



Bill Edition Index

Bills Introduced Feb. 6-10, 2006

(Note: Wording in Index may not correspond to accompanying bill headlines; numerical sequence may vary due to considering some related measures as part of the review of particular bills by topic.)

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Feb. 6-10 bills of session reviewed

By Howard M. O’Cull, Ed.D.,
West Virginia School Boards Association Executive Director

Listed below are West Virginia Senate and House of Delegates bills introduced Feb. 6–Feb. 10, 2006 during the fifth week of the Second Regular Session of the 77th West Virginia Legislature.

(This listing does not include House of Delegates carryover bills pertaining to public education. These will be included in a separate issue of *The Legislature*.)

Mon., Feb. 20, is the last day to introduce Senate Bills (except that bills may originate in committee. The provision also does not apply to certain finance-related bills.)

Bills are listed topically, beginning with public education bills. A series of education-related bills follow. Lastly, some measures are cited briefly. Senate bills are listed first.

A total 55 bills/resolutions are reviewed.

For a copy of any bill, please contact WVSBA: 304.346.0571. You also may contact me at hocull@wvsba.org.

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

Editor’s Note: Listing is not exhaustive.

PUBLIC EDUCATION

County Boards

Boards would be authorized to enter lease-purchase deals

Senate Bill 49. Proposed §18-5-9c would allow county boards to enter into “lease-purchase (agreements) for land, buildings and equipment.”

Prior to entering into these type arrangements, county boards would have to receive approval from the School Building Authority of West Virginia.

Additionally, if the building has or is being “constructed for the purpose of providing a school through a lease-purchase agreement, the (county) board may not enter into the lease-purchase agreement for the school unless the lessor (complies with existing law relating to the prevailing wage rate).

There are three Senate sponsors, including lead sponsor Sen. Jon Blair Hunter, D-Monongalia, Tracy Dempsey, D-Lincoln, and

William R. Sharpe, D-Lewis.

This bill originated in the Senate Education Committee Feb. 10.

For more information regarding the legislation, refer to the Feb. 10 issue of The Legislature. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/SB49%20SUB1.htm

Note: The measure has a second reference to the Senate Finance Committee.

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

Employer communications could be restricted

Senate Bill 518. Proposed §21-3-22 would prohibit employers, which would be defined to include county boards as well as other governmental agencies, from requiring “its employees to attend any employer-sponsored meeting or (to) participate in any communications with the employer or its agents or representatives, the primary purpose of which is to communicate the employer’s opinion about religious or political matters, except that an employer or its agents, representative or designee may communicate to employees information about religious or political matters that the employer is required (to do so by law), but only to the extent of the legal requirement.

The Legislature is published by the West Virginia School Boards Association. It provides county board of education members, state policymakers, school administrators and the education community information and opinions regarding West Virginia legislative issues. The views expressed in this publication do not necessarily reflect official opinion or policies of the WVSBA, unless specifically stated.

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*Vincit omnia veritas
“Truth conquers all”*

If an employee were to “make a report” regarding a violation of the statute or “suspected violation,” the employer is prohibited from discharging, disciplining, or otherwise penalizing the employee (or threatening any of the above)...

The report, however, must have been made in “good faith.” The above sanctions may apply in cases of false reports.

“Aggrieved employee(s)” may use civil actions to enforce provisions of the statute. These actions, however, must be brought within 90 days of when the alleged violation(s) occurred.

The proposed statute would allow courts to “award a prevailing employee all appropriate relief, including rehiring or reinstatement of the employee to (his or her) former position, back pay and reestablishment of any employee benefits to which the employee would otherwise have been eligible if the violation had not occurred...”

The employee also could be reimbursed for “reasonable attorneys’ fees and costs.”

Additionally, the bill would grant employees the right to bring “common law cause of action against an employer for wrongful termination or to diminish or impair the rights of the person under any collective bargaining agreement.”

Bill provisions would not apply to religious organizations, political organizations and educational institutions.

A final bill provision says “an educational institution (would not be prohibited) from requiring student instructors to attend lectures on political or religious matters that are part of the regular course work at (the) institution.”

Sens. Billy Wayne Bailey, D-Wyoming, Hunter and Dempsey are bill sponsors. Introduced Feb. 7. Referred to the Senate Judiciary Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb518%20intr.htm

The House companion measure is **House Bill 4438**. There are 10 House sponsors, including lead sponsor Del. Charlene Marshall, D-Monongalia. Introduced Feb. 7. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then the House Judiciary Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4438%20intr.htm

“Coal Miners Memorial Day” proposed; not school holiday

House Bill 4394. Proposed revisions to §2-2-1, the section of Code dealing with legal holidays, would designate April 1 of each year as “Coal Miners Memorial Day and making it a state holiday.

(The provisions of this section of law do not increase or diminish the legal school holidays provided in §18A-5-2.)

Sponsored by Dels. Rick Staton and Richard Browning, both D-Wyoming. Introduced Feb. 6. Referred to the House Government Organization Committee, then the House Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4394%20intr.htm

A related bill, **House Bill 4395**, would clarify that state employees normally working more than eight hours per day would receive full holiday pay for those hours “without charge against accrued annual or personal leave.”

The proposed change in statute refers to “all state employees statewide,” although, as stated above, school employees’ legal holidays are defined in another statute.

Sponsored by Dels. Linda Sumner, R-Raleigh, Walter Duke, R-

Berkeley, and Kelli Soboyna, R-Cabell. Introduced Feb. 6. Referred to House Industry and Labor, Economic Development and Small Business Committee, then House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4395%20intr.htm

In terms of **House Bill 4395**, a similar proposal has been introduced/considered in previous legislative sessions.

Bill concerns school nurse services; agency contracts

House Bill 4398. Proposed revisions to §18-5-22 would allow county boards, in order to provide school nurse services to students, to contract with “health care agencies.”

(Current statutory language refers to “a public health department.”)

The proposed statute also would establish a means of funding these type services through “an appropriation...made to the state department to be distributed to county boards to support school health service needs that exceed the capacity of staff as mandated in this section – (one school nurse per 1,500 students in net enrollment in grades K-7).”

County boards then would be able to apply to the state Superintendent of Schools “for receipt of these funding in a manner (determined) by the State Superintendent that assesses and takes into account varying acuity levels of students with specialized health care needs.”

(The language proposed above refers to an earlier bill section saying the state Board of Education may develop rules requiring employment of school nurses in excess of the one school nurse per 1,500 student ratio in order to “ensure adequate provision of services to severely handicapped pupils.”)

A final bill provision would change the authorization for rule promulgation on the training and standards for specialized health procedures performed by school personnel. Under terms of this proposal, the state Board of Education would promulgate the rules which are currently determined by the Public Health Commissioner.

There are 10 House sponsors, including lead sponsor Del. Tom Campbell, D-Greenbrier. Introduced Feb. 6. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4398%20intr.htm

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

Clerks would be able to set “reasonable” record fees

House Bill 4431. Proposed revisions to §59-1-10 would allow county clerks to set “reasonable fees” for electronic or other medium versions of documents or records in their offices.

Sponsored by Speaker Kiss. Introduced Feb. 6. Referred to the House Judiciary Committee.

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4431%20intr.htm

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

Bill concerns school bus use for fairs, festivals, events

House Bill 4447. Proposed revisions to §18-5-13 would authorize county boards to lease school buses to “public and private non-profit organizations” to provide transportation associated with fairs, festivals and other educational and cultural events.

Usage would have to conform to county board policy.

Buses leased for this purpose would have to be operated by “drivers regularly employed by the county board...during the lease period.”

Lessees would be responsible for paying all costs and expenses incurred by the lessee or “incidental to the use of the buses to the county board...”

Note: This bill, which was adopted by House Education Feb. 9 as a Committee Substitute which includes a proposed section of statute dealing with the transporting of students in vehicles having a capacity of 10 passengers or less which are driven by non-county board employees.

These individuals would have to meet certain guidelines, including a background check.

Note: The Committee Substitute is reviewed in the Feb. 10 issue of The Legislature. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/HB4447%20SUB.htm

Curriculum and Instruction

Pupils being taught fly fishing would not need state licenses

House Bill 4400. Proposed amendments to §20-2-28 would allow students under age 18 who are receiving instruction regarding fly fishing “in a public, private, parochial or Christian school” to fly fish without “obtaining a fishing license...while under the supervision of an instructor authorized by the school.”

There are eight House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 6. Referred to the House Agriculture and Natural Resources Committee, then the House Finance Committee.

http://www.lwgis.state.wv.us/bill_text_html/2006_sessions/rs/bills/hb4400%20intr.htm

School Employees

Bill relates to school psychologists’ coursework

Senate Bill 390. Proposed revisions to §64-9-1 would address school psychologist licensure as relating to use of distance learning to meet some coursework requirements.

There are six Senate sponsors, including lead sponsor Sen. Joe Minard, D-Harrison. Originating in Senate Education Feb. 9.

For more information on this legislation, refer to the Feb. 10 issue of The Legislature. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/SB390%20SUB1.htm

Cooks-per-meals optional ratio would be required

Senate Bill 513. Proposed revisions to §18A-2-13 would make the 1994 scheduling guidelines or cooks-per-meal “ratio” mandatory rather than “optional guidelines.”

Sponsored by Sens. Hunter and Shirley Love, D-Fayette. Introduced Feb. 7. Referred to Senate Education, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb513%20intr.htm

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

Bill concerns school employees’ Comp benefits

Senate Bill 545. Proposed revisions to §18A-4-10, -15 would prohibit school employees from collecting both temporary total disability benefits and personal leave *with cause* for the same time period.

These are among bill provisions:

1. “Personal leave with cause” would be defined as “any personal leave taken due to accident, sickness, death in the immediate family, or life threatening illness of the employee’s spouse, parents or child, or other cause authorized or approved by the (county)board.”
2. A statement of legislative purpose saying the Legislature intends to “make the treatment of personal leave with cause as it relates to temporary total disability benefits consistent with the treatment of sick leave of other employees of the state and its political subdivisions as it relates to temporary total disability benefits. Therefore, no employee may collect both temporary total disability benefits and the personal leave with cause benefits for the same time period. Additionally, the sick leave related provisions of §23-4-1 would apply to the personal leave with cause benefits of school personnel.
3. The West Virginia Board of Education is authorized to promulgate rules to implement the statute.
4. A county board employee “who receives payments of salary less than year-round may not receive any payment of any Workers’ Compensation benefit provided in (§23-4-6) during the periods the employee would not have received payments of salary from the county board unless the employee establishes that his or her compensable injury is preventing him or her from obtaining a specifically identified job for the period he or she is not receiving payments of salary from the county board...”
5. A proviso is included relating to the amendment proposed above which states that “an employee awarded permanent partial or permanent total disability benefits may receive benefit payments throughout each year if his or her benefit payments are reduced to an amount so that the total annual Workers’ Compensation benefit equals the amount of Workers’ Compensation benefit he or she otherwise would have been paid if the employee received a Workers’ Compensation benefit payment only during the months he or she would have received payments of salary from the county board.”

6. The bill would allow school service personnel awarded Workers’ Compensation benefits while recovering from injury or illness to return to work on a trial basis, performing other duties if “(his or her) injury or illness prevents the school service person from performing his or her original duties; and if the school service person is released to perform his or her other duties by the treating physician.

There are several other proposed statutory revisions, many of which are technical or clean-up in nature.

Sponsored by Sen. Bob Plymale, D-Wayne. Introduced Feb. 9. Referred to Senate Education, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb545%20intr.htm

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

Bill concerns evaluations for veteran classroom teachers

House Bill 4406. Proposed revisions to §18A-2-12 would remove the statutory requirement relating to evaluating teachers who have at least five or more years’ experience and no unsatisfactory evaluations for at least three years.

Those teachers would be evaluated only when the school principal deems it necessary or the teacher were to request an evaluation.

There are eight House sponsors, including lead sponsor Del. Perry. Introduced Feb. 6. Referred to House Education. http://www.lwgis.state.wv.us/bill_text_html/2006_sessions/rs/bills/hb4406%20intr.htm

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

Bill concerns terminated employees’ wages; see SB87

House Bill 4454. Proposed revisions to §21-5-4 would clarify that an employer who violates the Wage Payment and Collection Act is liable (to the employee) for liquidated damages in an amount equal to actual damages.

The statute would clarify that liquidated damages must be proportionate to actual damages.

There are 11 House sponsors, including lead sponsor Speaker Robert Bob Kiss, D-Raleigh. Introduced Feb. 7. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4454%20intr.htm

This measure is similar to Senate Bill 130. Refer to the Jan. 16 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb130%20intr.htm

Another bill relating to this topic is Senate Bill 87. It also is reviewed in the Jan. 16 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb87%20intr.htm

Measure would increase teacher salaries by 6 percent

House Bill 4465. Proposed revisions to §18A-4-2 would increase teacher salaries by six percent.

There are 11 House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 9. Referred to House Education, the House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4465%20intr.htm

This legislation is the same as **Senate Bill 283**. Refer to the Jan. 30 issue of The Legislature. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb283%20intr.htm

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

School Funding

Projected increases in county board fuel costs addressed

House Bill 4393. Proposed revisions to §18-9A-7 would make the following changes regarding School Aid Formula Step IV which relates to “transportation”:

- The Step IV transportation allowance for county boards would be based on an 85 percent reimbursement for” high-density counties and a 90 percent reimbursement for low density counties as regarding maintenance, operation and related costs, exclusive of all salaries, for the latest fiscal year for which the expenditures are available, subject to the following adjustments:
- “(A) The portion of the allowance attributable to motor fuel used in student transportation shall be adjusted based on the projected cost of motor fuel for the current fiscal year. The projected cost for motor fuel shall be determined by multiplying the actual expenditures for motor fuel for student transportation of each county board for the latest fiscal year for which the data is available by the state aggregate average percentage change in expenditures for motor fuel of all county boards for the latest three fiscal years for which the actual expenditures are available. Each county board’s allowance for motor fuel so determined shall be further adjusted each fiscal year by the difference between the actual expenditures for motor fuel for the latest fiscal year for which the actual expenditures are available and the adjusted amount used for motor fuel cost in determining the county board’s allowance for that fiscal year,” and,
- “(B) For any county that uses an alternative fuel such as compressed natural gas or other acceptable alternative fuel for the operation of all or any portion of its school bus system, the allowance in the foundation school program for the county for that portion of its school bus system shall be ninety-five percent of the transportation cost for maintenance, operation and related costs, exclusive of all salaries, incurred by the use of the alternatively fueled school buses. The proposed change in statute would state that the “portion of the allowance attributable to alternative fuels used in student transportation shall be adjusted by the projected

cost of alternative fuels for the current fiscal year in the same manner as that provided in paragraph (A) of this subdivision for the adjustment for the projected cost of regular motor fuel.”

- The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation if the premiums were procured through competitive bidding or, as stated by a proposed proviso, the “premiums for professional or other liability insurance obtained from the state Board of Risk and Insurance Management (§29-12-5a would be exempt from this procurement requirement...”
- County boards would receive an 85 or 90 percent reimbursement – high-density or low-density counties, respectively, for the cost of contracted transportation services and public utility transportation of the county board.”
- There are other stylistic and technical changes.

There are 11 House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 3 (originating in House Education). The bill has a second reference to House Finance.

Refer to the Feb. 3 issue of The Legislature for more details. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4393%20intr.htm

Bill would ‘reform’ the state’s School Aid Formula

House Bill 4463. Proposed amendments to §18-9A-2, -10, -11, -13b, and -21 would make the following proposed changes in the state School Aid Formula:

- School Aid Formula Step VII (**§18-9A-10. Foundation allowance to improve instructional programs**) would be ensured a \$33 million funding level, for FY07 and subsequent years.
- A proposed change to Step VII would provide \$5 million in funds for use in county boards’ “capacity building to assist schools that have been identified as seriously impaired in accordance with (§18-2E-5) and schools that have not met Adequately Yearly Progress (AYP) for two consecutive years under the federal No Child Left Behind Act... The allowance for capacity building shall be appropriated to the state (Board of Education). The state board shall adopt a rule... establishing criteria for distribution of these funds to schools. The first priority shall be schools that have been identified as seriously impaired, the second priority shall be schools that have failed to make adequately yearly progress on test assessments for at least two consecutive years. Each year the state board shall make a report to the Legislative Oversight Commission on Education Accountability on the number of schools that received capacity building money the previous year and what impact these resources had on removing a school from the seriously impaired list or the list of schools failing to meet adequately yearly progress under the provisions of (NCLB).”
- “...Additional funds received by a county board as a result of reduction in percentage of levies for general current expense purposes from 98 percent to 90 percent and from the reduction of the computation of public utility taxes as provided in subdivision...of this section shall be used to improve the salaries of classroom teachers and service

personnel employed by the county board. These funds shall be distributed seventy percent to increase the salaries of classroom teachers and thirty percent to increase the salaries of service personnel.”

- **§18-9A-13b (Reserve allowance for education salary enhancements)** would be amended to require “a separate appropriation shall be made in the State Department of Education budget, to be designated as the education salary enhancement line item, that is equal to the reduction in the amount of funds required to be appropriated for the basic foundation program pursuant to this article as a result of a decrease in net and adjusted enrollments from the net and adjusted enrollments of the preceding year. The allocation of the funds appropriated for this purpose each year shall be used to enhance the salaries of classroom teachers and service personnel and shall be allocated (70) percent for classroom teachers and (30) percent for service personnel.”
 - **§18-9A-21. Funding for alternative education programs** would be amended to include an \$8 million appropriation to county boards, \$2 million of which would be distributed, based on net enrollment, and \$6 million based on “competitive grants for the operation of pilot or innovative alternative education programs.
 - The moneys would be distributed as follows: The State Superintendent shall grant county boards awards for pilot or innovative alternative education programs that promote safe schools based on the following criteria: (a) Programs that will serve the most students in the alternative program; (b) 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; (c) programs in middle/junior high schools and high schools that provide at least sixteen hours of instruction per week and requirements that students work their way back to the regular classroom through improved behavior; and (d) other criteria developed by the State Board of Education.” Each county board would have to apply to the State Superintendent in order to receive the competitive grants “in the manner set forth by the State Superintendent consistent with the policies and procedures adopted by the state board for the establishment and maintenance of alternative education programs.”
 - “Levies for general current expense purposes” would be revised to mean 90 percent – rather than 98 percent – of the levy rate for county boards of education calculated or set by the Legislature. (This is the amount of the regular levy rate deducted from county boards for General Current Expense purposes.)
- There are other technical and stylistic changes.
- There are 10 House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 9. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4463%20intr.htm

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

West Virginia Board of Education

Bill relates to ‘Disability History Week’ designation

House Bill 4491. This measure would establish the third week of October as “Disability History Week” in West Virginia.

The purpose is to increase awareness and “understanding of the history and contributions of people with disabilities in the state, nation, and world,” according to the Bill Note.

Sponsored by Speaker Kiss and Del. Campbell. Introduced Feb. 10. Referred to House Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4491%20intr.htm

This bill is the same as Senate Bill 472. Refer to the Feb. 6 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb472%20intr.htm

West Virginia Secretary of Education and the Arts

State Rehab Division counselors pay at county rate

Senate Bill 542. §18-10A-2a would require rehabilitation counselors employed by the Division of Rehabilitative Services to be paid at a rate equivalent to public school counselors.

Sponsored by Sen. Vic Sprouse, R-Kanawha. Introduced Feb. 9. Referred to Senate Health and Human Resources Committee, then Senate Finance. Sprouse is Senate Minority Leader. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb542%20intr.htm

Teachers Retirement System

Bill would increase TRS supplements by \$1,000

Senate Bill 507. Proposed §18-7A-26t would provide Teacher’s Retirement System members a \$1,000 supplemental benefit payable to all TRS annuitants who are retired before June 30 and those TRS retirees who retire thereafter.

Sponsored by Sen. Dempsey. Introduced Feb. 6. Referred to Senate Pensions Committee, then Senate Finance Committee. http://www.lwgis.state.wv.us/bill_text_html/2006_sessions/rs/bills/sb507%20intr.htm

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



Higher Education

Bill concerns Court of Claims – Concord State University

Senate Bill 516. This proposed legislation includes a \$557,037 “claim” against Concord College, Athens.

This is one of several expected Court of Claims bills whereby various obligations or debts against the state may be paid through legislative appropriation after having been approved through the Court of Claims process.

(The bill includes other noneducational ‘claims.’)

There are four Senate sponsors, including lead sponsor Sen. Love. Introduced Feb. 7. Referred to Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb516%20intr.htm

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

Bill to establish ‘stand alone’ WVU advisory councils

Senate Bill 549. Proposed revisions to §18B-6-1a, -2, -3, -4, -5, and -6 would remove West Virginia University’s representation from the state advisory councils of students, faculty and classified employees.

The bill would create “stand-alone” advisory councils, providing for meetings of WVU advisory councils with the state Higher Education Policy Commission (HEPC).

There are five Senate sponsors, including lead sponsor Sen. Michael Oliverio, D-Monongalia. Introduced Feb. 10. Referred to House Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb549%20intr.htm

Embryo cloning would be prohibited at medical schools

House Bill 4408. Proposed §18B-4-9 would prohibit the cloning of human embryos in state medical schools, colleges or universities.

Persons convicted of violating this section of statute would have their employment terminated.

Sponsored by Del. Bob Ashley, R-Roane. Introduced Feb. 6. Referred to House Health and Human Resources Committee, then House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4408%20intr.htm

This bill is the same as Senate Bill 446. Refer to the Feb. 6 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb446%20intr.htm

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

Measure concerns credit card solicitation on WV campuses

House Bill 4426. Proposed amendments to §18B-14-10 relate to credit card solicitation on college campuses.

There are seven House sponsors, including lead sponsor Del. Jeff Eldridge, D-Lincoln. Introduced Feb. 6. Referred to House Judiciary Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4426%20intr.htm

This legislation is the same as **Senate Bill 415**. Refer to the Feb. 6 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb415%20intr.htm

Bill to grant immunity for abortion procedure refusal

House Bill 4449. Among the provisions of this bill is a section that would provide “immunity” for health care providers, institutions and payers that refuse to participate in abortion procedures, based on conscience.

Sponsored by Del. Nancy Houston, D-Monongalia. Introduced Feb. 7. Referred to House Health and Human Resources, then House Judiciary Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4449%20intr.htm

This measure is the same as **Senate Bill 447**. Refer to the Feb. 6 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb447%20intr.htm and **House Bill 3030** http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb3030%20intr.htm

Also refer to a similar bill, **House Bill 4315** http://www.legis.state.wv.us/bill_text_html/2006_sessions/rs/BillInformation.cfm?input=4315

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

EDUCATION RELATED

Abortion

Bill covers parental notice in case of a minor’s abortion

Senate Bill 519. Proposed revisions to §16-2F-2, -3, -4, -5, -6, -8, and -9 would make several changes in statutes regarding parental involvement in the minor’s decision to obtain an abortion.

The bill requires abortion providers to obtain proof of age prior to the performance of an abortion on a pregnant woman.

The bill provides for a judicial bypass. Abortion providers must provide actual or constructive notice to parents of minors, and maintain certifications of such notice as well as parent’s proof of identification for a minimum time period in the medical file of the minor.

The bill creates civil liability, criminal penalties, and mandates certain reporting requirements while containing a severability clause.

There are 31 Senate sponsors, including lead sponsor Sen. Roman W. Prezioso, D-Marion. Introduced Feb. 7. Referred to Senate Health and Human Resources, then Senate Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb519%20intr.htmhttp://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb519%20intr.htm

Also refer to **House Bill 4411**, which is a similar bill. It, too, was introduced last week. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4411%20intr.htm

Another related bill is **Senate Bill 120**. Refer to the Jan. 16 issue of *The Legislature* http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4411%20intr.htm

A related House Bill is **House Bill 3006** http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb3006%20intr.htm It is reviewed in the Jan. 16 issue of *The Legislature*, and is the same as **Senate Bill 28**, which also is reviewed in the Jan. 16 issue of *The Legislature*. http://www.legis.state.wv.us/bill_text_html/2006_sessions/rs/BillInformation.cfm?input=28

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

Child Welfare

Multidisciplinary team process contemplated

Senate Bill 517. Proposed revisions to §49-5-13a and §49-5-20 would require the state Division of Juvenile Services to establish a multidisciplinary team treatment planning process for juveniles who have been adjudicated as “delinquent.”

Under terms of current law, these persons are “delivered into the custody “ of the Director of the Division of Juvenile Services and then are transferred to a juvenile diagnostic center for a period of up to 60 days.

During this period, the juvenile is required to “undergo examination, diagnosis, classification and a complete medical examination” and must, at all times, be kept apart from the general juvenile inmate population in the director’s custody.

A proposed provision would require Juvenile Services to convene a multidisciplinary treatment team for the juvenile during the examination period. The team would consist of “the juvenile, if appropriate, the juvenile’s probation officer, the juvenile’s social worker, if any, the juvenile’s custodial parent or parents, the juvenile’s guardian, attorneys representing the juvenile or the parents, the guardian ad litem, if any, the prosecuting attorney and an appropriate school official or representative.

“The team may also include, where appropriate, a court-appointed special advocate and any other person who may assist in providing recommendations for the particular needs of the juvenile and the family.”

Within 10 days after the end of the examination, diagnosis and classification, Juvenile Services is to make a report to the court containing the results, findings, conclusions and recommendations of the multidisciplinary team with respect to the juvenile.

The bill has several other proposed sections, including sections that codify the multidisciplinary process, and a section which would allow “any person authorized (by the proposed statutory

amendment)...to convene a multidisciplinary team meeting (to) seek and receive an order of the circuit court setting such meeting and directing attendance.”

The three Senate sponsors include Sen. Dan Foster, D-Kanawha, Hunter and Unger. Introduced Feb. 7. Referred to Senate Judiciary Committee, then Senate Finance Committee http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb517%20intr.htm

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

Bill relates to “Unsafe Children’s Product Act”

House Bill 4455. Proposed §16-42-1 et. seq. would establish the “West Virginia Unsafe Children’s Product Act.”

The Act would prohibit persons who deal in children’s products from remanufacturing, retrofitting, selling, contracting to sell or reselling, leasing, subletting or “otherwise placing in the stream of commerce,” unsafe children’s products.

Under terms of the bill, misdemeanor penalties are provided for violations, and aggrieved parties are afforded other judicial remedies.

The bill has an extensive definitions sections.

It defines “children’s product” as a product including a full-size crib, nonfull-size crib, toddler bed, bed, car seat, chair, high chair, booster chair, hook-on chair, bath seat, gate or other enclosure for confining a child, play yard, stationary activity center, carrier, stroller, walker, swing, or toy or play equipment...” designed/intended for the “care or use” by children under age six or designed/intended for the “care and use” by children both under age six and older than age six if the product is “...designed or intended to come into contact with the child while the product is used.”

Products designed/intended for use by the “...the general population or segments of the general population and not solely or primarily for use by or the care of a child or if is a medication, drug, or food or is intended to be ingested...” are exempt from bill provisions...”

The bill would prohibit a commercial user from “remanufacture(ing), retrofit(ing), sell(ing), contract(ing) to sell or resell, lease, sublet or otherwise place in the stream of commerce...” children’s “considered to be unsafe,” due to various reasons itemized in the statute, including non-conformity with “...federal laws and regulations setting forth standards for the children’s product,” products that have been recalled, products having safety hazards, etc.

The state Bureau for Public Health would be required to create, maintain and update a comprehensive list of children’s products that have been identified as meeting the above criteria...:

Accordingly, the Bureau for Public Health shall make the comprehensive list available to the public at no cost and shall post it on the Internet, and encourage links.

Further, the bill has extensive sections describing items that may be deemed “unsafe,”

The bill allows for retrofitting of “unsafe children’s products” if the retrofit has been approved by the agency of the federal government issuing the recall or warning or the agency responsible for approving the retrofit is different from the agency issuing the recall or warning.

A retrofitted children's product may be sold if it is accompanied at the time of sale by a notice declaring that it is safe to use for a child under six years of age.

The product, however, must be accompanied by various notices, including a determination that the recalled product includes a "description of the original problem which made the recalled product unsafe," as well as a description of the retrofit which explains how the original problem was eliminated and a declaration that the product is now safe "for use for a child under (age six)."

There are other similar requirements.

Retrofits would be exempt if they are "for a children's product that requires assembly by the consumer, the approved retrofit is provided with the product by the commercial user, and the retrofit is accompanied at the time of sale by instructions explaining how to apply the retrofit; or the seller of a previously unsold product accomplishes the repair, approved or recommended by an agency of the federal government, prior to sale."

Commercial users who "willfully and knowingly" violate the statute could be fined for committing a misdemeanor, the penalty for which could include a fine of \$100-\$500 in certain instances.

The prosecuting attorney in the county in which a violation of this article occurred, could bring an action in the name of the people of the State of West Virginia to enforce the provisions of this article.

Remedies available are in addition to any other remedies or procedures under any other provision of law that may be available to an aggrieved party.

There are five House sponsors, including lead sponsor Del. Mark Hunt, D-Kanawha. Introduced Feb. 7. Referred to House Health and Human Resources, then House Judiciary. http://www.lwgis.state.wv.us/bill_text_html/2006_sessions/rs/bills/hb4455%20intr.htm

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

Bill would promote breastfeeding of infants

House Bill 4457. Proposed revisions to §52-1-8 and proposed §16-1-19 would promote the breastfeeding of infants as a public policy initiative.

Accordingly, the bill would require the Secretary of the West Virginia Department of Health and Human Resources to establish a program to encourage and recognize mother/infant-friendly employers.

The bill would "protect" a mother's right to breastfeed a child in any location where the mother and child are otherwise authorized to be, clarifying that a mother breastfeeding a child is not engaging in lewd conduct or violating nudity laws and is entitled to an expectation of privacy

Additionally, the bill permits breastfeeding mothers to be excused from jury duty.

Under terms of the bill, infant breastfeeding may occur "in any location public or private..."

There are 11 House sponsors, including lead sponsor Del. Don Perdue, D-Wayne. Introduced Feb. 7. Referred to House Health and Human Resources, then House Judiciary. http://www.lwgis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4457%20intr.htm

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

Family court has grandparent visitation jurisdiction

House Bill 4472. Proposed revisions to §48-10-101, -301, -401, -501, -901, -1001, -1002 and -1101 would allow grandparents seeking visitation rights with grandchildren to appeal to circuit courts or family courts to exercise these rights.

The three House sponsors include lead sponsor Del. Steven K. Kominar, D-Mingo, Scotty Varner, D-Marshall and Kevin Craig, D-Cabell. Introduced Feb. 9. Referred to House Judiciary. http://www.lwgis.state.wv.us/bill_status/bstatmenux/bstatfrm.cfm

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

Individual age 16 or older could assist disabled hunter

House Bill 4487. Proposed revisions to §20-2-46e would allow one individual, who is at least age 16 to be in the vehicle to assist the Class Q hunting permittee (disabled individuals).

There are four House sponsors, including lead sponsor Del. William F. Stemple, D-Calhoun. Introduced Feb. 10. Referred to the House Agriculture and Natural Resources Committee, then House Judiciary. http://www.lwgis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4487%20intr.htm

Crimes

State Police unit would focus on child abuse investigations

Senate Bill 274. Proposed §15-2-9 would create a specialized unit within the State Police to focus on criminal child abuse and criminal child neglect cases and to assist Child Protective Services in identifying criminal violations.

There are 14 Senate sponsors, including lead sponsor Sen. Prezioso. Originating in Senate Judiciary Feb. 8. http://www.lwgis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/SB274%20SUB1.htm

The original **Senate Bill 274** is the same as **House Bill 4011**. Refer to the Jan. 16 issue of The Legislature as well as Feb.3 edition of the publication where House lead sponsor Del. Virginia Mahan, D-Summers, discusses this legislation.

http://www.lwgis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/HB4011%20SUB.htm

Violent Offender Registration Act introduced in Senate

Senate Bill 536. Proposed §15-13-1 et. seq would create the "Violent Offender Registration Act."

The Act's intent is to "assist law-enforcement agencies' efforts to protect the public from violent offenders by requiring violent offenders to register with the State Police detachment in the county where he or she resides and by making certain information about violent offenders available to the public."

The proposal stipulates that it is not "the intent of the Legislature that the information be used to inflict retribution or additional punishment on any person convicted of any offense requiring registration under this article" that the article is "intended to be regulatory in nature and not penal."

The proposed registration, according to the "bill purpose," is to allow "the public (to) have information concerning persons convicted of violent offenses in order to allow members of the public to adequately protect themselves and their children from these persons."

Accordingly, "any person who has been convicted of an offense or an attempted offense or has been found not guilty by reason of mental illness, mental retardation or addiction of an offense...(would be required to register as a violent offender..."

Registration would be with the State Police, and the registrant would have to provide extensive means and proof of identification, including "the address where the registrant intends to reside or resides at the time of registration, the name and address of the registrant's employer or place of occupation at the time of registration, the names and addresses of any anticipated future employers or places of occupation, the name and address of any school or training facility the registrant is attending at the time of registration and the names and addresses of any schools or training facilities the registrant expects to attend..."

Upon planned release from prison or parole, the above information is to be provided by the "offender" to any parole or probation officer who releases the person or supervises the person following the release.

Persons having a duty to register for a qualifying offense would register upon conviction, unless that person is confined or incarcerated, in which case he or she must register within three business days of release, transfer or other change in disposition status.

The bill includes various provisions relating to those who are to be released and have been committed due to mental illness.

The State Police would be required to maintain a central registry of all persons who register under this article. There are provisions regarding the release of this information as well as a prohibition against release of internet accounts, screen names, user names or aliases a registrant has or uses may be released through the internet.

Another bill provision establishes a Violent Offender Registration Advisory Board within the Department of Military Affairs and Public Safety.

It would consist of five members appointed by the Secretary of the Department of Military Affairs and Public Safety, at least two of whom are to be experts in the field of the behavior and treatment of violent offenders, and each shall be a physician, psychologist or social worker in the employ of this state appointed by the secretary in consultation with the Commissioner of the Bureau for Public Health.

Remaining members shall be victims rights advocates and representatives of law-enforcement agencies.

Members of the board shall be reimbursed their reasonable expenses pursuant to the rules promulgated by the Department of Administration for the reimbursement of expenses of state officials and employees and shall receive no other compensation for their

services.

The board shall use the staff of the division or office within the Department of Military Affairs and Public Safety designated by the secretary thereof in carrying out its duties and responsibilities as set forth in this article.

As with similar bills, the legislation addresses changes in registry information and reportage to the State Police.

Registration would be required for 10 years after the person was released from prison, jail or a mental health facility or 10 years have elapsed since the person was placed on probation, parole or supervised or conditional release.

The 10-year registration period is not reduced by the violent offender's release from probation, parole or supervised or conditional release.

Registration would be required for life if the person has one or more prior convictions or has previously been found not guilty by reason of mental illness, mental retardation or addiction for any qualifying offense (referred to in the bill)..., "or if the individual has been found not guilty by reason of mental illness, mental retardation or addiction of a qualifying offense as referred to in this article, and upon motion of the prosecuting attorney, the court finds by clear and convincing evidence, that the qualifying offense involved multiple victims or multiple violations of the qualifying offense; or has been convicted or has been found not guilty by reason of mental illness, mental retardation or addiction of a qualifying offense as referred to in this article, involving a minor."

Notice regarding the offender is to be given to the "supervisor of each county and municipal law-enforcement office and any campus police department in the city and county where the registrant resides, is employed or attends school or a training facility," the... county superintendent of schools where the registrant resides, is employed or attends school or a training facility...(Child Protective Services) office charged with investigating allegations of child abuse or neglect in the county where the registrant resides, is employed or attends school or a training facility..."

Additionally, notice is to be given to "all community organizations or religious organizations which regularly provide services to youths in the county where the registrant resides, is employed or attends school or a training facility..."

Notice is to be provided to: "individuals and organizations which provide day care services for youths or day care, residential or respite care, or other supportive services for mentally or physically incapacitated or infirm persons in the county where the registrant resides, is employed or attends school or a training facility..."

FBI notification also is required.

The State Police would have to make available to the public at least quarterly the list of all persons who are required to register for life. No information concerning the identity of a victim of an offense requiring registration or information relating to internet accounts, screen names, user names or aliases a registrant has or uses could be released with this list. The method of publication and access to this list are to be determined by the State Police.

County residents could petition the circuit court for an order requiring the State Police to release information about persons residing in that county who are required to register.

The court then must determine whether information contained on the list is relevant to public safety and whether its relevance outweighs the importance of confidentiality.

If the court orders information to be released, it may further order limitations upon secondary dissemination by the resident seek-

ing the information.

The State Police may furnish information and documentation required in connection with the registration to authorized law enforcement, campus police and U.S. governmental agencies solely for law-enforcement related purposes.

The State Police may disclose information collected under this article to federal, state and local governmental agencies responsible for conducting preemployment checks.

The required information also would be released when the individual moves out-of-state.

Persons who fail to register or who knowingly provide false information or who refuses to provide accurate information when so required by terms of this article, or who knowingly fails to register or knowingly fails to provide a change in any information as required by this article, would be is guilty of a misdemeanor and, upon conviction thereof, shall be fined from \$250-\$10,000, along with a possible one-year jail sentence.

(There are various other fines for not registering.)

There are several other provisions.

Sponsored by Sen. Vic Sprouse. Introduced Feb. 8. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb536%20intr.htm

Measure would set felony for violence against a person

Senate Bill 540 Proposed §61-11-8 would create a new criminal offense regarding soliciting “(someone) to commit a violation of the law which constitutes a felony crime of violence against... (another person) ...” would, upon conviction, be guilty of a felony.

There are six Senate sponsors, including lead sponsor Sen. Jeffrey V. Kessler, D-Marshall. Introduced Feb. 9. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb536%20intr.htm

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

Bill addresses convicted “sexual predators”

House Bill 4461. This measure has numerous sections of proposed law relating to providing increased penalties for crimes against children, including the registration of “violent sexual predators.”

There are 11 House sponsors, including lead sponsor Del. Soboyna. Introduced Feb. 8. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4461%20intr.htm

This measure is similar to **Senate Bill 276**. Refer to the Jan. 30 issue of The Legislature. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb276%20intr.htm

Note: There are several other bills relating to this subject, including **Senate Bill 205** which is the same as **House Bill 4039**.’

The link for **Senate Bill 205** is http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb276%20intr.htm

The **House Bill 4039** link is http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/HB4039%20SUB.htm

Other bills relate to where sex offenders may live, a requirement

that convicted sex offenders wear GPS monitoring devices and similar provisions.

House Bill 4461 could be known as “Logan’s Law.”

Elections

Ballot-scanning devices might be used for vote counts

House Bill 4481. Proposed amendments to §3-4A-9b would allow use of precinct ballot-scanning devices for vote counts following the close of polls on election night.

There are four House sponsors, including lead sponsor Del. Jon Amores, D-Kanawha. Introduced Feb. 10. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4481%20intr.htm

Bill concerns testing of electronic voting machines

House Bill 4489. Proposed amendments to §3-4A-13 would authorize testing of electronic voting machines used for early voting prior to their use on Election Day, including replacement of Personal Electronic Ballot (PEB), the Programmable Memory Chip and the printed paper trail used during the early voting period.

There are other provisions.

There are five House sponsors, including lead sponsor Del. James H. Morgan, D-Cabell. Introduced Feb. 10. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4489%20intr.htm

Bill would allow absentee voting by fax—overseas voters

House Bill 4492. Proposed revisions to §3-3-5 would allow absentee voting by U.S. Armed Forces members and overseas voters stationed in Iraq or Afghanistan, etc. to vote by facsimile.

There are 11 House sponsors, including lead sponsor Speaker Kiss. Introduced Feb. 10. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4492%20intr.htm

Governmental Entities

Treasurer responsible for Deferred Compensation Plan

Senate Bill 538. Proposed amendments to §5-10B-1, -2, -3, -4, -5, -9, and -10 would transfer responsibility for the state employee “547 plan” to the state Treasurer.

(This plan deals with voluntary deferred compensation plans.)

There are several provisions, including a proposed section that would allow county, municipal and political subdivision employees

to participate in the state deferred compensation plan if their employer does not have plan.

Sponsored by Sens. H. Truman Chafin, D-Mingo, Walt Helmick, D-Pocahontas, and Love. Introduced Feb. 8. Referred to Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb538%20intr.htm

Dept. of Administration to set agency Internet use standards

Senate Bill 547. Proposed §5A-1-12 would require the Secretary of the Department of Administration to propose a legislative rule regarding public employee “acceptable use standards” for the Internet.

Sponsored by Sens. Prezioso and Andy McKenzie, R-Ohio. Introduced Feb. 10. Referred to Senate Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb538%20intr.htm

This measure is the same as House Bill 4369. Refer to the Feb. 6 issue of *The Legislature*. http://www.legis.state.wv.us/bill_text_html/2006_sessions/rs/BillInformation.cfm?input=4369

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

Jury might hear contested Admin. Procedure cases

House Bill 4397. Proposed revisions to §29A-5-1, -2, and -3 would allow for jury trials for contested cases brought under the state’s Administrative Procedures Act.

The proposed language would apply in “any contested case in which an individual may lose a job, be suspended for more than 10 days without pay, or be subjected to a fine or imposition of payment of costs and attorney fees...”

The jury, to be comprised of six persons, would be responsible for determining the “truth of the facts.”

Jurors would be chosen from the panel of available jurors in the circuit court in the county in which the hearing is to be conducted.

There are other provisions.

Sponsored by Del. Tom Louisos, D-Fayette. Introduced Feb. 6. Referred to House Judiciary.

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4397%20intr.htm

Also refer to **House Joint Resolution 110**. It, too, is sponsored by Del. Louisos and addresses this topic. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hjr110%20intr.htm

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

Bids for state contracts would state site/place of work

House Bill 4441. Proposed amendments to §5A-3-10b would require bids for state contracts to disclose the location of work to be performed.

If this information is not provided, agencies may terminate the

contract.

There are eight House sponsors, including lead sponsor Del. Dale Martin, D-Putnam. Introduced Feb. 7. Referred to House Government Organization. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4441%20intr.htm

Bill would require study of behavioral health system

House Bill 4488. Proposed §16-42-1 et. seq. would create a commission to complete a comprehensive study of the state’s behavioral health system, including expenditure of funds.

This bill is intended to “provide a framework within which the departments and divisions of state government, working collaboratively with the applicable citizen groups, can study the current system of behavioral health services offered within West Virginia, the financing of those services, and proposed changes to both. It is the purpose of the Legislature to encourage the long-term, well-planned development of a comprehensive and cost-effective system of care.

The commission is responsible for making changes in needed services and funding.

The Commission would be housed in the state Department of Health and Human Resources, and would include various representatives, including the Chancellor for the Higher Education Policy Commission (HEPC). There is no specific mention of public school appointees.

The study is to be conducted, in part, due to the “overcrowding of the beds in state facilities and prisons, and inadequate community support services to prevent these problems.”

The bill states that “untreated behavioral illness and substance abuse and ongoing domestic violence and unserved developmental disabilities have placed a significant impediment for West Virginia businesses and have placed heavy fiscal pressures on many West Virginia government and non-profit agencies.”

Additionally, the measure concludes that these “untreated problems and lack of services are directly linked to increases in fatalities, penal incarcerations, suicides, increase in welfare rolls, homelessness, school dropout rate increases, teenage pregnancy, excessive employee absenteeism, underemployment, unemployment, higher workers’ compensation costs and many other health, criminal justice, social and personal problems which cost our society billions of dollars each year...”

There are other provisions.

There are 10 sponsors, including lead sponsor Del. Perdue. Introduced Feb. 10. Referred to House Health and Human Resources, then House Government Organization.

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4488%20intr.htm



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Public Employees Retirement System

Measure covers no longer disabled workers

House Bill 4034. This legislation is reviewed in the Jan. 23 issue of The Legislature. It relates to removing the requirement that a no longer disabled employee must return to his former job.

Administrative hearings before disability retirement termination also would be permitted.

There are several other provisions.

There are five House sponsors, including lead sponsor Del. Doug Stalnaker, D-Lewis. Introduced Jan. 27. (This is the committee-adopted substitute bill). http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/HB4034%20sub.htm

The link for **Senate Bill 175** is http://www.legis.state.wv.us/bill_text_html/2006_sessions/rs/BillInformation.cfm?input=175

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

Up to 5-years military service would be credited to PERS

Senate Bill 537. Proposed amendments to §5-10-15 would allow one to use up to five-years' military service for Public Employees Retirement System purposes.

There are 13 Senate sponsors, including lead sponsor Sen. Hunter. Introduced Feb. 8. Referred to the Senate Military Committee, then the Senate Pensions Committee, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb537%20intr.htm

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

Taxation

Exemption for aged or retirement homes clarified

Senate bill 504. Proposed revisions to §11-3-9 would "clarify" the exemption for taxing property used for not-for-profit, tax-exempt corporations operating homes for the aged or retirement communities.

The bill defines these institutions as "Homes for children or for the aged, friendless or infirm, not conducted for private profit including a continuing care retirement community which is owned or leased by a corporation or other organization exempt from federal income taxes under §501(c) (3) or (c) (4) of the Internal Revenue Code of 1986 (if they are) used in a manner consistent with the charitable purpose for which owner or lessee received its federal tax exemption and the income from which does not constitute "unrelated business taxable income" as that term is defined in section §512 of the Internal Revenue Code of 1986.

For purposes of this subsection, a "continuing care retirement community" is a "licensed facility...at which one or more service and housing packages, such as independent living, assisted living or nursing care, are provided to its elderly residents in exchange for the payment of an entrance fee or deposit, or payment of periodic charges or both with an established policy to maintain residents at the facility even if the residents become unable to pay and the facility receives no state funds;"

There are five Senate sponsors, including lead sponsor Sen. Evan Jenkins, D-Cabell. Introduced Feb. 6. Referred to Senate Government Organization, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb504%20intr.htm

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

Vehicle tax exemption would go to \$10,000 for tax purposes

House Bill 4412. Proposed amendments to §11-5-15 would reduce by \$10,000 the valuation of motor vehicles, not to exceed a value of less than \$0, for personal property taxation purposes.

Sponsored by Del. Sharon Spencer, D-Kanawha. Introduced Feb. 6. Referred to House Judiciary, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4412%20intr.htm

March 31 last date to redeem real estate for unpaid tax

House Bill 4421. Proposed §11A-3-23 would establish the deadline for redeeming real estate sold for delinquent taxes as March 31 of the succeeding calendar year.

Sponsored by Del. Amores. Introduced Feb. 6. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4421%20intr.htm

Sales tax holiday proposed for three weeks in August

House Bill 4428. Proposed amendments to §11-15-9g would create a sales tax exemption for purchases of back-to-school clothing and school supplies during a three-week period in August.

There are 10 House sponsors, including lead sponsor Speaker Kiss. Introduced Feb. 6. Referred to House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4428%20intr.htm

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

Real estate tax payments would have deferred option

House Bill 4468. Proposed §11-6B-8 would allow county commissions to permit resident homeowners, age 65 or older, to defer pay-

ment of residential property tax increases during their lifetimes.

There are eight House sponsors, including lead sponsor Del. Bob Tabb, D-Jefferson. Introduced Feb. 9. Referred to House Judiciary, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4468%20intr.htm

A companion bill is **Senate Bill 257**. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb257%20intr.htm

Tobacco

Bill would increase excise tax on tobacco—40-cent increase

House Bill 4424. Proposed revisions to §11-17-3 would raise the cigarette excise tax to 95 cents (currently 55 cents).

Additionally, the wholesale tax on tobacco would be increased.

There are 10 sponsors, including lead sponsor Speaker Kiss. Introduced Feb. 6. Referred to House Health and Human Resources, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4424%20intr.htm

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

RESOLUTIONS

Homestead exemption would increase to \$50,000

Senate Joint Resolution 9. The purpose of this Resolution is to increase the state property Homestead Exemption from \$20,000 to \$50,000.

Sponsored by Sen. Minard. Introduced Feb. 8. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sjr9%20intr.htm

This resolution is similar to House Joint Resolutions , 6, and 19. The links are

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hjr1%20intr.htm,

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hjr6%20intr.htm, and

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hjr19%20intr.htm, respectively.

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

\$250 million flood mitigation bond proposed

Senate Joint Resolution 10. Under terms of this Resolution, the state would sell \$250 million in bonds to finance flood mitigation projects in West Virginia.

Sponsored by Sen. Sprouse. Introduced Feb. 9. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sjr10%20intr.htm

Briefly

Senate Bill 501 would provide a salary increase to elected county officials...**Senate Bill 502** is aimed at recouping allocated, unspent, salary funds from elected officials and applying those funds to the counties' Workers Compensation premiums, according to the Bill Note...**Senate Bill 505** relates to the city of Fairmont's excess levy vote during the Primary Election...Also refer to **House Bill 4484**...**Senate Bill 514** would include persons with common bonds who reside in well-defined communities to be eligible for credit union membership...**Senate Bill 526** would reduce the annual inspection fee for amusement rides and attractions. The companion bill is **House Bill 4460**...**Senate Bill 528** would allow an income tax credit for persons who perform volunteer work for nonprofit organizations...**Senate Bill 531** would eliminate the sales tax on food through a three-year phase-out...**House Joint Resolution 111** would abolish the sales tax on food...**Senate Bill 534** would gradually repeal the business franchise tax...**Senate Bill 535** would strike the requirement that the state Parkways Economic Development and Tourism Authority establish a Shady Spring connector highway and interchange connecting to the West Virginia Turnpike. The companion House bill is **House Bill 4439**...**House Bill 4429** would provide for the installation of land-based telephone service along some parts of the West Virginia Turnpike where no cellular telephone service is available...**Senate Bill 543** would establish judicial procedures for personal injury and wrongful death claims arising out of asbestos or silica exposure...**Senate Bill 546** would exempt nonprofit organizations from paying an annual motor vehicle registration fee...**Senate Bill 548** would provide immunity to workers, contractors, engineers or architects who provide services for universal design features, which is designed as products and environments "to be useable by all people to the greatest extent possible, without the need of alteration or specialization," including access for handicapped or disabled persons...**House Bill 4401** would change the way the cost of incarcerating inmates is collected so that the fees are shared by the county, state and municipality where the alleged criminal act occurred...**House Bill 4409** would establish non-partisan elections for judges...**House Bill 4433** would expand the West Virginia Highway Authority to include representatives from Cabell, Mason, Jackson, Putnam and Wayne Counties A related bill, **House Bill 4475**, would expand the number of counties covered by the West Virginia Route 2 and Interstate 68 Authority to include Cabell, Mason and Jackson Counties...**House Bill 4471** would require courthouse records to be "preserved indefinitely...**House Bill 4497** would create a registry of persons convicted of operating a clandestine drug laboratory.

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The Legislature

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