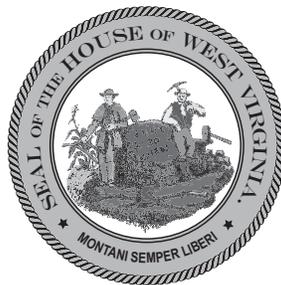


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Third Legislature
First-Extraordinary Session

Held at Charleston
Published by the Clerk of the House



May 20, 2018
FIRST DAY

West Virginia Legislature
Journal of the House of Delegates
Eighty-Third Legislature
First Extraordinary Session

Charleston, Sunday, May 20, 2018

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

Pursuant to the Proclamation of His Excellency, the Governor, issued the eighteenth day of May, 2018, and hereinafter set forth, convening the Legislature in Extraordinary Session on the twentieth day of May, 2018 at 6:00 p.m., the House of Delegates assembled in its Chamber in the Capitol Building in the City of Charleston and was called to order by the Speaker, the Honorable Tim Armstead.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

Messages from the Executive

A communication was laid before the House of Delegates, which was read by the Clerk as follows:

STATE OF WEST VIRGINIA

Jim Justice
Governor of West Virginia

March 22, 2018

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Pursuant to W. Va. Code § 3-10-5, I have this day appointed Sharon Lewis Malcolm, 303 Beacon Terrace, Charleston, Kanawha County, West Virginia 25825, as a Delegate representing the Thirty-Ninth District of the House of Delegates, to fill the vacancy created by the resignation of the Honorable Ron Walters.

Sincerely,

Jim Justice,
Governor.

The Clerk announced that Delegate Malcolm had taken the oath of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on March 30, 2018.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 570**), and 90 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Blair, Espinosa, Gearheart, Hartman, Higginbotham, Hill, Lane, McGeehan, White and Wilson.

Messages from the Executive

The Speaker laid before the House of Delegates a Proclamation of His Excellency, the Governor, convening the Legislature in extraordinary session, which was read by the Clerk.

A P R O C L A M A T I O N

By the Governor

I, JIM JUSTICE, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby call the West Virginia Legislature to convene in Extraordinary Session at six p.m. on the twentieth day of May, Two Thousand Eighteen, in its chambers in the State Capitol, City of Charleston, for the limited purpose of considering and acting upon the following matters:

FIRST: A bill that continues the Division of Culture and History as the Department of Arts, Culture and History with a Curator of Arts, Culture and History, and that organizes the West Virginia Education Broadcasting Authority and the State Library Commission within the department; and

SECOND: A bill to amend sections contained in Enrolled Committee Substitute for Senate Bill 625 to eliminate the one-payment requirement and provide for a distribution of payments consistent with intestate statutes if there is no beneficiary designated by the decedent, and to provide a retroactive effective date of January 1, 2018; and

THIRD: A bill to amend sections contained in Enrolled Committee Substitute of House Bill 4015 to address technical issues, provide clarifying language, and modify rulemaking and reporting requirements; and

FOURTH: A bill to amend sections contained in Enrolled Committee Substitute for House Bill 4169 to correct technical issues, provide rulemaking authority, provide clarifying language, and modify criminal penalties; and

FIFTH: A bill returning to original introduced language for Section 7.A.2 and 7.A.3; 7.C.5; Section 9.A; and Section 10.D.2; all contained in WV Code 30-41-2 in Enrolled Committee Substitute for Senate Bill 456; and

SIXTH: A bill to modify dates and deadlines related to the sale of tax delinquent property; and

SEVENTH: A supplemental appropriation bill to fund 0407; fiscal year 2019, organization 0506, of the Department of Health and Human Resources - Division of Health - Central Office; and

EIGHTH: A surplus supplemental appropriation bill to fund 0433, fiscal year 2018, organization 0603, of the Department of Military Affairs and Public Safety - Adjutant General - State Militia; and to

fund 0546, fiscal year 2018, organization 0620, of the Department of Military Affairs and Public Safety - Division of Justice and Community Services; and

NINTH: Legislation authorizing and appropriating the expenditure of public funds to pay the expenses for the Extraordinary Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this eighteenth day of May, in the year of our Lord, Two Thousand Eighteen, and in the One Hundred Fifty-Fifth year of the State.

Jim Justice,
Governor

By the Governor

Mac Warner,
Secretary of State

Messages from the Senate

A message from the Senate, by Senators Maynard, Romano and Sypolt announced that the Senate had assembled with a quorum present, and was ready to proceed with the business of this session.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamation by which it had been called together.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Ambler, Sypolt and Lynch.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three, to join with a similar committee on the part of the Senate, to inform His Excellency, the Governor, that the Legislature had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamation.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Kelly, Sobonya and Hicks.

**Messages from the Executive
and Other Communications**

A communication was laid before the House of Delegates, which was read by the Clerk as follows:

House of Delegates
West Virginia Legislature
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305

March 28, 2018

The Honorable Tim Armstead
Speaker, WV House of Delegates
Building 1, Room 228M
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Speaker Armstead,

I, Marshall W. Clay, do hereby resign my position as West Virginia House of Delegates Sergeant at Arms effective Sunday, April 1, 2018 at 11:59 p.m.

It has been an honor and privilege to serve in this position and under your leadership.

Sincerely,

Marshall W. Clay

STATE OF WEST VIRGINIA

Jim Justice
Governor of West Virginia

May 20, 2018

**HOUSE EXECUTIVE MESSAGE NO. 1
2018 FIRST EXTRAORDINARY SESSION**

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Building 1, Room M-228
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Speaker Armstead:

The following amends and replaces the FY 2018 "General Revenue Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 10, 2018 as part of my Budget Document for the fiscal year ending June 30, 2019:

General Revenue Fund
Statement of Revenues, Expenditures, and Changes in Cash Balance
(Nearest Dollar)

Actual Beginning Cash Balance July 1, 2017	\$398,066,711
Less: 31 Day Disbursements (July 1, 2017 - July 31, 2017)	(35,856,031)
Plus: Prior Year Reimbursements (July 1, 2017 - July 31, 2017)	20
Less: Prior Year Appropriations Forwarded	(285,143,465)
Less: Cash Balance - Adjustments and Accruals	<u>(1,023,695)</u>
Accumulated Surplus from FY 2017@ July 31, 2017	\$76,043,540
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	(38,021,770)
Less: FY 2018 Surplus Appropriation (FY 2018 Budget Bill)	(38,021,770)
Plus: FY 2018 Surplus Appropriation (2018 Regular Session) SB633 (Expire Special Rev)	1,620,000
Less: FY 2018 Surplus Appropriation (2018 Regular Session) SB633	(1,620,000)
Plus: Prior Year Reimbursements and adjustments (August 1, 2017 - May 15, 2018)	2,586,819
Less: Recommended FY 2018 Surplus Appropriations (2018 1st Special Session)	<u>(1,050,000)</u>
Estimated Unappropriated Surplus Balance @ June 30, 2018	\$1,536, 819
Plus: FY 2018 Revenue Estimate	\$4,225,050,000
Less: FY 2018 Appropriations	(4,225,050,000)
Plus: FY 2018 Appropriations (FY 2018 Budget Bill) veto	<u>0</u>
Estimated Unappropriated Balance from FY 2018 Activity @ June 30, 2018	\$0
Plus: FY 2019 Revenue Estimate	\$4,439,920,000
Less: FY 2019 Appropriations (FY 2019 Budget Bill) (2018 Regular Session)	<u>(4,381,808,884)</u>

Estimated Unappropriated Balance from FY 2019
Activity @ June 30, 2019

\$58,111,116

Total Estimated Unappropriated Balance @ June 30, 2019

\$59,647,935

Note: General Revenue FY2019 Surplus Appropriations of up to \$13,765,000 are to be appropriated from any available surplus balance at the end of FY 2018.

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice,
Governor.

Bills Introduced

Bills were introduced, pursuant to House Rule 92, as follows:

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 101 - "A Bill to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended, as contained in Chapter 105, Acts of the Legislature, Regular Session, 2018; and to amend and reenact §29-1-1 and §29-1-2 of said code, all relating to the Division of Culture and History continuing as the Department of Arts, Culture and History; providing that the Library Commission and the West Virginia Educational Broadcasting Authority shall be organized within the Department of Arts, Culture and History for administrative support; providing that any references throughout this code to the 'Commissioner of Culture and History' means the 'Curator of Arts, Culture and History' and any references throughout this code to the 'Division of Culture and History' means the 'Department of Arts, Culture and History'; organizing the Department of Arts, Culture and History as a separate independent agency within the Executive Branch; continuing the Commissioner of Culture and History as the Curator of Arts, Culture and History; specifying that the curator reports directly to Governor in furtherance of purposes and duties of the department; specifying the role of the curator; specifying that the curator is to represent the department as a full participating member in meetings of department secretaries convened by the Governor."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 101) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 102 - "A Bill to amend and reenact §5H-1-2 of the Code of West Virginia, 1931, as amended, as contained in Chapter 211, Acts of the Legislature, Regular Session, 2018, relating to the West Virginia Fire, EMS, and Law-Enforcement Officer Survivor Benefit Act; creating a retroactive effective date; deleting a one-payment requirement for the benefit; requiring benefit distribution be consistent with the intestate statutes when no beneficiary documents are found; requiring the fire, EMS, or law-enforcement program to provide documentation of surviving spouse, descendants or parents of the decedent; and correcting terms for consistency of requirements."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 102) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 103 - "A Bill to amend and reenact §5A-12-5, §5A-12-6, §5A-12-7, and §5A-12-10 of the Code of West Virginia, 1931, as amended, as contained in Chapter 106, Acts of the Legislature, Regular Session, 2018; and to amend and reenact §17A-3-23, §17A-3-25, and §17A-3-26 of said code, as contained in Chapter 106, Acts of the Legislature, Regular Session, 2018, all relating to the management and inventory of state vehicles; requiring spending units to prepare and maintain a list of all employees provided a state vehicle that sets forth the specific bona fide noncompensatory business reasons for which the state vehicle is being provided to each employee and submit such list to the fleet management division; modifying vehicle log requirements; modifying reporting requirements; eliminating language related to perjury penalties; and eliminating provisions related to traffic citations."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 103) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 104 - "A Bill to amend and reenact §15-9A-4 of the Code of West Virginia, 1931, as amended, as contained in Chapter 216, Acts of the Legislature, Regular Session, 2018, relating to modifying the type of businesses and establishments required to post human trafficking assistance notices; modifying the criminal penalties for failure to comply with posting of notices once given notice of lawful duty to post; providing that a business or establishment that does not correct a violation within 30 days from the receipt of notice is guilty of a misdemeanor and, upon a first conviction thereof, shall be fined not more than \$250; and providing that a second or subsequent conviction is punishable by a fine of not less than \$250 nor more than \$500."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 104) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 105 - "A Bill to amend and reenact §30-41-2 of the Code of West Virginia, 1931, as amended, as contained in Chapter 177, Acts of the Legislature, Regular Session, 2018, related to creating the Physical Therapy Licensure Compact Act; establishing Commission rule-making authority; providing for legal enforcement of compact rules and provisions; and establishment of proper venue, and retention of sovereign immunity."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 105) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 106 - "A Bill to amend and reenact §11A-3-19, §11A-3-20, §11A-3-23, §11A-3-27, §11A-3-55, §11A-3-56 and §11A-3-59 of the Code of West Virginia, 1931, as amended, all relating generally to purchasers of liens securing a deed; amending dates and timeframes for securing deeds; allowing property to be redeemed prior to recording of deed; and amending the timeframe for notice to be provided or published."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 106) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 107 - "A Bill supplementing and amending the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2019, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 107) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 108 - "A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, Adjutant General – State Militia, fund 0433, fiscal year 2018, organization 0603, and to the Department of Military Affairs and Public Safety, Division of Justice and Community Services, fund 0546, fiscal year 2018, organization 0620, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 108) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Delegates Pushkin, Bates, Ferro, Barrett, Caputo, Byrd and Williams:

H. B. 109 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §16B-1-1, §16B-1-2, §16B-1-3, §16B-1-4, §16B-1-5, §16B-1-6, §16B-1-7 and §16B-1-8, all relating to the Medical Cannabis Banking Act; stating the short title; defining terms; requiring the Treasurer to create a closed-loop system to accept moneys and payments; requiring vendors to comply with all federal, state and local laws, regulations and rules; establishing various requirements for the closed-loop system and matters the system should prohibit; authorizing the Treasurer to determine payment methods and to withdraw any funds due the state; establishing that a financial institution does not have to qualify as a state depository; determining that actions under the Act are not unlawful; prohibiting the commissioner of financial institutions from impairing operations of financial institutions under the Act; indemnifying the Treasurer and employees of the Treasurer's office when acting within the scope of their duties under the Act; authorizing fees; exempting confidential information from the freedom of information act; authorizing the bureau of public health and law enforcement access to the closed-loop system and all information under the Act; authorizing others approved by the Treasurer to access the closed-loop system and information under the Act upon execution of a nondisclosure agreement; establishing that the Act controls over the Medical Cannabis Act; and determining that proprietary interests are subject to the uniform unclaimed property act."

Speaker Armstead stated that, based on past practice of the House, he reserved the right to rule regarding whether the bill was within the scope of the Proclamation of the Governor if the bill comes to the floor for further consideration.

Delegate Caputo asked unanimous consent that reference of the bill to a committee be dispensed with, and the bill be taken up for immediate consideration and read a first time which consent was not granted, objection being heard.

Delegate Caputo then so moved.

On this question, the yeas and nays were taken (**Roll No. 571**), and there were—yeas 32, nays 56, absent and not voting 12, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Marcum, R. Miller, Moye, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Thompson and Williams.

Absent and Not Voting: Blair, Espinosa, Gearheart, Hartman, Higginbotham, Hill, Lane, McGeehan, Miley, Sponaugle, White and Wilson.

So, two thirds of the members present and voting not having voted in the affirmative, the motion was rejected.

The Speaker referred the bill to the Committee on Health and Human Resources then Banking and Insurance then Finance.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blair, Espinosa, Gearheart, Hartman, Higginbotham, Hill, Lane, McGeehan, White and Wilson.

Miscellaneous Business

Delegate Fluharty filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 109.

At 7:05 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, May 21, 2018.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Monday, May 21, 2018

2nd Day

11:00 A. M.

SECOND READING

- H. B. 101 - Reestablishing the Division of Culture and History as the Department of Arts, Culture and History (JULY 1, 2018)
- H. B. 102 - Relating to the West Virginia Fire, EMS, and Law-Enforcement Officer Survivor Benefit Act (EFFECTIVE FROM PASSAGE)
- H. B. 103 - Relating to the management and inventory of state vehicles (JULY 1, 2018)
- H. B. 104 - Modifying the type of businesses and establishments required to post human trafficking assistance notices (REGULAR)
- H. B. 105 - Relating to the Physical Therapy Licensure Compact Act (EFFECTIVE FROM PASSAGE)
- H. B. 106 - Relating to securing a real estate deed by a purchaser of a tax lien (EFFECTIVE FROM PASSAGE)
- H. B. 107 - Supplementing and amending the appropriations to the Department of Health and Human Resources (EFFECTIVE FROM PASSAGE)
- H. B. 108 - Supplementing and amending the appropriations to the Department of Military Affairs and Public Safety (EFFECTIVE FROM PASSAGE)

HOUSE CALENDAR

Monday, May 21, 2018

2nd Day

11:00 A. M.

NO BILLS

**WEST VIRGINIA
HOUSE OF DELEGATES**

MONDAY, MAY 21, 2018

HOUSE CONVENES AT 11:00 A.M.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470