

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
EIGHTH DAY

Charleston, West Virginia, Wednesday, January 17, 2018

The Senate met at 11:13 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Rabbi Victor H. Urecki, B'nai Jacob Synagogue, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Randy E. Smith, a senator from the fourteenth district.

Pending the reading of the Journal of Tuesday, January 16, 2018,

At the request of Senator Plymale, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 53, Correcting code reference in regard to certain handgun safety and training requirements.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 53 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to correcting incorrect code reference resulting from recent amendment to said code exempting certain persons from prohibitions against carrying concealed handguns or deadly weapons on the property of another.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 62, Adjusting requirements for hiring school attendance directors.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Kenny Mann,
Chair.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 98, Creating incentives to consolidate local governments.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 98 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §7-11B-3, §7-11B-4, and §7-11B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §7A-2-4 of said code; and to amend said code by adding thereto a new section, designated §7A-2-5, all relating to incentives for consolidating local governments; amending the definition of certain terms to include municipalities that successfully consolidated; granting additional powers to governing bodies of municipalities that successfully consolidated; authorizing municipalities that successfully consolidate additional powers related to creation of a development or redevelopment district; allowing consolidation of local governments to include public school districts, library districts, and fire districts; creating certain incentives for municipalities that consolidate; creating certain incentives for counties that consolidate; and creating certain incentives for municipalities and counties that form metro governments by consolidation.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 110, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 110 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-7-13 of the Code of West Virginia, 1931, as amended, relating generally to private club licensees; continuing Alcohol Beverage Control Enforcement Fund; requiring a private club licensee to timely notify emergency medical services or law enforcement of a life-threatening medical emergency occurring on the licensee's premises; authorizing sanctions against licensees' failing to notify such personnel as required; requiring a licensee to notify the Alcohol Beverage Control Administration within 48 hours of the occurrence of a life-threatening emergency; permitting the commissioner to sanction a licensee for failing to comply with the 48-hour notification requirement; providing examples of life-threatening medical emergencies; authorizing the promulgation of emergency rules; and requiring promulgation of proposed legislative rules.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 133, Exempting renewal of certain contracts entered into during declared state of emergency.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 133 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-3c, relating to exempting certain contracts related to recovery from a declared state of emergency from purchasing requirements; clarifying exemption from purchasing requirements for certain contracts entered into during declared state of emergency; exempting from purchasing requirements renewals of certain contracts entered into during declared state of emergency; exempting purchase of goods or services from federal government or agency when goods and services are directly and solely related to recovery from declared state of emergency; requiring Director of Division of Homeland Security and Emergency Management to certify eligibility for exemption; setting forth record-keeping requirements; and defining the term "directly and solely related".

With the recommendation that the committee substitute do pass.

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 134, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 134 (originating in the Committee on Government Organization)—A Bill to amend and reenact §15-5-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Homeland Security and Emergency Management to contract with or employ individuals and contract for goods for the purpose of emergency response and recovery; and providing requirements for such contracts or employment.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 134), under the original double committee reference, was then referred to the Committee on Finance.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 150, Relating to wind power projects.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Randy E. Smith,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 155, DEP rule relating to standards of performance for new stationary sources.

Senate Bill 156, DEP rule relating to control of air pollution from combustion of solid waste.

Senate Bill 157, DEP rule relating to control of air pollution from municipal solid waste.

Senate Bill 158, DEP rule relating to control of air pollution from hazardous waste treatment, storage and disposal facilities.

Senate Bill 159, DEP rule relating to emission standards for hazardous air pollutants.

Senate Bill 160, DEP rule relating to ambient air quality standards.

Senate Bill 162, DEP rule relating to voluntary remediation and redevelopment.

Senate Bill 163, DEP rule relating to hazardous waste management system.

And,

Senate Bill 164, DEP rule relating to underground storage tanks.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Randy E. Smith,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 165, DHHR rule relating to hospital licensure.

Senate Bill 166, DHHR rule relating to food establishments.

Senate Bill 168, DHHR rule relating to emergency medical services.

Senate Bill 170, DHHR rule relating to development of methodologies to examine needs for substance use and disorder treatment facilities.

And,

Senate Bill 171, DHHR rule relating to collection and exchange of data related to overdoses.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Tom Takubo,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 167, DHHR rule relating to public water systems.

And has amended same.

And,

Senate Bill 169, DHHR rule relating to WV clearance for access.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Tom Takubo,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 263, Eliminating film tax credits.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senators Rucker, Azinger, Baldwin, Blair, Boley, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Ojeda, Romano, Smith, Trump, Woelfel, and Plymale:
Senate Bill 302—A Bill to amend and reenact §7-3-2a of the Code of West Virginia, 1931, as amended, relating to the size requirements for flags that county commissions must purchase and display.

Referred to the Committee on Government Organization.

By Senators Carmichael (Mr. President), Prezioso, Gaunch, Plymale, and Boso:
Senate Bill 303—A Bill to amend and reenact §5A-3-33c, §5A-3-33d, §5A-3-33e, and §5A-3-33f of the Code of West Virginia, 1931, as amended, all relating to debarment of vendors seeking to provide goods and services to the state and its subdivisions; updating the duties of the Director of Purchasing; specifying additional grounds for debarment of a vendor; providing that actions of an individual may be imputed to a vendor under certain circumstances; providing for the debarment of individuals in addition to vendor businesses; providing for the debarment of subcontractors; specifying mandatory conditions for the initiation of debarment proceedings; prohibiting vendor employment of debarred individuals; and prohibiting the state from contracting with, or soliciting bids from, certain parties related to debarred vendors.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Carmichael (Mr. President), Takubo, Blair, and Plymale:
Senate Bill 304—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §18-5D-1, §18-5D-2, §18-5D-3, §18-5D-4, §18-5D-5, §18-5D-6, §18-5D-7, §18-5D-8, §18-5D-9, §18-5D-10, §18-5D-11, and §18-5D-12; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-20-5 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to the authorization of the establishment of charter schools; including charter school employees as covered by the Public Employees Insurance Act; establishing charter school employees' permissive participation in PEIA; establishing charter school employee eligibility for the State Teachers Retirement System; establishing charter school employee eligibility for the Teachers' Defined Contribution Retirement System; providing the legislative purpose and intent; defining terms; authorizing the establishment of public charter schools beginning in 2018-2019; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; establishing requirements for charter school contracts; establishing process for renewal, nonrenewal, and revocation of contracts, including required rules by the State Board of Education; establishing funding for charter school enrollment; creating appeals process for the denial of a charter application, the nonrenewal of a charter contract, or the revocation of a charter contract; creating prohibitions; establishing reporting requirements; providing that appropriation will be disbursed to the public charter schools to serve the needs of exceptional children; and including public charter schools in coverage by the Board of Risk and Insurance Management.

Referred to the Committee on Education; and then to the Committee on Finance.

By Senators Smith, Jeffries, Weld, Plymale, Baldwin, Cline, and Boso:
Senate Bill 305—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27; to amend said code by adding thereto a new section, designated §26-5-2; and to amend said code by adding thereto a new section, designated §26-9-3, all relating to providing long-term care and substance abuse treatment; authorizing the

Secretary of the Department of Health and Human Resources to modernize or build new facilities; requiring certified beds for long-term care and substance abuse treatment; requiring facilities for outpatient substance abuse treatment; requiring the hiring of adequate professional classified staff; and replacing an outdated reference in said code to Pinecrest Hospital with the correct name of Jackie Withrow Hospital.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Karnes, Azinger, Clements, Mann, Maroney, Maynard, Rucker, Swope, Stollings, Blair, Cline, and Boso:

Senate Bill 306—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-8-36, relating to allowing grocery stores to sell a certain amount of West Virginia-made wine without having a license to sell wine or liquor.

Referred to the Committee on Economic Development; and then to the Committee on Government Organization.

By Senators Trump, Blair, Plymale, and Boso:

Senate Bill 307—A Bill to amend and reenact §17-16-1 of the Code of West Virginia, 1931, as amended, relating to declaring a “boot drive” conducted on a state highway or roadway within the boundaries of a municipality by a volunteer fire department is not an obstruction or a nuisance.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

By Senators Smith, Jeffries, Sypolt, and Cline:

Senate Bill 308—A Bill to amend and reenact §46A-6B-3 of the Code of West Virginia, 1931, as amended, relating to the use of aftermarket crash parts by a motor vehicle repair shop; and requiring new original equipment parts be used in order to maintain the manufacturer’s warranty.

Referred to the Committee on the Judiciary.

By Senator Karnes:

Senate Bill 309—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-22-26, relating to outdoor advertising regulated by the Commissioner of Highways; providing exemption to licensing requirement for a person to place signs, displays, or devices advertising events to be held no more frequently than once a year at locations other than where the event will be held; establishing the Temporary Sign Placement License program; and requiring rulemaking.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

Senators Ferns, Carmichael (Mr. President), Weld, Stollings, Beach, Plymale, and Boso offered the following resolution:

Senate Concurrent Resolution 6—Encouraging and supporting the construction of a Gold Star Families Memorial Monument on the West Virginia State Capitol grounds.

Whereas, The mission of the Hershel “Woody” Williams Medal of Honor Foundation is to honor Gold Star families, relatives, and children by building Gold Star Families Memorial Monuments

throughout the United States, by offering scholarships to Gold Star children, by sponsoring outreach programs and events, and by educating communities about Gold Star families and the sacrifice they have endured; and

Whereas, The goal of the Gold Star Families Memorial Monument initiative is to establish a Gold Star Families Memorial Monument in all 50 states for the purpose of honoring Gold Star families, preserving the memory of the fallen, and to stand as a stark reminder that freedom is not free; and

Whereas, Through its core values of courage, sacrifice, patriotism, citizenship, integrity, and commitment, the Hershel “Woody” Williams Medal of Honor Foundation will honor Gold Star families in West Virginia by building this monument on the grounds of the West Virginia State Capitol; and

Whereas, Per capita, more citizens from West Virginia have served in our nation’s armed forces than from any other state, and this monument will honor those West Virginia families who sacrificed a loved one for our freedom; and

Whereas, On behalf of the citizens of West Virginia, it is fitting that we offer this resolution in support of the Hershel “Woody” Williams Medal of Honor Foundation and West Virginia Gold Star families for the important work they do and in honor of the sacrifices they have made; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby encourages and supports the construction of a Gold Star Families Memorial Monument on the West Virginia State Capitol grounds; and, be it

Further Resolved, That the Legislature will work with the Hershel “Woody” Williams Medal of Honor Foundation, the Governor of West Virginia, the Honorable Jim Justice, and all other entities involved to ensure the construction of the Gold Star Families Memorial Monument on the West Virginia State Capitol grounds; and, be it

Further Resolved, That the Legislature extends its sincere gratitude and appreciation to West Virginia Gold Star families for their sacrifice; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Hershel “Woody” Williams Medal of Honor Foundation and the Governor of West Virginia, the Honorable Jim Justice.

Which, under the rules, lies over one day.

Senators Takubo, Stollings, Prezioso, Beach, Plymale, Cline, and Boso offered the following resolution:

Senate Resolution 9—Designating January 17, 2018, as Disability Advocacy Day at the Legislature.

Whereas, There are over 400,000 West Virginians with disabilities; and

Whereas, People with disabilities have the right to live, work, and fully participate in their

communities to realize their dreams; and

Whereas, People with disabilities have the right to receive the support they need to exercise self-determination, achieve independence, and become productive employees in the workplace; and

Whereas, West Virginia cannot afford to segregate its citizens with disabilities, thereby impairing their ability to be productive members of society; and

Whereas, West Virginia's citizens with disabilities have banded together in a collective group, called the Fair Shake Network, to help bring their concerns to the forefront of public awareness; and

Whereas, The Fair Shake Network has developed a statewide network concerned with all types of disabilities and all age groups, providing opportunities for people to learn from each other and take action together; and

Whereas, The member organizations such as: Appalachian Center for Independent Living; West Virginia Developmental Disabilities Council; West Virginia Statewide Independent Living Council; West Virginia Division of Rehabilitation Services; WV Autism Training Center; West Virginian Parent Training & Information; Disability Rights of West Virginia; West Virginia University Center for Excellence in Disabilities; West Virginia State Rehabilitation Council; Open Doors, Inc.; National Association of Social Workers, WV Chapter; WV Olmstead Office; Mountain State Parents CAN; WV Association of the Deaf; Central West Virginia Action Network; Mountain State Centers for Independent Living, Job Squad; Northern West Virginia Center for Independent Living; The Arc of WV; People First of WV; and Aging and Disability Resource Network, have joined together to help increase public awareness of issues involving the many concerns of West Virginians with disabilities through the Fair Shake Network; and

Whereas, The purpose of Disability Advocacy Day is to increase the awareness and understanding of legislators, administrators, policymakers, and the public of the public policy issues that are important to people with disabilities; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 17, 2018, as Disability Advocacy Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the Fair Shake Network.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Ferns, at 11:26 a.m., the Senate recessed to present Senate Resolution 9.

The Senate reconvened at 11:31 a.m. today and proceeded to the seventh order of business.

Senate Concurrent Resolution 5, Requesting DMAPS and Division of Personnel develop plan to raise correctional officers' salaries.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Government Organization.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for Senate Bill 73, Modifying crime of fleeing from scene of accident.

Com. Sub. for Senate Bill 154, Department of Administration rule relating to parking.

Senate Bill 296, Relating to sale or transfer of surplus property.

Senate Bill 297, Eliminating taxation on annuity considerations collected by life insurer.

Senate Bill 298, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes.

Senate Bill 299, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas.

Senate Bill 300, Creating five-year tax credits for businesses locating on post-coal mine sites.

And,

Senate Bill 301, Removing limitation on amount collected by county via hotel occupancy tax used for medical or emergency services.

The Senate proceeded to the twelfth order of business.

At the request of Senator Prezioso, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Lucie A. Romano, mother of the Honorable Michael J. Romano, a senator from the twelfth district.

Remarks were made by Senators Ojeda and Boso.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senators Ojeda and Boso were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, unanimous consent being granted, leaves of absence for the day were granted Senators Romano, Mann, Unger, and Palumbo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 11:46 a.m., the Senate adjourned until tomorrow, Thursday, January 18, 2018, at 11 a.m.

SENATE CALENDAR

**Thursday, January 18, 2018
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 6 - Supporting construction of Gold Star Families Memorial Monument

SECOND READING

Com. Sub. for S. B. 73 - Modifying crime of fleeing from scene of accident

Com. Sub. for S. B. 154 - Department of Administration rule relating to parking (original similar to HB 4086)

S. B. 296 - Relating to sale or transfer of surplus property (original similar to SB 283)

S. B. 297 - Eliminating taxation on annuity considerations collected by life insurer

S. B. 298 - Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes

S. B. 299 - Relating to mandatory insurance coverage for medical foods for amino acid-based formulas (original similar to HB 2051, HB 2072, HB 3021)

S. B. 300 - Creating five-year tax credits for businesses locating on post-coal mine sites (original similar to SB 12)

S. B. 301 - Removing limitation on amount collected by county via hotel occupancy tax used for medical or emergency services (original similar to SB 137)

FIRST READING

Com. Sub. for S. B. 53 - Correcting code reference in regard to certain persons exempted from prohibitions against carrying concealed deadly weapons

S. B. 62 - Adjusting requirements for hiring school attendance directors

Com. Sub. for S. B. 98 - Creating incentives to consolidate local governments

Com. Sub. for S. B. 110 - Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises

Com. Sub. for S. B. 133 - Exempting renewal of certain contracts entered into during declared state of emergency (original similar to HB 4034)

S. B. 263 - Eliminating film tax credits (original similar to HB 4144)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Thursday, January 18, 2018

9:30 a.m.	Finance	(Room 451M)
2 p.m.	Education	(Room 451M)