a “Nutrition Education Training Fund.”

The bill states that beverage sales must conform to existing federal laws.

Sponsored by Sen. Truman Chafin (D-Mingo). Introduced Feb. 14. Referred to the Senate Education Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Athletic Trainers Act introduced; WVBE exempt

**SB174.** This 12-page proposal would establish the state “Athletic Training Licensure Act of 2005.” Two provisions are pertinent to the WVBE: One establishes a seven-member West Virginia Athletic Training Licensure Board, a member of which would include one WVBE-certified trainer as a member; and a second bill provision

states that the Act doesn't apply to persons who received WVBE Athletic Certification prior to July 1, 2005 if their practice is in accordance with WVBE policy then in effect.

Sponsored by Sen. Michael Oliverio (D-Monongalia). Introduced Feb. 14. Referred to the Senate Government Organization Committee, then the Senate Finance Committee.

## Measure concerns policy framework; proposed in 2004

**HB2315.** Revised §18-2E-8b would “establish a framework to avoid the imposition of (West Virginia Board of Education) policies and practices upon the public schools that interfere with the Legislature’s ability to provide for a thorough and efficient system of education by distracting attention and resources from the core mission of the public schools, improving student, school and school system performance and progress.”

These are among bill provisions:

1. All policies proposed by the WVBE “its agencies or any other agency of the state” that affects the public schools must have a fiscal note, estimating its cost to the schools, including direct expenditures for personnel (including substitute costs), and need for personnel in certain certification areas as well as training, equipment, facilities, travel and “other areas for which direct expenditures may be necessary.

2. Consideration also is to be made for indirect costs, including additional time that may be required for teachers and administrators to comply with the proposed requirements.

3. Consideration of “opportunity costs,” meaning costs relating to the extent that any “existing duties, functions or activities will or may be hindered, diminished or eliminated as a result of the (proposal), and the contribution of these duties, functions and activities toward providing a thorough and efficient education that will be lost (such as) changes in the allocation of instructional time and effort by teachers and principals, changes in the allocation of instructional time and resources, existing courses and programs of study that will or are likely to be reduced or eliminated if new requirements are added without additional resources and any other current activities that will or may be hindered, diminished or eliminated.”

The WVBE or other agencies issuing policies or rules would be responsible for any direct, indirect or opportunity costs. Accordingly, programs would be implemented only to the extent resources are provided.

### Process for Improving Education Council

Agencies considering policy or rule promulgation may meet with the Process for Improving Education Council in order to discuss or consult relating the proposals, including considerations and reviews of costs. The agency also is to discuss prospects for any grant or external funding.

Additionally, the WVBE or agencies proposing new programs may submit improvement packages to the Legislature prior to adoption of any policy, rule or program.

The Office of Education Performance Audits is to conduct a review of all policies, rules and programs affecting public schools that have been adopted, amended or initiated since July 1, 1999 (the date the PIEC was created).

As part of the OEPA review, the agency is to make a report to

the state board concerning needed “capacity” and resources to meet existing policies, rules and regulations. A copy of this report is to be filed with the Legislative Oversight Commission on Education Accountability (LOCEA).

The PIEC includes LOCEA members. Ex officio (voting) members include the governor (or designee) and the Chancellor of the Higher Education Policy Commission (or designee). The Council meets at the call of the governor.

There are other provisions.

There are three House sponsors, including lead sponsor Del. Paxton. Introduced Feb. 14. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Literacy checkoff proposed

**HB2415.** Proposed §18-2-37 would create a voluntary income tax checkoff to donate refunds to the family literacy program. The state superintendent would administer the program (which would be housed in the Department of Education’s Division of Technical and Adult Education).

The WVBE is required to promulgate legislative rules to effectuate the program.

Moneys would be used by schools and public libraries to implement family literacy programs. These programs are to “promote, encourage and teach adults with low functional literacy skills to learn to read to their children, grandchildren or other family members.”

There are other provisions.

There are five House sponsors, including lead sponsor Del. Robert C. Tabb (D-Jefferson). Introduced Feb. 16. Referred to the House Finance Committee.

### State Literacy Council

Also refer to **SB220**. That measure would establish a state Literacy Council. The Council couldn't include more than 25 members. The Council's major purpose is to integrate planning and formalize coordination/collaboration among adult literacy delivery systems in West Virginia. The Council also is to facilitate the “involvement of people and agencies statewide in the formulation and implementation of adult literacy policies and programs.”

The Council is to establish various program objectives, including efforts to coordinate activities with public and private agencies in areas such as workplace literacy and family literacy programs.

There are several other sections, including provisions relating to reportage.

There are four Senate sponsors, including lead sponsor Sen. John Unger (D-Berkeley). Introduced Feb. 18. Referred to the Senate Government Organization Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

# The Legislature

FOR THE LATEST ON EDUCATION LEGISLATION

# EDUCATION-RELATED

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## *Alcohol Sales*

### **Beer establishments required to be 1,000 feet from school**

**HB2337.** Revised §11-16-8 would require beer licensee establishments to be 1,000 feet from a church or school. The current required distance is 300 feet.

There are seven House sponsors, including lead sponsor Del. Overington. Introduced Feb. 15. Referred to House Judiciary Committee.

**HB2468** is a related bill. It would require a public hearing and county commission approval prior to issuing an initial private club license or a license for a private club to operate in a new location.

There are seven House sponsors, including lead sponsor Del. Overington. Introduced Feb. 17. Referred to the House Judiciary Committee.

## *Child Welfare*

### **Bills relate to Cabinet on Children and Families**

**HB2397.** Proposed §5-26-7, 7a and 7b would be “integrated and coordinated system of care for children in need of (various child welfare, juvenile justice and special education) services and their families.”

Services, supports or programs provided must be “family-driven, seamlessly blended across child-serving systems and delivered through partnerships developed among families, providers, communities and governmental entities.”

Thus the system of care is to be “child-centered and family-focused, with the needs of the child and family dictating the types and mix of services provided.” Care also must be community-based, with the resulting management and decisionmaking responsibility about services for individuals and families “resting at the community level.”

Care also must be “culturally competent,” that is, “responsive to the cultural, racial, ethnic and economic differences of the populations (served).”

Care must be provided in the least restrictive setting.

#### **Plan**

The Cabinet’s plan for integrated care must be developed by Dec. 31. Plan development must include teams from the Health and Human Resources agency, the West Virginia Department of Education, the Division of Military Affairs and Public Safety, as well as representatives of private service providers, family members and community representatives.

All child-serving agencies are required to cooperate with inter-agency planning and implementation teams (regionally- and community-based) which are responsible for making various statutory, policy and regulatory recommendations which could be implemented

over a three-year period. Among other requirements, any final recommendations must emphasize development of community capacity, resources and “other appropriate items.” All child-serving agencies designated by the Cabinet are to contribute funds for staffing and resources.

The proposal includes various performance measures designed to gauge program effectiveness, including outcomes for children and families, timelines for program implementation, establishment of baselines for short- and long-term goals, and measures designed to target out-of-state placements for adjudicated youths and children in foster care. (The goal is to reduce these placements by 50 percent within three years.)

Additionally, the bill “projects” that regional implementation teams will be in place at the end of the second year, and community teams by the end of the third year.

The Cabinet is responsible for ensuring that deadlines are met. There are several other provisions.

There are seven sponsors, including lead sponsor Del. Larry W. Barker (D-Boone). Introduced Feb. 16. Referred to the House Government Organization Committee, then the House Finance Committee.

Two related bills – **HB2399** and **HB2403** – would require the Cabinet to implement a pilot plan for establishing a system of Family Resource Networks.

As stipulated in these bills, the FRNs would provide various core programs designed to assist families and especially students to ensure that students are “(able) to succeed in school... (and that) students and families who are the most economically- and socially-disadvantaged receive priority status for receiving services when resources are limited.”

For the above reasons, centers would be operated in collaboration with local schools, community-based organizations and local service providers.

Centers are responsible for providing “developmental programs for children from birth through (age five) such as... Starting Points curricula, childcare, Head Start and public school preschool.”

#### **Aftercare**

Other programs to be offered include aftercare programs such as “Third Base,” as well as programs to encourage parental involvement, agency information and referral, family crisis and mental health counseling and referral, access to Adult Basic Education programs, coordination of Welfare to Work Programs, and optional programs such as those relating to nutrition, recreation and personal development.

FRNs could apply for grants in order to be able to provide enhanced services. (The proposed statute is fairly specific about the granting process.)

Program oversight, including training of personnel and program effectiveness, is the responsibility of the Cabinet.

There are several other provisions.

**HB2399** has three sponsors, including lead sponsor Del. Amores. Introduced Feb. 16. Referred to the House Government Organization Committee, then House Finance Committee.

**HB2403** is sponsored by Dels. Amores and Spencer. Introduced Feb. 16. Referred to the House Government Organization Committee, then the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *CPS/Abuse and Neglect*

### **Crimes for parole release notice would be expanded**

**SB185.** Revised §62-12-23 would add “child abuse resulting in death” and “child neglect resulting in death” as two additional crimes for which county prosecutors who prosecuted the offender is to prepare a “Parole Hearing Notification Form.” (Some other crimes cited include various sexual assaults, kidnapping, child abuse, arson, Driving Under the Influence causing death, bank robbery, and fleeing causing death.)

Under current law, at least 48 days prior to any parole hearing, the state Parole Board is to notify all persons who are listed on the “Parole Hearing Notification Form” of the date, time and place of the offender’s parole hearing. (The forms are specific, including such information as names of persons involved in prosecuting the offender, various contact information concerning the victim, and the name of the judge who presided at the trial.)

There are various other bill sections relating to the granting of parole.

There are five Senate sponsors, including lead sponsor Sen. Love. Introduced Feb. 14. Referred to the Senate Judiciary Committee.

The related House measure is **HB2484**. It has six House sponsors, including lead sponsor Del. Perry. Introduced Feb. 17. Referred to the House Judiciary Committee.

### **CPS review panel proposed**

**SB193.** Proposed §49-6F-1 et. seq. would establish a Citizen Review Panel to examine the procedures of the state’s Child Protective Services (CPS) and the “extent to which state and local agencies are effectively discharging their child protection responsibilities.”

The citizen panel, appointed by the Secretary of Health and Human Resources, would report its findings to the Secretary, governor and the Legislature.

The panel, which can’t exceed 15 members, is to be broad-based, having members who represent CPS, foster care, law enforcement, attorneys representing children, and prosecuting attorneys, among others.

Among other duties, the panel is to “examine the policies and procedures of the state and its local child protection agencies and where appropriate, specific cases, and evaluate the extent to which the agencies are effectively discharging their child protection responsibilities” in regard to federal and state programs relating to child abuse prevention and treatment, foster care, and child fatalities/near fatalities.

DHHR is to provide the panel access to case information, within the bill’s privacy guidelines.

#### **Proceedings Confidential**

Panel proceedings are confidential, especially as to any evidence or other matters produced or presented during its proceedings. Panel members are prohibited from making various disclosures, including specific CPS cases.

The bill has other sections.

Sponsored by Sen. Jon Blair Hunter (D-Monongalia). Introduced Feb. 15. Referred to the Senate Judiciary Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **Cross-reporting required**

**SB226.** This proposal would amend sections of Code relating to humane officers. It would require their reporting of suspected child abuse and neglect.

A number of other bill sections deal with reporting of animal abuse.

There are four Senate sponsors, including lead sponsor Sen. John Yoder (R-Jefferson). Introduced Feb. 18. Referred to the Senate Health and Human Resources Committee, then Senate Judiciary Committee.

## *Foster Care*

### **Foster care ‘Bill of Rights’ proposed for parents**

**SB171.** This legislation would create a “Foster Parents’ Bill of Rights Act.” A similar bill, reviewed in Issue 3 of *The Legislature*, would create a foster children’s bill of rights.

Sponsored by Sen. Donna J. Boley (R-Pleasants). Introduced Feb. 14. Referred to the Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *Child Safety*

### **Bill relates to booster seats**

**SB203.** Revised §17C-15-46 would require use of child safety booster seats for children under age eight, unless the child is at least four-feet, nine inches tall or taller.

Sponsored by Sen. Oliverio. Introduced Feb. 16. Referred to Senate Transportation and Infrastructure Committee.

## *Medicine Administration*

### **EMTs could administer Epinephrine injections**

**SB176.** Under terms of this bill, Emergency Medical Technicians could administer Epinephrine to persons suffering from an allergy attack.

EMTs must complete various training in order to undertake the procedure.

There are other provisions.

Sponsored by Sen. Karen Facemyer (R-Jackson). Introduced Feb. 14. Referred to the Senate Health and Human Resources Committee.

## *Newborn Testing*

### **Newborn disease testing expanded; two measures**

**SB231.** The purpose of this bill is to test for sickle cell anemia by expanding the testings required of newborns.

In addition to sickle cell anemia, **HB2447** would expand newborns' testing to include tests for congenital adrenal hyperplasia (CAH), biotinidase deficiency, maple syrup urine disease, homocystinuria, and medium chain acyl-CoA dehydrogenase deficiency (MCAD).

The measure would require health insurers to pay for the testing, except those insurers that provide only supplemental coverage. The Department of Health and Human Resources would pay for coverage for Medicaid-eligible infants.

In the absence of a third-party payor, parents are to be informed of the testing availability and its costs. They may refuse to have the testing done.

There are five House sponsors, including lead sponsor Del. Rick Staton (D-Wyoming). Introduced Feb. 15. Referred to the House Judiciary Committee.

**SB231** has 12 Senate sponsors, including lead sponsor Sen. Hunter. Introduced Feb. 18. Referred to the Senate Health and Human Resources Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *Crimes*

### **Intent to deliver threshold set**

**HB2307.** Proposed §60A-4-401a would establish various threshold levels of quantities of controlled substances to trigger evidence of intent to deliver, including marijuana, cocaine base, cocaine, methamphetamine, and heroin.

There are four House sponsors, including lead sponsor Richard J. Iaquinta (D-Harrison). Introduced Feb. 14. Referred to House Judiciary Committee.

### **Bill bans public fire-setting**

**HB2431.** Proposed §61-3-6a would establish the offense of setting fires in a public right-of-way or road. Persons convicted of violating this law would be guilty of a misdemeanor (first offense) or felony (second or subsequent offenses).

There are three House sponsors, including lead sponsor Del. Charlene Marshall (D-Monongalia). Introduced Feb. 16. Referred to the House Judiciary Committee.

### **Trespass fines would increase**

**HB2441.** Revised §61-3B-2 would increase fines for trespass. The bill's intent is to discourage the practice through the increased fines.

There are three House sponsors, including lead sponsor Del. Beach. Introduced Feb. 16. Referred to House Judiciary Committee.

## *Elections*

### **Deputy Sheriff politics ban**

**HB2494.** Revised §7-14-15 would prohibit deputy sheriffs from engaging in political activities, including campaigning and holding public office in partisan and nonpartisan elections.

There are other provisions.

There are five House sponsors, including lead sponsor Del. Randy Swartzmiller (D-Hancock). Introduced Feb. 18. Referred to the House Judiciary Committee.

## *Higher Education*

### **Bluefield State would be graduate institution**

**SB169.** The purpose of this legislation is to add Bluefield State College to the list of state colleges which may meet the need for graduate education in its region.

Sponsored by Sen. Chafin. Introduced Feb. 14. Referred to Senate Education Committee, then Senate Finance Committee.

### **Abortion 'conscience' exception would be allowed**

**SB172.** The purpose of this legislation, in large part, is to allow health care providers, health care institutions, health care payers and health care employees an exception from participating in abortion procedures, based on conscience. There are several other provisions.

Sponsored by Sen. Sprouse. Introduced Feb. 14. Referred to the Senate Health and Human Resources Committee, then to the Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **WVU Tech President would serve on Board of Governors**

**SB177.** Under terms of this bill, the president of the West Virginia University Institute of Technology would serve as a member of the Higher Education Institutional Board of Governors.

Sponsored by Sen. C. Randy White (D-Webster). Introduced Feb. 14. Referred to Senate Education Committee.

### **Incremental pay proposed**

**SB212.** Revised §5-5-1 would allow higher education faculty members eligible to receive the annual experience increment paid to state employees.

Sponsored by Sen. Bob Plymale (D-Wayne). Introduced Feb. 17. Referred to Senate Education Committee, then Senate Finance Committee. Plymale is SEC chairman.

## Bill concerns adult part-time students who take GED

**SB219.** Revised §18C-5-7 would allow Higher Education Adult Part-time Student grant program funds to be used for the costs of taking a General Educational Development (GED) examination through an approved organized scholarship program.

There are four Senate sponsors, including lead sponsor Sen. Unger. Introduced Feb. 18. Referred to Senate Education Committee.

A related bill, **SB217**, would provide various incentives for receipt of a GED degree, including an employer incentive to provide release-time for employees to prepare for the GED. This would be in the form of a tax credit.

Other incentives include a higher education tuition discount for undergraduates (\$250) per semester. (The student must have been out of secondary school for at least three years and have earned his or her GED within the preceding one-year period prior to enrolling in higher education classes.)

The bill concentrates on the GED recipient's completion of a learning contract with an adult education program and his or her employer.

There are other provisions.

There are four Senate sponsors, including lead sponsor Sen. Unger. Introduced Feb. 18. Referred to the Senate Education Committee, then Senate Finance Committee.

## Chancellors would be workforce council members

**SB222.** The purpose of this legislation is to add the Chancellors of the Higher Education Policy Commission and Community and Technical College Education to the West Virginia Workforce Investment Council.

There are other provisions.

There are four Senate sponsors, including lead sponsor Sen. Unger. Introduced Feb. 18. Referred to the Senate Government Organization Committee.

## PROMISE would be loan

**SB233.** This legislation would reframe the PROMISE Scholarship program as a forgivable loan program.

Sponsored by Sen. Steve Harrison (R-Kanawha). Introduced Feb. 18. Referred to Senate Education Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## College grads would get tax breaks for start-up businesses

**HB2410.** Proposed §18-21-1 et. seq. would exempt start-up businesses founded by state college or university graduates from various state, county and municipal taxes during the first three years of the businesses' operations.

There are three House sponsors, including lead sponsor Del.

Pino. Introduced Feb. 16. Referred to the House Finance Committee.

## Real estate could be transferred for development

**HB2462.** Revised §18B-12-10 would include housing projects in the list of higher education real estate properties which can be transferred for the use of research and development.

There are three House sponsors, including lead sponsor Del. Pino. Introduced Feb. 17. Referred to House Education Committee, then House Judiciary Committee.

## Public Policy

### 'Child's Right to Nurse' Act Proposed; two bills introduced

**SB228.** Proposed §16-1-19 would create the "Child's Right to Nurse Act," which would allow mothers to breast feed a child in any "location, public or private, where the mother and child are otherwise authorized to be."

There are five Senate sponsors, including lead sponsor Sen. Dan Foster (R-Kanawha). Introduced Feb. 18. Referred to the Senate Committee on Health and Human Resources.

**HB2450** is the companion House measure. There are seven House sponsors, including lead sponsor Del. Bonnie Brown (D-Kanawha). Introduced Feb. 17. Referred to the House Health and Human Resources Committee, then the House Judiciary Committee.

### Wireless technology council would be established

**HB2294** would create a Wireless Infrastructure Council. One Council role is to ensure that needed wireless infrastructure is in place in the state. Accordingly, state agencies, institutions and departments holding real property to enter into long-term leases for the construction, placement and operation of wireless infrastructure. A revolving loan fund is created to provide financial assistance for construction of wireless infrastructure in underserved rural areas of the state.

There are other provisions.

There are three bill sponsors, including lead sponsor Del. Lidella Wilson Hrutkay (D-Logan). Introduced Feb. 14. Referred to House Government Organization Committee, then House Finance.

### Zoning: Bill would regulate exotic entertainment

**HB2303.** This bill relates to licensure of exotic entertainment businesses, which is the responsibility of the state Alcohol Beverage Control Commission.

One bill section would allow county or municipal governing bodies to submit comments to the ABCC regarding how the proposed exotic entertainment center may affect that entity in terms of potential increase in crime, traffic considerations and possible "incompatibility" with municipal or county property use plans.

These facilities couldn't be located in areas of the county or municipality that are deemed "ineligible for the conducting of such business.

There are other provisions.

Three Delegates sponsored the bill, including Del. Cindy Frich (R-Monongalia), lead sponsor. Introduced Feb. 14. Referred to the House Judiciary Committee, then House Finance Committee.

**HB2421**, a related bill, has a provision that would allow "local government bodies (to) enact additional regulations as they may consider necessary to eliminate, reduce or control the adverse secondary effects caused by sexually-oriented businesses within their communities."

That bill relates to sexually-oriented businesses in particular.

Sponsored by Dels. Greg Howard (R-Cabell) and Bill Hamilton (R-Upshur). Introduced Feb. 16. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## OML Advisory Opinion would constitute 'absolute defense'

**HB2328**. Revised §6-9A-11 would establish that reliance on a written West Virginia Ethics Commission Advisory Opinion relating to open meetings laws is an "absolute defense" in civil suits or criminal proceedings taken against an individual or governing body "unless the (EC) was willfully and intentionally misinformed as to the facts by the (governing) body or its representative."

Sponsored by Del. Amores. Introduced Feb. 14. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Some citizen 'surveillance' restricted: First Amendment

**HB2341**. This is the companion to **SB66**, which was reviewed in the Feb. 14 issue of this publication. This proposed legislation would disallow law-enforcement officers or agencies from engaging in surveillance of individuals or groups based on these persons' or entities' participation in activities allowed by the First Amendment to the U.S. Constitution.

There are several provisions.

The legislation was first introduced last year.

There are three House sponsors, including lead sponsor Del. Amores. Introduced Feb. 15. Referred to the House Judiciary Committee.

## Bill would create the "Genetic Information Privacy Act"

**HB2376**. This proposal would create the "Genetic Information Privacy Act." It has several proposed sections regarding confidentiality of human genetic information and privacy, especially as relating to diagnosis of health problems, including genetically-inherited diseases. The bill's provisions don't relate to blood tests taken in conjunction with routine physical examinations or for the presence of the "human immunodeficiency virus."

The proposal would include a ban on a number of uses of genetic information, including sections relating to insurance information as well as a limitation on the use of genetic information by employers.

### Must Conform to IDEA

In terms of bill provisions, genetic information would be treated consistent with the "requirements of federal law, including, but not limited to, the Americans with Disabilities Act."

The proposal then outlines how such information is to be considered for disclosure, with no "person (being permitted) to disclose or be compelled to disclose the identity of any person upon whom a genetic test is performed or the results of a genetic test in a manner that permits identification of the subject of the test..."

In case of minors, efforts are to be made to "notify the minor's parent or legal guardian if, in the professional judgment of the health care provider, notification would be in the best interest of the minor..." The health care provider, however, must have first "sought unsuccessfully to persuade the minor to notify the parent(s) or legal guardian(s)..." The health care provider also could notify the parent(s) if having reason to "believe that the minor has not made the notification."

NOTE: The measure wouldn't require health care providers to notify the minor's parent(s) or guardian(s). The bill has several other sections, including various definitions inherent to the proposed statute.

There are five House sponsors, including lead sponsor Del. Barbara A. Hatfield (D-Kanawha). Introduced Feb. 16. Referred to the House Health and Human Resources Committee, then House Judiciary Committee. *Similar proposals have been introduced in past legislative sessions.*

## 'Job Preservation Act' sought

**HB2400**. Among its many provisions, this legislation would disallow entities of state or local government from doing business with companies that lose 100 or more employees due to outsourcing. These companies also couldn't receive government grants. Some reporting requirements are imposed on these companies.

There are other provisions.

There are four House sponsors, including Del. Thompson (D-Wayne). Introduced Feb. 16. Referred to House Government Organization Committee, then House Finance Committee.

## Ethics Commission: Political contributions would be public

**HB2418**. Revised §6B-2-5 would require public officials appointed after the bill's effective date to disclose all political contributions of \$250 or more he or she made to electoral candidates during the past five years prior to his or her appointment.

The disclosures would be fairly detailed.

The legislation also would seek to amend the state Ethics Commission Act by including disclosure of persons covered by the act, their spouses and dependent childrens' of any business interest(s) of \$10,000 at fair market value or five percent ownership interest or more. A street address or other locator would be required to identify the property.

There are seven House sponsors, including lead sponsor Del.

Hamilton. Introduced Feb. 16. Referred to the House Judiciary Committee.

## Bias-based crimes would include sexual orientation, disability

**HB2442.** The purpose of this legislation is to include sexual orientation and disability as bias-based crimes. These crimes would be defined as “attempts to injure, intimidate or interfere with any other person while in free exercise or enjoyment of any right or privileges secured to him or her by the Constitution or laws of the state...”

These type crimes would be considered felonies.

There are three House sponsors, including lead sponsor Del. Amores. Introduced Feb. 16. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

**HB2470**, a related measure, would prohibit discrimination based on sexual orientation.

Sponsored by Del. Carrie Webster (D-Kanawha). Introduced Feb. 17. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bill proposes regulation of election-related communications

**HB2485.** One purpose of this legislation is to regulate corporations’ involvement in airing “any electioneering communication.” The proposal would disbar persons or organizations who have received “any payment from a corporation (from making) any disbursement for the costs of producing and airing any electioneering communication.” That term wouldn’t include certain organizations such as unions if the “communication is paid for exclusively by funds provided by individuals and the disbursements for costs of producing and airing the communication are paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that account...”

A separate bill provision would limit political organizations or political action committees from accepting monies totaling more than \$1,000 from a “single source, political committee or political party during a Primary Election campaign period or a General Election campaign period.”

Use of corporate dollars for purposes of campaign communications became an issue during the 2004 General Election.

There are six House sponsors, including lead sponsor Del. Ennis. Introduced Feb. 17. Referred to the House Judiciary Committee.

## Teachers Retirement System

### Pensions study proposed

**HB2319.** This proposal would require the Legislature’s Joint Committee on Pensions and Retirement to study “all issues” involved in a merger of the Teachers’ Defined Contribution Retirement System and the state Teachers Retirement System.

Sponsored by Del. Thompson (D-Wayne). Introduced Feb. 14. Referred to the House Pensions and Retirement Committee, then

House Finance Committee.

## Retirees could accept up to 140-day local board contract

**HB2320.** Under terms of this legislation, TRS retirees could accept up to 140-days’ contract employment with a county board and not forfeit retirement benefits.

Sponsored by Dels. Richard Browning (D-Wyoming) and Staton. Introduced Feb. 14. Referred to the House Pensions and Retirement Committee, then the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## COLA raise proposed

**HB2321.** This bill would allow all TRS retirees who are at least age 60 and who have been receiving an annuity for at least five years cost-of-living increase.

Sponsored by Dels. Kevin Craig and Morgan (both D-Cabell). Introduced Feb. 14. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

Also refer to **HB2499**. It would grant retirees a COLA increase or a three percent increase whichever is less multiplied by the first \$18,000 of the retiree’s annual annuity.

There are seven House sponsors, including lead sponsor Del. Martin. Introduced Feb. 18. Referred to the House Pensions and Retirement Committee, then to the House to Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## \$50 per month benefit proposed

**HB2323.** The purpose of this legislation is to provide TRS retirees and Public Employees Retirement System (PERS) retirees a \$50 per month supplemental benefit.

Sponsored by Del. Stalnaker. Introduced Feb. 14. Referred to House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Retirees could return to TRS

**HB2382.** Under terms of this legislation, teachers who withdrew from the TRS in favor of the Defined Contribution Retirement System could exercise their right to return to the TRS.

There are three House sponsors, including lead sponsor Del. Howard. Introduced Feb. 16. Referred to the House Pensions and Retirement Committee, then the House Finance Committee. *Similar proposals have been introduced/considered in past sessions.*

## Tobacco

## Municipal courts: jurisdiction for minors using tobacco

**SB225.** Under terms of this bill, municipal courts would be granted

jurisdiction over juveniles who violate laws and ordinances relating to tobacco usage.

Sponsored by Sen. Facemyer. Introduced Feb. 18. Referred to the Senate Health and Human Resources Committee, then Senate Judiciary Committee.

## Fake ID notice required

**HB2432.** Revised §11-16-19 would require businesses selling alcohol, beer or tobacco products to post signs warning minors that it is illegal to buy or attempt to buy these products using false identification.

Sponsored by Dels. Ron Walters (R-Kanawha) and Chris Wakim (R-Ohio). Introduced Feb. 16. Referred to the House Judiciary Committee.

## MISCELLANEOUS

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### *Public Employees Insurance*

## RU-486 payment ban sought

**HB2291.** This proposed legislation would prohibit the Public Employees Insurance Agency from paying for the abortifacient RU-486 as a PEIA benefit.

Sponsored by Del. Louisos. Introduced Feb. 14. Referred to the House Health and Human Resources Committee, then the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bill focuses on medical benefit; based on spouse's earned leave

**HB2305.** Revised §5-16-13 would allow spouses of retirees to receive continued medical coverage for any period purchased with the accumulated leave.

There are four sponsors, including lead sponsor Del. Hamilton. Introduced Feb. 14. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## State workers could use leave for early retirement

**HB2348.** Revised §5-16-13 would allow retiring state employees to use accrued annual leave and sick leave days to meet early retirement criteria.

Sponsored by Dels. Thompson and Perdue (both D-Wayne). Introduced Feb. 15. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Drug card uniformity sought

**HB2392.** This legislation is aimed at requiring health benefit plans,

including PEIA, to issue uniform prescription drug cards or technology. There are several other provisions.

Sponsored by Dels. Larry Border (R-Wood) and Perdue. Introduced Feb. 14. Referred to House Health and Human Resources Committee, then House Finance Committee.

### *Public Employees Retirement*

## Jobs for Graduates program coverage would be dropped

**SB207.** Revised §5-10-18 would terminate the Jobs for West Virginia Graduates in the PERS system, with JWVG being responsible for providing a retirement system for its employees. The organization's employees would receive notice of the ability to withdraw from PERS or to remain in the system. Employees would receive various written explanations regarding benefits, as compared to participating in a private pension plan which the agency would provide employees. There are other provisions.

Also refer to **HB2501**, the companion House measure.

There are six House sponsors, including lead sponsor Del. Thomas Campbell (D-Greenbrier). Del. Campbell is HEC Chairman. Introduced Feb. 18. Referred to House Pensions and Retirement Committee.

There are five Senate sponsors, including lead sponsor Sen. Evan Jenkins (D-Cabell). Introduced Feb. 16. Referred to the Senate Pensions Committee, then to the Senate Finance Committee.

## Military service credit expanded

**SB223.** This bill would allow for PERS vesting by members of the U.S. Armed Forces who have accumulated nine or more years of credited service and who are called from participating employment (PERS) to compulsory military service or armed conflict. The provisions apply if the PERS member were to die or become totally and permanently disabled as a result of compulsory active service prior to resuming PERS participation.

There are other provisions.

Sponsored by Sens. Shirley Love (D-Fayette) and C. Randy White (D-Webster). Introduced Feb. 18. Referred to Senate Pensions Committee, then Senate Finance Committee.

Also refer to **HB2374**. Among other provisions, this bill would allow PERS service credits for West Virginia National Guard and Reserve participation. A second provision relates to Civil Service testing.

There are four House sponsors, including lead sponsor Del. Hrutkay. Introduced Feb. 16. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

## Multiplier would be increased

**HB2373.** This is the same as **SB33** and other similar bills. It would increase the retirement multiplier for a PERS annuity from 2.00 to 2.25 percent.

Sponsored by Dels. Caputo and Thompson (Wayne). Introduced Feb. 16. Referred to House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in previous legislative sessions.*

## Language clarification sought

**HB2390.** The purpose of this proposal is to remove language in §5-10-25 which could be construed as reducing a PERS member's disability benefits upon the member reaching age 65.

Sponsored by Dels. Thompson and Perdue (both D-Wayne). Introduced Feb. 16. Referred to House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Taxation

### Tourism incentive proposed

**SB167.** This bill has several provisions aimed at encouraging expansion of the state's tourism industry through various tax incentives aimed at the creation, construction or enlargement of tourism attractions or amenities. One provision would allow the taxpayer/tourism investor to recover up to 25 percent (50 percent for bed and breakfast facilities) of his or her qualified investments in a tourism attraction by offsetting up to 80 percent of the consumer sales/service tax collected by the taxpayer or a five- to ten-year period.

There are several other provisions.

Sponsored by Sen. White. Referred to the Senate Committee on Economic Development, then the Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### U.S. military personnel: one vehicle exempt; three bills

**SB227.** The purpose of this legislation is to exempt one motor vehicle owned by a state resident who is on active duty with the U.S. military from ad valorem taxes. The exemption would apply for any taxable year the person is in the military.

There are six Senate sponsors, including lead sponsor Sen. Billy Wayne Bailey (D-Wyoming). Introduced Feb. 18. Referred to the Senate Military Committee, then Senate Finance Committee.

The companion bill is **HB2311**. There are six House sponsors, including lead sponsor Del. Hamilton. Introduced Feb. 14. Referred to the House Finance Committee.

Another such bill is **HB2487**. It has six House sponsors, including lead sponsor Del. Joe DeLong (D-Hancock). Introduced Feb. 18. Referred to the House Judiciary Committee.

### Tax relief given for natural disaster damages

**HB2429.** Proposed §11-3-22 would allow property owners to petition county commissions for reappraisal of property damaged in natural disasters, as proclaimed by the governor or president.

To be eligible for reappraisal, the property must have been damaged due to "a major misfortune or calamity in an area or region...proclaimed to be a disaster area." "Damage" would be

defined as "diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the major misfortune or calamity."

Claims would have to be filed within 60 days of the calamity (written application to the county assessor).

The assessor then would appraise the property and "determine separately the appraised value of land, improvements and personal property immediately before and after the damage or destruction."

If property values have decreased by \$5,000 or more, the assessor is to reduce the property value(s) accordingly, although the amount of the reduction can't exceed the actual loss.

The bill has several other sections, including a major section dealing with appeals, further calculation of taxes, considerations for repairs and reconstruction in subsequent reassessments, and promulgation of legislative rules.

There are four House sponsors, including lead sponsor Del. Spencer. Introduced Feb. 16. Referred to the House Judiciary Committee, then House Finance Committee.

NOTE: Listing of property-tax and related taxation bills is not exhaustive.

## Unemployment Compensation

### No reduced benefits due to Social Security funds

**SB202.** This bill – a similar measure was introduced last week – would eliminate reductions in Unemployment Compensation benefits for persons who are receiving various Social Security benefits.

There are four Senate sponsors, including lead sponsor Sen. Unger. Introduced Feb. 16. Referred to Senate Finance Committee.

Also refer to **HB2467**. There are seven House sponsors, including lead sponsor Speaker Kiss. Introduced Feb. 17. Referred to House Judiciary Committee.

### Individual might get extended benefits; governor's prerogative

**HB2339.** Revised §21A-6A-3 would grant the governor authority to provide an extension of UC benefits when the governor finds that "special economic circumstances exist that otherwise justify the payment of the benefits."

There are four House sponsors, including lead sponsor Del. Caputo. Introduced Feb. 15. Referred to House Judiciary Committee, then House Finance Committee.

## Resolutions

### Constitutional amendment relates to county configurations

**Senate Joint Resolution 6.** This Resolution, if adopted by the Legislature, would become a constitutional amendment. If adopted by voters, the Legislature could reconfigure county lines, form new

decounties or consolidate counties in 2005 and every 10 years thereafter, based on U.S. Bureau of Census data.

Sponsored by Sen. Oliverio. Introduced Feb. 9. Referred to Senate Government Organization Committee, then Senate Judiciary Committee.

Also refer to **SJR 9**. It was sponsored by Sen. Chafin. That Resolution has identical committee references.

## Homestead Exemption would be raised to \$40,000

**House Joint Resolution 7.** This Resolution proposes an amendment to the state Constitution, increasing the state property tax Homestead Exemption from \$20,000 to \$40,000.

There are seven House sponsors, including lead sponsor Del. Overington. Introduced Feb. 15. Referred to House Constitutional Revision Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## BRIEFLY...

**Senate Bill 179** would divide the Department of Health and Human Resources into the Department of Health and the Department of Human Resources...**SB205** would establish a Board of Examiners in Marriage and Family Counseling...**House Bill 2290** would allow for a jury trial for contested cases brought under the state's Administrative Procedures Act...**HB2304** would add a 59<sup>th</sup> Delegate District which would consist of portions of Mason and Putnam Counties...**HB2306** would require a CD-Rom format for all agency, departmental and similar annual reports which must be provided to the Legislature...**HB2322** would create an income tax deduction for taxpayers who volunteer 200 or more hours to a charitable organization as determined by IRS Section 501 (c) (3)...**HB2362** would restrict political subdivisions from conducting businesses selling tangible personal property in competition with private businesses. **HB2363** relates to county commissions making flood insurance available to property owners by setting different building restrictions in different levels of a flood plain...**HB2402** would require the appointment of a blind person (ad hoc nonvoting member) to the state Library Commission...**HB2424** amends a section of law relating to impersonating a public official, saying that the crime would include operating a motor vehicle which falsely displays an official emblem or other markings connoting government sponsorship...**HB2448** relates to making various criminal offenses for mail theft...**HB2456** would allow West Virginia to become a member of the National Crime Prevention and Privacy Compact...**HB2493** would require that one of the two judges allowed for the 25<sup>th</sup> judicial circuit be a resident of Boone County. The other is to be a resident of Lincoln County.

**Superintendent.** The Monongalia County, W. Va., Board of Education is accepting applications for County Schools Superintendent. Must meet W. Va. Qualifications for County Superintendency; earned doctorate preferred. Salary and term negotiable, based on qualifications and experience. 31 schools/physical plants; \$86.5 million budget; \$12 million excess levy (75 percent levy rate – expires in 2007/renewal election likely set for Fall 2006); \$65.5 bond issue approved in Oct. 2003 (29-year term); 10,163 students; 1,413 employees. For a “Notice of Position Vacancy,” Application Form and related materials, contact: Monongalia County Superintendent Search, c/o W. Va. School Board Association, P. O. Box 1008, Charleston, WV 25324. WVSBA telephone number: 304.346.0571 or visit [www.wvsba.org](http://www.wvsba.org). Deadline to apply: 4 p.m. Feb. 28, 2005.

Spring Mills Middle School  
Berkeley County Board of Education  
Manny P. Arvon, II - Superintendent



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employment term; and assigning of principal's secretary; **HB2349** – Service personnel pay would be based on housing costs/increases; **HB2464** – Sanitation Worker Pay Grade would become Pay Grade “G” (currently “F”); **HB2370** – Salary augmentation proposed; **HB2375/HB2012** – Medicaid Workers would get pay increase; **HB2456/SB48** – Measure concerns National Certification pay for various disciplines.

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**HB2359** – Crossing signs would be lime green; **HB2366** – Speed limits for residential areas would be subject to change; **HB2379** – Intersections to be clear.

West Virginia Board of Education..... 6  
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## **The Legislature**

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