



Bill Edition Index

Bills Introduced Feb. 13-17, 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. 13-17 session bills 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. 13-17 during the sixth 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*.)

Today 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 64 bills 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

Compulsory Attendance

Course credits to be denied for unexcused absences

House Bill 4515. Proposed §18-8-1b would allow students to be denied course credits for absences.

The proposed provisions read:

“(a) In schools using the block scheduling system, any student who is absent for nine days or more of school in a semester and the absences are unexcused, the student will not receive credit for the semester in the course or courses that were missed. “(b) In all middle schools, junior high schools and high schools that do not use the block scheduling system, if a student is absent for eighteen days or more in a year and the absences are unexcused, the student may not receive credit for that year in the course or courses that were missed.”

There are 11 House sponsors, including lead sponsor Del. Richard J. Iaquina, D-Harrison. Introduced Feb. 13. Referred to House Education Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4515%20intr.htm

County boards

Boards would be permitted to share administrators

Senate Bill 620. Proposed revisions to §18A-4-8d would authorize and encourage county boards to share services of central office administrative personnel, including procurement of these services from Regional Educational Service Agencies (RESAs).

Prior to posting notice of an "opening in any regular fulltime or regular part-time central office administrative position of employment other than county superintendent, the county board (is to) determine the feasibility of obtaining the needed administrative services from the county board's (RESA) and of sharing the services of administrators with the boards of contiguous counties.

"The determination shall be in writing and contain supporting reasons."

Sponsored by Senate Education Committee Chairman Bob Plymale, D-Wayne, Vice Chairman Larry Edgell, D-Wetzel, and Clark

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Vincit omnia veritas
"Truth conquers all"

Barnes, R-Randolph. Introduced Feb. 17. Referred to Senate Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb620%20intr.htm

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

Boards would be fined if not filing tax info electronically

Senate Bill 626. Revised 11-21-74 would require personal income tax withholding returns by employers with 250 or more employees.

Under terms of the bill, employers would be required to submit an "annual reconciliation" of West Virginia personal income tax withheld" for the previous year by Feb. 28.

Employers having 250 or more employees would be required to file this information electronically.

If the above employers do not file the information electronically, the employer would be "liable for a penalty in the amount of (\$25) per employee for whom the return was not filed electronically, unless the employer shows that the failure is due to reasonable cause and not due to willful neglect."

Sponsored by Sens. Walt Helmick, D-Pocahontas, and Joe Minard, D-Harrison. Introduced Feb. 17. Referred to Senate Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb626%20intr.htm

The House companion measure is **House Bill 4619.** Sponsored by Del. Harold Michael, D-Hardy. Introduced Feb. 17. Referred to House Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4619%20intr.htm

Helmick and Michael are chairmen of the House and Senate Finance Committees, respectively.

Bill relates to public school inspections, rules, standards

House Bill 4623. Proposed revisions to §16-1-6 and §16-2-11 would require the state Bureau of Public Health to "establish standards for inspections conducted by local boards of health of schools, whether public or private..."

Local boards of health would be required to "report the board's findings each time the board inspects a primary or secondary school, to the principal of the school, the county superintendent and the president of the county school board, or to persons of like responsibility in the case of a private, parochial, church or other school operated by a religious order.

"If a serious or ongoing health issue continues to exist, the board may send the report to the Commissioner of the Bureau of Public Health and the West Virginia Board of Education."

Sponsored by Dels. Bill Proudfoot, D-Randolph, Don Perdue, D-Wayne, and Tom Campbell, D-Greenbrier. Introduced Feb. 17. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4623%20intr.htm

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

Regional Educational Service Agencies

RESA study proposed; lawmakers would set funding

Senate Bill 127. Proposed revisions to §18-2-8a would establish RESAs' funding as "an amount appropriated by the Legislature."

Additionally, the bill would require the state superintendent of schools to conduct a comprehensive study of the "programs, governance and administration of (RESAs)..."

The study is to include the following components:

- "(1) Powers and duties of the state Board of Education and state superintendent relating to (RESAs);
- "(2) Qualifications and procedures for selection of agency executive directors;
- "(3) Selection and supervision of agency staff;
- "(4) Development of agency budget;
- "(5) Oversight of agency purchasing and auditing procedures;
- "(6) Development of programs and delivery of services; and
- "(7) Procedures to ensure fiscal and programmatic accountability."

The study could include additional areas as determined by the state superintendent.

The state superintendent is to report findings generated by the study, together with recommendations and any legislation necessary to effectuate the recommendations, to the Legislative Oversight Commission on Education Accountability by Dec. 1, 2006.

That proposed section of statute is §18-2-15a.

Sponsored by Senate President Earl Ray Tumbling, D-Logan and Senate Minority Leader Vic Spouse, R-Kanawha (by request of the governor).

This "Committee Substitute" originated in Senate Education Feb. 15. The measure has a second reference to Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/SB127%20SUB1.htm

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

School Employees

\$100 per month increase asked for service workers

Senate Bill 611. Proposed revisions to §18A-4-8a would provide school service personnel a \$100 per month salary.

There are 13 Senate sponsors, including lead sponsor Sen. Randy White, D-Webster. Introduced Feb. 16. Referred to Senate Education, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb611%20intr.htm

The corresponding House Bill is **House Bill 4564**. It is sponsored Dels. Brady Paxton and Dale Martin, both D-Putnam. Introduced Feb. 15. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4564%20intr.htm

Aides would get more pay

A related bill, **House Bill 4501**, would provide additional compensation to any "pre-kindergarten aide, kindergarten aide or para-professional who has more than twenty pupils per session, or any aide or para-professional in grades one through six who has more than (25) pupils per session..."

The additional compensation would be "based on the affected employee's average daily salary divided by (20) for kindergarten aides or para-professionals, or the average daily salary divided by (25) for aides or para-professionals in grades one through six, for every day times the number of additional pupils enrolled up to the maximum number of pupils permitted in the classroom."

The additional pay would be "paid from county funds exclusively."

There are eight House sponsors, including lead sponsor Del. Ron Fragale, D-Harrison. Introduced Feb. 13. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4501%20intr.htm

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

Bill relates to service worker substitutes' seniority

Senate Bill 4518. Proposed revisions to §18A-4-8g would clarify seniority status of school service personnel substitutes.

The pertinent language reads:

Beginning on July 1, 2006, substitute school service employees would acquire regular employment status *with the exception of regular* seniority if the employees are filling the position of regular employees who have requested leaves of absence or who are on Workers' Compensation leave and have received a position in regard to §18A-4-15(2) or §18A-4-15(5).

The former statute states that if the substitute employee is employed to fill the position of the absent employee and employed for such for more than 20 working days, the employee receives regular employment status or §18A-4-15(5).

Employee suspensions

The latter statute relates to substitute employees who fill vacancies created by a regular employee's suspension.

(Under current Code, if the suspension is for more than 30 working days, the county board must post the position of the suspended employee. If a substitute service employee is employed to fill the suspended employee's position, the substitute service personnel is to have regular employment status.)

These employees would "accumulate substitute employee seniority" when holding the above positions.

Upon termination of a leave of absence or a suspension, the employee would return to his or her previous status.

There are eight House sponsors, including lead sponsor Del. Mike Caputo, D-Marion. Introduced 3. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4518%20intr.htm

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

Bill would increase principals' increments

House Bill 4535. Revised §18A-4-3 would provide a 5 percent increase in salary increments for principals, based on the number of teachers supervised. That particular supplement would be effective after July 1, 2006, with a 1 percent increase in increments effective prior to July 1.

Sponsored by Dels. Larry A. Williams, D-Preston, and Campbell. Introduced Feb. 13. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4535%20intr.htm

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

Teachers could get computers from state contracts

House Bill 4540. Proposed amendments to §5A-3-4 would authorize teachers to purchase personal computers and related devices from the state's contract for such.

There are 10 House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 14. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4540%20intr.htm

Bill aimed at more teachers getting certificate renewal

House Bill 4544. Proposed revisions to §18A-3-3a would allow more teachers to be reimbursed for approved course work by limiting the amount of course work for which any one teacher may be reimbursed, according to the bill note.

Additionally, the bill removes a 2002 stipulation that, in regard to certificate renewal and additional endorsements, that requires funds appropriated for this section to be "divided" been renewal and endorsement disbursements. Under terms of current law, "reimbursement toward either (could not exceed) 75 percent of total funds appropriated."

Under terms of the bill, teachers would be limited to reimbursement for six semester hours of courses per certification renewal "period" and 15 semester hours of courses "per lifetime."

Reimbursement for courses completed toward certification in a shortage area is limited to six semester hours of coursework per teacher per year, with no lifetime limit.

There are nine House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 14. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4544%20intr.htm

NBPTS certification would apply to principal positions

House Bill 4546. Proposed revisions to §18A-4-2a would allow persons who hold National Board of Professional Teaching Standards certification as teachers and who become principals or assistant principals to "continue to be paid (\$2,500) annually for the life of the certification, but in no event for more than (10 years) for any one certification.

(The 10-year provision is current law.)

There are eight House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 14. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4546%20intr.htm

Housing allowance proposed for teachers; mortgage-based

House Bill 4573. §18A-4-2 would provide a housing allowance to teachers in counties where monthly mortgage costs are over \$735 or more, based on U.S. Department of Commerce's Bureau of Census figures.

The additional compensation would be as follows:

Average monthly mortgage housing allowance supplement

- \$735.00 to \$745.00: \$300.00
- \$745.01 to \$760.00: \$600.00
- \$760.01 to \$790.00: \$900.00
- \$790.01 to \$820.00: \$1200.00
- \$820.01 to \$850.00: \$1500.00
- \$850.01 to \$890.00: \$1800.00
- \$890.01 to \$930.00: \$2100.00
- \$930.01 and up: \$2400.00

The payments would be made in equal monthly installments and are to be considered a part of the state minimum salaries for teachers.

A proviso says that any "housing allowance supplement that a teacher is entitled to receive as a result of the enactment of this section shall be paid with teachers' contracts beginning with the (2006-'07) school year."

There are 10 House sponsors, including lead sponsor Del. Walter Duke, R-Berkeley. Introduced Feb. 15. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4573%20intr.htm

Subs in critical needs areas wouldn't lose retiree benefits

House Bill 4578. Proposed revisions to §18A-2-3 would provide a three-year extension to a statute that allows retired teachers to accept employment as substitutes in critical need and shortage areas without affecting retirement benefits.

There are 10 House sponsors, including lead sponsor Del. David Perry, D-Fayette. Introduced Feb. 15. Referred to House Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4578%20intr.htm



School finance

Bill would address property “underassessment”

Senate Bill 570. As stated in the bill note, the purpose of this legislation is to eliminate an incentive to under assess...real property by requiring local share to be calculated based on what the appraised value of certain property should be as indicated by an assessment ratio study.”

These are among bill provisions:

- The state Tax Commissioner, as now, would be responsible for evaluating the performance of county assessors in terms of assessors’ property valuation, taking appropriate action to require any assessor who does not meet state Tax Commission requirements to correct any specified deficiencies.
- In performing a calculation to determine whether assessments are correct or whether adjustments to the assessments of property are necessary, the Tax Commissioner’s calculation could not include *any variance* from either of the following, as applicable:
 - (A) The appropriate ratio as determined in the bill’s proposed local share calculation, or
 - (B) 60 percent of current market value or other appropriate value as otherwise established in law.

‘Shortfall’

- If the Tax Commissioner determines that an adjustment of the assessments of all types of property is necessary to make up for any shortfall as indicated by the assessment ratio study and is necessary to prevent a county board of education from failing to collect the entire amount of its local share (as determined by §18-9A-11) and the assessor fails to make the necessary adjustment (or the Tax Commissioner makes both determinations), the Tax Commissioner would be empowered to take all “necessary steps,” including the appointment of one or more special assessors, or to “use any other authority he or she has over county assessors to complete their statutory tasks and duties.”
- A writ of mandamus would be the appropriate remedy if the Tax Commissioner fails to perform his or her statutory duty relating to the above requirement.
- The Tax Commissioner would be required to prepare an annual assessment ratio study for Classes II, III and IV properties for all counties, based on the “median ratio of the assessed values to the actual selling prices of all real property sold over the immediately preceding three fiscal years...”

‘Adjacent counties’

- If the Tax Commissioner determines there are an insufficient number of properties in either of Classes II, III or IV to calculate a statistically significant median ratio, he or she may include properties in adjacent counties in the calculation.
- The assessment ratio study is to be completed using the most current “Standard on Ratio Studies” of the International Association of Assessing Officers. This sales ratio analysis cannot include natural resources property, personal property, farmland, managed timberland, public utility property or any other centrally assessed property.

- None of these properties, however, could be assessed at a percentage of appraised value which is either less or more than the percentage of assessed value for real property appraised by an assessor.
- The Tax Commissioner would submit the report to the WVBE by Dec. 1 of each year.
- The bill would establish a proposed §11-1C-5b which is related to an assessment for calculating local share.
- The Tax Commissioner would calculate the total assessed values (for county board local share purposes) based on this proposed section of law, reporting the total assessed values to the state Board of Education by Dec. 1 as outlined above.

60 percent of ‘market value’

- This proposed statute declares that it is the “intent of the Legislature” to provide for assessors to assess at 60 percent of market value through a six-year phase-in period for calculating local share “assuming that the types of property included in the assessment ratio study in each county are assessed at a level in which the assessment ratio study indicates would be 60 percent of market value.”
- The assessment ratio study required in this section would be used to accomplish the phase-in of the above 60 percent provision regarding assessed values to the actual selling prices of all real property sold over the immediately preceding three fiscal years. Thus the base median ratio is the ratio derived from the assessment ratio study used for FY08.
- For Classes II, III and IV properties, the base median ratio derived from the assessment ratio study would be subtracted from 60. These calculations then would be divided by six.
- For FY08, the ratio for Classes II, III and IV properties would be derived by adding the base median ratio derived from the assessment ratio study used for FY08 and the amount calculated above (division by six).
- All real property (Classes II, III and IV) that is or would be included in the assessment ratio study if sold is assumed, for the purpose of calculating local share, to be assessed at the amount the property would be assessed at if all the property in the class were under or over assessed to the same extent as that property included in the assessment ratio study.
- For Classes II, III, and IV properties, the amount of the assumed assessed values is to be added to the actual assessed values of personal property, farmland, managed timberland, public utility property or any other centrally assessed property and the total sum of these values, based on the above methods of calculation, would be the total assessed value for the purpose of calculating local share.

FY09-FY13

- For FY09 – FY13, total assessed value for the purpose of calculating local share would be calculated and adjusted to increase by the same amount to equal 60 by FY13.
- For FY14 and thereafter, total assessed value for the purpose of calculating local would be calculated at 60.
- No variance from any ratio or percentage may be included in any calculation as per this section.
- The valuation of all the types of property that are included in the assessment ratio study is not considered accurate and current unless there is no shortfall as indicated based on the assessment ratio study and no adjustment is necessary to prevent a county board of education from failing to collect

the entire amount of its local share.

- In any year the assessed value of a property or species of property of the type that is not included in the assessment ratio study is less than or exceeds 60 percent of current market value or other appropriate value in any year the assessed value of any type of real property that is included in the assessment ratio study is less than the amount specified by law, the Tax Commissioner is to direct the assessor to make the necessary adjustments.
- If any assessor fails to comply with the provisions of this section, the Tax Commissioner “shall,” at the county commission’s expense, take reasonable steps to remedy the assessment deficiencies.
- “Reasonable steps” at least include entering the county and fixing the assessments at the amounts necessary to comply with the provisions of this section. Refusal of the assessor or the county commission to comply with the provisions of this section constitutes grounds for removal from office.
- In performing a calculation to determine whether assessments are correct or whether adjustments to the assessments of property are necessary, the Tax Commissioner may not include in the calculation any variance from either of the following, as applicable:
 - (1) The appropriate ratio determined, based on the above; or;
 - (2) 60 percent of current market value or other appropriate value as established in law.

Local share

- Beginning with FY08 and each fiscal year thereafter, the assessed value used for determining local share would be decreased by the amount of estimated school board revenues generated from the application of the regular school board levy rate to new property values (growth counties).
- For the two thousand eight fiscal year, “levies for general current expense purposes” would mean 95 percent of the levy rate for county boards. By FY13 and thereafter, “levies for general current expense purposes” would be set at 90 percent of the levy rate for county boards.
- If a county board has adopted a resolution choosing to use the provisions of the growth county school facilities act, estimated school board revenues generated from application of the regular school board levy rate to new property values may not be considered local share funds.
- Beginning with FY08 any county board which has adopted a resolution choosing to use the provisions of the growth county school facilities act, the assessed value calculated and used for determining local share would be decreased by the amount of the estimated school board revenues generated from the application of the regular school board levy rate to new property values (as stipulated in that section of law).

Salary equity

- The state board would be required to develop and maintain state equity salary schedules for teachers and service personnel, publishing salary schedules that show the total state minimum required salaries for teachers and service personnel. The state board may change the state equity salary schedules if needed to maintain salary equity or if the Legislature makes a change in its appropriation for salary equity that necessitates changing the state equity salary schedules.

There are five Senate sponsors, including lead sponsor Sen. Bob Plymale, D-Wayne. Introduced Feb. 15. Referred to Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb570%20intr.htm

Local share chargeback would be set at 2002 rate

Senate Bill 585. Proposed revisions to §18-9A11 would cap county boards’ local share chargeback at the calculated 2002 local share.

According to the bill note, this will allow all county boards to retain 100 percent of the growth in their local levies post-2002 with no reduction in basic state school aid formula moneys.

There are 15 Senate sponsors, including lead sponsor Sen. Barnes. Introduced Feb. 15. Referred to Senate Education, then Senate Finance.

This is the same as **House Bill 4025**. Refer to the Jan. 23 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4025%20intr.htm

West Virginia Board of Education

‘Fetal development’ would be taught in secondary schools

House Bill 4533. Proposed §18-2-7d would require the state Board of Education, with the advice of the state superintendent, to “prescribe a curriculum to teach fetal development” in the state’s middle and senior high schools.

Middle and senior high schools would be required to “include the course of study for its students.”

The bill states that its provisions are not to be “construed or interpreted to endorse, allow, permit or approve of any abortion.”

Sponsored by Del. Mike Hall, R-Putnam (by request). Introduced Feb. 13. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4533%20intr.htm

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

Soft drink sales ban during school day proposed again

House Bill 4548. Proposed revisions to §18-2-6a would align state Code concerning sale of “healthy beverages and soft drinks in school” with corresponding WVBE policy 4321, (Standards for School Nutrition) and U.S. 7 CRF, Parts 210 and 220, which govern the school lunch and breakfast programs.

Under terms of the bill, those high schools which permit the sale/serving of soft drinks “during the school day” also would be required to sell and “make equally accessible to students healthy beverages.”

The proposed legislation states that “high schools may permit the sale of soft drinks during the school day except during breakfast and lunch periods.”

A third bill provision states that “profits from the sale of healthy

beverages offered through the school nutrition programs must accrue to the benefit of the nutrition programs.”

“Competitive food and beverage sales are prohibited in the food service areas during the meal service periods” as required by federal regulations.

There are five House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 14. Referred to House Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4548%20intr.htm

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

Higher Education

Deceased military personnel spouses' college benefit

Senate Bill 565. Proposed §18-19A-1, -2, -3 and -4 would authorize development of an educational opportunities benefit for spouses of deceased U.S. Armed Forces members or members of the U.S. military reserve components called to active duty for armed combat purposes.

There six Senate sponsors, including lead sponsor Sen. Russ Weeks, R-Raleigh. The bill originated in the Senate Military Committee Feb. 14. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb565%20org.htm

Members' terms on higher ed governing boards clarified

Senate Bill 577. Proposed revisions to §18B-2A-1, -2 would require members of the higher education governing boards to serve after their term of office if their successors have not been appointed or “qualified.”

The bill also establishes a quorum for the board as being a majority of the members of the governing board entitled to vote.

Sponsored by Sen. Jeffrey Kessler, D-Marshall. Introduced Feb. 15. Referred to Senate Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb577%20intr.htm

Colleges could join urban mass transit authorities

Senate Bill 583. Proposed amendments to §8-27-3, -4, -5 and §8-27-26 would include state-funded higher education governing bodies as entities eligible to participate in urban mass transit authorities.

Sponsored by Sen. Mike Oliverio, D-Monongalia. Introduced Feb. 15. Referred to Senate Education, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb583%20intr.htm

Also refer to **House Bill 4552.** It would designate Urban Mass Transportation Authorities as the transportation coordinating bodies for their respective service areas.

The legislation would amend §8-27-12.

Sponsored by Dels. Charlene Marshall and Robert Beach, both D-Monongalia. Introduced Feb. 14. Referred to House Roads and

Transportation Committee, then House Government Organization Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4552%20intr.htm

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

Ginseng bill also introduced in State Senate

Senate Bill 586. This is the Senate companion to **House Bill 4444.** It would permit land grant university researchers to perform research to plant ginseng seed and to gather ginseng on state public lands.

There are other provisions.

House Bill 4444 has six House sponsors, including lead sponsor Speaker Kiss. Introduced Feb. 7. Referred to House Agriculture and Natural Resources Committee, then House Education Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4444%20intr.htm

The proposed legislation would amend §19A-1A-3a.

There are 10 Senate sponsors, including lead sponsor Sen. White. Introduced Feb. 15. Referred to Senate Natural Resources Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb586%20intr.htm

“Experience increment” would apply to college faculty

Senate Bill 587. Proposed revisions to §5-5-1 would make West Virginia college/university faculty members eligible to receive the annual experience increment paid to state employees.

Sponsored by Sens. Edgell and Plymale. Introduced Feb. 16. Referred to Senate Education, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb587%20intr.htm

WVU-Tech would get first \$2 million of soft drink tax

House Bill 4519. Proposed revisions to §11-19-2 would earmark the first \$2 million collected annually from the state’s Soft Drinks Tax for the benefit of the West Virginia University Institute of Technology.

Sponsored by Del. Tom Louisos. Introduced Feb. 13. Referred to House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4519%20intr.htm

\$1 million could be set aside for tuition plan liability

House Bill 4547. Proposed revisions to §18-30-6 would increase from \$500,000 to \$1 million the amount of funds that could be transferred to the state’s Prepaid Tuition Trust Fund in order to eliminate any projected unfunded liability.

The amount transferred could not exceed the \$1 million per year, and would be transferred from the state Treasurer’s Unclaimed Property Trust Fund and deposited in the Prepaid Tuition Trust Escrow Fund.

There are other provisions.

There are eight House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 14. Referred to House Education, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4547%20intr.htm

WVU-Tech would be separate entity from WVU

House 4560. Proposed amendments to §18B-1-2 and §18B-2A-1 would remove West Virginia Institute of Technology from its merger with West Virginia University, returning WVU-Tech to its former status as a singular state institution of higher education.

Sponsored by Del. Louisos. Introduced Feb. 14. Referred to House Education, then House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4560%20intr.htm

Bill relates to rules for degree-granting institutions

House Bill 4603. Proposed amendments to §18B-17-2, -3 would implement legislative rules for the Higher Education Policy Commission (HEPC) and state Council for Community and Technical College Education as relating to “Authorization of Degree Granting Institutions.”

The rules are those filed in the State Register on Oct. 27, 2005.

Sponsored by Dels. Campbell and Williams. Introduced Feb. 16. Referred to House Education. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4603%20intr.htm

Similar proposals have been introduced/considered in previous legislative sessions

EDUCATION RELATED

Abortion

Written consent would be required for minor’s abortion

House Bill 4575. Proposed §16-2F-8a would require facilities providing abortions to obtain written notarized parental notification or consent before a minor could have an abortion.

Sponsored by Del. Sally Susman, D-Raleigh. Introduced Feb. 15. Referred to House Health and Human Resources Committee, then House Judiciary. http://www.legis.state.wv.us/bill_status/bstatmenux/bstatfrm.cfm

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

Child Welfare

Bill relates to child custody after divorce; ‘Parenting Act’

Senate Bill 612. Proposed §48-9A-101 et. seq. would establish the “Joint Parenting Act.”

These are among the several bill provisions:

- In cases of “marital dissolution” or “unmarried parentage,” the “policy of the state” is that “both parents enjoy a rebuttable presumption of joint legal and physical custody of their children,” with joint physical custody of children being defined as “equal time-sharing.”
- The burden of “overcoming the presumption rests on the parent challenging the presumption” which could be demonstrated by “an unfitness of the parent being challenged that would cause substantial harm to the children...”
- “Allegations of substance, spousal or child abuse or neglect and any subsequent issuance of protective orders are not sufficient to cause cessation or reduction of parent-child contact...” unless based on a “written finding of substantiated abuse...”

Abuse, neglect allegations

- An abuse allegation is considered substantiated if “affirmed using the clear and convincing evidentiary standard (and courts could not) limit parent-child contact during the pendency of custody determinations absent compelling necessity to prevent substantial and imminent harm to the child.”
- If a parent were to “knowingly make” false allegations of child/spousal abuse, that is sufficient grounds to “challenge parental fitness of the accuser.”
- Video/audio recording devices would be admissible as “tools to confirm ongoing patterns of abuse.”
- Courts could compel parents to submit a parenting plan that reflects “parental preferences and agreement on the matters of substance concerning the children’s education, upbringing and religious training.”
- If parents are unable to agree regarding the “important decisions affecting the child’s welfare,” they are to submit and abide by the decision of a “preselected mediator.”

Parental fitness

- Courts would have to consider various factors when determining “parental fitness,” including the “capacity and disposition of the parents to provide food, clothing and medical care,” love, affection, guidance and protection, etc., including the “home, school and community behavior of the child...”
- In “adversarial custody hearings,” the judge is to provide written findings of fact/conclusions of law that reflect which factors (such as those listed above) that would negate “maintenance of the rebuttable presumption of joint legal and physical custody” of a child or children.
- When parents enjoy joint legal and physical custody of children, either parent’s relocation with the children could occur only by “joint agreement of both parents.”

- If there is no relocation agreement, the “burden of overcoming the presumption against relocation is on the relocating parent... (and) a move from the children’s existing school district is considered relocation subject to all notice, response and hearing procedures.” (This process, including notice, is included in the proposed legislation.)
- A parent who would “(move) with the children before a signed, revised parenting plan is in place (would) be guilty of kidnapping and subject to criminal prosecution.”

‘Nonrelocating parent’

- Courts would have to consider several factors before allowing a relocating parent to “overcome the presumption against relocation with the children,” including “the parent’s motives for seeking the relocation,” access to “extended family support,” and matters relating to the “disruption... (that may be caused) to the day-to-day relationship between the nonrelocating parent and the children...”
- The bill establishes “Parenting time contempt” which would be applicable in cases where a parent prevents the other parent from having “their share of time with the children...”
- There are various fines and penalties for this offense, including required counseling, changes in custody, jail time, etc.
- In relocation cases, the parents would be responsible for their own legal fees.
- Courts have “subject matter jurisdiction” when “(intervening) to rescue the children” who are being adversely affected by custody arrangements, subject to several legal safeguards.
- Unedited audio/videotape recordings would be admissible as “evidence” in legal proceedings.
- There are other provisions.

There are four Senate sponsors, including lead sponsor Sen. Billy Wayne Bailey, D-Wyoming. Introduced Feb. 16. Referred to Senate Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb612%20intr.htm

The House companion measure is **House Bill 4621**. There are five House sponsors, including lead sponsor Del. J.D. Beane, D-Wood. Introduced Feb. 17. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4621%20intr.htm

Senate Bill 615, a related measure, would make several legal clarifications regarding child support.

Among its many provisions is a proposed section that would require magistrate courts to notify family courts of domestic violence emergency protective orders.

Again, the 26-page bill contains multiple provisions.

The measure originated in Senate Judiciary Feb. 16. There are 11 Senate sponsors, including lead sponsor Sen. Kessler. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb615%20org.htm

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

Infant breastfeeding would be permitted

Senate Bill 621. Similar to **House Bill 4457**, this legislation would allow infant breastfeeding in public.

Refer to the Feb. 13 issue of *The Legislature*. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4457%20intr.htm

Sponsored by Sen. Dan Foster, D-Kanawha. Introduced Feb. 17. Referred to Senate Health and Human Resources Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb621%20intr.htm

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

Males would be able to “contest” paternity allegation

Senate Bill 625. Proposed §48-18-105a would provide a method for males to contest allegations of biological parentage in cases of child support.

Parentage would be determined based on genetic testing.

In cases where, due to the genetic testing, the male is determined not to be the father of the child, he would be entitled to reimbursement for the testing by the child’s mother.

Women alleging a male to be the biological father of a child would have to submit a sworn paternity statement which, among other things, must acknowledge that a genetic paternity test is required to confirm paternity.

There are several other provisions.

There are four Senate sponsors, including lead sponsor Sen. Donna J. Boley, R-Pleasants. Introduced Feb. 17. Referred to Senate Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb625%20intr.htm

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

Passenger restraint required for children under age 9

House Bill 4542. Proposed amendments to §17C-15-46 would require the use of an appropriate child passenger restraint device for all children under age nine.

Sponsored by Dels. Mark Hunt, D-Kanawha, and Richard Browning, D-Wyoming. Introduced Feb. 14. Referred to House Roads and Transportation Committee, then House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4542%20intr.htm

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

Consolidated Public Retirement Bd

Tax info would have to be disclosed regarding disability

House Bill 4608. Proposed §11-10-5y would require the state Tax Commissioner to assist the Consolidated Public Retirement Board in its efforts to “ascertain whether individuals receiving disability retirement benefits...continue to be eligible to receive their disability retirement benefits.”

This objective would be accomplished through the Tax Commissioner’s disclosure of tax return information and the like.

There are six House sponsors, including lead sponsor Del. Beane. Introduced Feb. 17. Referred to House Pensions and Retirement Committee, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4608%20intr.htm

Crimes

Bill relates to solicitation to commit crime of violence

Senate Bill 540. Proposed §61-11-8a would create the offense of solicitation to commit a felony crime of violence against a person which would be applicable in cases involving first and second degree murder, malicious assault and battery, including malicious assault against a police officer, conservation officer or humane officer, among other authorities.

Those convicted of committing this crime would be guilty of a felony and could face up to a 15-year jail sentence.

This committee substitute originated in the Senate Judiciary Committee Feb. 15. There are six Senate sponsors, including lead sponsor Sen. Kessler. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/SB540%20SUB1.htm

Bill expands definition of “child abuse” and neglect

Senate Bill 584. Proposed revisions to §49-1-3 would expand the definition of child abuse and neglect to include children who are exposed to parents’ “abusive use of alcohol or any controlled drug or substance.”

The definition also would relate to “exposure by the parent...of the child to an environment that is being use for the manufacture, use, or distribution of methamphetamines or any other illegally manufactured controlled drug or substance.”

The bill also relates to fetal exposure to the a “parent’s” subjection to “prenatal exposure to abusive use of alcohol or any controlled substance not prescribed by a health practitioner.”

The bill would state, that for children under age 16, child abuse and neglect would include “engage(ing) in, attempt(ing) to engage in or knowingly procure(ing) another person to engage in, with the child, conduct such as sexual intercourse, sexual intrusion, or sexual contact” even in the child willingly participated in the activity or activities and suffered no apparent physical injury or mental or emo-

tional injury.

The same provisions would apply to children age 16 and above.

Another bill provision relates to one’s display his or her genitalia to the child for purposes of his or her sexual gratification or for the person making “the display,” or of the child, or for the purpose of affronting or alarming the child.

There are four Senate sponsors, including lead sponsor Sen. Roman W. Prezioso, D-Marion. Introduced Feb. 15. Referred to Senate Health and Human Resources, then Senate Judiciary Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb584%20intr.htm

‘No reasonable likelihood’

Also refer to **Senate Bill 624.** Proposed amendments to §49-6-5 would amend a section of Code relating to child abuse and neglect to include, as part of the statutory definition of “no reasonable likelihood that conditions of neglect or abuse can be substantially corrected,” to include “abusing” parents who are found to have had the child present in the “home or other facility during the manufacture, possession or distribution of a controlled substance...”

A proposed amendment to §61-8d-4 would provide a 10-35 year prison sentence for those who are convicted of violating the act.

The crime would be a felony.

Sponsored by Sen. John Unger, D-Berkeley. Introduced Feb. 17. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb624%20intr.htm

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

Measure relates to the making of bomb threats

House Bill 4543. Proposed amendments to §61-6-17 would increase the criminal fines for conviction of the crime of making a false bomb threat, with minors accused of making a false bomb threat to be tried as adults.

Those convicted of this crime would face a \$1000-\$5000 fine (currently \$100 - \$2,000) plus a possible jail sentence.

There are four House sponsors, including lead sponsor Del. Jeffery Tansill, R-Taylor. Introduced Feb. 14. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4543%20intr.htm

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

Bill concerns bond for crimes against family members

House Bill 4568. Proposed amendments to §62-1C-17 would authorize the courts to make it a condition of bond that the defendant “may not initiate contact with the victim or the complainant, come within (100) feet of the victim or complainant, enter the complainant’s residence, school, business, or place of employment.”

Thus, under terms of this proposal, specific statutory conditions are established for bond in cases involving a crime between family or household members rather than allowing the issuing authority to set bail conditions.

Sponsored by Del. John Ellem, R-Wood. Introduced Feb. 15. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4568%20intr.htm

Measure concerns sexual abuse by minors under 14

House Bill 4585. Proposed revisions to §49-5-13 would include a juvenile age 12 or older within the offense of third degree sexual abuse.

The juvenile court then could order the minor to undergo “medical and psychological examination” within 30 days of the finding.

The court is to review the “results of the examinations and, based upon the recommendations of the examining physician and psychologist, then “shall order the juvenile to receive treatment and counseling for (at least two years) aimed at addressing the juvenile’s responsibility for the act.”

Third degree sexual assault occurs when one subjects another person to sexual contact without the latter’s consent, or when the lack of the consent is due to the victim’s incapacity to consent by reason of being younger than age 16.

In prosecuting under provisions of this statute, a “defense” against third degree sexual assault can include the defendant being less than age 12 or that the defendant was less than one year older than the victim.

Those are proposed amendments to §61-8B-9.

There are five House sponsors, including lead sponsor Del. Susman. Introduced Feb. 16. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4585%20intr.htm

DMV could issue one-year licenses to sex offenders

House Bill 4627. Proposed amendments to §17B-2-3 would require registered sex offenders to obtain a driver’s license or identification card each year on their date of birth.

Persons who fail to comply with the statute would be guilty of a felony.

Sponsored by Del. Jack Yost, D-Brooke. Introduced Feb. 17. Referred to House Roads and Transportation Committee, then House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4627%20intr.htm

Bill provides means to commit sexual predators

House Bill 4631. Proposed §62-11D-1 et. seq. and proposed amendments to §15-12-1a, §15-12-2a and -2b would establish a procedure for involuntary civil commitment of sexually violent predators, including notification of the county prosecuting attorney who then may petition for the sexually violent predator’s commitment to a secure facility.

Sexually violent predators deemed to be less dangerous could be placed in less restrictive community settings.

The state Department of Health and Human Resources is responsible for providing secure facilities for sexually violent predators.

tors.

Under terms of the bill, a sexually violent predator could be committed for his or her life if he or she does not show improvement, as determined by the court.

There are several other provisions.

There are 11 bills relating to this topic. Refer to previous 2006 issues of *The Legislature* for more information.

Sponsored by Dels. Yost and Cliff Moore, D-McDowell. Introduced Feb. 17. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4631%20intr.htm

Elections

Election registration deadline would be revised

House Bill 4517. Proposed amendments §3-2-6 would change the registration deadline for voting until 30 days prior to the election (currently 21 days).

Another proposed revision relates to changing the nomination process for election officials, including nomination by municipal mayors according to the type of mayor designated by the city government plan established by its charter.

(Another proposed amendment would allow county clerks – rather than political party executive committees – to nominate poll clerks, election commissioners or alternates.)

Sponsored by Del. Jon Amores, D-Kanawha. Introduced Feb. 13. Referred to House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4517%20intr.htm

Governmental Entities

Division of Energy would be established; Commerce Dept.

Senate Bill 567. This proposal, which has numerous provisions, would establish a Division of Energy within the state Department of Commerce.

The Division would be responsible for developing state energy policy, including and emphasis on innovative alternative and traditional energy sources.

Among other duties, the Division would be responsible for submitting a state energy policy plan to the governor and the Legislature’s Joint Commission on Government and Finance.

There are numerous other provisions relating to Division operations, including development of energy “infrastructure and strategic resources that will ensure the continuity of governmental operations in situations of emergency, inoperativeness or disaster...”

The Division could appoint an executive director.

The proposed Division would be included in §5H-1-1 et. seq.

Under terms of bill provisions, the executive director would administer daily operations of the Public Energy Authority, the Office of Coalfield Community Development, and the Department of Commerce’s energy efficiency program.

The 28-page bill has numerous other provisions.

The measure originated in the Senate Transportation and Infrastructure Committee on Feb. 14. There are seven Senate sponsors, including lead sponsor Sen. Unger. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb567%20org.htm

Bill concerns fire department meet and confer rights

Senate Bill 573. Proposed §8-15B-1 et. seq. would establish meet and confer rights for members of fire departments employed by political subdivisions. (The bill amends a chapter of Code relating to municipalities.)

Among its many provisions, the bill provides for fire departments to have self-organization; to select an exclusive representative agent; to require a duty to meet and confer with employees; establishment of compulsory arbitration of disputes; and enumeration of various practices to which political subdivisions cannot engage, including refusal to “meet and confer in good faith.”

The measure also establishes various prohibited practices to which employee organizations would be prohibited, including “striking against or withholding their members’ services from a political subdivision...”

If a member does withhold his services, he could face a six month suspension without pay, with the agency to which he or she belongs losing its “right for six months to have the monthly amount of dues withheld for all its members’ pay by the employer.”

A writ of mandamus could be sought as a remedy to force compliance with the proposed statute in terms of firefighters’ organizations engaging in “prohibited acts.”

The Firefighters’ Civil Service Commission would have various other duties.

There are three Senate sponsors, including lead sponsor Sen. Jon Blair Hunter, D-Monongalia. Introduced Feb. 15. Referred to Senate Government Organization Committee, then Senate Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb573%20intr.htm

Vital Statistics Section would be created; numerous duties

Senate Bill 574. Proposed §16-5-1 et. seq. would establish a section of Vital Statistics within the Bureau for Public Health.

The Vital Statistics Section would have numerous duties, including developing “standards of security and confidentiality of vital records”: provisions for “inspection of evidence of adoption, annulment of adoption, legitimating or court determination of paternity”; recordkeeping relating to death certificates and related documents; and, “disclosure of confidential information for administrative, statistical or research purposes.”

The Bureau of Health Commissioner is to appoint a State Registrar of Vital Statistics.

The Registrar has numerous duties, including preparation of an annual report regarding “vital statistics of this state...”

“Local registrars”

Local vital statistics registrars could be appointed. Among other responsibilities, these individuals would “maintain records, make reports and perform other duties” prescribed by the Registrar.

One purpose of the proposed statute is to ensure uniformity in

terms of vital statistics records such as birth registrations, records relating to paternity (including rescission of paternity), registration of infants with specified birth defects, including spina bifida, hydrocephaly, and Down’s syndrome.

The Registrar “also would be responsible for certain some matters regarding birth records of missing children, including a requirement to “transmit any relevant information concerning the applicant’s identity, address and other pertinent data immediately to the relevant local law-enforcement agency.”

The office also would be responsible for maintaining records relating to children of unknown parentage.

The proposal has several sections dealing with records of deaths, certificates of adoption, paternity determination, as well as records regarding “reports of induced termination of pregnancy.”

The entity would handle disinterment and reinterment permits.

Confidential information

Proposed §16-5-27 would allow for disclosure of “confidential information contained in vital records and reports for statistical research purposes,” subject to several prohibitions designed to “protect integrity and to ensure the proper use of vital records or reports...”

The agency would be responsible for issuing certified copies of vital records to registrants, his or her parents, spouse, adult children, grandchildren or great-grandchildren, legal guardian, or “their respective authorized representative.”

Proposed §16-5-29 would allow the State Registrar to “furnish certified copies of birth and death records to state agencies and to organized charities free of charge when the certificates are needed in presenting claims to the federal government or to a state for public assistance...”

Other provisions include procedures for verification of Social Security numbers, matching of birth certificates, and various registrations such as those relating to marriage, divorce and annulments.

According to the bill note, the section has not been updated since 1982.

One purpose of the legislation, according to the bill note, is to “modernize (vital statistics recordkeeping) to comply with federal mandates for homeland security, identity theft and fraud protections.”

The 66-page legislative proposal includes a modest fee increase regarding records in order to support the “secure system of electronic recordkeeping,” according to the bill note.

Sponsored by Sen. Ed Bowman, D-Hancock. Introduced Feb. 15. Referred to Senate Health and Human Resources, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb574%20intr.htm

The House companion measure is **House Bill 4565**. There are four House sponsors, including lead sponsor Del. Beane. Introduced Feb. 15. Referred to House Government Organization, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4565%20intr.htm

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

Commission for a Drug-Free West Virginia created

Senate Bill 588. Proposed §7-4-6b would establish the Commission for a Drug-Free West Virginia, with the state Prosecuting Attorneys

Institute responsible for proposing legislative rules to “administer the commission.”

The commission would have 20 members, including representatives of “education,” civic or private organizations, business, the news media, “local government,” “self-help organizations,” etc.

The Commission’s purpose is to “improve the coordination of alcohol and other drug abuse efforts at both the state and local levels in an effort to eliminate duplication of efforts while ensuring that comprehensive alcohol and other drug programs are available throughout West Virginia...”

Interagency council

To accomplish these objectives, the Commission would establish an interagency council on drugs to “coordinate the alcohol and other drug education, prevention, treatment, and justice programming and funding responsibilities of state agencies, commissions, and boards including the approval of alcohol and other drug plans and funding applications by state agencies, commissions, and boards.”

Other duties include data collection, maintenance of “support systems” to help local coordinating councils to “identify community drug programs, coordinate community initiatives, design comprehensive, collaborative community strategies, and monitor anti-drug activities at the local level.”

The Commission also is responsible for recommending to the governor and Legislature “long and short range goals, objectives, and strategies...to reduce drug abuse.”

In order to effectuate its mission, the commission would facilitate creation of local coordinating councils to plan, monitor, and evaluate local comprehensive drug abuse programs.

There are other provisions.

Sponsored by Sen. Donald T. Caruth, R-Mercer. Introduced Feb. 16. Referred to Senate Health and Human Resources, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb588%20intr.htm

Measure concerns special prosecuting attorneys

Senate Bill 597. The purpose of this legislation, which would amend §7-4-6, would allow the Executive Director of the state Prosecuting Attorneys Institute to appoint the Attorney General, or an assistant attorney general (designated by the Attorney General), to serve as a special prosecuting attorney.

The county commission in which the special prosecutor is responsible would be responsible for “all expenses associated with the prosecution of...criminal action.”

There are other provisions.

Sponsored by Sen. Truman Chafin, D-Mingo. Introduced Feb. 16. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb597%20intr.htm

“Lincoln’s Day” would be established as holiday

Senate Bill 603. Proposed revisions to §2-2-1 would establish the fourth Friday of November as “Lincoln’s Day.”

That is the Friday following Thanksgiving.

There are four Senate sponsors, including lead sponsors Sen. Caruth. Introduced Feb. 16. Referred to Senate Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb603%20intr.htm

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

State’s behavioral health system would be studied

Senate Bill 629. Companion to **House Bill 4488**, this legislation would require a study of the state’s behavioral health system.

For reference to the House Bill, refer to the Jan. 13 issue of *The Legislature*.

Sponsored by Sen. Prezioso. Introduced Feb. 17. Referred to Senate Health and Human Resources, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb629%20intr.htm

Bill relates to Deaf/Hard-of-Hearing Commission

House Bill 4510. This legislation would remove the requirement that the state Commission for the Deaf and Hard-of-Hearing conduct and maintain a census of both populations in West Virginia.

There are 11 House sponsors, including lead sponsor Speaker Kiss. Introduced Feb. 13. Referred to House Government Organization. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4510%20intr.htm

County impact fees would be able to fund local libraries

House Bill 4511. Proposed §7-20-3a would expand the definition of “capital improvements and services” which may be funded by county impact fees to include libraries, library services and “affordable housing for individuals or families of low or moderate income...”

The latter would be “pursuant to a program to provide affordable housing that is authorized by law and approved by the county commission.”

Sponsored by Del. John Doyle, D-Jefferson. Introduced Feb. 13. Referred to House Political Subdivisions Committee, then House Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4511%20intr.htm

Development ‘activities’ might face possible denials

House Bill 4512. Proposed §7-20-3a would counties, municipalities, or planning commissions (in areas where impact fees are charged) to deny authorization for a development “activity” if any of the entities of government determine that adequate public facilities, assets and services are not available to support the activity or activities.

Additionally, the proposal expands the list of facilities and services which must be available to include libraries and library services.

Sponsored by Del. Doyle. Introduced Feb. 13. Referred to House Political Subdivision Committee, then House Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4512%20intr.htm

Public Employees Ins. Agency

PEIA would cover mammograms

Senate Bill 477. This committee substitute would provide for insurance coverage for medically-indicated mammograms, pap smears and human papillomavirus testing for purposes of cancer detection.

Specific Code citations include the Public Employees Insurance Agency (PEIA) as being responsible for providing this type coverage.

There are nine Senate sponsors, including lead sponsor Sen. Prezioso. Originating in Senate Health and Human Resources Feb. 17. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/SB477%20SUB1.htm

Premiums would not exceed 50% of retiree's annuity

Senate Bill 589. Proposed amendments to §5-16-5 would prohibit the PEIA Finance Board from setting a retired employee's premium at an amount more than 50 percent of the retiree's annuity (public retirement plan) as administered by the Consolidated Retirement Board.

Sponsored by Sen. Caruth. Introduced Feb. 16. Referred to Senate Pensions, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb589%20intr.htm

PEIA would not cover abortion procedure

House Bill 4561. Proposed §5-16-7f would prohibit Public Insurance Agency coverage for medical or surgical abortion procedures.

Sponsored by Del. Perry. Introduced Feb. 14. Referred to House Health and Human Resources, then House Judiciary. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4561%20intr.htm

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

Retirees' PEIA plans not covered by current members

House Bill 4610. Proposed §5-16-5 would clarify that the cost of coverage for participating retirees receiving PEIA services may not be subsidized by participating active employees.

There are other provisions relating to cost-sharing percent-

ages between employers and employees, both active and retired, which would include employee premiums, copays, deductibles and out-of-pocket expenses.

There are other provisions.

There are 11 House sponsors, including lead sponsor Del. Perry. Introduced Feb. 17. Referred to House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4610%20intr.htm

Taxation

Some taxpayers would see \$10,000 Homestead reduction

House Bill 4591. Proposed amendments to §11-21-21 would increase the state property tax Homestead Exemption for low-income taxpayers who qualify for the Homestead Exemption by \$10,000.

There are four House sponsors, including lead sponsor Del. Campbell. Introduced Feb. 16. Referred to House Judiciary, then House Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4591%20intr.htm

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

Teachers Retirement System

TRS provisions would conform to federal tax cuts

Senate Bill 598. Proposed revisions to §18-7A-23 would bring provisions of the state Teacher's Retirement System into conformity with the Bush Administration's Economic Growth and Tax Reconciliation Act of 2001.

The bill relates to automatic rollovers for mandatory distributions exceeding \$1,000, thus maintaining the TRS' qualified plan status (Internal Revenue Service), according to the bill note.

The proposed legislation would delete provisions permitting mandatory distributions without participants' consent, so that the automatic rollover requirements of the 2001 federal law will not apply.

Sponsored by Sen. Foster. Introduced Feb. 16. Referred to Senate Pensions, then Senate Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb598%20intr.htm

Unemployment Compensation

Bill relates to "taxable wage base" for UC calculations

Senate Bill 560. Proposed revisions to §21A-1A-28 would change the method of calculating the taxable wage base for Unemployment Compensation at 36 percent of the state's average annual wage.

http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4537%20intr.htm

Sponsored by Sen. Bowman. Introduced Feb. 13. Referred to Senate Finance Committee. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/sb560%20intr.htm

Workers' Compensation

Criteria for intentional injury suits addressed

House Bill 4537. Proposed revisions to §23-4-2 would require an employer's actual knowledge of an unsafe working condition and an overt act by the employer in order for an employee to sustain a lawsuit for intentional injury under terms of Workers' Compensation statutes.

Various other bill provisions relate to allocation of permanent disability awards, requirements relating to determining the employee's negligence, and a requirement that plaintiffs prove their cases by clear and convincing evidence.

Sponsored by Del. Marshall. Introduced Feb. 13. Referred to Senate Judiciary, then Senate Finance. http://www.legis.state.wv.us/Bill_Text_HTML/2006_SESSIONS/RS/BILLS/hb4537%20intr.htm

Briefly

Senate Bill 558 is the governor's bill relating to compensation of state officials. **House Bill 4500** is the House version of that

legislation...Also refer to **House Bill 4620** which would increase the salary of the state Banking Commissioner...**Senate Bill 563** would regulate the advertising of legal services. There are numerous provisions...**Senate Bill 605** would relate to proof of payment of personal property taxes as a prerequisite for registering or renewing a vehicle or motorboat...Also refer to **Senate Bill 622**...**Senate Bill 606** would reduce the term of family court judges to four years...**Senate Bill 608** would increase the amount of funds transferred to the Special Operating Fund (state treasury) for the Auditor's Public Utilities Division, dedicating the increased amounts to pay for public utility litigation expenses. Also refer to the companion, **House Bill 4601**...**Senate Joint Resolution 11** would allow county and municipal excess levies to be approved by simple majority votes...would, among other things, some divisions of the Tax Department to conduct investigations, audits and "examinations." There are other provisions...**House Bill 4602** would limit the power of the state Parkways, Economic Development and Tourism Authority to establish toll rates on the West Virginia Turnpike. There are other provisions...**House Bill 4612** relates generally to the state Women's Commission, moving the agency from the state Department of Health and Human Resources to the governor's office...**House Bill 4615** would provide a pay increase to all state employees who did not receive a \$1,000 salary increase during the "2006 regular session"...**House Bill 4617** would phase-out the state's food tax over a 10-year period...**House Joint Resolution 113** would provide term limitations for legislators.

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Senate Bill 565 - would authorize development of educational opportunities for spouses of deceased US Armed Forces personnel; Senate Bill 577 - would clarify terms of higher education governing board members; Senate Bill 583 - would allow colleges/universities to join urban mass transit authorities; also refer to House Bill 4552 ; Senate Bill 586 - would permit land grant higher education institution researchers to perform research regarding ginseng; Companion measure is House Bill 44 ... Senate Bill 587 - would make West Virginia college/university faculty eligible for annual experience increment state employees receive; House Bill 4519 - would require first \$2 million from state Soft Drinks Tax to be used for benefit of West Virginia University Institute of Technology; House Bill 4547 - would allow \$1 million (currently \$500,000) to be transferred to the state's Prepaid Tuition Trust Fund in order to eliminate any projected unfunded liability; House Bill 4560 - would "separate" WVU-Tech from West Virginia University; House Bill	

4603 - would allow higher education legislative rules to be adopted as relating to degree-granting institutions.	
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or older within offense of third degree sexual assault; House Bill 4627 – would require registered sex offenders to obtain a driver’s license or identification card annually; House Bill 4631 – would establish a procedure for involuntary commitment of “sexually violent predators”; one of 11 such bills.

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House Bill 4517 – would change election registration deadline; other provisions relate to changes in nomination procedures for election officials.

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Senate Bill 567 – would establish a Division of Energy within the state Department of Commerce; **Senate Bill 573** – would establish meet and confer rights for firefighters; **Senate Bill 574** – would establish Vital Statistics Section within Bureau for Public Health; **House Bill 4565** is companion measure; **Senate Bill 588** – would establish commission for Drug-Free West Virginia; **Senate Bill 597** – would establish procedure for appointment of special prosecuting attorneys; **Senate Bill 603** – would establish Friday following Thanksgiving Day as “Lincoln’s Day”; **Senate Bill 629** – would require study of state’s behavioral health system; **House Bill 4510** – relates to state’s Commission for Deaf and Hard of Hearing and required census of both populations in West Virginia; **House Bill 4511** – would allow county impact fees to be used to support/fund libraries; **House Bill 4512** –

would allow local governmental entities to deny authorization for a development “activity” if adequate public facilities, assets and services are not available to support the development.

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Senate Bill 477 – would require PEIA coverage for mammograms, pap smears, and human papillomavirus testing (cancer detection); **Senate Bill 589** – would disallow PEIA premiums from exceeding 50 percent of retirees’ retirement annuity; **House Bill 4561** – ‘would prohibit PEIA coverage for abortion procedures; **House Bill 4610** – would clarify that the cost for coverage for participating retirees receiving PEIA services may not be subsidized by participating active employees.

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Future Meetings

Orientation '06
 June 14-16, 2006
 Stonewall Resort, Roanoke

WVSBA Fall Conference '06
 Sept. 22-23, 2006
 Charleston Marriott

2006 Legislative Calendar

- ✓ **1st Day** – Jan. 11: Second Regular Session 77th West Virginia Legislature Convenes/State of the State Address. (WV Const. Art. VI, §18)
- ✓ **20th Day** – Jan. 30: Submission of Legislative Rule-Making Review bills due. (WV Code §29A-3-12)
- ✓ **41st Day** – Feb. 20: Last day to introduce bills in Senate. Does not apply to originating or supplementary appropriation bills. Does not apply to Senate resolutions or concurrent resolutions. (Senate Rule 14)
- 45th Day** – Feb. 24: Last day to introduce bills in House of Delegates. Does not apply to originating or supplementary appropriation bills. Does not apply to House resolutions or concurrent resolutions. (House Rule 91a)
- 47th Day** – Feb. 26: Bills due out of committees in house of origin to ensure three full days for readings.
- 50th Day** - March 1, 2006: Last day to consider bill on third reading in house of origin. Does not include budget or supplementary appropriation bills. (Joint Rule 5b.)
- 60th Day** - March 11: Adjournment at midnight. (WV Const. Art. VI, §22)

From West Virginia Legislature, West Virginia Association of Counties, West Virginia School Boards Association

2006 Affiliates

Exemplary Affiliates

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Bills Reviewed Feb. 13-17, 2006

SENATE

Senate Bill 127	Senate Bill 588
Senate Bill 477	Senate Bill 589
Senate Bill 540	Senate Bill 597
Senate Bill 549	Senate Bill 598
Senate Bill 560	Senate Bill 603
Senate Bill 565	Senate Bill 611
Senate Bill 567	Senate Bill 612
Senate Bill 570	Senate Bill 615
Senate Bill 573	Senate Bill 620
Senate Bill 574	Senate Bill 621
Senate Bill 577	Senate Bill 624
Senate Bill 583	Senate Bill 625
Senate Bill 584	Senate Bill 626
Senate Bill 586	Senate Bill 629
Senate Bill 587	

HOUSE

House Bill 4501	House Bill 4552
House Bill 4510	House Bill 4560
House Bill 4511	House Bill 4561
House Bill 4512	House Bill 4564
House Bill 4515	House Bill 4565
House Bill 4517	House Bill 4568
House Bill 4518	House Bill 4573
House Bill 4519	House Bill 4575
House Bill 4533	House Bill 4578
House Bill 4535	House Bill 4585
House Bill 4537	House Bill 4591
House Bill 4540	House Bill 4603
House Bill 4542	House Bill 4608
House Bill 4543	House Bill 4610
House Bill 4544	House Bill 4619
House Bill 4546	House Bill 4623
House Bill 4547	House Bill 4627
House Bill 4548	House Bill 4631

The Legislature

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