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March 1, 2021
TWENTIETH DAY
Monday, March 1, 2021

TWENTIETH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Friday, February 26, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that H. J. R. 2, on Third reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 272, Com. Sub. for H. B. 2363 and Com. Sub. for H. B. 2628, on Second reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

Com. Sub. for H. B. 2002, Relating to Broadband,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:


A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 80 - “A Bill to amend and reenact §44-1-28 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §44-1A-1, §44-1A-2, §44-1A-3, §44-1A-4, and §44-1A-5, all relating to payment of small sums to spouse or distributees of decedents upon whose estates there have been no qualifications; allowing the
administration of small estates containing under $50,000 in personal property and under $100,000 in real property by affidavit and without appointment of a personal representative; providing for a short title; providing for definitions; identifying affidavit contents and form; establishing duties of fiduciary supervisor and clerk of the county commission; setting forth requirements for death certificate, proof of residence, and bond; setting forth form of affidavit; providing for issuance of certificates and authorization of small estates; setting forth requirements for objections by interested parties and revocation of certificate and authorization; rescinding of certificates and authorization when determination is made that estate does not qualify; detailing methods for payment or delivery of small assets to authorized successors; discharging and releasing payors; setting forth fiduciary duty of authorized successor; detailing treatment of real estate in a small estate; and providing for applicability”; which was referred to the Committee on the Judiciary.

A message from the Senate, by
The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 459 - “A Bill to amend and reenact §8-22-26 of the Code of West Virginia, 1931, as amended, relating to providing a mechanism by which contributions paid by a member into a retirement plan would be returned to the member’s heirs after the member’s death in the event that the member’s survivors are deceased and his or her remaining heirs no longer receive death benefits under the retirement plan after reaching the age of 18”; which was referred to the Committee on Finance.

Resolutions Introduced

Delegates Maynard, J. Jeffries, Rohrbach, Mandt, Bridges, Holstein, Mazzocchi, Lovejoy, Linville, Worrell and Queen offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 16 - “Requesting the Division of Highways name a portion of WV Route 37, known as East Lynn Road, in Lincoln County, from the Lincoln County line a distance of 4.39 miles, to its intersection with WV Route 10, the ‘U. S. Army PFC Franklin Delano Frazier Memorial Road’.”

Whereas, Franklin Delano Frazier was born on January 10, 1933, unto his parents, Mr. and Mrs. Emmett Frazier, of Ranger, West Virginia; he was raised on Barberry Road, off of WV Route 37 in Lincoln County; and

Whereas, U. S. Army PFC Franklin Delano Frazier served in the U. S. Army during the Korean War; and

Whereas, U. S. Army PFC Franklin Delano Frazier was awarded the Bronze Star Medal for heroism in action and was cited for killing or wounding approximately 30 enemy soldiers while serving as a tank gunner with the U.S. First Cavalry Division; and

Whereas, the citation states that while PFC Franklin Frazier’s tank, supported by infantry, was covering the strategic withdrawal of an infantry battalion, they were attacked by a numerically superior force employing heavy artillery, mortar and automatic weapon fire. Displaying exceptional skill as a tank bow gunner, PFC Frazier fearlessly opened his hatch and courageously exposed himself to heavy enemy fire in order to more efficiently place grazing fire on the hordes of rushing enemy troops. Unperturbed by the momentum of the enemy attack, PFC Frazier maintained a high rate of accurate and deadly fire, killing or wounding approximately 30 enemy troops and materially contributed to the safe withdrawal of the battalion; and
Whereas, U. S. Army PFC Franklin Delano Frazier was the beloved husband of his wife, Wanda, and loving dad of the late Rick, Janet Skeans and Kevin; and

Whereas, U. S. Army PFC Franklin Delano Frazier died a resident of Trenton, Michigan, at age 85, on June 8, 2018, and is interred in Webb Cemetery, Ranger, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate the life of U. S. Army PFC Franklin Delano Frazier and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of WV Route 37, known as East Lynn Road, in Lincoln County, from the Lincoln County line a distance of 4.39 miles, to its intersection with WV Route 10, the “U. S. Army PFC Franklin Delano Frazier Memorial Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of road as the “U. S. Army PFC Franklin Delano Frazier Memorial Road”; and, be it

Further Resolved, That the Clerk of the House is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Anderson, J. Kelly, Zatezalo, Boggs, Criss and Reynolds:

H. B. 2792 - “A Bill to amend and reenact §24-2-20 of the Code of West Virginia, 1931, as amended, relating to the expansion of direct access to natural gas service for new customers and allowing existing natural gas utility customers to have direct access to natural gas service if the end user expands its service in the amount of 25 million cubic feet of natural gas per year or more; allowing this direct access for end users without the permission, consent, control, review, or input of the Public Service Commission; requiring the Public Service Commission to promulgate rules to implement the provisions of this section no later than July 1, 2021”; to the Committee on Energy and Manufacturing.

By Delegates Howell, Horst, Hott, Martin, Fast, Kimble, Hamrick, Reed, Maynard, Statler and Storch:

H. B. 2793 - “A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to permitting nonresidents to obtain state licenses to carry a concealed deadly weapon; providing that concealed weapons licenses may only be issued for pistols and revolvers; establishing a fee; and providing how that fee is to be used”; to the Committee on the Judiciary then Finance.

By Delegates Storch, Westfall, Gearheart, Criss, Howell, Capito, Householder, Anderson, Ellington, Statler and Rohrbach:

H. B. 2794 - “A Bill to amend and reenact §11-13J-6, §11-13J-8, and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating to extending the Neighborhood Investment Program Act; increasing the aggregate limit for the tax credit authorized under the program; and extending duration of the program until July 1, 2026”; to the Committee on Finance.
By Delegate Griffith:
H. B. 2795 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-29-5a, relating to criminal justice training regarding individuals with autism spectrum disorders; providing for training in appropriate interactions with individuals with autism spectrum disorder; and requiring the Law-Enforcement Professional Standards subcommittee to develop guidelines for law-enforcement and correction officer response to individuals on the autism spectrum who are victims or witnesses to a crime, or suspected or convicted of a crime”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Summers, Tully, Householder, Criss and Reynolds:
H. B. 2796 - “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2021, in the amount of $200,000 from the WV Board of Examiners for Registered Professional Nurses – Registered Professional Nurses, fund 8520, organization 0907, fiscal year 2021, and making a supplementary appropriation 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 Commerce, West Virginia Development Office, fund 0256, fiscal year 2021, organization 0307, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021”; to the Committee on Finance.

By Delegates Householder, Boggs, Barrett, Criss, Espinosa, Pethtel, Riley, Rowan, Gearheart, Ellington and Anderson:
H. B. 2797 - “A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof”; to the Committee on Finance.

By Delegates Boggs, Hanshaw (Mr. Speaker), Hornbuckle and Rohrbach:
H. B. 2798 - “A Bill to amend and reenact §16-22-3 of the Code of West Virginia, 1931 as amended, relating to requiring the Health Department to mandate mucopolysaccharidosis type 1 (MP1) test for newborn babies, to be known as Embie’s Law”; to the Committee on Senior, Children, and Family Issues then Health and Human Resources.

By Delegates Barrett, Maynard, Storch, Graves and Jennings:
H. B. 2799 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5V-36, relating to providing that moneys in the West Virginia Emergency Medical Services Retirement Fund are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment or any other process whatsoever with the exception that the benefits or contributions under the system shall be subject to ‘qualified domestic relations orders,’ and are generally unassignable”; to the Committee on Pensions and Retirement then Finance.

By Delegates Dean, Paynter, Haynes, Maynard, Ferrell, Toney, Hornbuckle and Wamsley:
H. B. 2800 - “A Bill to amend and reenact §5-10-18 of the Code of West Virginia, 1931, as amended, relating to providing an 11-month window to permit members of the Public Employees Retirement System to purchase credited service that had been previously forfeited”; to the Committee on Pensions and Retirement then Finance.

By Delegates Espinosa, Criss, Graves, Storch, Rowe, Rohrbach, Pethtel, Clark, Howell, Barrett and Householder:
H. B. 2801 - “A Bill to amend and reenact §29-22C-8 of the Code of West Virginia, 1931, as amended; relating to changing date the annual racetrack table games license renewal fee is due to October 1 annually; and making technical corrections”; to the Committee on the Judiciary then Finance.
By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:

H. B. 2802 - "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 Homeland Security, Division of Emergency Management, fund 0443, fiscal year 2021, organization 0606, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021"; to the Committee on Finance.

By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:

H. B. 2803 - "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 Commerce, Division of Forestry, fund 0250, fiscal year 2021, organization 0305, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021"; to the Committee on Finance.

By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:

H. B. 2804 - "A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2021 in the amount of $13,500,000 from the Department of Administration, Board of Risk and Insurance Management, Mine Subsidence Insurance Fund, fund 2361, fiscal year 2021, organization 0218; and in the amount of $2,000,000 from the Department of Veterans’ Assistance, Veterans’ Facilities Support Fund, fund 6703, fiscal year 2021, organization 0613”; to the Committee on Finance.

By Delegates Statler, Summers, Hamrick, Higginbotham, L. Pack, Howell, Capito, Hanshaw (Mr. Speaker) and Ellington:

H. B. 2805 - "A Bill to repeal §18B-2A-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-2A-1 of said code; and to amend and reenact §18B-3C-13 of said code, all relating to public higher education governance; making Pierpont Community and Technical College a fully integrated division of Fairmont State University known as the Pierpont College of Community and Technical Education; increasing the number of members of the Fairmont State Board of Governors to 15 persons; requiring the appointment by the Governor of at least one member on the Fairmont State University Board of Governors who has knowledge and practical experience in community and technical education; providing for two faculty members on the Fairmont State University Board of Governors at least one of which shall be from the faculty of the Pierpont College of Community and Technical Education elected by the faculty senate; providing that the administrative head of the Pierpont College of Community and Technical Education shall be a dean appointed by the president of Fairmont State University; providing that the chairperson of the Fairmont State University Board of Governors shall appoint an advisory board to advise the Fairmont State University Board of Governors on matters relating to the community and technical college curriculum; providing that the members of the advisory board shall elect a chairperson on or after July 1, 2021 who shall be an ex-officio, voting member of the Fairmont State University Board of Governors; providing that the operating budget of Pierpont Community and Technical College is integrated under the authority and jurisdiction of the Fairmont State University Board of Governors; transferring all financial assets and liabilities from the authority of Pierpont Community and Technical College Board of Governors to the authority of the Fairmont State University Board of Governors; satisfying existing outstanding deficits or financial obligations prior to the unification of Fairmont State University and Pierpont Community and Technical College; continuing any capital debt service payment of Pierpont Community and Technical College and making it the responsibility of the Fairmont State University Board of
Governors; transferring titles to all real property, facilities, and equipment of, as well as each valid agreement undertaken by Pierpont Community and Technical College to the Fairmont State University Board of Governors; vesting title of all property purchased for the use of Pierpont Community and Technical College in the Fairmont State University Board of Governors; making faculty, classified employees, and nonclassified employees of Pierpont Community and Technical College employees of Fairmont State University; providing for a transition period to achieve full accreditation by the Higher Learning Commission; requiring reports to the Council for Community and Technical College Education and the Legislative Oversight Commission on Education Accountability; clarifying that the Council for Community and Technical College Education shall retain jurisdiction over the academic programming offered by the Pierpont College of Community and Technical Education; updating certain state institution of higher education names; repealing outdated language, and deleting obsolete language”; to the Committee on Education then Finance.

By Delegates Dean, Paynter, Maynard, Booth, Ferrell, Toney, Brown, Hornbuckle and Wamsley:

H. B. 2806 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25d, relating to providing a supplemental year for West Virginia high school students who have been affected by COVID-19 in order to complete their studies and remain with their parents another year, so long as they satisfy other necessary requirements; and providing for an effective date”; to the Committee on Education then Finance.

By Delegates Rohrbach and J. Pack:

H. B. 2807 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-55-11, relating to creating the ‘Fairness in Cost-Sharing Act;’ providing definitions; and requiring manufacturer pharmaceutical rebates to be passed through to the consumer”; to the Committee on Health and Human Resources then Finance.

By Delegates Capito, Rowe, Pushkin, Pritt, Young, L. Pack, Barach, Barnhart, Graves and Skaff:

H. B. 2808 - “A Bill to amend and reenact §11-13A-2 of the Code of West Virginia, 1931, as amended, relating to modifying the definition of minerals as to eliminate salt produced for human consumption from being subject to severance taxation”; to the Committee on Health and Human Resources then Finance.

By Delegate Anderson:

H. B. 2809 - “A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to admissibility of certain evidence in a civil action for damages; and allowing the admission of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence and failure to mitigate damages”; to the Committee on the Judiciary.

By Delegates Anderson and Evans:

H. B. 2810 - “A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended, relating to the removal of the severance tax on oil and gas produced from low producing oil and natural gas wells below a specific production level”; to the Committee on Energy and Manufacturing then Finance.

By Delegate Anderson:

H. B. 2811 - “A Bill to amend and reenact §24-2-1k of the Code of West Virginia, 1931, as amended, relating to the Public Service Commission; natural gas infrastructure; actual investment of capital and costs; and how utility’s expedited cost recovery are calculated and determined”; to the Committee on Energy and Manufacturing.
By Delegate Anderson:

H. B. 2812 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, §5B-2K-6, and §5B-2K-7, all relating to authorizing local units of government to adopt local energy efficiency partnership programs and to create districts to promote use of energy efficiency improvements by owners of certain real property; providing for financing of programs through voluntary property assessments, commercial lending and other means; authorizing local unit of government to issue bonds, notes and other evidences of indebtedness and to pay the cost of energy efficiency improvements from the proceeds thereof; providing for repayment of bonds, notes and other evidences of indebtedness; authorizing certain fees; prescribing the powers and duties of certain governmental officers and entities; and providing remedies”; to the Committee on Government Organization then Finance.

By Delegate Barrett:

H. B. 2813 - “A Bill to amend and reenact §16-2-14 of the Code of West Virginia, 1931, as amended, relating to employees of local boards of health; making legislative findings; requiring the Legislature to provide funds to Department of Health and Human Resources to provide local boards of health funds for pay raises for employees when the Legislature provides funds for across-the-board pay raises for state employees; limiting Department of Health and Human Resources from using provided funds for any other purpose; requiring annual funding to continue pay raises; and prohibiting Department of Health and Human Resources from placing additional restrictions or obligations on provided funds”; to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for H. B. 2267, Establishing an optional bus operator in residence program for school districts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (Roll No. 62), and there were—yeas 93, nays none, absent and not voting 7, with absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Doyle, Ellington, Holstein, Hornbuckle and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2267) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2616, Amend the reporting to the Governor and the Legislature to have information continuously available on the Office of Health Facility Licensure and Certification’s website; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (Roll No. 63), and there were—yeas 93, nays none, absent and not voting 7, with absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Doyle, Ellington, Holstein, Hornbuckle and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2616) passed.
Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

First Reading

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 S. B. 277, Creating COVID-19 Jobs Protection Act,

Com. Sub. for H. B. 2024, Expand use of telemedicine to all medical personnel,

Com. Sub. for H. B. 2025, Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner,

Com. Sub. for H. B. 2093, Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes,

And,

H. B. 2791, Relating to enrollment and costs of homeschooled or private school students at vocational schools.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Booth, Bridges, Ellington, Holstein, Hornbuckle and Thompson.

Miscellaneous Business

Delegate Doyle, who arrived in the Chamber prior to adjournment, noted to the Clerk that he was absent when the votes were taken on Com. Sub. for H. B. 2267 and Com. Sub. for H. B. 2616, and had he been present, he would have voted “Yea” thereon.

At 11:13 a.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 2, 2021.
SPECIAL CALENDAR

Tuesday, March 2, 2021

21st Day

11:00 A. M.

SECOND READING

Com. Sub. for S. B. 277 - Creating COVID-19 Jobs Protection Act (CAPITO) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 2002 - Relating to Broadband (J. PACK) (REGULAR) [TECHNOLOGY AND INFRASTRUCTURE COMMITTEE AMENDMENT PENDING]

Com. Sub. for H. B. 2024 - Expand use of telemedicine to all medical personnel (J. PACK) (REGULAR)

Com. Sub. for H. B. 2025 - Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner (STEELE) (REGULAR)

Com. Sub. for H. B. 2093 - Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes (J. PACK) (REGULAR)

H. B. 2791 - Relating to enrollment and costs of homeschooled or private school students at vocational schools (ELLINGTON) (REGULAR)
HOUSE CALENDAR
Tuesday, March 2, 2021
21st Day
11:00 A. M.

THIRD READING
Com. Sub. for S. B. 11 - Declaring work stoppage or strike by public employees to be unlawful (REGULAR)

H. J. R. 2 - Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate (CAPITO)

SECOND READING
Com. Sub. for S. B. 272 - Relating to WV Employment Law Worker Classification Act
Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)
H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)
Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)

FIRST READING
H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)
H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)
Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)
WEST VIRGINIA
HOUSE OF DELEGATES

TUESDAY, MARCH 2, 2021

HOUSE CONVENCES AT 11:00 A.M.

COMMITTEE ON HEALTH AND HUMAN RESOURCES
9:00 A.M. – ROOM 215 E

COMMITTEE ON RULES
10:45 A.M. – ROOM 418 M

COMMITTEE ON EDUCATION
1:00 P.M. – HOUSE CHAMBER