



Bill Edition

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20th session day nearing Week Three Bills Reviewed

By Howard M. O’Cull, Ed.D.

Listed below are the West Virginia Senate and House of Delegates bills introduced Feb. 21-25, 2005, the second full week of the 2005 Regular Session.

Bills relating to agency rule-making are not reviewed. (These bills, due to a state Supreme Court of Appeals decision several years ago, must be introduced by the 20th day of the regular session, which is Monday, Feb. 28.) Additionally, no House Bills were introduced Friday, Feb. 25.

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 97 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.

Bills also are posted on the West Virginia Legislature’s Web site: www.legis.state.wv.us.

NOTE: Listing is not exhaustive.

PUBLIC EDUCATION

County Boards of Education

Board embezzlement would be considered felony under bill

Senate Bill 274. Revised §61-3-20 would make embezzlement from a county, district, “school district” or municipal corporation a felony. Those convicted of the embezzlement could be imprisoned for “not less than 10 years.”

The proposal requires a special prosecutor to be appointed for prosecutions of county officers, agents, clerks and “servants” charged with embezzlement.

Editor’s Note: This legislation grew out of a situation involving a county employee in Randolph County.

There are three Senate sponsors, including lead sponsor Sen. Clark Barnes (R-Randolph). Introduced Feb. 24. Referred to the Senate Banking and Insurance Committee.

There is no House companion measure.

Bank deposit statutory requirements would be modified

SB279. Revised §18-9-6 would allow federally-insured depository institutions to accept county board banking deposits without posting a bond or other assets if the funds are placed in a deposit matching network for federal deposit insurance that provides for federal insurance from the FDIC (for the full amount accepted).

The companion House measure is **House Bill 2570**.

The Senate measure is sponsored by Sens. Joseph M. Minard (D-Harrison) and Evan Jenkins (D-Cabell). Introduced Feb. 24. Referred to the Senate Banking and Insurance Committee.

HB2570 has three House sponsors, including lead sponsor Del. Ron Thompson (D-Raleigh). Introduced Feb. 21. Referred to the House Banking and Insurance Committee, then House Judiciary Committee.

Agencies could join to collect delinquent taxes

House Bill 2587. Revised §18-5-13(u) would allow county boards to enter into intergovernmental agreements with county commissions and with other levying bodies in order to fund the collection of delinquent personal property taxes.

The costs of the tax collection would be apportioned among various local governmental entities, including county commissions, municipalities, Emergency Ambulance Authorities, Urban Mass Tran-

sit Authorities, and Public Library Boards of Directors.

(In order for this section to be operable, the county commission will have had to appoint a tax collector in accordance with a proposed §7-1-300.)

There are five House sponsors, including lead sponsor Del. Sharon Spencer (D-Kanawha). Introduced Feb. 21. Referred to House Pensions and Retirement Committee.

Editor's Note: Such a procedure was proposed a few years ago in Kanawha County. At the time, various attorneys for the various public agencies determined legislation was necessary for agencies to enter into the intergovernmental agreements.

Juveniles/Youth

Teen court funding plan outlined; \$5 fee collection

SB267. This legislation establishes a means to collect a \$5 fee to support the state's teen court program. Fees would be collected for guilty judgments or pleas of nolo contendere for motor vehicle violations or for felonies and misdemeanors.

This is the same as **HB2492**, which is reviewed in the Feb. 21 issue of *The Legislature*.

There are five Senate sponsors, including lead sponsor Sen. Jeffrey V. Kessler (D-Marshall). Introduced Feb. 23. Referred to the Senate Judiciary Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

School Building Authority

SBA would be 'continued' until 2007 - 'Sunset' law

Senate Bill 282. §18-9D-18 would "continue" the School Building Authority of West Virginia until July 1, 2007.

Editor's Note: This "continuation" is part of the state's Sunset legislation, adopted in the late 1970s. In order to be "continued," various state agencies are subject to review and audit. The bill is recommended by the Legislature's Joint Committee on Government Operations.

There are nine Senate sponsors, including lead sponsor Sen. Edwin J. Bowman (D-Hancock). The bill originated in the Senate Government Organization Committee, and was reported Feb. 24. It is on Second Reading. *Similar proposals have been introduced/considered in past legislative sessions.*

SBA would be under legislative rule-making; Other provisions

HB2520. This bill would amend §18-9D-3, §18-9D-15 and §18-9D-16. The central bill provision would require SBA rules to be subject to legislative rule-making review, meaning lawmakers could approve, modify or reject the rules.

As stated in the proposed bill, previously-adopted SBA "guidelines" are "invalid and without effect until such time as the Author-

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ity has proposed those guidelines as legislative rules and the rules have been approved for promulgation by the Legislature.”

These are among other bill provisions:

- County boards could develop and prepare their facilities project proposals in lieu of working with the SBA or other “persons, firms or corporations to facilitate the development of... projects and county board facilities plans.”

- When evaluating county SBA project proposals, the “economies of scale” criterion would be revised to “(take) into account that population sparsity affects school sizes, transportation times and costs.” This “rule” could not “dominate” other statutory criteria when the SBA makes decisions to award grant moneys.

- The “travel times” criteria would be revised so that it institutionalizes “reasonable travel times” for students to get to school: 30 minutes for students in grades K-5; 45 minutes for students in Grades 6-8; and, 60 minutes for students in grades 9-12.

Editor’s Note: The Bill Note indicates the proposal also would allow county boards to spend SBA dollars on any school that has been included in an approved Comprehensive Educational Facilities Plan (CEFP), although that language appears absent from the proposal as introduced.

Sponsored by Del. Larry A. Williams (D-Preston). Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. Williams is HEC Vice Chairman. *Similar proposals have been introduced/considered in past legislative sessions.*

School Aid Formula

Bill would raise formula for net enrollment ratios

HB2578. Revised §18-9A-5a would increase the net enrollment ratios of professional and school service personnel (School Aid Formula). The ratios are based on the number of students in “net enrollment.”

This increase would be phased-in by the 2010-2011 school year. The proposal would make consideration for “high” and “low” density counties both for professional educators and school service personnel.

By the 2010-2011 school year, the ratio for professional personnel would be 74.60 per 1,000 students in net enrollment (high density county), and 75.40 (low density county). For school service personnel, the ratio for the 2010-2011 school year would be set at 44.36 for high density counties, and 45.70 for low density counties. All ratios are based on the preceding year’s enrollment figures. The Legislature would set aside an additional \$2.5 million for the next six school years.

Editor’s Note: The House of Delegates endorsed this legislation a few years ago. The measure, however, died in the state Senate. The ostensible purpose of the legislation is to increase the number of professional and school service personnel by concentrating on the net enrollment part of the SAF. Under current law, county boards receive reimbursement for school personnel based on either adjusted or net enrollment, whichever is less, with the understanding that most county boards would receive a few additional school personnel. At the time the legislation was first introduced, it was partly in response to the Tomblin v. Gainer court case

and considered a needed SAF provision, according to the state superintendent of schools.

There are three House sponsors, including lead sponsor Del. Williams. Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

School Employees Generally

Bill concerns service worker competency testing sites

HB2527. Revised §18-4-8e would authorize multicounty vocational school employees to administer service personnel competency tests.

Under current law, performance tests for all school service personnel classifications/categories other than bus operators can be administered only by county board employees. The tests are to be administered “at a location designated by the superintendent and approved by the board.”

Editor’s Note: This legislation was approved by the House of Delegates last year, dying in the state Senate.

There are four House sponsors, including lead sponsor Del. Tom Campbell (D-Greenbrier). Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. Campbell is HEC Chairman. *Similar proposals have been introduced/considered in past legislative sessions.*

Alternative certification proposed; several provisions

HB2528. Revised §18A-3-1a would amend a section of law relating to alternative teacher certification so that an individual with a non-teaching degree can become certified to teach in the public schools. Under its provisions, an alternative program teacher certificate could be renewed twice. A teacher could hold the alternative certificate for up to three years, and would be considered a “professional teaching certificate for issuance of a continuing contract.”

In order to receive the certificate, one must have at least a bachelor’s degree from a “regionally-accredited institution of higher education in a discipline taught in the public schools.”

Additionally, the applicant must have been offered employment by a county board in an “area of critical need and shortage,” and they must “qualify” following a criminal history check, as required by law for school employees.

Alternative Preparation

The bill’s “alternative preparation” provisions would require the applicant to complete a program that includes at least 18 semester hours instruction in regard to student assessment, development and learning, curriculum, classroom management, the use of educational computers and other technology, with a minimum of 3 hours instruction in special education/diversity.

Phases

The bill then proposes a series of “phases” relating to on-the-job supervision. In Phase I, an assigned mentor and the “school administrator” would work with the applicant for two-four weeks, with the teacher receiving daily observation.

This phase is to include “an orientation to the policies, organization and curriculum of the employing (school) district. The alternative program teacher shall begin to receive formal instruction in (the 18 semester hour courses).”

In Phase II, on-the-job supervision continues for at least 10 weeks, with the teacher to be “visited and critiqued” at least once weekly by members of a professional support team. At the “ends” of weeks 5 and 10, the teacher also would be “observed and formally evaluated” by “appropriately-certified” members of the support team.

In Phase III, the teacher would be required to participate in an “additional period of continued supervision and evaluation” of at least 20 weeks’ duration. At least one formal evaluation would be conducted at the completion of the phase.

The alternative program teacher would continue to receive formal instruction in regard to the required 18 semester hours listed above. Additionally, the teacher would receive “opportunities to observe the teaching of experienced colleagues.”

A final bill provision would require various agencies, including Regional Educational Service Agencies (RESAs), school districts, school consortia, the Center for Professional Development and higher education institutions, to coordinate the alternative preparation plan. Their efforts would require West Virginia Board of Education approval.

There are four House sponsors, including lead sponsor Campbell. Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Revised tuition reimbursement plan proposed

HB2603. Under terms of revised §18A-3-3-a, the statutory appropriation teachers receive for reimbursements (higher education tuition, registrations and other fees) would be divided into two categories: courses completed toward certification renewal and courses completed toward and additional endorsement in area of critical need and shortage.

Reimbursements for any one of the above categories is limited to 75 percent of the statutory appropriation.

The statute, as amended, states that “if during the final processing of applicants for the fiscal year, appropriations would remain unexpended after application of the 75 percent limit and additional qualified applicants remain, then reimbursement may be made to the remaining qualified applicants to the extent funds are available...”

There are four House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 23. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Bill would set standards for athletic directors

HB2660. Revised §18A-1-1 (the definitions section of laws relating to school personnel) would establish the position of “athletic director.”

By the 2006 school year, county boards would be required to

employ an athletic director for each county high school.

Each county high school that participates in 12 or less varsity sports would be required to have a half-time director whose teaching duties couldn’t exceed 20 hours per week.

If a school has 13 or more varsity sports, they are required to have a full-time athletic director. That individual can have no teaching duties.

An athletic director is further defined as a professional educator who is “responsible for supervising the management and operation of the athletic programs and activities of the school to which he or she is assigned.”

A proposed §18A-2-9a elaborates upon these duties, who would be employed upon the county superintendent’s recommendation, with county board approval. The athletic director must have “valid credentials” for the position.

Prerequisites

The bill then specifies a number of “prerequisites” required for assignment of athletic directors, including:

- A minimum five years coaching experience (interscholastic/intercollegiate).
- A college degree in athletic administration; or a masters degree in educational administration; or, completion of a “Leadership Training Class” provided through the National Interscholastic Athletic Administration Association (NIAAA) Leadership Training Program. (The program includes instruction relating to athletic administration, including leadership, organizations, principles of athletic administration, and legal issues associated with the position of athletic director.)

The bill has a “grandfather” clause for persons currently employed, except that these persons must complete the Leadership Training courses listed above.

A further bill provision states that athletic directors are to “assume administrative responsibility for the planning, management, operation and evaluation of the total athletic program for the school for which he or she is assigned.”

‘Responsibilities’

As outlined in the bill, these are among responsibilities required of athletic directors: “Supervision of games; overseeing the athletic budget; hiring of game officials; scheduling athletic contests; knowing and upholding all county, West Virginia Secondary Schools Activities Commission and league rules and regulations; maintaining records regarding players, medical forms, insurance forms and the like; scheduling transportation to sporting events; supervising and observing coaches; and, procuring athletic equipment, etc.

The bill also allows for employment of assistant athletic directors who must also complete the Leadership Training Courses outlined above. There, too, are grandfather provisions for these persons.

Sponsored by Del. Brady Paxton (D-Putnam). Introduced Feb. 24. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Cross-county seniority rights would be allowed

HB2561. Proposed §18A-4-7c would require county boards to “pre-

serve and enforce the seniority status of any teacher or other professional employee who transfers their employment, whether the transfer is made within the county or from another county.”

Sponsored by Del. Linda Sumner (R-Raleigh). Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

School Employees Pay Proposals

Core field teaching incentive proposed - \$2,000 per educator

HB2516. Proposed §18A-4-2b would provide a \$2,000 pay incentive to teachers who teach in their core degree field.

Sponsored by Del. Ron Walters (R-Kanawha). Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

School Nurses

Bills set nurse ratios

SB243. Revised §18-5-22 would require county boards to employ one full-time school nurse for every 1,500 students in Grades K-12, based on net enrollment. (The current ratio applies to Grades K-7.)

Also refer to **SB95 and SB155**, both of which relate to this subject. These bills are reviewed in the Feb. 14 issue of this publication.

Sponsored by Sen. Roman W. Prezioso (D-Marion). Introduced Feb. 22. Referred to the Senate Education Committee, then Senate Finance Committee.

A related bill, **HB2604**, would require county boards to employ one full-time school nurse per 1,000 students (net enrollment), beginning with the next school year.

There are four House sponsors, including Del. Sally Susman (D-Raleigh). Introduced Feb. 23. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

School Transportation

Boards could study alternate transportation plans

HB2536. First introduced in 2003, this bill would allow county boards, under a revised §18-5-13(g)(3), to study and “determine whether it would be appropriate and cost-effective to enter into a cooperative agreement with a local public or regional transit authority to transport school-age children to and from school.”

Before a board could enter into such an arrangement, the county would have to submit the “proposed cooperative agreement” to the state Department of Transportation for “review and approval.”

The DOT can’t approve any cooperative agreement proposal that doesn’t comply with minimum federal transportation safety standards regarding transportation of school-age children.

If the DOT approves a board’s cooperative agreement, the county is to submit an annual report to the Legislature’s Joint Committee on Government and Finance “detailing the costs and benefits of the agreement.”

The DOT secretary is to propose legislative rules for assessing whether “cooperative agreements proposed by a county board should be approved.”

For more information regarding this legislation, contact the WVSB office.

Sponsored by Del. Ron Walters (R-Kanawha). Referred to the House Education Committee, then the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Technology

Technology funds could be spent without strategic plan

SB248. Revised §18-2J-6 would allow county and higher education technology dollars to be spent in absence of the statutorily-required “Public and Higher Education Technology Strategic Plan” when or if the governor has not appointed the Education Technology Strategic Plan Advisory Committee which, by law, is to oversee development of the technology strategic plans.

NOTE: This bill has been approved by the SEC and referred to the Senate Finance Committee.

Sponsored by Sens. Bob Plymale (D-Wayne) and Larry J. Edgell (D-Wetzel). Introduced Feb. 22. Referred to the SEC, then SFC. *Similar proposals have been introduced/considered in past legislative sessions.*

West Virginia Board of Education

Dress codes would be required

SB290. Revised §18-2-25 would require public school students to wear uniforms. It would amend a section of law relating to the WVBE, although county boards could create advisory committees to advise in the bill’s implementation.

Editor’s Note: This legislation was adopted by the Senate in 2004—amended into another bill. Dress codes were discussed at Interim meetings during 2004-2005.

Sponsored by Sen. H. Truman Chafin (D-Mingo). Introduced Feb. 25. Referred to the Senate Education Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Bill creates Literacy Council

HB2509. Proposed §18-7-4 et. seq. would create the West Virginia Literacy Council.

Under terms of the bill 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.

This bill is identical to **SB220**.

HB2509 has four House sponsors, including lead sponsor Del. Eustace Frederick (D-Mercer). Introduced Feb. 21. Referred to the House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Bill concerns possible 'disallowances' of federal funds

HB2515. Revised §5-1-20 would require all executive agencies to report to the Governor, Senate President, House Speaker any "notices of disallowances or potential disallowances of federal funds." The reports would have to be made within 60 days of the agency's learning of the possible "disallowances" of funding.

Sponsored by Del. Walters. Introduced Feb. 21. Referred to the House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Character education independent review deleted

HB2525. Revised §18-2-13 would remove a recently-enacted section of law that requires a biennial independent review of character education programs.

There are four House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 21. Referred to the House Education Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

The Diabetes Care Plan Act proposed; numerous provisions

HB2548. This bill would create the "Diabetes Care Plan Act" by adding five new sections of Code, §18-2K-1 et. seq.

The bill would require the WVBE to adopt guidelines for "individual diabetes care plans" in consultation with the state Bureau of Public Health and the state Department of Health and Human Resources.

The WVBE, in developing the guidelines, also must "consult with (local board) employees who have been designated as responsible for coordinating their county's efforts to comply with (Section 504 of the federal Rehabilitation Act of 1973)."

The board also is required to "refer to" existing guidelines having been developed by the American Diabetes Association for man-

agement of children with diabetes, and also must "consider recent resolutions by the U.S. Department of Education's Office of Civil Rights of investigations into complaints alleging discrimination against students with diabetes."

WVBE guidelines, as finally adopted, must include "procedures for the development" of an "Individual Diabetes Care Plan," as may be requested (in writing) by parents or guardians. These plans must involve the parent/guardian, the student's health care provider, student's classroom teacher, the student "if appropriate," and the school nurse "if available," as well as "other appropriate school personnel."

The Individual Diabetes Care Plan is to include the responsibilities of various school personnel, including "appropriate staff development." Other required components include an "emergency care plan," which outlines the "identification of allowable actions to be taken, the extent to which the student is able to participate in the student's diabetes care and management" and other relevant information necessary for school personnel to "offer appropriate assistance and support to the student."

Nurses Required

The legislation would require a school nurse on "staff" in "each elementary school where a diabetic child is enrolled." Boards would be prohibited from "transferring" students from schools without a school nurse to schools having a nurse in order to "comply with the school nurse requirement."

Among other bill provisions, plan guidelines are to be updated "as necessary and shall ensure that the guidelines and any subsequent changes are published and disseminated to county boards."

County Boards

County boards would be responsible for ensuring that WVBE-adopted care guidelines are implemented in local schools, based on procedures and guidelines for diabetes care as adopted by the WVBE in conformity with the statute. County boards also have to inform school personnel of the guidelines.

The WVBE's is to report its progress toward implementing the law by Sept. 1, 2007. Guidelines outlined in the statute must be adopted by Jan. 15, 2007.

There are other provisions. There are seven House sponsors, including lead sponsor Del. Kenneth D. Tucker (D-Marshall). Introduced Feb. 21. Referred to the House Health and Human Resources Committee, then House Education Committee.

Athletic Trainers Act proposed

HB2628. This is the same as **SB174**, which is reviewed in the Feb. 21 edition of this publication. The bill establishes the Athletic Trainers Act of 2005. It has exceptions for WVBE-regulated athletic trainers, although the licensure board created in the statute would include one WVBE-certified athletic trainer.

Sponsored by Del. Randy Swartzmiller (D-Hancock). Introduced Feb. 24. Referred to the House Government Organization Committee, then House Finance Committee.

WVSSAC

Rule-making to state board

SB250. Revised §18-2-25 would transfer the "authority" for the

state Secondary Schools Activities Commission to promulgate rules to expire, with all “the rules of the commission (becoming) rules of the (WVBE).”

This change is to occur during the 2005 Regular Session. From that point on, the WVSSAC would recommend rules to the state board, as the commission “determines appropriate or required.”

Additionally, WVSSAC-related rules must be promulgated under the state’s Administrative Procedures Act.

The WVBE would have authority to accept the rules as recommended by the Commission, modify the commission rules, or refuse the rules. Additionally, the WVBE could “promulgate its own initiative without any recommendation from the Commission.”

Transfers’ Eligibility

Another bill provision would require the WVSSAC (by Sept. 1) to recommend to the WVBE a rule relating to the “eligibility of students who transfer from one school to another to participate in extracurricular activities.”

The proposed rule must include a provision stating that a student who transfers from one school to another is “ineligible indefinitely to participate in the extracurricular activities sponsored by the school to which the student transfers.”

There are four exceptions: A parent or guardian’s “bona fide change of residence...to the school zone to which the student is transferred...; transfer from a seriously-impaired school; transfer relating to “school choice,” as outlined in the federal No Child Left Behind Act; and, a county-board initiated transfer to “fulfill certain special education programs not available in the attendance zone from which the student is transferred.”

Other bill provisions relate to agency rule-making, as required by §29A-1-3 (Administrative Procedures Act).

Also refer to **HB2016**. That bill, introduced by Del. Paxton, places the WVSSAC under rule-making review (Chapter 29).

SB250 is sponsored by Sen. Plymale. Introduced Feb. 22. Referred to the Senate Education Committee.

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EDUCATION-RELATED

Child Welfare

Integrated care proposed

SB241. This legislation is the same as **HB2397**, which was reviewed in the Feb. 21 edition of *The Legislature*. This fairly extensive proposal would establish an “integrated and coordinated system of care for children (and their families) in need of (various child welfare, juvenile justice and special education services).”

There are several provisions. Editor’s Note: The governor has proposed elimination of the Cabinet, with its duties to be undertaken by the Department of Health and Human Resources.

There are five Senate sponsors, including lead sponsor Sen. Kessler. Introduced Feb. 21. Referred to the Senate Government Organization Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Child Abuse and Neglect

Advocacy Centers could be used for abuse interview

SB275. Proposed §7-1-300 et. seq. would provide for statutory establishment of Child Advocacy Center Authorities.

County commissions and municipalities (singularly or through cooperative agreement) would be authorized to “establish an authority and appropriate funds therefore to provide facilities, referred to as ‘Child Advocacy Centers,’ (whose purpose is) the development and management of safe and appropriate facilities for multidisciplinary interviews of children who are suspected of being or alleged to have been abused or neglected.”

Accordingly, the proposed statute says Child Advocacy Centers would be responsible for providing a “facility permitting the interview and treatment of child victims of physical and sexual abuse at one location and at one time by involved multidisciplinary representatives of health care organizations, Child Protective Services, law enforcement and the courts.”

The centers would have an 11-member board of directors appointed by the participating local governments. The boards would meet quarterly; would elect officers; and, adopt bylaws, among other required organizational duties.

Authorities could accept donations, appropriated funds, gifts and the like to “employ staff, acquire equipment, supplies, furnishings and facilities” in order to operate. The authorities also could acquire property, enter into contractual arrangements, and would have corporate legal status.

They also could apply for grants, grants-in-aid, and governmental funding for operational purposes, and would have other powers.

Sponsored by Sens. John R. Unger II (D-Berkeley) and John Yoder (R-Jefferson). Introduced Feb. 24. Referred to the Senate Government Organization Committee, then Senate Finance Committee.

Child Safety

Motorcycle helmets would be required for certain youth

SB293. Revised §17C-1-44 would remove the requirement that motorcycle operators and passengers under age 21 to wear helmets, except that all operators licensed less than two years would be required to wear helmets.

There are other provisions relating to motorcycle safety education and instruction. Sponsored by Sen. Chafin. Introduced Feb. 25. Referred to the Senate Transportation and Infrastructure Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Riding in truck open bed would be prohibited

HB2581. Revised §17C-15-46a would prohibit anyone under age 14 from riding in the open bed of a truck or trailer, except when in a parade or doing farm work.

There are other bills relating to this subject.

Sponsored by Dels. Susman and Margarette Leach (D-Cabell). Introduced Feb. 21. Referred to the House Roads and Transportation Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Child Support

Child support terms revised when parent rights evaded

HB2657. This bill would require parents whose parental rights are terminated to continue to be responsible for support of the child for whom child support is paid until the child is adopted, reaches the age of majority or is otherwise emancipated.

Also refer to **HB2033**, which was reviewed previously.

Sponsored by Del. Patti Eagloski Schoen (R-Putnam). Introduced Feb. 24. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

CHIPs

CHIPs for ‘unborn children’

HB2559. This legislation would allow “unborn children” to be considered eligible for the state’s Children’s Health Insurance Program (CHIP).

There are identical bills.

Sponsored by Dels. Bob Ashley (R-Roane) and Debbie Stevens (R-Tucker). Introduced Feb. 21. Referred to the House Health and Human Resources Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Emancipation

Basic training would lead to emancipation consideration

HB2655. Revised §49-7-27 would recognize successful completion of U.S. Armed Forces basic training as providing emancipation for minors.

Sponsored by Del. Joe DeLong (D-Hancock). Introduced Feb. 24. Referred to the House Judiciary Committee.

Newborn Testing

Testing would have to include sickle cell anemia

HB2607. Similar to legislation introduced last week, this measure would require newborns to be tested for sickle cell anemia and congenital adrenal hyperplasia.

There are four House sponsors, including lead sponsor Del. Leach. Introduced Feb. 23. Referred to the House Health and Human Resources Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Prenatal Care

Crisis centers would provide prenatal advice

HB2555. This bill ostensibly relates to “crisis pregnancy centers,” which are often church-sponsored to provide “alternative” counseling to the prospect of abortion.

The measure seeks to regulate the centers, one regulation of which would require the entities to “(distribute) a prenatal care and parenting pamphlet based on medically-accurate information provided by the American Society of Obstetricians and Gynecologists and the American Association of Pediatricians.”

There are three House sponsors, including lead sponsor Del. Barbara A. Hatfield (D-Kanawha). Introduced Feb. 21. Referred to the House Health and Human Resources Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Crimes

Underage drinking would be considered status offense

SB268. Revised §11-16-19 and §60-3-24 would make underage possession of nonintoxicating beer and alcohol by persons under age 18 a status offense rather than a misdemeanor.

This provision is necessary to conform state law to the corresponding federal law, according to the Bill Note.

There are five Senate sponsors, including lead sponsor Sen. Kessler. Introduced Feb. 23. Referred to the Senate Judiciary Committee. Kessler is SJC chairman.

The companion House measure is **HB2546**. There are six House sponsors, including lead sponsor Del. DeLong. Introduced Feb. 21. Referred to the House Judiciary Committee.

Bill would ban transporting minors for abortions

SB349. Proposed §61-2-8a would make it illegal to transport a minor across state lines to obtain an abortion without written consent from both parents.

Those persons found guilty of violating the law would be charged from \$500-\$1,000 or would receive a six-month jail sentence, or both.

There are six Senate sponsors, including lead sponsor Sen. Shirley Love (D-Fayette). Introduced Feb. 25. Referred to the Senate Health and Human Resources Committee, then Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Break-ins would be seen as exhibiting criminal intent

HB2519. Revised §61-3-12 would be revised so that any person who breaks into a dwelling other than a house “with intent to commit any crime is guilty of a felony.” Similar provisions would apply to car or bus break-ins.

There are other provisions.

Sponsored by Del. Mike Hall (R-Putnam). Introduced Feb. 21. Referred to the House Judiciary Committee.

A related bill, **HB2629**, would make it a crime to possess, with the intent to commit burglary, robbery or larceny, what are known as “burglariious tools.” They include such implements as picklocks, keys, crowbars, prybars, jacks or bits, nitroglycerin, dynamite, gunpowder, acetylene torch, electric arc, burning bar, thermal lance, oxygen lance, concrete, or “any tool, instrument or device that has been adapted, designed or used for committing or facilitating the commission of burglary or larceny.”

Introduced by Del. Swartzmiller. Introduced Feb.24. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Bill would create state Criminal Justice Center

HB2541. Introduced in past sessions, this measure would create the West Virginia Legislative Criminal Justice Resource Center and the (legislative) Joint Committee on Criminal Justice.

The legislation is intended to provide a clearinghouse for criminal justice information and to offer technical assistance to law-enforcement agencies.

The bill also calls for the collection and analysis of criminal justice data, with information regarding such to be reported to the Legislature. Criminal justice agencies also would be monitored for

performance.

Lastly, the bill calls for creation of the West Virginia Criminal Justice System Task Force whose duties include “establishing priorities with regard to the severity of...criminal offenses,” with consideration of alternatives to incarceration; how best to utilize limited correctional resources; how best to allow meaningful judicial discretion; and, how best to promote fair sentencing.

Sponsored by Dels. Jon Amores (D-Kanawha) and Virginia Mahan (D-Summers). Introduced Feb. 21. Referred to the House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Misdemeanor prosecution to continue in circuit court

HB2567. Revised §50-5-7 would provide for misdemeanor prosecutions to continue in circuit court in cases where a defendant is charged by complaint with both felonies and misdemeanors.

There are three House sponsors, including lead sponsor Del. David Perry (D-Fayette). Introduced Feb. 21. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Elections

Election communications addressed; other measures

SB245. This measure is the same as **HB2485**. Its purpose is to regulate corporate involvement in airing of electioneering communications.

For a more thorough review of bill provisions, refer to issue 5 of this publication, which was published Feb. 21.

There are three Senate sponsors, including Sen. Chafin, Sen. Jon Blair Hunter (D-Monongalia), and Sen. Michael Oliverio (D-Monongalia). Introduced Feb. 22. Referred to the Senate Judiciary Committee.

Several other election-related bills introduced this year

State Supreme Court

HB2641 would require non-partisan election of state Supreme Court of Appeals Justices.

Public Funding

SB247 would establish a pilot project for the public funding of election campaigns for two Senate districts and three single-member House of Delegates districts. There are several other provisions. These elections would be funded through a Public Campaign Financing Fund.

‘Clean Elections Act’

HB2542 and HB2590 would create the West Virginia Clean Elections Act. Its provisions relate to the governor, attorney general, auditor, commissioner of agriculture, secretary of state, trea-

surer, and legislators.

It would create a voluntary system of public funding to qualified political candidates who agree to spending limits and do no other private fund-raising.

There are several provisions regarding qualification to become a candidate, and the state Election Commission is responsible for program administration.

There also are extensive provisions relating to a candidate's receipt of Clean Elections Funds moneys.

HB2641 has seven House sponsors, including lead sponsor Del. Charles S. Trump IV (R-Morgan). Introduced Feb. 24. Referred to the House Judiciary Committee. Trump is House Minority Leader.

HB247 is sponsored by Sen. Hunter. Introduced Feb. 22. Referred to the Senate Judiciary Committee, then Senate Finance Committee.

HB2542 is sponsored by Del. Tom Louisos (D-Fayette). Introduced Feb. 21. Referred to the House Judiciary Committee, then House Finance Committee.

HB2590 has four House sponsors, including lead sponsor Del. Amores. Introduced Feb. 22. It has the same references as **HB2542**.

Similar proposals have been introduced/considered in past legislative sessions.

Higher Education

Bill relates to WVU-Tech

SB244. This bill has several provisions. Its intent is to enhance operating efficiencies at West Virginia Institute of Technology (Montgomery) by more fully integrating the institution with West Virginia University.

The bill would vest the WVU Board of Governors with the power to combine the various administrative, informational, technological, financial and operating systems and functions of WVU/Tech into corresponding WVU functions.

The measure also would allow the WUV/Tech President to report to the president of WVU, or otherwise as the board of governors of WVU may direct.

Among other bill provisions, two members of WVU/Tech Board of Advisers would become members of the WVU Board of Governors.

There are other provisions.

Sponsored by Sens. Love and C. Randy White (D-Webster). Introduced Feb. 22. Referred to the Senate Education Committee.

Tuition waivers sought for children of slain officers

SB255. Revised §18B-10-7 would grant higher education tuition waivers to the children and spouses of parole and probation officers killed in the line of duty.

(The current provision applies to correctional officers, conservation officers, registered firefighters.)

Sponsored by Sens. Billy Wayne Bailey (D-Wyoming) and Kessler. Introduced Feb. 23. Referred to the Senate Education Committee, then Senate Finance Committee.

Bills relate to Workforce Development Initiative

HB2510. Under terms of this bill, public sector moneys could be used to satisfy the matching requirements of the Workforce Development Initiative Grant Program.

These initiatives have several purposes, including development of the "quality of the workforce within a (community and technical college's) service area over a five-year period."

Current law requires these plans to be developed in "partnership with employers, local vocational schools and other workforce education providers."

One eligibility criterion for receiving a Workforce Development Initiative Grant is to receive various matches, including private sector monetary and in-kind matches, for each dollar of the grant.

(There are certain exceptions for cases where the community and technical college can demonstrate that it would be a hardship for the private sector partner or partners to provide the match.)

The newly-proposed bill provision would allow the matching commitment to be provided by a "public sector partner using state or federal dollars to provide the required match," based on the extent of legislative appropriations for the Workforce Development Initiative. There are other provisions.

HB2512 would add the Chancellors of the West Virginia Council for Community and Technical Education and the Chancellor for Higher Education to the Workforce Investment Council (along with various business representatives).

There are four House sponsors, including lead sponsor Del. Frederick. Introduced Feb. 21. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then the House Government Organization Committee.

HB2510 also has Del. Frederick as a lead sponsor. It has the same committee references as **HB2512**.

Measures concern GED; college-going rate panel

HB2511. Revised §18C-5-7 would allow Higher Education Adult Part-time Student grant programs funds to be used for the costs of taking a General Educational Development (GED) examination through an approved scholarship program.

It is the same as **SB219**, which was reviewed in the Feb. 21 issue of this publication.

HB2507, a related bill, would create various incentive for one to acquire a GED, including a taxpayer credit, based on a "learning contract" with an employee. It would grant employees a minimum five hours per week paid release time to study for the GED.

The credit would be in an amount equal to one-half of the employee's hourly salary for release time, up to \$1,500.

If an "eligible taxpayer" enters into a learning contract and allows more than one employee the five-hour minimum paid release time for GED study, the allowable credit is multiplied by the number of employees.

The credit would be first applied to the taxpayer's business franchise tax liability, and then to the taxpayer's personal income tax

or corporation net income tax liabilities, as the case may be.

Tuition Discounts

A proposed §18B-10-7c would allow higher education governing boards to award tuition discounts for students who've been out of secondary school for at least three years; and who've completed a learning contract with an adult education program and their employer; and who've earned a GED within the preceding year.

The discount would be \$250 per semester for a maximum of four semesters.

Current students aren't eligible for the discount.

Adult education program officials would be responsible for documenting learning contract completion, and there is some reportage to the WVDE, including records regarding attendance for participating in the learning contract.

Also refer to **SB217**.

HB2511 has four House sponsors, including lead sponsor Del. Frederick. Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee.

Del. Frederick also is the lead sponsor of **HB2507**. (There are four additional sponsors.) Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee.

Postsecondary Participation

A third, related bill would create the Institute for Increased Postsecondary Education Participation Institute.

It would be designed as "comprehensive program or strategy to" address West Virginia's literacy rate, citizens' attainment of postsecondary schooling, participation in workforce training programs, and to better attract jobs to the state.

The Institute, among other duties, would investigate these issues, study strategies, and to implement "efficient strategies for increasing postsecondary education participation," which is its "primary duty," as outlined in proposed §18B-19-6.

The institute would include nine members, one of whom is Chancellor for the Higher Education Policy Commission and the state superintendent.

Various reportage is required, including costs for implementing its suggestions for improving the postsecondary attendance rate.

The bill contains various other sections dealing with the workings of the Institute and members' compensation.

There are several other provisions.

The bill is **HB2550**. It is sponsored by Del. John Doyle (D-Jefferson). Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Measures relate to abortion

HB2531. Proposed §16-21-7 would require physicians and "medical institutions" to report instances where abortions have been performed due to perceived fetal congenital defects.

The bill is sponsored by Del. Richard Thompson (D-Wayne). Introduced Feb. 21. Referred to the House Health and Human Resources Committee, then the House Judiciary Committee.

HB2553 would "require" the Higher Education Policy Commission to "ensure" that no person employed by a state institution of higher learning, or who provides services to any state institution of higher learning or to the HEPC, performs, participates or instructs students in how to perform any abortion or abortion procedure.

There are various criminal penalties.

There are other bill provisions.

The bill is sponsored by Del. Walters. Introduced Feb. 21. Referred to the House Health and Human Resources Committee, then the House Judiciary Committee.

Also refer to **HB2572**. It, too, would prohibit abortions from being performed at state institutions of higher learning "medical facilities," except when the abortion is deemed necessary to save the life of the woman receiving the abortion.

That measure is sponsored by Dels. Schoen and Brent Boggs (D-Braxton). Introduced Feb. 21. Referred to the House Health and Human Resources Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Retiree earnings could increase

HB2537. Revised §18B-1-1d would raise the allowable earnings limit of higher education faculty who retired under the 2001 retirement and separation incentive plan.

Sponsored by Del. Doug Stalnaker (D-Lewis). Introduced Feb. 21. Referred to the House Pensions and Retirement Committee, then the House Finance Committee.

Counties could be charged for college remediation courses

HB2549. The purpose of this measure is to allow institutions of higher learning to "...maintain a procedure to charge county boards...for remedial education classes attended by graduates of West Virginia high schools."

Sponsored by Del. Walters. Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Colleges would be reimbursed for some disability services

HB2584. Proposed §18B-5-10 would allow institutions of higher education to qualify for non-capital expenditures relative to providing services to students with physical, learning, or severe sensory disabilities.

The bill provides a formula for distributing the funds.

There are several other provisions.

Sponsored by Dels. Spencer and Harold Michael (D-Hardy). Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee. Michael is HFC Chairman.

Employees eligible for increment pay

HB2605. This measure is the same as **SB248**. It would provide that faculty members at eligible institutions of higher education receive the annual experience increment paid to state employees.

For information regarding the Senate bill, refer to Issue 6 of *The Legislature*.

There are four House sponsors, including lead sponsor Del. Kevin Craig (D-Cabell). Introduced Feb. 23. Referred to the House Education Committee, then House Finance Committee.

‘Textbook packages’ disallowed

HB2606. Revised §18B-10-14 would prohibit institutions of higher learning from requiring students to purchase textbook packages or “bundled textbook packages for any course.”

These items are to be made available for separate purchases.

Course-related materials are defined as “textbooks, workbooks, lab materials, electronic media and any other item used to supplement the required text for the course.”

There are four House sponsors, including lead sponsor Del. Robert D. Beach (D-Monongalia). Introduced Feb. 23. Referred to the House Education Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Cloning would be prohibited

HB2654. This legislation would prohibit the cloning of human embryos in state medical schools, colleges or universities.

There are certain penalties.

Sponsored by Dels. Ashley and Chris Wakim (R-Ohio). Introduced Feb. 24. Referred to the House Education Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Private school police officers would have enforcement powers

HB2662. The purpose of this legislation is to allow campus police officers at private institutions of higher education law-enforcement powers.

There are six House sponsors, including lead sponsor Del. Perry. Introduced Feb. 24. Referred to the House Education Committee, then House Judiciary Committee.

Public Policy

Bill requires flood planning: protection council outlined

SB239. This legislation would create the “Flood Protection Planning Act.”

It would establish a “State Flood Protection Planning Council,” made up of state officials, including various state-level cabinet officials.

The council has broad power, including coordination of all “flood protection programs and activities in the state.” The council also would review the state’s flood protection plan – required by the statute – and undertake various other activities, including public awareness efforts regarding “flooding issues.”

The council also would maintain and monitor a listing of current and proposed capital expenditures to reduce or mitigate flood damage, coordinate planning of flood projects with federal agencies

and improve professional management of flood plains, among other duties.

The bill creates an 18-member Flood Protection Planning Advisory Committee, comprised of appointees of various agencies and organizations, including the U.S. Army Corps of Engineers, Division of Highways, Division of Natural Resources and Bureau of Public Health.

The advisory committee is responsible for making recommendations to the Council.

The council is required to make quarterly reports to the Legislature’s Joint Legislative Oversight Commission on Flooding, which the bill would also establish. The reports are to relate to “progress toward reducing and mitigating flood damage within this state and to develop legislative recommendations.”

There are other reporting requirements.

Sponsored by Sens. Bailey and Tracy Dempsey (D-Lincoln). Introduced Feb. 21. Referred to the Senate Government Organization Committee, then Senate Finance Committee.

The House companion is **HB2621**. There are seven House sponsors, including lead sponsor Del. Boggs. Introduced Feb. 23. Referred to the House Government Organization Committee.

Bill to ‘protect’ flow of federal tobacco funds

HB2526. According to the Bill Note, the purpose of this proposed legislation is to protect the state’s stream of revenue from tobacco companies under the Master Settlement Agreements by prohibiting medical monitoring claims against any “party who is a signatory” to the agreement.

The bill defines “medical monitoring” as “medical examinations, diagnostic tests or other medical procedures, or a series of tests or procedures, performed for the purpose of detecting the presence of a particular disease or injury.”

The bill would allow recovery of medical treatment costs as “damages in personal injury (suits by plaintiffs) who establish an actual physical injury, to the extent such costs are an allowable item of damages under existing law.”

Sponsored by Del. Williams. Introduced Feb. 21. Referred to the House Judiciary Committee.

A related bill, **HB2617**, is aimed at “protecting” additional Master Settlement moneys the state may receive, which are to be used to fund “programs of vital importance to the people of West Virginia...”

The bill includes additional provisions relating to receipt of “Strategic Contribution Funds” which are part of the Master Agreement and which are to be received, beginning in 2008 (ending in 2017).

As a matter of public policy, the bill declares that these funds also are to be used in the “best interest of the people of this state...”

There are five House sponsors, including lead sponsor Del. Michael. Introduced Feb. 23. Referred to the House Finance Committee.

Science act proposed

HB2535. This legislation would allow the public to request, under the state’s Freedom of Information Act, any purported scientific data used as the basis for proposed legislative rules or statutory

enactments.

The bill has an introductory section which says that, as a matter of state policy, the public should have “access (to) data and other information resulting from state-funded studies...that are relied on as justification for the development of state law, legislative rules or as the basis for any state enforcement action.”

The proposal also would require that any legislative rules proposed by relying on the results of any “purported scientific studies or data derived therefrom, must be justified by pertinent, ascertainable, and peer-reviewed science which shall be made available to the public upon request.”

Sponsored by Del. Walters. Introduced Feb. 21. Referred to the House Education Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

State Mandates Act suggested

HB2557. This eight-page bill, which has been introduced in the past several legislative sessions, would create the “State Payment for State Mandates Act.” These provisions would be included in a proposed §4-13-1 et. seq.

The bill begins by saying some actions of state government “are often taken with little regard for the fiscal consequences of the actions upon the affected local jurisdictions,” including county boards.

The bill also says many of the state’s local governments are experiencing varying degrees of “fiscal stress resulting from the need to provide adequate public services to their citizens but without the local tax resources to do so.”

Accordingly, “full funding (is to be) provided for any net additional costs to (county governments) that are incurred by those jurisdictions in complying with the required performance of a new or expanded program under the provisions of any state law, rule or order.”

“Expanded program or service” would be defined as meaning any local governmental program/service whose “scope or level... (would) be increased, extended or enhanced” in order to comply with a state law, rule or order.

“Net additional cost” is defined as costs anticipated to be incurred within a one-year period by a local governmental entity in areas such as administering a new program or service required by state law, rule or order “after subtracting therefrom any revenues received (by the local government),” including program fees, state or federal aid, offset savings resulting from reducing or eliminating other programs, etc.

New program or service would mean a program that differs in “kind or purpose from those in existence at the time (a law or rule was enacted) requiring the performance or administration of the program by (a local governmental entity).”

‘Sufficient funds’

Newly-proposed rules would be inoperative until a “state appropriation is made and sufficient funds are provided” to the affected local governmental bodies, with exceptions for public safety considerations, or if the proposal is optional, required by private, special or local laws, or arises from an executive order.

An Office of Local Mandates would be established within the Department of Administration. One duty of that office is to issue

“Local Impact Statement (containing) a fiscal analysis of the net additional costs to (county governments) of any new or expanded program or service (the local governments) would be required to perform or administer as a result of the proposed or adopted law, rule or order.”

Agencies proposing rules would forward them to the Office of Local Mandates which has five days in which to develop the Local Impact Statement.

That office also would evaluate all legislative bills and laws, rules and orders previously enacted or adopted, updating them as to new net additional costs.

An appeals board would hear local government “appeals” relating to costs of implementing laws, rules or orders that may have been based on “demonstrably inaccurate cost estimates contained in a Local Impact Statement...”

Sponsored by Dels. Walters and Tim Armstead (R-Kanawha). Introduced Feb. 21. Referred to the House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Bill concerns hydrant spacing

HB2600. Revised §8-19-21 would require the installation of fire hydrants at intervals of “not more” than every 1,000 feet during all upgrades of water mains and the construction and installation of new water mains.

There are seven House sponsors, including lead sponsor Speaker Bob Kiss (D-Raleigh). Introduced Feb. 23. Referred to the House Political Subdivisions Committee, then House Finance Committee.

Sex offenders would get coded drivers licenses; special tags

HB2631. Revised §17B-2-3 would require registered sex offender to be issued a special driver’s license and motor vehicle plates that identify the holder or owner as a registered sex offender.

There are misdemeanor penalties for not complying with the statute.

Sponsored by Del. Swartzmiller. Introduced Feb. 24. Referred to the House Roads and Transportation Committee, then the House Judiciary Committee.

Bill concerns flags at half-mast

HB2656. Proposed §15-11-3 would provide that the U.S. flag is to be flown at half-mast for three days whenever a state resident soldier dies by hostile fire or when an in-state law-enforcement officer is killed in the line of duty.

The Secretary of Military Affairs and Public Safety is to send notices to all state and local governments whenever a soldier dies by hostile fire or a law-enforcement officer is killed in the line of duty.

There are five House sponsors, including lead sponsor Del. William F. Stemple (D-Calhoun). Introduced Feb. 24. Referred to the House Veterans Affairs and Homeland Security Committee, then the House Judiciary Committee.

Candy cigarettes would be banned; fines specialized

HB2661. Proposed §16-9A-9a would prohibit the sale of cigarettes containing tobacco that is advertised and flavored in such a manner as to convey the “perception, and during use, the taste, smell or sensation of candy, fruit or some other flavor, not traditionally associated with tobacco products, not including menthol.”

The bill imposes a \$1,000 - \$5,000 fine for those convicted of violating its provisions or a six-month jail sentence, or both.

There are five House sponsors, including lead sponsor Del. Don Perdue (D-Wayne). Introduced Feb. 24. Referred to the House Judiciary Committee.

Taxation

Bills would nix food sales tax

SB260. This is one of five proposals which would eliminate the state’s sales tax on food, which was “re-imposed” during the Caperton Administration. These bills are reviewed because, if passed, their provisions would affect the state’s General Revenue.

This measure would eliminate the food sales tax over a six-year period. It also has provisions which would reduce the gasoline and special fuels taxes for two consecutive years before the tax would be reduced from the current 22.5 cents to 15.5 cents per \$1.00 of gasoline/fuel sold.

The legislation would be referred to as the “Make West Virginia Competitive Tax Relief Act.”

A similar bill, **HB2544**, would exempt service stations, truck stops and convenience stores from paying excise tax on gasoline, special fuels and from paying consumers sales tax on the sale of these products as well as food items.

It also would exempt some grocery stores from paying the consumer sales tax on food items.

Bill provisions relate to establishments that are located within five miles of similarly-situated businesses in bordering state and located in counties in which the Unemployment rate has been at least 10 percent for the previous four consecutive calendar quarters.

There are four House sponsors, including Del. Harry Keith White (D-Mingo). Introduced Feb. 21. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then the House Finance Committee.

SB260 is sponsored by Sen. Steve Harrison (D-Kanawha). Introduced Feb. 23. Referred to the Senate Finance Committee.

Food Tax Phase-Out

HB2580 would phase-out the food sales tax over a 10-year period. It is sponsored by Dels. Susman and Hatfield. Introduced Feb. 21. Referred to the House Finance Committee.

HB2586 would phase-out the food sales tax by 2010. It is sponsored by Dels. Walters and Armstead. Introduced Feb. 21. Referred to the House Finance Committee.

HB2644 would phase-out the food sales tax by 2007. There are seven House sponsors, including lead sponsor Del. Trump. Introduced Feb. 24. Referred to the House Finance Committee.

Funeral Expenses

HB2648 relates to consumer sales tax funeral-related exceptions, including a tax exemption (personal property and services) associated with the burial of an infant who dies before reaching age one.

Several items would be exempt, including sales of caskets, burial vaults or boxes and the like, including clothing dressing the deceased.

There are six House sponsors, including lead sponsor Del. Perdue. Introduced Feb. 24. Referred to the House Finance Committee.

Commercial Laundry

SB351 would include “commercial laundries” and “linen and garment rental services” establishments into the class of persons, firms and corporations that would be included under the statutory definition of “manufacturing” for the purpose of consumers sales tax exemptions.

Sponsored by Sen. William R. Sharpe Jr. (D-Lewis). Introduced Feb. 25. Referred to the Senate Judiciary Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

High tech tax credit proposed

HB2540. This bill has several sections relating to providing a tax credit for “new high technology companies.”

One bill provision would allow a \$250 credit for each new high technology job created.

The credit is a one-time credit, applying only to high technology companies doing business in the state, creating all their products or services here.

There are many other provisions.

There are three House sponsors, including lead sponsor Del. Amores. Introduced Feb. 21. Referred to the House Finance Committee.

Two related bills include **HB2554**. It would allow tax exemptions to businesses (other than ones directly related to the ‘gambling industry’) having 50 or fewer employees with no out-of-state subsidiaries and for which “no other business of its nature exists in the county or municipality where the business is to locate.”

Sponsored by Del. Walters. Introduced Feb. 21. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then the House Finance Committee.

HB2646 would abolish the business franchise tax as of June 30. There are seven House sponsors, including lead sponsor Del. Trump. Introduced Feb. 24. Referred to the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Teachers Retirement System

Bill clarifies some aspects of defined contributions

SB264. This legislation would make a number of “clarifications” in statutes relating to the Teachers’ Defined Contribution Retirement System (§18-7A-2 et. seq.).

A significant change relates to the definition of “permanent,

total disability,” which would be defined as an “inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of (at least one year) and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness.”

Other numerous changes relate to participation requirements, employer deadlines for depositing contributions, incidental death benefits (in conformity with U.S. Internal Revenue Service laws), vesting and prohibitions against involuntary cash-outs. The last provision would be effective June 30.

The bill also makes several technical revisions to the related Codes.

Sponsored by Sen. Dan Foster (D-Kanawha). Introduced Feb. 23. Referred to the Senate Pensions Committee, then Senate Finance Committee.

HB2651 is the House companion measure. Sponsored by Del. Stalnaker. Introduced Feb. 24. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

System mergers proposed

SB294. This legislation relates to the merger and consolidation of the Teachers Defined Contribution Retirement System and the Teachers Retirement System (newly-hired personnel).

It would place “rehires” into the last retirement plan to which they made contributions.

There are numerous provisions.

Sponsored by Sen. Jenkins. Introduced Feb. 25. Referred to the Senate Pensions Committee, then the Senate Finance Committee, then the Senate Judiciary Committee (triple reference).

Credits for extension service

HB2588. Revised §18-7A-13b would give TRS service credit for persons employed by West Virginia University Extension Services prior to June 27, 2005.

The credit couldn’t exceed 10 years or 25 percent of the total service held by the member at the time of his or her retirement.

Sponsored by Del. Williams. Introduced Feb. 22. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in previous legislative sessions.*

Unused leave credit sought

HB2589. Revised §18-7A-17 would allow a non-active TRS retiree having 15 or more years of credited service, at the time of his or her retirement, to receive service credit for any unused personal leave days which he or she had accumulated while being an active TRS member.

Sponsored by Del. Williams. Introduced Feb. 22. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in previous legislative sessions.*

Bill concerns higher ed hiring

HB2616. Revised §18-7A-13a would remove the time restriction under which persons retiring (Teachers Defined Benefit Retirement System) would be allowed to become employed by a higher education institution without loss of retirement benefits.

There are five House sponsors, including lead sponsor Del. Perry. Introduced Feb. 23. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

Supplement proposed

HB2659. One of several bills, this measure would provide TRS members (and members of the Public Employees Retirement System) an supplemental annuity.

The retirees must have been retired as of July 1, 2002, were under age 65 and who have been an annuitant for at least five consecutive years.

For these persons, the bill allows a supplement equal to “five percent of (the retirant’s) annuity benefit as of the (bill’s effective date).”

Sponsored by Del. Stalnaker. Introduced Feb. 24. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

PERS

‘Information’ charge could disqualify one for benefits

SB272. This bill has several sections relating to an act or activities that could disqualify one from receiving benefits, with the addition of persons having been “charged in an information” for a crime or if the person has entered into a plea bargaining arrangement or if they have plead nolo contendere to a lesser crime.

The “information” provision would be added to retirement stipulations regarding “less than honorable discharge.”

Under the above circumstances, retirees could be ineligible to receive benefits. There are several exceptions, including the lapse of time between the judgment or conviction and when the retirement system received the relevant information.

Sponsored by Sen. Foster. Introduced Feb. 24. Referred to the Senate Pensions Committee, then Senate Finance Committee.

The House companion is **HB2637.** Sponsored by Del. Stalnaker. Introduced Feb. 24. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

Military service credit expanded; nine years service

HB2608. Same as a measure introduced last week, 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 to compulsory military service.

There are other provisions.

Refer to the Feb. 21 issue of this publication.

There are six House sponsors, including lead sponsor Del. Perry. Introduced Feb. 23. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

Child development group could withdraw from PERS

HB2664. This is a “local” bill which would permit the River Valley Child Development Services Inc. agency to withdraw from PERS. The group must provide a corresponding retirement plan for its members.

There are four House sponsors, including lead sponsor Del. Craig. Introduced Feb. 24. Referred to House Political Subdivisions Committee, then House Judiciary Committee.

MISCELLANEOUS

Public Employees Insurance

Osteoporosis screening required

HB2613. This measure would require health issuers in West Virginia to provide coverage for osteoporosis screening and treatment.

There are four House sponsors, including lead sponsor Del. Susman. Introduced Feb. 23. Referred to the House Banking and Insurance Committee, then House Finance Committee.

Contraceptives coverage planned

HB2618. Under terms of this legislation, insurance providers’ plans must include coverage of contraceptives.

There are four House sponsors, including lead sponsor Del. Bonnie Brown (D-Kanawha). Introduced Feb. 23. Referred to the House Banking and Insurance Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

Unemployment Compensation

UC Benefits change proposed

HB2547. The purpose of this legislation is to change the amount of earnings a person can have while he or she receives Unemployment Compensation benefits from \$60 per week to 40 percent of the recipient’s weekly benefit rate.

Sponsored by Del. Mike Caputo (D-Marion). Introduced Feb. 21. Referred to the House Judiciary Committee, then House Finance Committee.

Pensions Bond Amendment

Pensions Bond Amendment bills introduced; June vote

SB261. The purpose of this bill is to provide operative language necessary to present the “Pension Bond Amendment” to voters for ratification or rejection at a special election to be held on June 4, 2005.

Sponsored by Sen. President Earl Ray Tomblin (D-Logan) and Minority Leader Vic Sprouse (R-Kanawha) – by request of the governor. Introduced Feb. 23. Referred to the Senate Judiciary Committee.

HB2633 is the House companion measure. It, too, was sponsored at the request of the governor. Sponsored by Speaker Kiss and Del. Trump. Referred to the House Constitutional Revision Committee, then House Finance Committee.

Resolution

Proposed amendment relates to Ohio County only

Senate Joint Resolution 8. If approved by voters, this proposed constitutional amendment would allow, by local option election in Ohio County only, a property tax mechanism designed to reduce the tax rate for property improvements from the rate set for land and minerals, allowing Ohio County municipalities to levy property taxes on land, improvements or personal property at differing rates.

There are six Senate sponsors, including lead sponsor Sen. Bowman. Introduced Feb. 23. Referred to the Senate Judiciary Committee, then Senate Finance Committee.

BRIEFLY

Senate Bill 240 would grant state employees 30 days paid leave for kidney or liver donation and 7 days paid leave for bone marrow donations...**SB288** would authorize the renting of vocational rehabilitation facilities to school/youth/civic groups or organizations, with the groups being charged rental fees...**SB348** would require organizations receiving \$15,000 or more in state funds to file an agency audit with the Legislative Auditor’s Office; several other provisions also refer to **House Bill 2583**, which would require audits to be filed only if the organization receives \$100,000 or more in state funds...**SB350** would allow a tax credit for persons who perform volunteer work for nonprofit organizations...**HB2506** would provide an income tax checkoff for aid of families of members of the West Virginia National Guard and to state residents who have been called to active military duty...**HB2601** would allow community organizations to receive residential electric utility rates...**HB2602** would allow municipalities to provide firefighters “a different rate of pay,” time off, or a combination of the two in lieu of observing some “holidays” such as those special elections falling on a Saturday or Sunday (other than a municipal election).

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The Legislature

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