



## Bill Edition

### Bills Introduced March 7 - 11

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## Fifth Week’s Bills Reviewed

By Howard M. O’Cull, Ed.D.

Listed below are the West Virginia Senate and House of Delegates bills introduced March 7-11, 2005, the fourth 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. (The House of Delegates has revised its rules so that up to 11 Delegates may sponsor House legislation.)

A total 69 measures are reviewed.

For a copy of any bill, please contact the West Virginia School Boards Association: 304.346.0571. You also may contact WVSBA 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 WVSBA executive director.

## PUBLIC EDUCATION

### *Compulsory Attendance*

## Drop-out age would be age 18; Bill introduced in past

**House Bill 2897**. Revised §18-8-8 would change the state’s compulsory school attendance age from age 16 to age 18 or until the student graduates.

Editor’s Note: This is one of two bills this year directly relating to compulsory attendance, the first concerning a testing exemption for students who attend certain church schools (**HB2123**).

According to former Sen. Mike Ross, D-Randolph, legislation such as **HB2897** will be beneficial in that it will force students to remain in school rather than being able to become drop-outs and, thus, be in a position to be more susceptible to criminal activity, due to excess time or no structured activity during the day.

When Ross’ measure was considered a few years ago, critics said it would lead to further disciplinary problems in schools due to the presence of “disinterested” students.

Introduced by Del. Tom Azinger, R-Wood – by request. Introduced March 7. Referred to the House Education Committee, then House Judiciary Committee.

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

## County Boards of Education

### Fire Marshal could set fees, including school inspections

**Senate Bill 466.** Revised §29-3-12b would allow the state Fire Marshal to set rules for various services, including inspection of schools, through legislative rule-making review.

Sponsored by Sen. Jeffrey Kessler, D-Marshall. Introduced March 7. Referred to the Senate Finance Committee.

### Bill concerns salary waiver

**SB479.** Proposed §6-7-1a would allow “public officials” who desire to waive their salaries – “the salary of the elected office” – the waiver can be made only after the person has been elected and the results of the election certified. The waiver must be made prior to the official taking office.

Additionally, the bill restricts candidates for election from campaigning on the premise that they will waive their salaries once elected.

The individual would be covered by Workers Compensation if waiving his or her salary.

Sponsored by Sen. Jon Blair Hunter, D-Monongalia. Introduced March 7. Referred to the Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

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

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### Boards could give job-related info without fear of liability

**SB490.** This legislation is a companion to **HB2015**. It would allow county boards (as ‘employers’) to receive immunity from civil liability for job-related information disclosed regarding former employees.

The employer (or their agent or agents) are considered to be acting in good faith “unless lack of good faith is shown by clear and convincing evidence.”

There are other provisions.

The House has adopted **HB2015**. It has been referred to the Senate Judiciary Committee. Sponsored by Sen. Evan Jenkins, D-Cabell. Introduced March 9. Referred to the House Judiciary Committee. For more bill language, refer to Issue 3 of this publication. *Similar proposals have been introduced/considered in past legislative sessions.*

### Building projects would be subject to prevailing wage

**HB2972.** Proposed §21-5A-12 would exempt construction performed on behalf of any county or municipal government from prevailing wage laws.

There are six House sponsors, including lead sponsor Del. John Overington, R-Berkeley. Introduced March 10. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then House Judiciary Committee.

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

## Curriculum

### Fetal development courses of study would be required

**HB2976.** Proposed §18-2-7c would require a “course of study” concerning “fetal development” to be taught in “each middle school and high school in the state.”

The bill has a sections saying that its provisions aren’t to be “construed or interpreted to endorse, allow, permit or approve of any abortion.”

Sponsored by Del. Mike Hall, R-Putnam. Introduced March 10. Referred to the House Education Committee, then the House Judiciary Committee.

## School Aid Formula

### WVASA bill would set ‘1,400-student’ SAF-funding floor

**SB475.** Revised §18-9A-15 would allow county boards having less than 1,400 students (net enrollment) to be eligible for “consideration for supplemental appropriations for capacity-building.”

The state superintendent of schools would receive “petitions

for supplemental appropriations from eligible counties that establish verified lack of capacity of the county to provide direct services to students mandated by state law or (West Virginia Board of Education policy)

The state superintendent “shall make appropriations to eligible counties after verifying need and reasonable local effort to meet mandated requirements.”

Editor’s note: This bill amends a section of law relating to SAF funding for increased enrollment. A current section of law is stricken which says, “Nothing in this section shall be construed to require any specific level of funding by the Legislature.” By striking this section, bill proponents – members of the West Virginia Association of School Administrators – contend that both “growth counties” and the eight counties that would receive additional funding due to the establishment of the 1,400-student net enrollment “floor” would be guaranteed funding. The Legislature usually adds language such as “subject to legislative appropriation” (or language such as that which would be stricken) to these type Code sections.

As explained to members who attended the West Virginia School Boards Association’s Winter Conference, the late Ken Price, Pendleton County Schools Superintendent, was instrumental in helping forge the language for this legislation and getting it introduced.

A similar bill, which would have established a 1,200 student (net enrollment floor) was considered by the HEC last year, but died in the House Finance Committee.

Sponsored by Sen. Clark Barnes, R-Randolph. Introduced March 7. Referred to the Senate Education Committee, then Senate Finance Committee.

According to WVASA officials, a House companion measure is to be introduced this week. This is the group’s chief legislative objective this year. *Similar proposals have been introduced/considered in previous legislative sessions.*

## Bill would make several SAF changes; RESA funding cited

**HB2994.** This bill would make a number of SAF-related revisions. These are among bill provisions:

- Revised §18-9A-8a would specify that the Legislature is responsible for establishing the “amount” of funds Regional Education Service Agencies (RESAs) would receive, thus removing a “formula” established in Code several years ago. (It is based on a percentage of SAF Steps I and II – the ‘personnel’ steps.)
- Revised §18-9A-10 would require SAF Step VII (Foundation Allowance to Improve Instructional Programs) to be funded at \$33 million annually. (This proposal would replace current Code language which says Step VII funding is to be an “amount appropriated by the Legislature...”)

### Capacity-Building for AYP

- The same section of Code would include a \$5 million “capacity-building” appropriation “to assist schools that have been identified as seriously impaired...and schools that have not met

(Adequately Yearly Progress) for two or more consecutive years under the federal “No Child Left Behind” statute...” The moneys would be “appropriated” to the WVBE, which is responsible for distributing the dollars, based on criteria the board would develop (by rule). First priority funding would go to those schools identified as seriously impaired, with second priority going to those schools not having met AYP. This proposed Code revision has reportage requirements to the Legislative Oversight Commission on Education Accountability.

- In addition to the above funds, this section of Code would be amended to provide an \$8 million appropriation for “safe schools.” The state superintendent would grant county boards “awards for pilot or innovative alternative education programs that promote safe schools...(including) programs that will serve the most students in the alternative program (and) programs in elementary schools that utilize in-school suspension and requirements that alternative students work their way back into the regular classroom through improved behavior...”

The bill has similar language for students in middle and secondary grades, and allows the WVBE to develop additional criteria for funds distribution under this proposed addition to Code.

### Salary Increments

- Additional growth – described as “growth in revenues from one fiscal year to the next... – would be “utilized to provide a (\$570) salary increment or the usual increment whichever is highest.” First priority for salary increments would be given to teachers who have a bachelor’s degree (and BA+15) and who have 14 years of experience; then teachers who have a master’s degree and to teachers who have an MA+15 with 17 years’ service; Bill provisions then would provide salary increases to teachers who have MA+30 degrees, and MA+45 degrees.

### Provisional Funding

If the increase in local share is inadequate to fully fund the “usual yearly increment, the growth in local share shall be used to fund as much of the yearly increment as the growth in local share will allow.”

If funds exceed the statutory increment required, dollars would be distributed to teachers having the various degrees outlined above, based on years of service. The funding would continue until all teachers “who have less than (35 years’ service) receive the usual increment salary increase.”

A corresponding bill provision says that any additional growth in local share revenues would be appropriated to fund across-the-board salary increases for teachers and school service personnel (based on guidelines outlined in the bill)...”

The bill has a final provision which would require any moneys that arise from a “decreases” in state aid (due to declining enrollments) to be placed in a WVBE line-item that would be referred to as the “Salary Enhancement Line Item,” with these dollars then being added to dollars resulting from increases in local share all of which would be used for salary purposes, as outlined in the bill.

There are seven House sponsors, including lead sponsor Del. Richard Browning, D-Wyoming. Introduced March 11. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced in past sessions.*

## *School Calendar*

### **Schools would be able to start four days earlier**

**HB2979.** Revised §18-5-45 would provide up to four days flexibility for the beginning and ending dates of the school term.

The pertinent bill language reads: "...In the event (August 26) falls on a Tuesday or a Wednesday of the week, the instructional term may commence no earlier than the Monday immediately prior to (August 26)...(In the event June 8) falls on a Wednesday or Thursday of the week, the instructional term may terminate on the Friday following (June 8)."

Under current law, school must commence no earlier than August 26 and is to be concluded by June 8 (term for pupils).

Sponsored by Del. Hall. Introduced March 10. Referred to the House Education Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past sessions.*

## *School Counselors*

### **Counselor duties would be 'redefined'; ratios proposed**

**HB2978.** This fairly extensive bill, companion to SB112, would make a number of changes in duties required of school counselors, as well as establishing various ratios for their deployment in schools, and itemize certain guidelines regarding counseling and non-counseling duties.

For more information, refer to Issue 3 of *The Legislature*.

There are seven House sponsors, including lead sponsor Del. Larry A. Williams, D-Preston. Introduced March 10. Referred to the House Education Committee, then House Judiciary Committee.

Williams is HEC vice chairman.

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

## *School Employees Generally*

### **Bill would make major changes in teacher substitute laws**

**HB2968.** This bill would make a number of changes in statutes relating to substitute teachers.

These are among proposed changes:

- Revised §18A-1-1 would include a definition for "Long-term substitute." These individuals would be defined as professional educators who are not employed as regular "professional educator(s), but who (are) employed in the same teaching position for (30) consecutive days or who (are) at the time of employment, anticipated to be employed for (90) consecutive days within the employment term."
- The bill would allow long term substitute teachers to receive Public Employees Insurance coverage.

- A long-term substitute hired after the beginning of the instructional term would receive his or her "(mentoring) orientation at a time that is mutually agreed upon by the principal, the mentor and the long-term substitute. If the orientation program is scheduled outside the employment term, the professional employees participating in the orientation session shall be paid their normal daily rate of salary." The Code section is §18A-3-2b ('Beginning Teacher Internships').

- Teachers having served for 133 days or more in a "single employment term and (who continue) to be employed as a substitute..." are to be considered as "permanently-employed professional personnel" for purposes of filling teaching vacancies, meaning these individuals are to be treated in terms of the seven criteria outlined in §18A-7a.

There are 10 House sponsors, including lead sponsor Del. David Perry, D-Fayette. Introduced March 10. Referred to the House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced in past sessions.*

## *School Employee Grievances*

### **Bill would 'streamline' process; includes binding arbitration**

**SB478.** This bill would make several changes in the current school employee grievance procedure, including 'streamlining' the current Level I part of the grievance procedure ('immediate supervisor').

Under bill provisions, the grievant (or his or her representative) is required to file a grievance with the "chief administrator," although the grievant may file the grievance with his or her immediate supervisor. If filed with the immediate supervisor, that individual must respond within five days. If the grievance isn't granted, the next level of appeal is to the "chief administrator."

If the "chief administrator's designee" holds the hearing, the grievance evaluator is to issue a final decision. The "chief administrator" wouldn't have "authority to override, reverse or modify the (Level II) decision."

Under this bill's provisions, if the "governing board" grants the grievance, the "chief administrator" couldn't appeal the grievance (revised Level II).

In lieu of grievance "hearing examiners," the bill would establish the position of "administrative law judge." The bill stipulates that these individuals would "reside in different areas of the state."

#### **Arbitration**

The bill stipulates that at any time prior to the Level III hearing, the grievant is entitled to submit the grievance to arbitration with the grievant paying one-third of the cost of the arbitration, and institution paying two-thirds of the arbitration costs. The arbitrator would have to be agreed upon by both parties.

The bill specifies how the grievance process is to work, including hearings, burdens of proof, evidence, witnesses, rules of procedure, etc.

Ex parte communication with the arbitrator would be prohibited under the bill's terms.

The arbitrator would have to make a decision within 30 days, with his or her decision binding upon both parties. (The award could be vacated by a court if it was procured by “corruption, fraud or undisclosed conflict of interest, or if the arbitrator exceeded his or her authority.”)

There are eight Senate sponsors, including lead sponsor Sen. Hunter. Introduced March 7. Referred to the Senate Education Committee.

### House Proposal

A related bill, **HB2932**, would eliminate current grievance procedure Levels III and IV, providing for binding arbitration instead.

This measure also would allow for optional mediation at the request of the grievant or employer.

Its provisions affect state employees, county board employees and county health board employees.

There are seven House sponsors, including lead sponsor Del. Larry W. Barker, D-Boone. Introduced March 8. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in previous legislative sessions.*

## School Employee Salaries

### Bill would add new service personnel classifications

**HB2910**. Revised §18A-4-8 would add some new school service personnel classifications, including “administrative assistant,” Cook IV, and Sanitation Plant Operator II, all of which would be paid from local funds.

“Administrative assistant” would be defined as “those personnel assigned to the county board...office who perform administrative duties either independently or with minimal supervision by an administrator.” The position would be Pay Grade H.

“Cook IV” would mean personnel who are employed to “prepare meals in the centralized kitchen that are transported to satellite schools.” The individuals also would assist with the completion of various reports, ordering supplies and inventorying centralized kitchen needs. The position would be Pay Grade D.

“Sanitation Plant Operator II” would mean personnel who are employed to operate and maintain water/sewage treatment plants. The position also could include persons who have been employed as “sanitation plant operators” for seven years. Their pay would be based on that for Pay Grade G.

All these new positions would be paid entirely from local funds.

There are seven House sponsors, including lead sponsor Del. Williams. Introduced March 7. Referred to the House Education Committee, then House Finance Committee.

Editor’s note: A related measure was considered in the 2004 regular session. *Similar proposals have been introduced/considered in past legislative sessions.*

## School Nurses

### Bill changes nurse ratios

**HB2919**. Revised §18-5-22 would change the required ratio of school

nurses to one nurse per 1,500 students in grades K-12.

An additional bill provision would fund school nurses through a step in the state School Aid Formula (proposed §18-9A-27). Counties would be required to employ at least one school nurse. Boards also could continue to contract with health departments for services that would be “equivalent to those required by (the proposed law).”

A final bill provision requires the WVBE to promulgate rules requiring the employment of school nurses in excess of the number “required by this section to ensure adequate provision of services to severely handicapped students.”

**HB2920**, a related bill, would establish a nurse/student ratio of one school nurse per 750 students in Grades Pre-K-12 (currently one school nurse per 1,500 students in grades K-7.)

**HB2919** has four House sponsors, including lead sponsor Del. Mary Poling, D-Barbour. Introduced March 7. Referred to the House Education Committee, then House Finance Committee.

**HB2920**, also introduced March 7, has five House sponsors, including lead sponsor Del. Linda Longstreth, D-Marion. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Students Generally

### Bill relates to in-state treatment facilities

**SB489**. Proposed §49-4-9 would require the state Department of Health and Human Resources to reduce expenditures for treatment of special needs children in out-of-state facilities by 25 percent annually beginning in FY06.

Moneys generated through the 25 percent reduction in funds committed for out-of-state treatment would be used for the “development of in-state treatment facilities and in-house treatment programs.”

DHHR is required to propose legislative rules regarding the statute’s implementation.

Sponsored by Sen. Hunter. Introduced March 9. Referred to the Senate Health and Human Resources Committee, then Senate Finance Committee.

## Boards would get pay for foster care special needs kids

**SB496**. Revised §18-20-1 would require DHHR to reimburse county boards for the cost of educating children with special needs who are in foster care.

The WVBE, in collaboration with DHHR, is responsible for developing rules to determine the amount of reimbursement.

Sponsored by Sen. Hunter. Introduced March 9. Referred to the Senate Health and Human Resources Committee, then the Senate Education Committee, then the Senate Finance Committee (triple reference).

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

## Bill concerns name change

**SB517.** Revised §48-25-101 would eliminate the one-year residency requirement for filing a name change for persons who have previously lived in West Virginia longer than anywhere else, but who have moved to another state, but have not yet established residency in the other state.

Editor's Note: The current law relates to petitioning circuit courts for name changes, including name changes involving children or "wards" for whom parents may make petitions.

Sponsored by Sen. Kessler. Introduced March 11. Referred to the Senate Judiciary Committee.

## Immunizations exemption proposed - introduced in past

**SB523.** Revised §16-3-4 would provide an exemption from state laws regarding mandatory immunization of school children, based on conscientious or religious beliefs.

The bill would require parents to assert their beliefs in an affidavit and, additionally, provide a completed informed consent form to the Bureau of Public Health prior to the exemption becoming effective.

The Bureau may remove un-immunized students during an outbreak or health emergency, with the students involving not being able to return to school until the situation has abated.

In terms of communicable diseases, citizens identified as being infected with the "declared disease" may be subjected to "humane quarantine using the least restrictive means possible, in order to prevent the spreading of disease."

One means of confinement mentioned is that to "private homes."

### Records

Records are to be kept regarding the number of exempted children, including justifications for the exemptions and the percentage of students receiving the exemptions relative to the number of students who have been immunized.

Other reporting requirements relate to the number of adverse reactions caused by immunizations that are reported each year to the Vaccine Adverse Event Reporting System. (Health care providers would be required to keep this data, based on a 1986 federal law.)

There are other provisions.

Sponsored by Sens. Edwin Bowman, D-Hancock and Andy McKenzie, R-Ohio. Introduced March 11. Referred to the Senate Health and Human Resources Committee, then the Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## State workers would get leave for pupil conferences

**HB2924.** Proposed §29-6-28 would allow state employees to take paid leave to attend parent/teacher conferences.

Employees could use up to four such hours annually.

Leave could be taken for no more than two "mutually-scheduled conferences per child per year."

Travel time may be included in the four hours' leave.

The time off can't be credited against the employee's annual/

sick leave benefits so long as the employee makes a "reasonable, good-faith effort to schedule time off so as to not unduly interfere with the operations of the work unit or require the applicable agency to incur additional human resources or overtime costs."

The leave also would apply to "mutually-scheduled parent-caregiver conference(s) for the employee's preschool-aged child attending a licensed group child care center."

There are 11 House sponsors, including lead sponsor Del. Mike Caputo, D-Marion. Introduced March 7. Referred to the House Government Organization Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## West Virginia Board of Education

### Preferences sought for vendors with veteran status

**SB512.** Revised §5A-3-37 would provide a preference for resident vendors for individuals who qualify for veterans status.

Sponsored by Sen. Hunter. Introduced March 11. Referred to the Senate Military Committee, then Senate Finance Committee.

A related bill, **HB2904**, would require the West Virginia Department of Administration's Purchasing Division to establish a "Vendor Performance Evaluation Program."

Refer to the March 7 issue of *The Legislature* for the companion measure, **SB449**.

The House bill is sponsored by Del. J. D. Beane, D-Wood, and Tim Ennis, D-Brooke. Introduced March 7. Referred to the House Government Organization Committee.

### Measure relates to claims court

**HB2981.** The purpose of this measure is to present certain unpaid bills for payment by the state.

Several agencies are affected, including Bluefield State College; Community and Technical College of Shepherd; West Virginia Department of Education; Department of Education and the Arts; Division of Juvenile Services; Division of Rehabilitation Services; Higher Education Policy Commission; Marshall University; Southern West Virginia Community and Technical College; West Liberty State College; West Virginia Northern Community and Technical College; West Virginia University; and, the West Virginia Workforce Investment Board.

The WVDE claims include \$56,822 for "Boys' Village Inc." and \$123 for Verizon West Virginia Inc.

There are six House sponsors, including lead sponsor Del. Harry Keith White, D-Mingo. Introduced March 10. Referred to the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### WVBE would study flood insurance feasibility

**SB521.** Proposed §18-2-37 would require the WVBE to study the

feasibility of requiring flood insurance, general property insurance or both on all buildings owned by county boards, including the content of those buildings.

Sponsored by Sen. Robert Plymale, D-Wayne. Introduced March 11. Referred to the Senate Education Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Diabetes Care Plan Act proposed; numerous provisions

**HB2912.** Proposed §18-2-37 would require the WVBE to adopt “guidelines” for developing and implementing “diabetes care plans.” The measure is similar to HB2548. (Refer to Issue 3 of *The Legislature*.) One difference is that HB2912 doesn’t require a school nurse’s services in each school where a diabetic student attends.

There are several provisions.

There are three sponsors, including lead sponsor Del. Sharon Spencer, D-Kanawha. Introduced March 7. Referred to the House Health and Human Resources Committee, then House Finance.

## Uniforms proposal introduced; county policies required

**HB2977.** Revised §18-2-35 would authorize implementation of student school uniform policies, with the state board and county boards required to develop policies to implement the bill’s provisions.

The measure includes several legislative findings about uniforms, including findings that use of school uniforms enhance student safety; improve the learning environment; reduce racial and ethnic tensions; improve relations between students of differing socioeconomic backgrounds; improve self-esteem; and, provide cost-savings for participating families.

Another finding is that several schools in West Virginia have adopted pilot student uniform policies and that they “report positive experiences that parallel those reported by districts throughout the country.”

### Successful Practices

The bill findings conclude that successful uniform adoptions are done on a “school-by-school” basis, with the initial focus on elementary schools. Parent involvement with “advocating and assisting with the adoption and implementation of (school uniform policies) is key, as is requiring a super majority of support for the measure – 80 percent is cited.

Success with uniforms, according to the extensive bill finding, is based on allowing voluntary compliance, accompanied by incentives for compliance and assistance to disadvantaged students. Also cited is a timeline, and dissemination of information about successful ways county boards could promote uniform-wearing, including assistance from the West Virginia School Boards Association.

### Bill Purposes

The bill has two purposes, one of which is to encourage the dissemination of information on public school student uniform policies and strategies for implementing them to all West Virginia public schools “so that they may be discussed and considered on a school-by-school basis or optional adoption and implementation.”

The second purpose is to establish a policy framework to authorize the adoption and implementation of student uniform policies, including minimum criteria that must be included in county board policies.

### Rules

The WVBE is to devise a current rule regarding uniforms if necessary, with county boards being responsible for adopting a policy which authorizes schools to implement a student uniform policy.

County board policies must include several required components such as the principal’s, faculty senate’s and Local School Improvement Council’s agreement that a policy would “benefit the school.” Sixty (60) percent of parents and guardians of the school – or a greater percentage if the uniform policy is to be countywide – must approve of a uniform proposal.

Principals, if the vote is favorable, then convene a committee comprised of professional and service personnel, parents and guardians and, for schools with grade levels above grade four, students of the school to formulate the school’s policy.

### Components

The policy must address the types and color of the student uniform; compliance measures; exemptions; noncompliance (due to financial hardship); wearing of button, armbands or other accouterment that is protected by the First Amendment as an exercise of free speech in the public school setting.

Other provisions must address violation of students’ sincerely-held religious beliefs through wearing of a uniform; financial assistance; appointment of a volunteer to assist families in need; financial assistance provisions, etc.

A brochure also is to be published “informing (parents and guardians) of the...implementation of a student uniform policy at the beginning of the school year.” The brochure is to be fairly detailed.

A final bill provision says that a student can’t be suspended or expelled from school, nor make they be given a lower academic grade, for failure to wear a uniform.

A parent conference must be held before the imposition of disciplinary measures for students who fail to comply with the school’s uniform policy.

**SB290**, a related bill, would require uniforms to be worn. It’s sponsored by Sen. H. Truman Chafin, D-Mingo.

**HB2977** has three House sponsors, including lead sponsor Del. Williams. Introduced March 10. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

*WVSBA’s*

## LEADERSHIP MEETING

May 20/21

Lakeview Resort & Conference Center

Morgantown, W.Va.

# EDUCATION-RELATED

## *Abortion*

### **Abortion :‘judicial bypasses’ information would be available**

**HB2996.** The purpose of this legislation is to require the state Department of Health and Human Resources to maintain public information relating to ‘judicial bypasses’ “granted to minors to avoid (parental notification requirements).”

There are three House sponsors, including lead sponsor Del. Thomas Mike Porter, R-Mercer. Introduced March 11. Referred to the House Health and Human Resources Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **Bill concerns parental notification for abortions**

**HB3006.** This bill relates to parental involvement in a minor’s decision to have an abortion. The measure would require abortion providers to obtain proof of age prior to an abortion being performed.

Additionally, the bill provides for judicial bypass. Abortion providers must provide actual or constructive notice to parents, maintaining certification that this notice has been provided as well as parents’ proof of the identification, with both documents being retained in the minor’s medical file.

The bill specifies fines and penalties for violations, and reportage requirements.

There are eight House sponsors, including lead sponsor Del. John Pino, D-Fayette. Introduced March 11. Referred to the House Health and Human Resources Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *Alcohol*

### **Survivors would get alcohol level tests if deaths occur**

**SB518.** Revised §17C-5B-1 would require a breath or blood test of automobile crash survivors in cases where death or deaths occur.

Sponsored by Sen. John Unger, D-Berkeley. Introduced March 11. Referred to the Senate Judiciary Committee.

### **Bar closing time would be later than adjoining state**

**HB2899.** Revised §60-2-16 would allow counties with contiguous borders with other states which have a closing time for bars earlier than the closing time in West Virginia (set by the state Alcohol Beverage Control Commission) to set a bar closing time an hour no

later than that of the contiguous state.

There are four House sponsors, including lead sponsor Del. Robert Tabb, D-Jefferson – by request. Introduced March 7. Referred to the House Judiciary Committee.

Those having DUIs would face additional costs **HB2907.** The purpose of this legislation is to increase fines and penalties for DUI convictions, some funds of which would go to the state’s General Revenue Fund.

Sponsored by Dels. Beane and Ennis. Introduced March 7. Referred to the House Judiciary Committee, then House Finance.

## *Child Abuse/Neglect*

### **Child-reporting required of various agency officials**

**HB2935.** This is the same as **SB226**, which is reviewed in Issue 5 of *The Legislature*. The measure would require cross-reporting among various agencies in regard to potential child abuse and neglect, including Child Protective Service workers, Adult Protective Service Workers, law-enforcement officers and humane officers.

In addition to reportage concerning suspected child abuse and neglect, cross-reporting is required in instances involving suspected abuse or neglect of incapacitated or elderly adults or animal cruelty or inhumane treatment.

There are nine House sponsors, including lead sponsor Del. Overington. Introduced March 8. Referred to the House Judiciary Committee.

### **Advocacy centers could be used for abuse interviews**

**HB2943.** Companion to **SB275**, this measure would allow county and municipal governments to establish ‘Child Advocacy Centers’ for use as safe and appropriate facilities where multidisciplinary interviews could be conducted with children who are suspected of having been abused or neglected.

For more information, refer to the Feb. 28 issue of *The Legislature*. There are seven House sponsors, including lead sponsor Del. John Doyle, D-Jefferson. Introduced March 8. Referred to the House Political Subdivisions Committee, then House Judiciary.

## *Child Safety*

### **Bill relates to booster seats for kids under age eight**

**HB2946.** One of three bills relating to this subject, this measure would require use of child safety booster seats for children under age eight, unless the child is at least four-feet-nine inches or taller.

The companion is **SB203**.

Two other measures, **SB414** and **HB2815**, would require the child to wear either a child restraint device or use a booster seat until he or she is age six and weighs at least 60 pounds.

**HB2946** has six House sponsors, including lead sponsor Del. Corey Palumbo, D-Kanawha. Introduced March 9. Referred to the

## *Newborn Testing*

### **Newborns would be tested for various diseases**

**HB2969.** Revised §16-22-3 would require newborns to be tested for Long QT syndrome, a rare hereditary disorder of the heart's electrical rhythm, leading to fainting or death, especially in children.

There are 11 House sponsors, including lead sponsor Del. Charlene Marshall, D-Monongalia. Introduced March 10. Referred to the House Health and Human Resources Committee, then House Judiciary Committee.

## *Credit Unions*

### **Credit Union membership would be able to expand**

**HB2938.** This is the same as HB2793, which is reviewed in March 7 issue of this publication.

The measure would allow for expanded Credit Union memberships, based on guidelines of a national Credit Union organization.

There are three House sponsors, including lead sponsor Del. Carrie Webster, D-Kanawha. Introduced March 8. Referred to the House Banking and Insurance Committee, then House Judiciary.

## *Crimes*

### **Bill concerns adding crime involving use of fire**

**SB495.** Proposed §61-3-9 would establish the crime of wanton endangerment involving the use of fire.

The bill would define the crime as one where a person "...wantonly performs any act with the use of fire which creates substantial risk of death or serious bodily injury of another..."

Those convicted of violating the law would be guilty of a felony, which has a two-ten year jail sentence and a \$10,000 fine, or both.

There are five Senate sponsors, including lead sponsor Sen. Billy Wayne Bailey, D-Wyoming. Introduced March 9. Referred to the Senate Judiciary Committee.

#### **Clandestine Drug Labs**

**HB2992** would add "(participation) in the operation of a clandestine drug lab" as a further definition of wanton endangerment. (The ostensible purpose is to deal with methamphetamine labs.)

There are eight House sponsors, including lead sponsor Speaker Bob Kiss, D-Raleigh. Introduced March 11. Referred to the House Judiciary Committee.

#### **'Suspicious Fires'**

Also refer to **HB2983.** Its provisions would allow paid municipal fire departments to investigate suspicious or illegal fires set or existing in or around public rights-of-way, and to gather evidence at scenes of suspicious or illegal fires.

Sponsored by Del. Marshall. Introduced March 10. Referred to the House Political Subdivisions Committee.

### **Persons would be 'free from violence' - no hate crimes**

**HB2926.** Revised §61-6-21 would be amended so that all persons would have the right to be free from any violence, without regard to motivation (such as gender, race, religious affiliation, beliefs, etc., as currently spelled out in this section of Code).

There are five House sponsors, including lead sponsor Del. Overington. Introduced March 7. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **Bill relates to aiding detainees escape penal facilities**

**HB2991.** Revised §61-5-8 relates to correctional facilities, including those housing juveniles. It bars inmates from having certain items, including alcohol, beer, poison, escape implements, dangerous materials, weapons or controlled substances.

There are fines for having these items.

The bill also bans inmates from having other items such as medicine, telecommunications devices, money, etc., without written permission of his or her supervising officer.

Again, there are fines for violating this section of statute.

A final bill provision includes criminal penalties for transporting banned items, such as those listed above, onto the grounds of penal facilities for use by an inmate for escape.

There are six House sponsors, including lead sponsor Del. Perry. Introduced March 11. Referred to the House Judiciary Committee.

## *Elections*

### **Votes would require paper copy**

**SB477.** Revised §3-4A-9 would require a paper copy of a voter's vote to be generated if an electronic voting system is used. The copy can only be utilized for a random count of precincts or if an election is contested, challenged or disputed.

The Secretary of State would be required to promulgate various rules relating to the paper ballots.

Sponsored by Sen. C. Randy White, D-Webster. Introduced March 7. Referred to the Senate Judiciary Committee.

### **Bill relates to voting devices for disabled persons**

**SB487.** The purpose of this measure is to permit use of ballot-marking accessible voting systems for use by disabled persons.

It applies both to optical reader-type instruments as well as Braille instruments.

There are various other provisions.

**HB2933** is the House companion measure. It was introduced March 8. Referred to the House Judiciary Committee. There are eight

House sponsors, including Del. Bob Ashley, R-Roane.

Sens. Karen Facemyer, R-Jackson, and Charles Lanham, R-Mason, sponsored the Senate Bill. Introduced March 8. Referred to the Senate Judiciary Committee.

## Election volunteers would receive pay for expenses

**HB2962.** Revised §3-9-6 would allow the Secretary of State to appoint, train and pay expenses for teams of volunteer election observers.

There are various provisions outlining how the teams would work, including their composition, training requirements, and matters concerning their reimbursement.

According to the bill, the teams would have “total access to observe all county and municipal election activities in the vote counting centers on the day of the election...” They couldn’t serve in their own county of residence or in contiguous counties.

A final bill provision states that nonresident observers also could be allowed in an “polling or ballot counting place in this state.”

Sponsored by Dels. Jon Amores, D-Kanawha, and Charles S. Trump, R-Morgan. Introduced March 10. Referred to the House Judiciary Committee.

Trump is House Minority Leader.

## Levies would be allowed at Primary Elections

**HB2963.** Revised §11-8-16 would allow excess levy elections to be held at Primary Elections. It also removes language which conflicts with the state Constitution regarding length of county board levy terms.

There are seven House sponsors, including lead sponsor Del. Mark Hunt, D-Kanawha. Introduced March 10. Referred to the House Judiciary Committee.

## Deadline for making party choice could change

**HB3002.** Revised §3-2-31 would remove the 30-day deadline for submitting party designations in order to be eligible to vote in Primary Elections. It would allow the designation to be made no later than the close of voter registration prior to the Primary.

Sponsored by Dels. Amores and Trump. Introduced March 11. Referred to the House Judiciary Committee.

## *Higher Education*

## Measure concerns National Guard tuition continuation

**SB482.** Companion to **HB2866**, this measure would allow for the continuation of tuition and fee payments to West Virginia National Guard members who have been discharged from military service due

to wounds or injuries received in the line of duty.

Sponsored by Sen. Unger. Introduced March 8. Referred to the Senate Education Committee, then Senate Finance Committee.

## Bill addresses scholarship cap – state police dependents

**SB483.** Revised §15-2-33 would remove the cap on scholarship funds for dependents of deceased state policemen.

The current scholarship cap is \$7,500, with the scholarship to be used for “...the career development of that person.”

Sponsored by Sen. Unger. Introduced March 8. Referred to the Senate Education Committee, then Senate Finance Committee.

## High-Tech research law faces possible technical changes

**SB504.** This measure is a companion to **HB2777**. (Refer to Issue 5 of *The Legislature*.) It would make several technical changes in statutes relating to High-Tech research zones, parks and technology centers.

There are four Senate sponsors, including lead sponsor Sen. Brooks McCabe, D-Kanawha. Introduced March 10. Referred to the Senate Economic Development Committee, then the Senate Education Committee, then the Senate Finance Committee.

## No cloning would be permitted

**SB508.** Proposed §18B-4-9 would prohibit the cloning of human embryos at state medical schools, colleges or universities.

It provides for dismissal from employment for those who would engage in this activity.

Sponsored by Sen. Vic Sprouse, R-Kanawha. Introduced March 10. Referred to Senate Health and Human Relations Committee, then Senate Education Committee, then Senate Judiciary Committee.

## Bill directed toward control of infections in hospitals

**SB510.** The purpose of this measure is to establish a voluntary program to control and prevent infections in hospitals, ambulatory surgical centers and other health care facilities in the state.

It provides for the appointment of an Infection Control Advisory Panel, some of whose members, as an appointment criterion, may be affiliated with a state medical school.

The Bureau of Public Health is responsible for developing and implementing the program.

Sponsored by Sens. Hunter and Dan Foster, D-Kanawha. Introduced March 10. Referred to the Senate Health and Human Resources Committee.

## Bill relates to higher ed rules

**HB2894.** Companion to **SB401**, this bill is a higher education rules bill. Rules relate to various community and technical colleges and the Underwood-Smith Scholarship, among other items.

Sponsored by Dels. Tom Campbell, D-Greenbrier, and Williams. Introduced March 7. Referred to the House Education Committee.

## Doctor performing abortion must work at nearby hospital

**HB2896.** Under terms of this bill, a physician who performs abortions must have staff privileges at a hospital within 15 minutes' travel time of the facility providing the abortion. Or, the facility must have a working agreement between the facility and a hospital within 15 minutes' travel time.

There are penalties for non-compliance.

Sponsored by Dels. Jeffrey Tansill, R-Taylor, and Debbie Stevens, R-Tucker. Introduced March 7. Referred to the House Health and Human Resources Committee, then House Judiciary.

## Higher ed faculty eligible for state increment pay

**HB2956.** Revised §5-5-1 would make faculty members at state institutions of higher education eligible to receive the annual experience increment paid to state employees.

Sponsored by Del. Brady Paxton, D-Putnam. Introduced March 9. Referred to the House Education Committee, then House Finance Committee.

The Senate companion has passed the Senate Education Committee and referred to the Senate Finance Committee.

## Taxation

### Bill would phase-out sales tax

**SB465.** The purpose of this legislation is to phase-out the consumers sales tax on food over a three-year period.

It is one of several bills introduced in the 2005 session concerning this topic.

Sponsored by Sen. Sprouse. Introduced March 7. Referred to the Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### Homeowner association dues would be sales tax exempt

**SB471.** Under terms of this bill, homeowners' association dues, fees and assessments (made by the homeowner association) would be exempt from consumers sales taxes. Sponsored by Sen. Earl Ray Tomblin, D-Logan. Introduced March 7. Referred to the Senate Finance Committee. Tomblin is Senate President.

### Video lottery wagers face tax

**HB2930.** This proposed legislation would apply a consumers sales and service tax upon sales of wagers or plays at racetrack video lottery facilities. There are other provisions. The bill also provides for a consumers sales tax exemption for food and food products (for human consumption) off the premises where sold.

There are 11 House sponsors, including lead sponsor Del. Patrick Lane, R-Kanawha. Introduced March 7. Referred to the House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Personal Property Tax

### Supplemental property tax assessments would be allowed

**SB463.** Revised §11-3-5 would allow for a supplemental assessment and taxation of personal property when personal property has been omitted from record books.

Sponsored by Sens. Joseph M. Minard, D-Harrison, and William R. Sharpe Jr., D-Lewis. Introduced March 7. Referred to the Senate Finance Committee.

## Real Property

### Amended classification review procedures sought

**HB2931.** This legislation would require any review of the state Tax Commissioner's ruling on a question of classification or taxability (not valuation) of real/personal property (ad valorem property tax purposes) to be made by the Tax Commissioner's Office of Tax Appeals, not by the state's various circuit courts. Subsequent appeal would be to the state Supreme Court of Appeals.

Sponsored by Speaker Kiss. Introduced March 8. Referred to the House Judiciary Committee, then House Finance Committee.

### Teachers Retirement System

### TRS loan program would be discontinued under bill

**SB502.** The purpose of this legislation is to discontinue the TRS loan program participation (teachers and non-teachers) who become TRS members after July 1.

The companion is **HB2984.** It is sponsored by Speaker Kiss and Trump. Introduced March 10. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

The Senate Bill was sponsored by Sens. Tomblin and Sprouse. Introduced March 10. Referred to the Senate Pensions Committee, then Senate Finance Committee.

Both bills were introduced at the request of the governor.

### System mergers sought

**HB3007.** This is the companion to **SB294.** It would merge and consolidate the Teachers' Defined Contribution Retirement System and the TRS.

There are six House sponsors, including lead sponsor Speaker Kiss. Introduced March 11. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

## PEIA

### RU-486 coverage would be required by PEIA

**HB2975.** Under terms of this measure, “all health insurance plans offered by the state to its employees shall include as a benefit, payment for the contraceptive drug known as RU-486.”

There are five House sponsors, including Del. Bonnie Brown, D-Kanawha. Introduced March 10. Referred to the House Banking and Insurance Committee, then House Judiciary Committee.

## PERS

### Bill makes technical changes in PERS’ laws; other sections

**HB2909.** Companion to **SB462**, this 42-page bill makes several technical corrections in statutes relating to Public Employees Retirement System laws, essentially rewriting and re-codifying several existing definitions.

It also would limit the use of “military service credit (to no more than) one retirement system administered by the Consolidated Public Retirement Board.”

There are numerous other provisions.

For a review of the companion bill, refer to Issue 9 of *The Legislature*.

Sponsored by Del. Doug Stalnaker, D-Lewis. Introduced March 7. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

## Unemployment Compensation

### Omnibus UC bill introduced

**SB493.** This 28-page bill has several provisions, including a section that would require state agencies to revoke contractual relationships or licenses in instances where an employer is in default for failure to pay UC taxes.

Other provisions relate to placing a limit on the amount of wages an election official can receive in a calendar year that aren’t considered employment wages for UC purposes.

It also would change the requirement that an employee present a physician certification to the employer prior to leaving employment (rather than after the fact).

There are several other provisions.

Sponsored by Sen. Edwin J. Bowman, D-Hancock. Introduced March 9. Referred to the Senate Judiciary Committee.

## Vocational Rehabilitation

### Rehab counselors want to receive public school pay rates

**SB506.** Under terms of this legislation, counselors employed by the

Division of Rehabilitative Services are to be paid an equivalent rate of pay to that of public school counselors.

The companion bill is HB2865.

The Senate measure is sponsored by Sen. Sprouse. Introduced March 10. Referred to the Senate Education Committee, then Senate Finance Committee.

## Resolutions

### Two-thirds legislative passage required for tax bills

**House Joint Resolution 12.** This proposed constitutional amendment would require all bills imposing a tax or license fee as well as bills that increase the effective rate of any tax to receive a two-thirds vote of each house of the Legislature before they could be enacted.

There are six House sponsors, including lead sponsor Del. Overington. Introduced March 7. Referred to the House Constitutional Revision Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## BRIEFLY

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**Senate Bill 469** would establish a “covenant marriage act” in West Virginia. A “covenant marriage” is one where the couple (male/female) “understand and agree that the marriage between them is a lifelong relationship.” Extensive pre-marital counseling is involved, and only when there has been a “complete and total breach of the marital covenant commitment may the non-breaching party seek a declaration that the marriage is no longer legally recognized. Some states have recognized such marriages, which often are promoted by evangelical Christian churches or organizations...” **SB470** would prohibit use of cellular telephones when one is driving... **SB497** would allow county commissions to impose a recreation and amusement tax... **SB505/House Bill 3005** relates to transfer of the central accounting system (state government) from the Department of Administration to the state Auditor’s Office. A related bill would establish specific authorization for the state Treasurer to continue as the authorized official responsible for the federal Cash Management Interest Fund and the federal Cash Management Administration Fund... **House Bill 2901** would increase county commissions’ and municipalities’ shares of net video lottery income... **HB2908** would require some boards of registration to maintain a Web site... **HB2942** would allow counties to impose, as an alternate to 911 fees on local telephone lines, a 911 service fee on real estate owners... **HB2982** relates to meeting and conference rights for fire departments... **HB2990** would require the Director of the Division of Natural Resources to set the time and date of agency meetings for convenience of the public... **HB3000** creates the “Keep Jobs in West Virginia Act,” provisions of which require state agencies providing economic development moneys not to offer contracts to vendors, bidders, contractors, subcontractors, or applicants for economic development assistance who perform “the work at a site outside of the United States”... **House Joint Resolution 11** would require the election of the state Insurance Commissioner.

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## **The Legislature**

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