



# WRAP-UP

THE OFFICIAL NEWSLETTER OF THE WEST VIRGINIA LEGISLATURE

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During the 2007 Regular Session, a total of 2,037 bills were introduced (761 Senate Bills; 1,276 House Bills) and of those, 273 were passed by the Legislature.

## Budget Bill (HB 2007)

As called for in the State Constitution, the Legislature must adopt a balanced state Budget each year to ensure financial stability for West Virginia. This year, the House and Senate accomplished this objective and collectively approved a \$10 billion Budget Bill, which includes \$3.78 billion in General Revenue appropriations.

## Committee Substitute for HB 2007 (FY 2008)

(Provided by House and Senate Finance Committees)

Governor's General Revenue Estimate	\$3,867,650,000
Conferee General Revenue Total Estimate	\$3,790,650,000
HB 2007 General Revenue Appropriations	\$3,775,934,728

## Committee Substitute for HB 2007 Totals

Road Fund	1,112,582,940
Other Funds	1,304,123,345
Regular Lottery	170,283,108
Excess Lottery	226,500,000
Federal Funds	3,145,912,211
Federal Block Grants	317,520,244
Total	\$10,052,856,576

## Highlights of Committee Substitute for HB 2007

(Includes anything that may have been added, changed or remained the same when comparing to the Governor's Recommendation, Senate Bill or the House Bill)

House Bill 2007 contains several pay packages. Those pay packages include funding for a 3.5% raise for teachers and school service personnel, at a total cost of \$48,700,000. This required an additional \$22,000,000 above what the Governor had recommended. Funding has also been added for a 3.5% salary increase for all state employees while assuming a maximum increase of \$1,200 and a minimum of \$600. This pay package required the addition of approximately \$20,000,000 above the Governor's recommendation. In lieu of the 3.5% salary increase, employees of the Divisions of Corrections, Juvenile Services, and Protective Services will receive a \$2,000 across the board pay increase. The Regional Jail Authority is expected to provide salary increases in the same manner.



## General Revenue Highlights

### Judicial

Supreme Court - General Judicial

- Includes 3.5% for non-statutory employees of the court

### Executive

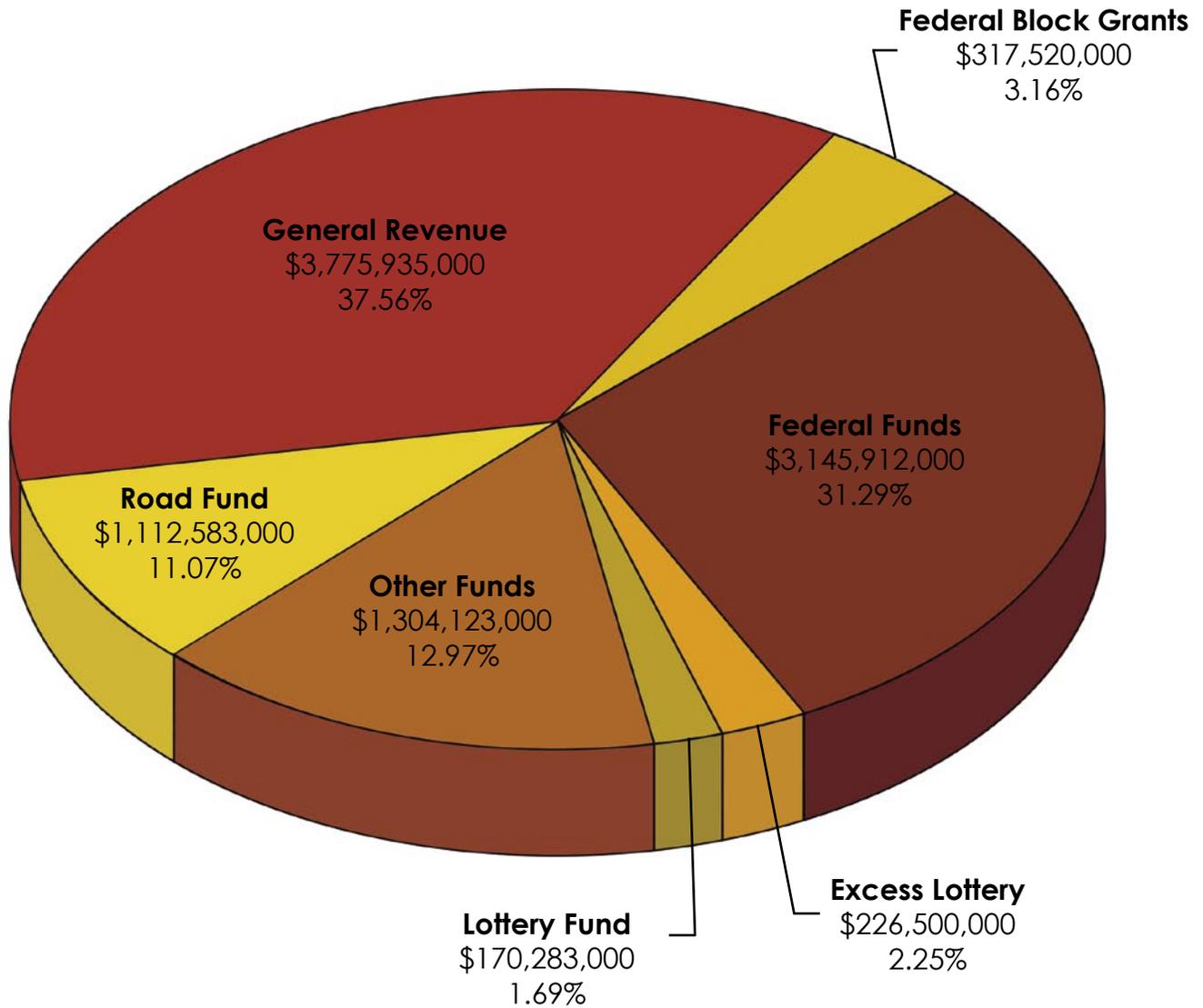
Agriculture

- Includes \$650,000 for 4-H improvements
- Includes \$75,000 for threat preparedness

## Know your bill number?

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on page 41.

# Total Budget - FY 2008



**Budget Total - All Sections**  
**\$10,052,857,000**

### West Virginia Conservation Agency

- Includes \$1.5 million for the Marlinton flood wall

### Attorney General

- Adds \$185,000 pursuant to the passage of HB 3074, which requires the Attorney General to negotiate reciprocity agreements

### Commerce

#### Division of Tourism

- Includes a total of \$500,000 for the Hatfield McCoy Trail System

#### Division of Natural Resources

- Decreases this fund approximately \$700,000 due to the failure of HB 2059 relating to Conservation Officers' salary schedule

#### Division of Miners Health Safety and Training

- Includes funding for miners training rapid response

#### Division of Energy

- Adds a new division per passed Legislation

### Department of Education

#### State Department of Education

- Includes funding for an early childhood coordinator
- Includes a total of \$300,000 for teacher reimbursement
- Includes funding for 21st Century Learners
- Adds approximately \$770,000 pursuant to the passage of SB 541, which relates to counties with extraordinary growth
- Adds a total of \$4.5 million for 21st Century Assessment and Professional Development Programs minus \$340,000 from the 21st Century Technology Infrastructure Network Tolls and Support budget line stricken by the Governor who noted public education has sufficient dollars to fund the program otherwise.
- Includes a total of \$10,000,000 for school access safety per Legislation

#### State Aid to Schools

- Includes total of \$48 million to provide for a 3.5% salary increase for teachers and service personnel.
- Includes a total of \$1.1 Million due to the passage of SB 541, which relates to technology infrastructure.
- Adds funding due to passage of the same bill relating to the Growth Facilities Act.

### Department of Education & the Arts

#### Office of the Secretary

- Includes a total of \$470,000 for Energy Express

### Library Commission

- Includes \$182,645 for the Services for the Blind and Handicapped Program

### Department of Health & Human Resources

#### Office of the Secretary

- Adds \$250,000 for the West Virginia University Center for Excellence in Women's Health

#### Division of Health

- Renames Level 1, 2, and 3 Trauma Centers the "State Trauma and Emergency Care System", and includes \$100,000 to initiate the consolidation of Regional Response Centers.
- Allows for a total of \$50,000 for the Hospital Hospitality House of Huntington
- Includes funding to offset the increased costs of birth control pills
- Directs \$400,000 to the Breast and Cervical Cancer Diagnostic Treatment Fund
- Includes funding pursuant to the passage of HB 2583 relating to newborn screening.
- Adds approximately \$7.7 million for Primary Care Support to help offset the increases in costs and population served
- Includes \$100,000 for Human Papillomavirus (HPV) Education

#### Division of Human Services

- Includes \$3 million dollars for Medical Services (Medicaid), and directs that \$2 million shall be used to draw down federal funding for the MR/DD waiver Program and \$1 million shall be used to increase the rates of reimbursement for behavioral health facilities.
- Increases funding to WV Teaching Hospitals Tertiary/Safety Net by \$1.5 million

### Department of Military Affairs & Public Safety

#### Office of the Secretary

- Includes a total of \$150,000 for the WV Fire and EMS Survivor Benefit

#### Division of Homeland Security & Emergency Management

- Adds \$150,000 for general operating expenses
- Relocates the Poison Control Hotline to this fund from the Higher Education budget

#### State Police

- Includes funding for a 3.5% salary increase for State Troopers in anticipation of a bill to adjust the salary schedule



**2007 1st Special Session**

Department of Revenue

Tax Division

- Adds \$650,000 pursuant to a provision in SB 541 that relates to auditing assessors

Higher Education

Higher Education Policy Commission

- Includes \$2 million for Community and Technical Colleges to assist with operating expenses
- Includes funding for an Allied Health Program, a Nurse Program, and building construction at Community and Technical Colleges
- Includes a total of \$33 million for the Higher Education Grant Program
- Adds a total of \$10 million for Research Challenge
- Divides \$5 million between all 4-year institutions
- Includes \$1.8 million to address the accreditation of WVU Tech. The remaining \$1,400,000 that is needed for the accreditation as well as equipment upgrades will be in a supplemental.

Lottery Highlights

State Department of Education

- Includes \$2 million for technology infrastructure

Culture and History

- Adds funding for various fairs and festivals

Bureau of Senior Services

- Adds \$300,000 for Alzheimer's Respite Care
- Includes \$400,000 for Regional Aged and Disabled Resource Centers
- Includes \$150,000 for the West Virginia Elder Watch Program

Higher Education

- Includes \$1,050,000 for the WV Autism Training Center
- Includes \$1,500,000 for the Health Sciences and Technology Academy

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**Governor's Line-Item Message**

- Reduces appropriations for 21st Century Learners by \$400,000
- Reduces appropriations for 21st Century Technology Infrastructure Network Tools & Support by \$343,000

**House Bill 101 (estates)** limits the duplication of publication costs in the administration of small estates. Under current state law, within 30 days of filing the appraisal of any estate, the clerk of the county commission must publish in a local newspaper, once a week for two successive weeks, contact and estate information to notify interested parties or unpaid creditors of the estate's administration so that objections can be raised. This bill states that if an objection is made and a fiduciary commissioner is requested to conclude the administration of the estate, or if an unpaid creditor files a claim, no further notices need to be published in the newspaper. If this occurs, the named executor of the estate is not required to pay any fees, except to the fiduciary commissioner for conducting hearings, or performing other fiduciary commissioner duties. Also, the time period for filing claims against the estate expires on the date set in the notice to creditors published by the clerk of the county commission.

**House Bill 102 (appropriations)** appropriates \$8,894,977 from the state's General Revenue Fund to the WV Conservation Agency, Dept. of Administration's Public Defender Services, State Department of Education and the Higher Education Policy Commission's Control Account.

**House Bill 103 (appropriations)** appropriates \$28,078,637 from the State Fund to the Department of Administration, Department of Commerce, Department of Education, Department of Health & Human Resources, Department of Military Affairs & Public Safety and the Department of Revenue.

**Senate Bill 1001 (e-prescriptions)** allows the electronic filing of drug prescriptions, or e-prescribing. These e-prescriptions can be sent either directly to a pharmacy or through a secure transmission service. E-prescriptions are treated exactly the same as traditional prescriptions. The bill also changes the expiration date for pharmacy collaborative agreements from July 1, 2008, to July 1, 2010. These agreements allow pharmacists to initiate some forms of drug therapy management, with cooperation from a patient's treating physician.

**Senate Bill 1002 (WV State Police)** establishes a system of career progression within the West Virginia State Police. It also sets new salaries to be given to various positions within the police department and based on their years of experience, as well as set the times when those persons in these positions are entitled to pay increases. In addition, the bill excludes the West Virginia State Police from the provisions of state wage and hour law.

### 2007 REGULAR SESSION - BILLS BY SUBJECT

#### Actions & Suits

**House Bill 2956 (civil cases)** repeals part of West Virginia law dealing with civil cases to limit those filed by non-residents in the state and requires that all or a substantial part of the issue upon which the action is based to have occurred in West Virginia. Among other considerations the court will take into account when deciding where a case will be tried are whether granting the stay or dismissal would delay or prolong the litigation and whether the alternate forum provides a remedy to the problems at hand.

#### Acts

**Senate Bill 82 (police line-ups)** creates the Eyewitness Identification Act, which sets several procedures relating to the use of eyewitnesses and police lineups. These procedures are based on recommendations put out by the National Institute of Justice, an agency under the U.S. Justice Department.

Under the Act, law enforcement agencies must inform an eyewitness before showing him or her a lineup that the person who committed the crime may or may not be in the lineup, the eyewitness is not required to identify the perpetrator and states it is as important to exclude innocent people as it is to identify the perpetrator.

In addition, law enforcement is asked to make a written record of the lineup. This must include the date, time and location of the lineup; the names of everyone in the lineup; the words used by the eyewitness during the identification; whether it was photographic or live; the number of individuals or photos; whether the lineup administrator knew which person in it was the suspect; whether the lineup was simultaneous or sequential; the signature or initials of the eyewitness and a video of the lineup and the witness's response, if available. The superintendent of State Police is also authorized to produce educational materials and training programs for law enforcement officers and recruits on how to properly conduct lineups in compliance with the Act.

The Act also creates a task force to study and identify the best practices for eyewitness identification. The task force will consist of 13 people, including representatives from the State Police, the state Sheriff's Association, the forensic science field and a state circuit court system. The director of Criminal Justice Services, or his or her designee, will chair the task force. The

task force is required to submit a report to the Legislature on guidelines and recommendations for eyewitness identification procedures by December 15, 2008. It will terminate on December 15, 2009, unless continued by the Legislature.

**Senate Bill 175 (clandestine drug labs)** creates the Clandestine Drug Laboratory Remediation Act, and allows the Department of Health and Human Resources (DHHR) to promulgate rules for regulating the remediation, certification, licensing and disclosure requirements for clandestine drug laboratories. Methamphetamine laboratories will be the primary targets of these rules, but the bill will include any other type of illegal drug-making operations. This measure also requires the DHHR to establish scientific guidelines and numeric decontamination levels for the clean up of clandestine operations. There must also be a certification program in place for contractors or persons who complete the remediation of the clandestine labs. Upon completion of the program, participants must obtain a license from the DHHR to perform remediation work. The bill requires law enforcement officers to notify the DHHR and the owners of the property when a clandestine lab is found. The property owners will receive immunity if the clandestine laboratory is remediated correctly, and if a separate person is convicted in connection with the drug laboratory, he or she will then be liable for all costs of the remediation. After complete remediation has occurred, property owners, landlords and sellers must release information regarding the existence of a former clandestine drug operation.

**Senate Bill 411 (nurseries in jail)** creates the West Virginia Correctional Center Nursery Act. Under the act, the Division of Corrections can create correctional center nurseries where an eligible inmate and her children can live together. The child must be born while the inmate is incarcerated and a participating inmate must comply with any education or counseling offered to her. An inmate can be removed from the program if she fails to comply with rules, if her child becomes seriously ill or if a court orders someone other than the mother parental rights. The Bureau of Child Support Enforcement will collect child support payments for the mother and child, if any are due, and then forward the payments to the Division of Corrections. Ten percent of the money will be placed in a mandatory savings account for the mother, and the remaining money will be used for items not covered by program funds. The Department of Health & Human Resources will regulate the program.

**Senate Bill 435 (metro government/city & county consolidation authorization)** clarifies the Consolidated Local Government Act by enumerating the Legislature's constitutional authority to: permit municipalities to consolidate; permit home rule for municipalities; permit reformation of county commissions; permit counties to consolidate and



municipalities and counties to consolidate to create a new executive or legislative tribunal, or both, in the form of a metro government that performs both the duties of a municipality and a county. This bill also sets forth, but does not limit to, five types of consolidated governments that may be created, which are: a Mayor-Council Plan, a Strong-Mayor Plan, a Commission Government, a Manager Plan, or a Manager-Mayor Plan. The time frame that a charter review committee has to complete its study of city and county consolidations is increased from one year to two years from the date of its organizational meeting. The bill also clarifies that municipalities within a territory that has been consolidated into a metro government, other than the principal city, are not automatically consolidated into the metro government.

**Senate Bill 667 (military college tuition waivers)** creates the Andrew J. Trail Purple Heart Recipient College Bill of Rights Act of 2007, which provides a college tuition waiver to honorably discharged military personnel who received a Purple Heart Medal. The bill also includes Medal of Honor recipients for the waiver and provides that the tuition waivers do not count toward the maximum number of waivers permitted at an institution. Finally, the bill provides the cost of tuition to National Guard members pursuing a Master’s degree.

*Bill(s) related to the section:*

- Senate Bill 67, pg. 17**
- Senate Bill 142, pg. 16**
- Senate Bill 748, pg. 17**
- House Bill 3145, pg. 25**

**Agriculture**

**Senate Bill 431 (liming materials)** will update the definitions and other provisions relating to the use and regulation of agricultural liming materials. The bill brings the definitions in line with the standards and recommendations of the Association of Official Analytical Chemists International (AOAC International).

**Air Quality**

**Senate Bill 337 (emissions inventory)** establishes a program to inventory emissions, reductions and carbon sequestrations of greenhouse gases. A voluntary registry will also be created for persons or companies to report the voluntary reductions in greenhouse gas emissions that have been made before the reductions are required by law.

**Alcohol**

**House Bill 2745 (sale of alcohol)** will increase the maximum fine for providing alcohol to a person under 21 years old from \$100 to \$250. Anyone who furnishes alcohol to anyone under 21 years old is guilty of a misdemeanor and will be fined \$250 or serve up to 10 days in jail or both.

**House Bill 2825 (private clubs)** prohibits private clubs that discriminate against any person or group on the basis of race or color from obtaining a license to sell alcohol.

**Senate Bill 712 (wineries)** extends the hours that retail stores may sell liquor and permits the Tax Commissioner and Alcohol Beverage Control Commissioner to share information about the tax, licensing and enforcement of these laws. Formerly, liquor could be sold between 8:00 a.m. and 10:00 p.m. on weekdays and Saturdays, this bill permits liquor sales until midnight.

To equalize wineries with distilleries and farm wineries with mini-distilleries, this bill requires farm wineries to pay taxes and license fees. This bill establishes licensing procedures that require all wineries, suppliers and retailers to use an adult over 21 years old to sell and direct ship wine. All wine suppliers will also be subject to a review of all wine labels. This bill also adds a private wine bed and breakfast license and a private wine spa license.

A private wine restaurant or a private club is limited to sell one bottle of wine per adult from its inventory for off-premises consumption. Adults dining at private bed and breakfasts, private restaurants, private spas and private clubs will be allowed to recork or reseal up to two bottles of wine for off-premises consumption if the wine is served with food.

This bill adds protection for wineries, suppliers and distributors by requiring a written agreement between the winery and distributor and a notice of termination that allows 90 days for a party to either deplete wine inventories or reach some other agreement.

*Bill(s) related to this section:*  
**House Bill 2590, pg. 33**

**Animals**

**Senate Bill 413 (VETOED)** clarifies the definition of probable cause in magistrate rulings of animal abandonment, cruelty or neglect. During a hearing, a magistrate must find a preponderance of evidence that determines the owner



mistreated the animal. If the owner of the animal does not request a hearing with the magistrate, the magistrate then will review the affidavit reported by the humane officer who took the animal into custody. After the magistrate reviews the affidavit, he or she must find clear and convincing evidence that the animal was abandoned, neglected or cruelly treated before custody is awarded to the humane officer. This bill also says that if no probable cause is found the magistrate can dismiss the case and return the animal to its owner.

**House Bill 2206 (dog tags)** prohibits a person who is not the dog’s owner to remove the animal’s tags or collar without permission from the owner. Tags and collars may be removed to prevent the dog from being injured or to treat a pre-existing injury. Anyone who intentionally removes the tags or collars from a registered dog will be guilty of a misdemeanor and could receive eight to 40 hours of community service or a fine of \$50 to \$100 or both.

**House Bill 2908 (livestock assessment)** establishes that only the fair market value of livestock killed by a bear can be used in determining its value, by removing the limitation that fair market value cannot exceed twice the assessed value of the livestock for personal property taxes.

**Appropriations**

**Senate Bill 218** makes a supplementary appropriation of federal funds out of the state treasury from a balance of federal monies remaining unappropriated for the purpose of establishing the availability of federal funds for new and continuing programs now available for expenditure in the fiscal year ending June 30, 2007.

**Senate Bill 591** sets the monetary allowances for the State Road Fund to the Department of Transportation for 2007.

**Senate Bill 592** provides a supplementary appropriation to the Interoperable Radio Project.

**Senate Bill 593** appropriates a total of \$146,620 to the Board of Pharmacy for expenditure during fiscal year 2007.

**Senate Bill 594** distributes unappropriated money to the Auditor’s Office, the Department of Commerce and the Public Service Commission for expenditure during the fiscal year 2007. The Auditor’s Office Purchasing Card Administration Fund received \$850,000, the Department of Commerce’s Contractor Licensing Board Fund received \$123,127 and the Public Service Commission received \$18,861,735.

**Senate Bill 758** changes how \$7 million from the Division of Human Services fund is classified. Originally the money was listed as unclassified, but now the money is listed as administrative costs under medical services. The bill appropriates no new money.

**Senate Bill 759** makes a supplementary appropriation from the balance of monies remaining unappropriated in the amount of \$7,029,250 to the to the Department of Health and Human Resources’ Hospital Services Revenue Account and West Virginia Birth-to-Three Fund and to the West Virginia Board of Examiners for Registered Professional Nurses by supplementing and amending the appropriations for the fiscal year ending June 30th, 2007.

**Audits & Auditing**

**Senate Bill 203 (state purchasing card program)** improves the Purchasing Card Program, which provides for purchases made by employees for business expenses to be billed to the State Auditor and Secretary of the Department of Administration. Purchasing Cards may now be used to make routine travel and emergency payments; and payment amounts are now to be determined by the Auditor. The bill also allows the Auditor to use monies in the Purchasing Card Administration Fund for expenses related to the general operation of the Auditor’s office and also to pay expenses incurred by spending units in conjunction with the use of the card system.

**Banks & Banking**

**Senate Bill 181 (Board of Banking per diem pay)** will amend current law to provide members of the Board of Banking and Financial Institutions compensation in line with the Legislative per diem pay. The bill increases board members’ per diem pay from \$50 to \$150 and also specifies that reimbursed expenses must be actual expenses.

**Senate Bill 182 (examination schedule for state-chartered banks)** ensures that the West Virginia Division of Banking uses the same frequency of examination schedule for state-chartered banks as that set by the Federal Deposit Insurance Corporation and the Federal Reserve System. Consequently, this bill removes the current requirement that the schedule occurs every 12 months for institutions with assets greater than \$250 million or a composite rating of 3, 4 or 5 under the federal uniform financial institution rating system, with all other institutions examined every 18 months.



**Senate Bill 183 (VETOED)** sets requirements for West Virginia state banks and bank holding companies that are acquiring an out-of-state bank or bank holding company. The bill provides the Board of Banking and Financial Institutions with the authority to consider applications by West Virginia state banks and bank holding companies to acquire out-of-state banks.

**Senate Bill 405 (direct deposit)** clarifies that the State Auditor can authorize direct deposit payments. Before, both the Auditor and State Treasurer had to approve direct deposit payments. After July 1, 2007, the Auditor can send electronic notification to employees when they receive their direct deposit. Also, the bill authorizes the Auditor to discontinue sending paper warrants. Employees can make the decision as to whether or not to receive the notification electronically.

**House Bill 2712 (bank branches)** requires the Commissioner of Banking, along with the West Virginia Board of Banking and Insurance, to apply standards similar to that of federal bank regulators. The Commissioner and Board has to determine whether a bank will present a significant concern or raise a legal or policy issue when the bank is filing the application establishing a bank branch.

**House Bill 2741 (worthless checks)** creates a misdemeanor offense and a \$200 fine for anyone who is convicted of trying to pay a pre-existing debt with insufficient funds. Third or subsequent offenses will result in a \$200 fine or a 10-day jail sentence. Now, a notice must be mailed to anyone who writes a dishonored check. If the person pays the amount of the dishonored check to the magistrate clerk within 10 days of the notice being mailed, then the charges will be dropped. Private citizens can complain to magistrate courts about someone paying them with insufficient funds. The person who wrote the bad check is responsible for all costs incurred for each charge they are issued.

**House Bill 2776 (loan originators)** addresses the definition of "Loan Originator" by adding language which requires that an individual applying for, or holding both, a lender and broker license must license all of its individual loan originators, if that entity brokers a majority of residential mortgage loans. This determination would be based on the annual report filed with the division for current licensees.

**House Bill 3073 (bank affiliates)** prohibits financial institutions, state banks or out-of-state banks from establishing or maintaining a branch in West Virginia on, or within, one-half mile of the premises or property of an affiliate engaged in commercial activity. For this bill, commercial activity means activities in which a bank holding company, financial holding company, a national bank or national bank financial subsidiary may not engage in under federal law.

**Boards & Commissions**

**Senate Bill 21 (contractors)** authorizes the West Virginia Contractor Licensing Board to establish that a contractor's failure to pay a judgment or execute an order mandated by a magistrate court, circuit court or arbitration board is an additional cause for disciplinary action. The bill caps any fines at \$1,000.

**Senate Bill 436 (Co. Commission executive secretary)** removes the statutory requirement that the Circuit Clerk act as executive secretary to any County Commission on Crime, Delinquency and Correction. It allows the Commission to select one of its own members as secretary.

**Senate Bill 438 (VETOED & OVERRIDDEN)** makes several amendments to the current law regarding the Investment Management Board. Included is an increased allowance in the securities in which the board may invest. These are now defined as any and all forms and types of investments, financial instruments, or financial transactions that may be determined prudent for investment by the board. The bill increases the power of the board by delineating that those powers listed in the code only illustrate the kinds of powers it can have and does not limit it to those provided as examples. The bill helps to further expand the Board's power in dealing with public health, safety, and the convenience and welfare of state citizens. The wording of the bill is constructed broadly enough to grant the board full and complete authority to carry out their purpose in the financial markets.

**Bonds**

**Senate Bill 138 (nonresident plaintiffs)** removes a section of code that allows a magistrate to require nonresident plaintiffs to post security to cover costs in civil suits. Usually this security was in the form of an approximately \$100 deposit, but plaintiffs often failed to request repayment of it.

**Senate Bill 194 (appeal bonds)** caps the appeal bond for appeals filed with the WV Supreme Court of Appeals at \$50 million. This will be the amount set unless the appellant shows substantial evidence that he or she was in the process of dividing or dissipating assets outside of normal business. This new amount will be effective July 1, 2007. The bill would also consider consolidated judgments as a single judgment. In this case, if the appellant was dividing or dissipating assets and that process impaired his or her ability to pay the ultimate judgment, the appeal bond can be set at any amount that does not exceed the total judgment.



This total judgment will include the actual judgment, plus costs, interest and fees. Also, the bill requires the \$50 million cap to be adjusted every five years. This adjustment will be based upon the aggregate increase in the U.S. Consumer Price Index for all Urban Consumers.

**House Bill 2791 (peace bonds)** removes the jail penalty for violating a peace bond and replaces it with a \$250 fine. It also clarifies that an order to obtain a peace bond is appealable to a circuit court.

**Charitable Organizations**

**Senate Bill 708 (grant & donation solicitation)** requires charitable organizations that intend to solicit for donations or grants or have funds received on their behalf within the state to file a registration statement with the Secretary of State's Office. Current law requires charitable organizations that intend to solicit for contributions or have funds solicited on their behalf to register with the secretary.

**Child Welfare**

**Senate Bill 388 (child medical support)** establishes procedures for allocating the costs of medical support between responsible parties in a child support order. The bill provides guidelines for setting the medical support, including premium costs. Reasonably accessible health insurance coverage means that the coverage will provide payment for the primary health care services within a reasonable distance from the child's primary residence.

**Senate Bill 626 (child advocacy centers)** provides definitions related to child advocacy centers and their role in multidisciplinary treatment teams. The bill defines a child advocacy center as a community-based organization that is a member of the West Virginia Child Abuse Network. These centers also must be working on providing the following services and programs:

- a facility that is physically and psychologically safe for children;
- a response team that includes representatives from several disciplines such as law enforcement, Child Protective Services, mental health, and the child advocacy center itself;
- a legal entity responsible for the program;
- a culturally competent set of policies, practices and procedures;
- well-coordinated forensic interviews that are of a neutral, fact-finding nature;

- medical evaluation, therapeutic intervention and other forms of support for suspected victims of child abuse; and
- case review and tracking.

In addition, the bill allows for a representative from a child advocacy center to serve as a permanent member of a county's multidisciplinary investigative team. These teams are responsible for looking into reported cases of child sexual assault, abuse and neglect and make recommendations to the county prosecutor based on their findings. Also, the bill allows a representative from a child advocacy center to serve on the treatment team assigned to a potential victim of child abuse.

**Civil Service**

**Senate Bill 746 (personnel reports)** requires the Director of Personnel to submit a report to the Joint Committee on Government Organization by September 30, 2007. This report should present information regarding a centralized personnel/human relations system for the state. The report must include sections covering benefits, cost effects, drawbacks, structure and other information that relates to the implementation of the system.

*Bill(s) related to this section:*  
**Senate Bill 589, pg. 31**

**Claims**

**Senate Bill 484 (claims against the state)** declares certain claims against the state and its agencies are the state's moral obligation to pay in the amounts specified. These claims will be paid out of the appropriated and available fund. The Auditor is also required to issue warrants for the payments made. Currently, there are two claims against the Department of Health and Human Resources and 15 against the Department of Corrections.

**House Bill 2973 (moral obligations)** declares certain claims against the state and its agencies to be moral obligations of the state and directs the state Auditor to issue warrants for payment. Claims against state agencies, person's names and amounts owed to them are listed in this bill.

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 41.

### Code Repealed

**Senate Bill 149 (repealing code section)** repeals a section of the West Virginia Code that established a special account in the Department of Health and Human Resources called the Child Assessment or In-State Placement Fund. Money from the fund was used for developing and implementing programs that reduced the number of children in long-term placements outside of their homes.

**Senate Bill 511 (repealing code section)** repeals a section of the West Virginia Code relating to insurance policies. Under the section repealed, insurance provider's land liability insurance coverage policies had to contain a provision that stated the insurance provider could not declare immunity from liability because the insured's land was used for recreational purposes.

### Commerce

**Senate Bill 177 (Division of Energy)** creates the Division of Energy within the Department of Commerce. This also moves the Office of Coalfield Community Development and the Energy Efficiency Program from the state Development Office to the newly created division. The bill also continues the Public Energy Authority, with the director of the Division of Energy as the ex officio chair.

The Division of Energy will be charged with developing a statewide energy policy and an annual energy development plan. The division must submit this report to the Governor and the Joint Committee on Government and Finance. The development plan will relate to the implementation of the energy policy and will include any recommended legislation, as well as a report on the division's activities during the previous year.

In addition, the division will create a database that keeps track of the use and sources of energy in the state. The new division will also implement initiatives designed to enhance the nation's energy security by promoting West Virginia resources and providing for emergency situations. Funding for this division will come from the Mountaintop Removal Fund.

**Senate Bill 393 (Marketing and Communications)** creates the Marketing and Communications Office in the Department of Commerce. The purpose of this agency is to provide marketing and communications goods and services to other state and local government agencies. The office is allowed

to charge for these services, which are entirely optional. Beginning in 2008, the Secretary of Commerce must give the Legislature an annual performance update about the office. Unless otherwise continued or terminated before then, the office will sunset on July 1, 2010.

### Consumer Protection

**Senate Bill 428 (identity theft protection)** establishes a procedure for consumers so they can apply a security freeze to prohibit consumer-reporting agencies from releasing any of the consumer's credit report, or information relating to it, to entities the consumer does not have a credit relationship with at the time. Once the freeze is applied, the consumer will have to give authorization for such activities to take place. Consumer-reporting agencies may charge no more than \$5 to consumers who wish to place, remove or temporarily remove a freeze from their report. If the consumer is a victim of identity theft, the agency may not charge them a fee for the service.

### Contracts & Contractors

**Senate Bill 70 (VETOED & OVERRIDDEN)** sets penalties for contractors and subcontractors who knowingly employ workers without verifying that the worker has the legal right to work in West Virginia. The penalty will include a \$100 to \$1,000 fine for the first offense; a \$1,000 to \$2,000 fine for a second offense, plus a 3-month suspension of the contractor's license; and \$3,000 to \$5,000 fine, or 30 days to one year in jail for a third offense. The suspension or revocation of the contractor's license after a third or subsequent conviction may also be issued. The bill also establishes that wages for services paid to unauthorized workers of \$600 or more cannot be claimed and used as a deduction for business expenses starting on January 1, 2008.

**House Bill 2710 (manufactured homes)** redefines the term "contractor" to include persons that perform work on manufactured homes they do not own or lease. Any general contractor that works on manufactured homes would be required to be licensed under this bill. This change brings the state into conformity with recent changes in the federal requirements as it relates to the licensure and continuing education of manufactured housing installation contractors.

**House Bill 3094 (pecuniary interests)** provides two new exemptions for the prohibition of district and county officers, teachers and school officials from having a say in contracts



in which they might have a direct or indirect financial interest: when a person has a pecuniary interest in a public utility regulated by the Public Service Commission and when a public body would not be able to establish a quorum or otherwise operate effectively. In the latter case, the body must make a written application to the West Virginia Ethics Commission for an exemption.

**House Bill 3117 (subcontractors)** requires all contractors submitting a bid with the State of West Virginia to have a state contractors license. Before the passage of this bill, only people performing contracting duties in the state had to have a state license.

*Bill(s) related to this section:*

**Senate Bill 21, pg. 9**

**Corporations & Business Entities**

**House Bill 2526 (acupuncturists)** allows licensed acupuncturists to form a professional limited liability company.

**House Bill 2748 (VETOED)** requires those who purchase any form of copper, aluminum, brass, lead, any other nonferrous metal or steel railroad track and track material to acquire a detailed record of their transactions with the seller of the materials. A law enforcement officer could require these records during an investigation of stolen scrap metal materials. Purchasers of railroad tracks and track materials must keep strict records. Those who knowingly fail to collect and provide information relating to the sale of these materials will be penalized between \$1,000 and \$3,000 for a first offense and a second offense penalty will result in a \$2,000 to \$4,000 fine, and if the person holds a business license, it will be revoked for up to six months. The third and subsequent offenses will result in a fine between \$3,000 and \$5,000 and the revocation of the person’s business license. For two years, those who commit a third offense or any member of their immediate family will be prohibited from applying for, holding or obtaining any business license that would permit them to own, conduct or operate any business that involves the purchase of scrap metal or the operation of any salvage yard or recycling facility.

*Bill(s) related to this section:*

**Senate Bill 531, pg. 35**

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 41.

**Corrections**

**Senate Bill 192 (re-arrest for clerical error)** authorizes the Commissioner of the Division of Corrections to issue arrest orders for inmates released from the division due to a clerical error or the failure of a sentencing court to transmit an order of commitment prior to the inmate’s release. The Division of Corrections may also obtain warrants for escapees under this bill. The commissioner may enter these warrants into all criminal reporting databases and other computerized systems utilized by law enforcement for the reporting and apprehension of criminals and fugitives.

**Senate Bill 361 (inmate work program)** authorizes the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority to establish a work program for qualified inmates in regional jail facilities. Inmates who have been convicted of a sexual offense or a violent felony are not eligible.

The administrator of each regional jail facility is responsible for all money sent to inmates and earned as compensation for work performed within the division. The administrator will deposit each inmate’s money in a trustee account at one or more responsible banks. The administrator will keep at least 10 percent of an inmate’s earnings from a work program in the account. The remaining 90 percent will be put towards the cost of incarceration. The administrator will also deduct legitimate court-ordered financial obligations including child support payments and liens.

An inmate will receive his or her earnings at the time of release unless an inmate is transferred to the Division of Corrections at which point the Division of Corrections will manage the inmates’ money.

**Senate Bill 707 (processing fees)** increases the jail processing fee from \$20 to \$30. This fee must now be placed into the Regional Jail and Correctional Facility Authority’s operating budget and must be paid prior to the offender’s release. It is refunded when a person is not convicted of the offense and provides documentation from the court showing that all charges were dismissed. It also moves the section of code establishing the fee from the chapter on counties to the article on regional jails.

**House Bill 2253 (regional jail employees)** places regional jail employees under the civil service system. The civil service system is a merit-based, employee rating plan that uses educational qualifications, work experience, testing, and job performance as criteria for employing and promoting civil servants. The executive director, appointed by the West Virginia



Regional Jail and Correctional Facility Authority and confirmed by the state Senate, and his or her office staff are exempt from coverage under the civil service system. In addition, after July 1, 2007 all persons must be hired based on the passage of the correctional officer examination without regard to his or her position on the correctional officer register.

**House Bill 2422 (medical reimbursements)** provides a cost-saving measure for regional jails and correctional facilities. As of July 2007, it limits the amount of money an outside medical provider can be reimbursed for services provided to an incarcerated person to 73 percent of the billed charges and 85 percent of the charges for critical access care. After July 2008, the reimbursement rate will be established by legislative rule of the Bureau for Medical Services within the Department of Health and Human Resources, with compensation for critical access treatment decreasing to 75 percent. However, the 2008 modification will only occur if the Department of Military Affairs and Public Safety and the Department of Health and Human Resources set up an inter-agency agreement that will allow the medical providers to process the services and payments electronically. Under this bill, reimbursement applies to all medical care services, goods, prescriptions and medication provided outside of the correctional facility.

**House Bill 3228 (home confinement officers)** prohibits home confinement officers from engaging in sexual intercourse with home-incarcerated persons. This provision will penalize the officer with one to five years in a correctional facility, a fine of up to \$5,000 or both. The bill also redefines “incarcerated in this state” to include those who are involved in the home confinement program.

*Bill(s) related to this section:*

**Senate Bill 411, pg. 5**

**Counties**

**Senate Bill 105 (fees for records & services)** imposes a penalty on county commissions that fail to pay fees for records and services collected by Sheriffs for the Deputy Sheriff Retirement Fund by the 15th day of the month following the calendar month in which the fees were due. Beginning after the 15th day, an interest rate based on the loss from the delay in payment is assessed until the delinquent amount is received. The monetary punishment is \$50 or an amount equal to the interest rate; whichever is greater.

**Senate Bill 526 (political activities of police and deputies)** places further regulations on the political activities of

sheriff’s deputies and municipal police officers. In addition to existing restrictions, the bill further prohibits deputies and police officers from being candidates for, or holding public office in, the county or city where they work. Also, it prohibits them from soliciting political contributions or donations from members or employees of the county or city. Any police officer or deputy violating these regulations will be removed from office.

Besides these restrictions, the bill also prevents a person from being appointed, promoted, demoted or dismissed from any position held by a deputy or police officer because of his or her involvement in any authorized political activities. A person violating this would be guilty of a misdemeanor and would face a fine of \$50 to \$1000 and/or up to a year in jail, in addition to possibly being removed from his or her position.

**Senate Bill 541 (property tax revenue from school board levy)** raises the limit on the increase in total property tax revenues derived from the regular school board levy rate from 1 percent to 2 percent. The bill authorizes local share to be calculated under the assumption that all properties are being assessed at 60 percent of market value as indicated by the sales ratio analysis, beginning July 1, 2013. The bill also provides for a maximum of \$1,000 refundable tax credit in the amount of real property taxes paid in excess of 4 percent of a person’s income, and provides that a homeowner can choose to benefit from either this refundable tax credit or the low-income tax credit for property tax paid on the first \$20,000 of taxable assessed value of a homestead, whichever credit is greatest. The bill also reduces “levies for general current expense purposes” from 98 percent of the levy rate to 94 percent, effective July 1, 2007. The levies will continue to be reduced from 94 percent to 90 percent on July 1, 2008. As of July 1, 2010, for any county that is not assessing property at least 54 percent of market value, levies for general current expense purposes is 98 percent of the levy rate set by the Legislature.

The State Tax Commissioner is required to report to the Joint Committee on Government and Finance as well as the Legislative Oversight Committee on Educational Accountability by March 1 of each year to present the progress of county assessors in assessing properties at the constitutionally required 60 percent of market value and to report the effects of raising the limit on the increases in property tax revenues to two percent.

The bill declares that public libraries serve a legitimate school purpose and requires that a library funding obligation created by a special act of the legislature be paid only from



that portion of school board levy revenues that are not local share. It also allows the transfer of a library obligation to the excess levy to use the libraries to encourage passage of the excess levies. This is accomplished by voiding the library-funding obligation for the fiscal year after a vote on an excess levy occurs regardless of whether or not the excess levy passed. The library funding obligation would remain an obligation of the regular school levy revenues until after the fiscal year in which a vote on an excess levy occurs.

Lastly, additional funds are provided for any county whose most recent three-year average growth in second month net enrollment is 2 percent or more. The amount of the supplement provided is equal to one-fourth of the state average per pupil state aid multiplied by the increase in the county's second month net enrollment in the latest year.

**House Bill 2875 (vacant county commission seats)** states specific procedures of filling vacant county commission seats when remaining commissioners are unable to agree upon a person to fill the spot. If this situation occurs, the executive committee for the vacating county commissioner's political party will be required to appoint a person to fill the empty commission seat from the membership of their political party.

*Bill(s) related to this section:*  
**Senate Bill 436, pg. 8**

**Courts**

**Senate Bill 139 (petitions)** sets the conditions under which a court can deny a petition for a name change. The bill denies an applicant their petition if that person seeks this change with a fraudulent intent. Also, an individual may not be granted a name change while still in prison if they have been convicted of a felony. In addition, a court cannot grant a name change to a person convicted of murder until 10 years after he or she is released from prison or discharged from parole, whichever is later.

**Senate Bill 141 (sibling visitation)** will provide family court jurisdiction over sibling visitation petitions. Currently, such cases are solely within the jurisdiction of circuit courts.

**Senate Bill 206 (court costs)** allows judges to assess pretrial diversion agreement court costs to individuals whose case is disposed of without being completed. Paying the court costs will now be a condition of the agreement.

**Senate Bill 208 (retirement benefits)** includes the Governor's Office, the Supreme Court of Appeals' administrative office, and the Consolidated Public Retirement Board as government entities that will receive a certified copy of the Governor's written acceptance of a judge's retirement and the details and amount of retirement benefits paid to that judge. The current practice, filing a copy with the Secretary of State who then forwards a copy to the State Auditor, will remain in place.

**Senate Bill 557 (juveniles reviews)** requires a juvenile court to issue an order stating whether the department made reasonable efforts to finalize a permanency plan. The bill also requires judicial reviews at least every three months until permanent placement is achieved.

**House Bill 2120 (municipal court judges)** requires all people applying for a municipal court judgeship to complete and pay for a state police criminal background check. Any applicant convicted of a felony will be disqualified. If the person applying is not allowed to practice law in West Virginia, the person will be disqualified. The bill also requires municipal court judges to take an annual course for continuing education purposes. The judge's employer will pay the course fee.

**House Bill 2141 (jury duty)** increases the age at which a citizen can request to be excused from jury duty from 65 to 70. If a prospective juror, 70 years of age or older, asks to be excused, he or she will not be required to serve.

**House Bill 2181 (state agency annual reports)** allows licensing boards, state agencies and commissions to file their annual reports with the Legislative Librarian in electronic format.

*Bill(s) related to this section:*  
**Senate Bill 82, pg. 5**  
**Senate Bill 194, pg. 8**  
**House Bill 2770, pg. 15**

**Courts - Circuit**

**Senate Bill 400 (VETOED)** creates additional circuit judgeships consistent with recommendations from the National Center for State Courts. The bill adds one circuit judge in each of the following judicial circuits: 9th Mercer County, 17th Monongalia County, 24th Wayne County, 22nd Hampshire, Hardy and Pendleton Counties, 30th Mingo County, and amends and adds one judge in the 13th, Kanawha County.



**Senate Bill 414 (VETOED & OVERRIDDEN)** sets new, flat fees for services performed by circuit court clerks. This will raise certain court costs from \$10 to \$25. There will be a \$50 fee charged to anyone who deposits court ordered funds into a federally insured interest-bearing account. This administrative fee will be paid to the court and then deposited into the general county fund.

**House Bill 3106 (family court judges)** increases the number of family court judges by 10 (from 35 to 45). The bill also increases family court circuits from 26 to 27 and realigns a number of the existing family court circuits to reduce the caseloads of judges as measured by a recent study conducted by the National Center for State Courts. The changes will not be effective until January 1, 2009, after the judicial elections.

*Bill(s) related to this section:*  
**Senate Bill 709, pg. 15**

**Courts - Magistrate**

**Senate Bill 140 (magistrate court funds)** clarifies the section of WV Code stating that \$10 in fines and fees that is collected in magistrate court proceedings must be deposited into the magistrate court fund.

**Senate Bill 204 (jury costs)** requires magistrate court judges to assess the cost of juries (for the total of their embarkment, mileage, etc.) at their actual cost rather than the current flat rate of \$200, as set by the Secretary of the Department of Administration. In a magistrate court case, amounts collected above \$200 will be deposited in the state's General Revenue Fund, and the remaining balance will be equally distributed between the Domestic Violence Legal Services Fund and the Parent Education and Mediation Fund.

**Senate Bill 415 (criminal record checks)** authorizes magistrate courts to assess a fee of \$25 for criminal record checks. This revenue will be put into the general fund in the State Treasury. Federal, state, county or municipal officials; court-appointed attorneys; prosecuting attorneys; and, persons utilizing court provided public access terminals are exempt from this fee.

**House Bill 2332 (tobacco users)** allows municipal and magistrate courts to have jurisdiction over juveniles who possess or use tobacco products.

*Bill(s) related to this section:*  
**Senate Bill 413, pg. 6**

**Crimes**

**Senate Bill 66 (home incarceration fee)** sets a flat fee of \$2.50 per day to be assessed on persons in home incarceration and deposited into the West Virginia Community Corrections Fund. Current law unclearly established that the fee is no more than \$5 per day.

**Senate Bill 117 (mental capacity)** updates a provision of the West Virginia code relating to the procedures and standards for determining a defendant's criminal responsibility and whether he or she has the mental capacity to stand trial. The provision relates to evaluations of a defendant's competency, criminal responsibility, and dangerousness to themselves or others. It also creates standards for evaluations; minimum qualifications for the forensic psychological and/or psychiatric evaluators; establishes standards of review; requires for the release and transfer of a person from the criminal jurisdiction of the court when certain findings are made; requires periodic review of a person found incompetent to stand trial; and includes provisions relating to both evaluations of diminished capacity and dangerousness.

**Senate Bill 148 (VETOED)** modifies the current definition of indecent exposure to exclude a mother who is breastfeeding a child in a public or private location. After being vetoed, provisions from this bill protecting mothers' rights were included as an exemption to indecent exposure in House Bill 2498. (See pg. 15)

**Senate Bill 205 (domestic violence)** updates current domestic violence protective orders to protect an individual who has filed a complaint against, among other things, threatening e-mails, phone calls and voice mails.

**Senate Bill 416 (defeating drug tests)** creates a misdemeanor offense for anyone who attempts to pass a drug test by using someone else's urine sample or adds anything to a sample to make it impure. The bill creates a misdemeanor offense for anyone who possesses, sells or advertises for the sale or distribution of any product used to defeat drug and alcohol tests. For a person's first offense, they will be convicted of a misdemeanor and fined no more than \$1,000. A second offense will result in a misdemeanor offense and a fine of no more than \$5,000. Third and subsequent offenses will result in a misdemeanor offense, a fine of no more than \$10,000 or confinement in a regional jail for up to one year.

**Senate Bill 512 (polygraph tests)** prohibits prosecutors, law enforcement officers or other government officials from requiring an alleged victim to take a polygraph test as a condition to proceed with the investigation or prosecution

of a sexual offense. In addition, an alleged victim's refusal to submit to such a test cannot be used as a reason to halt an investigation or prosecution.

**Senate Bill 529 (forensic examinations)** prohibits any requirement that an alleged victim of a sexual offense must pay for the costs of a forensic examination. The bill also requires that the medical institution that has performed a forensic medical examination upon an alleged victim of a sexual offense submit the charges for doing so directly to the West Virginia Prosecuting Attorneys Institute for payment and disallows reimbursement for processing these payments. The bill also removes the requirement that alleged victims participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam.

**Senate Bill 612 (hunting licenses)** increases fines for violations of a Class E nonresident hunting and trapping license) and a Class EE nonresident bear hunting license from the current range of \$50 to \$300 to \$250 to \$500. Additionally, the bill provides a fine for violating a Class F nonresident fishing license of \$100 to \$300.

**House Bill 2027 (VETOED)** facilitates the awarding of monies for victims of identity theft under the Crime Victims' Compensation Board. The bill expands the definition of those who qualify for compensation awards as given to victims of crimes. It also expands the defined terms included in the WV Code to include "Personal identifying information," meaning an individual's name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number or credit card number.

**House Bill 2498 (VETOED & OVERRIDDEN)** enhances the penalty for intentional indecent exposure for the purpose of sexual gratification. Any person who intentionally exposes his/her sex organs or anus is guilty of a misdemeanor and is subject to a \$500 fine, up to 12 months in jail or both; a second offense is also a misdemeanor, with jail time of 30 days to one year and/or a fine of \$1000 and third offense is a felony, one to five years in prison and fine of \$3,000. The definition of sexual conduct is also modified to include touching of the buttocks. An exemption to this bill is breastfeeding in public.

**House Bill 2770 (motor carrier inspectors)** includes court security personnel, Public Service Commission motor carrier inspectors and enforcement officers into the general category of law enforcement personnel who warrant strengthened penalties for those who assault, maliciously wound, or batter them during the course of performing their duties.

**House Bill 3161 (public utility fraud)** creates a misdemeanor offense for anyone who illegally connects any pipe, tube, wire or electrical conductor with the intent of injuring or defrauding by taking water, oil, natural gas, electric or telecommunications service. A person convicted of this crime will be jailed for no more than 12 months and fined no more than \$2,000.

*Bill(s) related to this section:*

**Senate Bill 82, pg. 5**

**Senate Bill 142, pg. 16**

**Senate Bill 175, pg. 5**

### Crimes - Juveniles

**Senate Bill 76 (underage drinking)** will add penalties to juveniles who are judged delinquent for consuming alcohol. For a first offense juveniles will receive up to eight hours of community service, a fine of no more than \$25 or both. Juveniles who commit the crime a second time will receive up to 16 hours of community service, up to a \$50 fine or both. On the second offense, the juvenile could also lose his or her driver's license for five to 90 days. A third offense would require the juvenile to complete up to 24 hours of community service, pay up to a \$100 fine or both. Under the third offense, the juvenile's driver's license could be revoked until age 18.

**Senate Bill 196 (juvenile arrests)** clarifies that whatever law enforcement agency takes a juvenile offender into custody is responsible for initially transporting him or her to a juvenile detention center or other Division of Juvenile Services facility. In addition, the facility is not required to accept a juvenile in need of serious medical attention. Both provisions are similar to existing laws regarding adults delivered to jails.

**Senate Bill 412 (driving with cell phones)** provides fines for the use of hand held cell phones by a minor while driving, an act that was already prohibited but not fineable. Penalties apply to those minors who are holding a level one instruction permit or a level two intermediate driver's license. This is considered a secondary offense and a law enforcement officer may only enforce this provision after suspicion of a more serious violation. A person who violates this law is guilty of a misdemeanor and the first offense will result in a fine of \$25; the second, \$50; and from the third on, \$75.

**Senate Bill 709 (juvenile improvement)** gives circuit courts permission to grant improvement periods to juveniles in a custodial or noncustodial setting. These periods will be granted if the court deems it in the best interest of the child.

### Disabilities

**House Bill 2714 (handicapped parking)** makes amendments relating to handicap parking. A chiropractor, advanced nurse practitioner or physician's assistant can verify that one is eligible to receive a handicap license plate or place card. The commissioner may issue up to two special registration plates or removable windshield placards to a handicapped person or a West Virginia organization that transports disabled people.

This bill also clarifies that signs must state "no parking tow away zone" in 12 inch height letters. Beginning on July 1, 2007 each sign installed or replaced must also say "tow away zone".

### Domestic Relations

**Senate Bill 550 (performing marriages)** relates to the maintenance of the registry of people authorized to perform marriages. The bill eliminates the \$1,500 bond formerly required of a person who could not provide his or her ordainment papers, and provides for the removal of a registrant from inactive status. A registrant may pay a \$25 fee to move from inactive to active status.

**House Bill 2787 (VETOED)** enables state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, sexual assault, or stalking who often relocate to avoid the ill-treatment of their previous abusers. The bill facilitates inter-agency cooperation with the Secretary of State in providing address confidentiality for these victims. Participation in the program may be canceled if the participant obtains a legal name change; these provisions enable state and local agencies to be able to respond to requests for public records without disclosing the location of that participant.

**House Bill 2870 (attorney fees)** allows courts to order payment into the Domestic Violence Legal Services Fund under certain circumstances. A court can force the losing party of a lawsuit to pay an amount equal to the attorney's fee into the fund when the winning party is entitled by law to pay an attorney's fee or when the winning party's attorney informs the court that the party will not be charged a fee.

**House Bill 2926 (protective orders)** clarifies that an outstanding domestic violence protective order remains in effect until a temporary order or other substantive order is entered into a pending action for divorce, separate maintenance or

annulment, and will not expire upon the entry of a procedural order in that case. Also, the bill requires the WV Supreme Court of Appeals to allow for the notice to be provided to the parties involved, the domestic violence registry and to law enforcement when a domestic violence order has been extended.

*Bill(s) related to this section:*

**Senate Bill 388, pg. 9**

### Drugs

**Senate Bill 142 (methamphetamine)** creates the "Methamphetamine Laboratory Eradication Act," which establishes a misdemeanor offense, with a \$10,000 penalty, for illegally possessing, possessing with the intent to distribute or distributing an iodine matrix or iodine crystals - elements of illegal methamphetamine production. An illegal iodine matrix refers to any iodine solution at a concentration greater than two percent, however, it is not unlawful to have this substance in certain circumstances during the course of legitimate business activities, including in public or private educational institutions or health care facilities. Due to the common use of iodine in many household products, the transfer or receipt of any betadine or povidone solution with a maximum iodine content of 10 percent in an eight ounce or less container does constitute an illegal possession. In addition, a tincture of iodine, which consists of an iodine solution in ethyl alcohol such as an antiseptic, is limited to two percent in containers of one ounce or less sold over the counter for household use.

*Bill(s) related to this section:*

**Senate Bill 175, pg. 5**

**Senate Bill 416, pg. 14**

**Senate Bill 447, pg. 34**

### Economic Development

**Senate Bill 697 (Appalachian Regional Interstate Compact)** allows revenue-sharing agreements to be made between county economic opportunity development authorities and similar authorities outside the state. The agreements must be made with respect to tax revenues and other income generated by facilities that are owned by the county economic opportunity development authority. The bill allows the county authority to make rules for its organization, elect its own officers, enter into and amend contracts, apply for grants, buy or receive real property and raise funds.



**Senate Bill 738 (VETOED)** requires the West Virginia Parkways, Economic Development and Tourism Authority to report any need for a new toll or the revision of an existing toll to the Joint Committee on Government and Finance, on the condition that any evidence to support their conclusion is included. If the committee confirms the need for a new or revised toll on any parkway project, an affirmative vote by the full Legislature is required before it can be implemented.

**Senate Bill 748 (VETOED)** creates the Electronic Telecommunication Open Infrastructure Act. This measure requires an inventory and mapping of the current availability of access to broadband communications in this state and seeks to develop the coordinated deployment and operation of technology infrastructure within this state.

*Bill(s) related to this section:*  
**House Bill 3048, pg. 38**

**Education**

**Senate Bill 67 (school access)** updates the “School Access Safety Act,” which authorizes the School Building Authority (SBA) to finance advanced methods for students, school employees, parents, visitors and emergency personnel to enter and exit from public school buildings. Also, the Act approves practices that facilitate enhanced communication and monitoring within schools.

The bill creates standards for county boards to receive funding from the School Access Safety Fund, a special account in the State Treasury. Standards to receive funding include an analysis of the current safety of the school system, the current status of school crime in the county, a projected repair and renovation schedule for each school in the county, an analysis of how the plan meets the goal of the article and the identification of local sources of funds to meet the county’s contribution requirement.

Under this bill, a funding mechanism is established which requires the SBA to determine the amount of money available for spending and to allocate that money to the county boards on a per-pupil basis as determined by the net enrollment of the county. Counties are required to contribute at least 15 percent of the funds available to it, unless they submit a financial hardship waiver approved by the SBA. Money cannot be distributed until the county has a school access safety plan for all the schools that have been approved. It also establishes that if the money is not spent for its approved purpose within one year, it

must be returned and the county would not be eligible for this type of funding again until the county is prepared to act. However, a six-month extension is available if required. The bill also includes provisions on school access requirements for new schools that are funded with SBA money. To monitor the implementation of this bill, the SBA will report to the Legislative Oversight Commission on Education Accountability during the June and September 2007 and January 2008 interim periods.

**Senate Bill 134 (TRS)** institutes a definite deadline by which members of the Teachers’ Retirement System (TRS) must pay their contributions to the fund. This measure states that the money must be paid into the TRS 15 days after the end of the month. A comprehensive summary of the contributions from each employee’s compensation must be sent with the payment.

**Senate Bill 599 (early retirement)** eliminates the \$500 bonus teachers can receive for giving early notification of his or her resignation. Under the bill, only retiring teachers who give early notification are eligible for the bonus. The amount of the bonus stays the same.

**Senate Bill 603 (technology programs)** establishes the 21st Century tools for the 21st Century Schools Technology Initiative. The bill states the provision of technical equipment and services to students and teachers must be based on a plan aligned with the goals of the West Virginia 21st Century Strategic Learning Plan. The purpose of this program is to give students, grades pre-kindergarten through 12, the knowledge and skills needed to succeed in the 21st Century. This bill replaces and enhances current technology programs to enhance West Virginia student learning skills.

**Senate Bill 657 (student assessment program)** improves education preparation for 21st Century knowledge and skills. This bill is an electronic county and school strategic improvement plan for each public school. It establishes a comprehensive statewide student assessment program to assess student performance and progress grades three through 12. Distinction accreditation status shall be given to a school when the school’s performance and progress exceed the standards adopted by the state board. Changes from seriously impaired, low performing accreditation status will be given to a school whenever extraordinary circumstances exist.

**House Bill 2105 (substitute teachers)** permits retired teachers to accept employment as substitutes in areas of critical need for an unlimited number of days without affecting their retirement benefits. The State Code was amended in 2001



to improve the available pool of highly qualified substitutes in the later months of the school year by allowing retired teachers to substitute in areas of high demand for an unlimited number of days without a reduction in benefits if certain conditions are met. That provision originally expired on June 30, 2006. This bill extends the expiration date to June 30, 2010. In addition, a county board is required to adopt a policy for each school year to be approved by the State Board of Education identifying the area(s) of critical need and shortage in which it may employ retired teachers as substitutes on an expanded basis. The county superintendent must submit an affidavit to the Retirement Board prior to the employment of the retired teacher beyond the post-retirement employment limit. If this is done, the retired teacher can be employed as a substitute beyond the 140-day limit without loss of benefits. However, a teacher may not retire and begin substituting in the same employment term without loss of benefits. If the retired teacher is employed to fill a vacant position, the county board must continue to post the vacant position until it is filled by a regular employee.

**House Bill 2189 (substitute personnel)** clarifies that substitute service personnel gain substitute seniority but do not gain regular employee seniority or bidding rights during employment as a substitute. The bill also stipulates that when a school merger or consolidation occurs, service personnel have the opportunity to vote whether to give priority for filling new job positions to service personnel from the closed school. Also, the bill allows schools to purchase items for student, teacher, parent or community recognition programs.

In addition, the bill conforms school bus safety requirements to those of federal law, and establishes requirements for schools using chartered buses, asserting the owner or driver show proof of auto insurance, the bus meets vehicle safety standards and the use of trained drivers that have undergone criminal background checks. Under this bill, county boards are allowed to lease school buses to nonprofit organizations, including education employee organizations, fairs and festivals and for educational and cultural events. Also, the bill establishes the beginning of the workday for bus drivers and transportation aides.

**House Bill 2558 (VETOED)** authorizes the Chief Technology Officer to create and establish a program to refurbish and donate state surplus computers from state agencies to public schools and low-income school children. Donations are not subject to surplus property requirements and computers must be four years old or less. It allows all institutions of higher education to create donation programs. Currently, only West Virginia University and Marshall University may create donation programs.

**House Bill 2585 (teaching certificates)** relates to the renewal of teaching certificates and permanent certification. Until a person qualifies for a certificate, any professional or first class certificate based on a bachelor's degree can be renewed if it is within five years from the date the certificate became valid. To renew a certificate a teacher must apply with the State Department of Education, present an official transcript of six semester hours of approved credit, complete a beginning teacher internship program and submit a recommendation based on successful teaching experience from the county superintendent. Teachers receive certification through the National Board for Professional Teaching Standards.

This bill also authorizes the State Superintendent to choose up to 25 professional educators, who are currently employed and who are members of either the Teachers' Retirement System or the Teachers' Defined Contribution System, as 21st Century Learner Fellows. State institutions of higher education or research corporations would employ these experienced professionals. In order to be eligible, a teacher must be certified by the National Board for Professional Teaching Standards and demonstrate leadership within his or her education service agency area. Teachers who participate will be in the employ of a state higher education institution or research corporation, and will retain the same benefits as a professional educator, such as retirement and PEIA.

**House Bill 2588 (continuing teacher education)** states that when funds are low in the account that is used to reimburse teachers for their continuing education, those who take courses for certification renewal or for an additional endorsement in a shortage area will be refunded first. Existing law allows reimbursement for up to 15 hours a semester per teacher for courses toward certification renewal and additional endorsements.

**House Bill 2777 (teacher pay raises)** increases the annual salaries of school teachers and service personnel. Starting July 1, 2007, they will receive a 3.5 percent pay increase. A teacher who is nationally board certified will receive an additional \$3,500 per year. The bill also defines class titles and workday parameters for compensation purposes of service personnel.

**House Bill 2781 (school bus length)** increases the allowable length of school buses, excluding front and rear bumpers. The bill extends the maximum length of buses from 40 feet to 45 feet. The purpose of this change is to accommodate anticipated design changes of large passenger buses to increase their length above the 40-foot statutory limit.



**House Bill 2931 (national guard)** adds a provision to provide payment of tuition and fees for members of the West Virginia Army National Guard and West Virginia Air National Guard enrolled in a Master’s degree program. These payments may not exceed the actual amount of tuition and fees at the school.

This bill also provides state-funded financial aid resources to spouses of deceased armed service personnel. If a member is killed during hostile actions or dies from duty related injuries, their spouse will be eligible to receive at least \$5,000 each year for post-secondary education or training. A spouse must be between 16 and 25 years old, enrolled in a state post-secondary education or training institution and be the spouse of an enlistee who designated West Virginia as his or her state of record.

In addition to the tuition waiver, a spouse attending a state higher education or training institution is eligible for up to \$2,000 per year in education benefits. If an eligible spouse attends a private higher education or training institution where the tuition waiver is not applicable, that spouse remains eligible for up to \$2,000 per year in education benefits. These benefits and waivers do not limit the acceptance of other scholarships or grants.

*Bill(s) related to this section:*  
**Senate Bill 100, pg. 27**  
**Senate Bill 542, pg. 33**  
**House Bill 3094, pg. 10**

**Elections**

**Senate Bill 360 (levying bodies)** extends the meeting times for levying bodies. This would allow a levying body to meet until June 1 when a levy is up for consideration during a primary election. The normal business meeting times for these levying bodies run from March 7 to March 28.

**Senate Bill 596 (election personnel)** requires municipal elections personnel to participate in training conducted by the Secretary of State’s office.

**Senate Bill 606 (absentee voting)** allows for people to participate in absentee voting via electronic mail. The bill also allows for active duty military personnel who are overseas to complete their absentee ballot and submit via fax. The bill also deletes references to punch cards and lever voting.

**Senate Bill 607 (executive committees)** amends several provisions of the law relating to the election of political party

executive committees and the filling of vacancies on these committees. The bill requires a newly elected executive committee to convene an organizational meeting after election results are certified before July 1, and serve the outgoing committee’s term to conduct business.

The bill also authorizes the chair of the state executive committee to fill a vacancy if the executive committee fails to act within 60 days (reduced from the previous four month allotted time) or if the county chair fails to act and the vacancy prohibits the district committee from conducting business.

Beginning in 2010, the bill sets terms of executive committee members at four years and deletes carry-over provisions. The county clerk is required to submit the results of executive committee elections to the Secretary of State, who will advise the state executive committees of the members elected and any vacancies in the county and district executive committees. These changes in executive committee membership will not take effect unless the Secretary of State is notified within 10 days of the change.

**Senate Bill 610 (electronic voting)** sets several rules for the maintenance and operation of the state’s electronic voting machines. Each county commission clerk’s office will be required to adopt a policy for keeping the state electronic voting equipment secure and to submit the security policy in writing to the Secretary of State’s Office by February of each even-numbered year. This measure also requires problems with the machines to be documented and reported to the State Election Commission by January of each even-numbered year. Another provision prohibits recording or electronic devices to be brought into the voting booth if the devices could be used to interfere with the voting process. The bill also requires supplemental testing to be performed on the machines in certain circumstances and the additional testing of pre-audited groups of ballots. The last provision in this law is the allowance of any qualified individual to demand a recount.

**Senate Bill 616 (paper ballots)** makes adjustments to election ballots. This bill revises the requirements of sample ballots, allows paper ballots to be used in certain circumstances and requires county commissions to protect the privacy of provisional ballots. The bill also clarifies the layout of certain ballots, clarifies voter instructions and shortens the amount of days a candidate can challenge another candidate’s eligibility before the State Election Commission from 95 days to 84 days.

**Senate Bill 617 (voter ID)** will prohibit a state agency from withholding information regarding a voter’s status as de-



ceased or as a felon unless ordered by a court of law. The bill also allows an applicant to use his or her identification number from an identification card issued by the Division of Motor Vehicles in lieu of a driver's license number and requires that all fees associated with the agreement between the DMV Commissioner and the Social Security Commissioner are to be paid from the Combined Voter Registration and Driver Licensing Fund. The bill clarifies that voter registration applications may be corrected within four business days after the close of registration.

**Senate Bill 618 (write-in candidates)** requires the certificate of announcement for write-in candidates be filed no later than 42 days before an election, instead of the previously required 21 days.

**Senate Bill 619 (disabled voting)** mostly removes obsolete language relating to voting procedures and contains technical modifications to the current law. The bill also updates procedures for disabled individuals, providing them the option of voting from an automobile outside a polling location. In addition, it requires that poll clerks ensure the vote-recording device is placed in a location that maintains voter privacy through the entire voting period.

**Senate Bill 713 (campaign finance filings)** clarifies definitions relating to in-kind contributions, political committees and electioneering communications. The bill creates expedited filings of independent expenditures within 15 days of an election. Political committees created by a membership organization can only solicit contributions from its members. Third party expenditures must be reported in detail, and candidates can now file finance reports electronically.

**Senate Bill 753 (vacancy deadlines)** shortens the time period during which a nominee may be appointed by an executive committee upon a vacancy caused by the failure of a candidate to file for office, or by the withdrawal of a candidate done no later than the third Tuesday following the close of the candidate filing date. Now the nominee must be appointed by the executive committee and certified by the proper filing officer within 30 days of the certificate of announcement filing deadline. Current law sets the Thursday preceding the primary election as the filing deadline.

**Senate Bill 754 (political contributions)** places new restrictions on the use of contributions by political committees. Specifically, it forbids a candidate committee from contributing to another candidate committee, except as provided by existing law (i.e., contributed after the general election). It also restricts a political action committee (PAC) from contributing to or receiving money from another PAC.

However, a PAC may still receive money from its national affiliate. In addition to the new restrictions, the bill requires that expenditures be calculated at fair market value, instead of the old standard of "proper and reasonable."

*Bill(s) related to this section:*  
**House Bill 2718, pg. 22**

**Emergency Services**

**Senate Bill 403 (EMS bids)** increases the competitive sealed bid level from \$2,500 to \$10,000 for Emergency Ambulance Service Authorities' purchases.

**House Bill 2525 (state mapping)** extends the termination date for the West Virginia Statewide Addressing and Mapping Board from April 1, 2007, until April 1, 2009, by transferring the duties of the board to the Division of Homeland Security and Emergency Management with the purpose in mind of mapping the entire state to provide more effective 911 services. Current board members will serve until July 2010 or until replaced by the Governor. The bill transfers data collected by the agency to the Rahall Appalachian Transportation Institute and makes the collected information available to state agencies upon request.

**House Bill 2717 (retirement system)** creates a new retirement system under the Consolidated Public Retirement Board for Emergency Medical Services (EMS) officers. Modeled after the Deputy Sheriff retirement system, the new system becomes effective Jan. 1, 2008, if, by Dec. 31, 2007, at least 70 percent of all eligible EMS officers and at least 85 percent of the eligible EMS officers who are currently active members of the Public Employees Retirement System elect to participate in this plan. Membership will be required of new state hires and those returning to state employment after passage of the plan. Current EMS Officers in the retirement system who elect to do so will transfer their service credits and assets into the new system. Members of local plans may join upon the vote of their county commission. Employee contributions are set at 8.5 percent but may be raised to 10.5 percent if the plan isn't 70 percent funded by July 1, 2012. Local government contributions are 10.5 percent. No benefits except disability may be paid until 2011. Failure of the requisite number of EMS Officer's to elect to join by the end of 2007 voids the statute.

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 41.

### Environmental Protection

**Senate Bill 490 (underground storage tanks)** discontinues the Underground Storage Tank Insurance Fund. The Secretary of the Department of Environmental Protection will distribute all of the remaining money left in the fund. The reimbursements given to the insured are not to exceed the amount allowed by the liability limits, and under this bill, the secretary can request funding for the remediation of these underground storage tank sites from the Governor and Legislature. In this request, the secretary can also ask for funds to reimburse insured persons and vendors who have not been reimbursed by the fund before its termination. The vendors include persons who have incurred costs from performing work at storage tank sites.

*Bill(s) related to this section:*

**Senate Bill 337, pg. 6**

### Estates & Trusts

**Senate Bill 55 (estate value)** provides that the most recent mortality tables and formulas, established by the United States Internal Revenue Code, should be used for determining the value of all life estates. The new 5.6 percent interest rate reflects the current mid-term rate, which has been stable.

**House Bill 3093 (combined forms)** provides for a combined form for medical power of attorney and living will. Instead of having to fill out the two forms separately, the combined form can be executed and notarized as a single document.

**House Bill 3270 (personal representatives)** outlines the amount of compensation and expenses estate and trust personal representatives are allowed. Personal representatives are allowed reasonable expenses and commissions based on the amount of personal estates. For the first \$100,000, personal representatives receive a commission at the rate of 5 percent; amounts of \$100,000 to \$400,000 have a rate of 4 percent, all amounts between \$400,000 and \$800,000 have a rate of 3 percent; and any amounts above \$800,000 have a rate of 2 percent. Also, personal representatives have a 1 percent commission on the value of real estate that is not sold and is not subject to administration that is inculpaible for computing the federal estate tax.

The value of the commissions on real estate sold is based on the gross proceeds of sale, and for all other property,

the fair market value is the deciding factor. If more than one personal representative serves, the total compensation is divided between them as agreed or, if there is not an agreement, in proportion to the services performed. The county commission has the authority to deny or reduce the value of commissions if it is determined that the personal representative did not faithfully execute his or her duties. The county commission is also authorized to increase the commission if the personal representative has performed extraordinary services. If the personal representative is a lawyer who receives compensation for professional services, a commission is not awarded.

**House Bill 3271 (spendthrift trusts)** clarifies provisions relating to spendthrift trusts. Trusts that do not make payments for health, education, support and maintenance can also receive spendthrift protection. Under current law, discretionary trusts, or “special needs” trusts, and annuity trusts do not technically make payments relating to health, education, support or maintenance. The bill clarifies that beneficiaries other than the trust’s creator can receive spendthrift protection, if that is what the trust’s creator intended.

**House Bill 3272 (trusts)** provides for total return unitrust distributions from income trusts governed by West Virginia law. Trustees, with the consent of beneficiaries, can adopt a unitrust approach whereby the beneficiary receives a specified percentage of the asset’s value in the trust paid annually. Without judicial approval, the trustee can appoint someone who doesn’t have a material interest in the decision to decide the percentage used to calculate the unitrust amount; the method for determining the fair market value of the trust; and if any assets, such as residential property and physical personal property, can be excluded in determining the unitrust amount. In the event that a person is unable or unwilling to appoint someone, he or she may petition the circuit court of their residing county to find the annual fair market value of the trust and the percentage to be used based on a reasonable current return from the trust between 3 to 5 percent. A beneficiary can object in writing to the conversion to a unitrust approach within 20 days from notification of the proposed action.

### Firearms & Weapons

**House Bill 2348 (illegal seizure)** prohibits firearms to be seized from a person during a declared state of emergency unless the firearm is possessed or carried illegally or the user of the weapon is executing a criminal act.

**House Bill 3074 (handgun reciprocity agreements)** clarifies the scope of a concealed weapons permit. It amends the standards and procedures for evaluating and approving reciprocity agreements to other states. West Virginia State Police must maintain a registry of states that have entered into reciprocity agreements with West Virginia and advise the citizens of the states that entered into the agreement. To use a handgun in another state the person's West Virginia issued permit must be in their immediate possession, they must be 21 years of age and their name must be found in the State Police registry.

### Firefighting & Prevention

**House Bill 2709 (VETOED & OVERRIDDEN)** requires that when water mains are constructed or installed along a painted-line paved roadway or public highway, fire hydrants must be installed along the roadway every 2,000 feet - unless there are no dwellings or businesses located within 1,000 feet of the proposed hydrant. Hydrants must use at least a six-inch line specifically designed for fire protection. This bill also calls for a legislative study into the effect, cost and feasibility of the use of an internal hydrant valve and a report of the study's findings to the Legislature during the 2008 regular session.

**House Bill 2801 (benefits)** provides \$50,000 to the beneficiaries of any firefighters and Emergency Medical Services (EMS) personnel who are killed while performing their duties. This includes both paid and volunteer firefighters, with the \$50,000 being only be paid once in the occurrence a person is both a firefighter and an EMS personnel.

*Bill(s) related to this section:*

**Senate Bill 96, pg. 34**

### Freedom of Information

**Senate Bill 386 (engineering plans)** adds two types of data to the list of information that is exempt from public viewing. The bill exempts specific engineering plans and descriptions of existing public utility plants, along with equipment, from being spread to the public after the facilities have been built. The public is still allowed to view proposed engineering plans, but once facilities are built, the information is limited. Customer proprietary network information is also kept confidential through provisions in this bill.

### Fuel

**Senate Bill 588 (synthetic fuel)** removes the tax expiration date from the manufacturing or production of synthetic fuel from coal. The expiration date was originally June 30, 2007. The bill also defines a synthetic fuel-producing county as any county who produces the fuel during the fiscal year. Before, the county had to produce the fuel for at least 180 days to be labeled as such.

*Bill(s) related to this section:*

**Senate Bill 460, pg. 29**

### Gaming

**House Bill 2406 (horse and dog racing)** exempts Jefferson County pari-mutuel racing facilities from having to use the definition "raiser of an accredited West Virginia horse" in the event a yearling was born in another state and transported to West Virginia. Also, the bill changes the formula for distributing money from the greyhound breeder development fund.

**House Bill 2718 (local option)** allows for a local election to permit casino style table games in counties that currently have racetracks in place. The racetrack is required to request that the county commission place the table gaming question on the ballot of the next primary or general election. The racetrack has the option to request a special election for consideration of table games, but the track must pay for that election to take place. If the county rejects the allowance of table games, the question can be placed on the ballot again in two years. If the county votes in favor of table gaming, 5 percent of the registered voters in that county can petition to have a recall vote on the subject after five years.

The Racetrack Table Games Fund will be supported by a privilege tax of 35 percent of the adjusted gross receipts from table gaming.

The distributions of this fund will be as follows:

Gross Fund Distributions:

- 3 percent of revenues will be allotted for administration expenses and given to the Lottery Commission for the operation of table gaming. From this allowance, the Lottery Commission will be required to transfer between \$100,000 and \$500,000 into the Compulsive Gambling Treatment Fund annually.
- 2.5 percent will go to regular racetrack purse funds.

- 2 percent will be given to all municipalities in the counties that have racetracks with table games. The amount that a city receives will be based on its population.
- 2 percent will be divided between the Thoroughbred Development Fund and Greyhound Breeding Development Fund.
- 1 percent will be given to the county commissions of the counties in which racetracks with table games are located.
- 0.5 percent will be distributed to the cities that have racetracks with table games residing within the city limits as of January 1, 2007.

#### Net Fund Distributions:

- 76 percent will be distributed to the new State Debt Reduction Fund, which will be used to deplete the unfunded liabilities and bond indebtedness of the state.
- 10 percent will be given to the cities in counties without racetracks. This money will be divided equally, and used to pay down the debt for municipal police and fire pensions or infrastructure or capital improvements.
- 10 percent will be distributed to all counties without racetracks. This will also be divided equally and used to pay regional jail expenses or capital or infrastructure improvements.
- 4 percent will be deposited into racetrack employees' pension plans.

### Government Agencies

**Senate Bill 454 (Workforce West Virginia)** changes the name of the Bureau of Employment Programs to Workforce West Virginia. It also renames the current employee program Division of Job Training as the Division of Research and creates a Division of Workforce Development. Workforce West Virginia now includes the Division of Unemployment Compensation, Division of Employment Service, Division of Workforce Development and Division of Research, Information and Analysis.

*Bill(s) related to this section:*

**Senate Bill 435, pg. 5**

**Senate Bill 746, pg. 9**

### Health & Health Care

**Senate Bill 381 (insurance fraud)** authorizes a fraud investigator employed by the Insurance Commission to submit a warrant request directly to a magistrate court following review and

approval by that county's prosecuting attorney. After looking into allegations of unlawful insurance activity, an investigator will prepare a written statement containing the essential facts of the alleged act and submit it to the prosecutor in the county in which the grievance occurred. If the prosecutor finds probable cause that the offense occurred, a warrant will be issued through the county's magistrate court for the offender's arrest. These investigators can currently address complaints across a broad spectrum of offenses, including insurance fraud, worker's compensation fraud and certain property crimes. This bill also permits them to inquire into any fraud that concerns the Public Employees Insurance Agency.

**Senate Bill 573 (professionals' substance abuse)** authorizes both the Board of Medicine and the Osteopathy Board to design programs for monitoring physicians, podiatrists and physicians' assistants to be treated for drug or alcohol addiction as well as major mental illness, without being subject to any disciplinary action. These programs are voluntary, and the enrollee is required to go through certain mandatory conditions to ensure their compliance with the program.

**House Bill 2436 (nurse overtime)** modifies the Nurse Overtime and Patient Safety Act. The Act now requires the Commissioner of Labor to create a rule requiring hospitals to post notices in obvious places to inform nurses of their rights regarding the number of hours a nurse can work and the various restrictions to these hours. This bill requires the commissioner keep all complaints anonymous and establish a way to communicate these complaints to the hospital. This bill removes the rule requiring the Department of Labor to notify the hospital within three days regarding whom the complaint was filed against.

**House Bill 2578 (parity)** removes the sunset provision for mandated insurance parity, which was set to expire March 31, 2007. The bill also removes the requirement that the Insurance Commissioner has to annually report to the Joint Committee on Government and Finance regarding the fiscal impact of parity.

**House Bill 2583 (newborn testing)** expands required newborn testing to allow 26 additional tests, including tests for sickle-cell anemia, cystic fibrosis and hearing deficiency. A positive result on any test must be reported to the Bureau for Public Health by the laboratory performing the tests.

**House Bill 2944 (hospice care)** provides that if a resident of a nursing home declines into terminal illness, the facility must inform the resident of the option of receiving hospice care. If that resident is incapacitated, the facility must notify the resident's appointed guardian. Also, the facility has to document any time this action is undertaken.



**House Bill 2986 (legal notices)** requires public notice if specific health care facilities intend to terminate operations. The facility must provide a legal notice in all qualified newspapers of general circulation in the geographic area. The notice must include the intent to terminate operations and the approximate closure date.

**House Bill 3184 (confidentiality & civil rights)** establishes confidentiality rights and disclosure of mental health information during the course of treatment or evaluation of individuals. A patient or legal guardian must sign a written document to receive authorization to view confidential information. Refusal to disclose confidential information by a patient, client or authorized representative will not jeopardize the right to receive future treatment.

A patient cannot be deprived of their civil rights unless they are determined to be incompetent and have not been restored to legal competency. Receiving treatment from a trained professional, having psychiatric evaluations every three months, having physical examinations by a physician every six months and being treated based on appropriate examinations are civil rights that cannot be taken away regardless of the level of competency. The chief medical officer must maintain and update a specific treatment plan for the individual in accordance with medical evaluations. If the officer fails to follow this, the patient is entitled to release.

**House Bill 3223 (loan approval processes)** creates the West Virginia Health Care Authority Revolving Loan Fund. This new fund allows the West Virginia Health Care Authority Board to give loans to hospitals that submit plans to provide savings for public and private health care payers. The board must have the application and the loan approval process completed by July 1, 2008. After the loans are given, the Health Care Authority Board is authorized to promulgate rules, and the board is also required to file an annual report regarding the status of the program with the Governor and the Legislative Oversight Commission on Health and Human Resources.

*Bill(s) related to this section:*

- Senate Bill 18, pg. 24**
- Senate Bill 68, pg. 34**
- Senate Bill 117, pg. 14**
- Senate Bill 149, pg. 10**
- Senate Bill 185, pg. 38**
- Senate Bill 406, pg. 36**
- Senate Bill 758, pg. 7**
- House Bill 2422, pg. 12**
- House Bill 2992, pg. 38**

**Human Services**

**Senate Bill 518 (West Virginia Works)** brings the West Virginia Works Program into compliance with federal law, as required by the federal Deficit Reduction Act. The program is for any person receiving cash assistance who is eligible to work. The bill allows eligible people who are enrolled in higher education courses to participate in work training programs, which will be available at state colleges and universities. The bill also creates the two-parent families portion of the program.

**House Bill 3090 (DHHR oversight)** transfers the Weston State Hospital Institution Farm, located in Lewis County, W.Va., from the Department of Agriculture to the Department of Health & Human Resources. The Department of Agriculture will retain the oil, gas and mineral rights. The Department of Health & Human Resources is authorized to sell, lease, donate or transfer the property only if the communication tower, located on the property and owned by the Lewis County Commission, can stay free of any costs.

**Insurance**

**Senate Bill 18 (kidney screening)** covers the costs of certain kidney tests under Medicaid, private health insurance plans and plans provided by the Public Employees Insurance Agency (PEIA). Insurance plans must now cover the costs of annual screenings for kidney disease including any combination of blood pressure testing, urine albumin or protein testing and serum creatinine testing. Medicaid patient's tests are covered if they have been diagnosed with diabetes, hypertension or have a family history of kidney disease.

Additionally, the bill guarantees medical and prescription drug coverage for Medicare-eligible retirees under PEIA. This will be accomplished either by enrolling the retirees into the Medicare/Advantage Prescription Drug Plan or, if that plan becomes unavailable, by taking the retiree back into one of its plans.

**Senate Bill 129 (substitute employees)** expands Public Employees Insurance Agency (PEIA) insurance coverage eligibility to substitute employees and diversifies coverage. The bill continues insurance coverage for Medicare-eligible retired employees and modifies the treatment of certain portions of required employer annual payments and certain employer annual required contribution provisions. Changes



to the reserve fund require the executive director to transfer any amount that exceeds the recommended reserve amount by 15 percent to the West Virginia Retiree Health Benefit Trust Fund.

**Senate Bill 169 (titles for totaled vehicles)** requires that insurance companies obtain the title to a totaled vehicle when they pay a claim to the claimant in question. The bill also updates the definition of a totaled vehicle to include flood damage. Any person who provides false information to the division in an application for a title, a cosmetic total loss title, a reconstructed vehicle title or a salvage certificate or who fails to disclose information required in the application will be guilty of a misdemeanor and fined \$1,000 to \$2,500, imprisoned up to one year or both.

**Senate Bill 559 (fraudulent insurance practices)** prohibits predatory insurance sales on military bases, federal land or other federal facilities in West Virginia. The bill allows the insurance commissioner to promulgate emergency rules for the purpose of identifying fraudulent insurance practices that are deemed false, misleading, deceptive or unfair. Once these are made the commissioner can enforce the new rules. This bill is to specifically protect members of the US Armed Forces from false insurance sales.

**Senate Bill 643 (investigations)** relates to insurance law violation investigations. It clarifies the state Insurance Commissioner has authority to investigate non-criminal violations of State Code relating to insurance. This bill also gives permission for investigatory employees to use civilian, Class A plates on state vehicles while conducting investigations. It also clarifies that an investigation's documents and materials are not subject to the Freedom of Information Act.

**House Bill 2763 (financial investigations)** relates to financial examinations of insurers and financial condition of insurers. The bill prohibits the use of compensation agreements by accountants and promotes the use of mediators and arbitrators to establish agreements in certain circumstances. Certain tangible and intangible items cannot be considered assets when determining the financial condition of an insurer. These include goodwill, trade names, advances, stock, furnishings, vehicles, libraries, supplies, personal property and investments.

**House Bill 2764 (insurance sellers)** requires all individuals applying to be an insurance salesperson to complete a criminal background history check. Each applicant must provide a set of fingerprints to the Insurance Commissioner, who will retain a hard copy of the fingerprints. The Commissioner may collect a fee from the applicant to cover the costs of obtaining the fingerprints and the background check.

**House Bill 2940 (dependants age increase)** increases the age limit of a dependent child or stepchild for coverage under the West Virginia Public Employees Insurance Program to 25 years of age. This new age limit also applies to any group accident or sickness insurance. Before, an adult dependent was only covered up to 23 years of age if they were a full-time student.

*Bill(s) related to this section:*

**Senate Bill 180, pg. 32**

**Senate Bill 511, pg. 10**

**Investments**

**House Bill 3145 (movie industry)** creates the Film Industry Investment Act, a refundable tax credit toward the production and post-production costs associated with a movie or commercial shot in West Virginia. These costs must be directly related to the production of the film within the state and can include wages, fringe payments, fees, and/or compensation to West Virginia residents. A company can receive a 27 percent tax credit on expenditures before Jan. 1, 2010; following that date the credit would drop to 22 percent. An organization can attain an additional 2 percent tax credit under two circumstances: one, if the organization employs at least 10 West Virginians in a full-time position or two, if at least 25 percent of the film production company's full-time employees are West Virginians. The tax credit can be applied against the business franchise tax, corporate net income tax or personal income tax. A company's eligibility for the tax credit will be determined by the West Virginia Development Office and reported to the Tax Commission before the credits can be claimed. The Tax Commission must report regularly to the Governor and the Legislature pertaining to the cost effectiveness of the tax credit.

*Bill(s) related to this section:*

**Senate Bill 438, pg. 8**

**Labor**

**Senate Bill 489 (annual reports)** changes the deadline by which the Workforce Investment Council is required to submit its annual reports to the West Virginia Legislature from January 15 to November 15 of each year. The reports must now be reported to the Legislative Oversight Commission on Workforce Investment for Economic Development and the Legislative Oversight Commission on Education Accountability. The Workforce Investment Council is required



to include information on the status of one-stop system operations. Status and outcome data is also required in each yearly report, providing information on the council's and local workforce investment boards' success in linking PROMISE scholars with West Virginia employment opportunities.

## Law Enforcement

**House Bill 2051 (laser technology)** adds laser technology as a method by which the speed of a motor vehicle may be monitored for law-enforcement purposes.

**House Bill 2204 (service revolvers)** provides that a police officer, upon retirement, may keep his or her service revolver, without charge, if the officer has at least 20 years of service or is totally physically disabled as a result of service as an officer.

**House Bill 2938 (PSC training)** adds motor carrier inspectors and weight enforcement officers employed by the Public Service Commission to the list of persons included under the definition of law enforcement officers in West Virginia Code. Provisions in the bill require that anyone hired by the Public Service Commission to such positions after July 1, 2007, must complete training and receive certification from an approved law enforcement training academy. Any persons employed in such a capacity prior to July 1, 2007, are grandfathered and classified as a law enforcement officer without having to undergo further training or certification.

*Bill(s) related to this section:*

- Senate Bill 180, pg. 32**
- Senate Bill 641, pg. 31**
- House Bill 2568, pg. 36**

## Libraries

**House Bill 2048 (library service area)** changes the area from which directors of public libraries are chosen by enlarging it to include the library's entire service area or the county in which the library is located. Previously, directors could be chosen only from the area within the boundaries of the governmental division that started the library. As a result, small town libraries, which have extended their service area outside city limits, were unable to have directors that live in those areas.

*Bill(s) related to this section:*

- Senate Bill 541, pg. 12**

## Licenses

**Senate Bill 528 (pesticide license fees)** specifies that license fees collected under the West Virginia Pesticide Control Act goes into the Pesticide Control Fund instead of the General Revenue Fund. These fees net the state around \$30,000 annually. The bill also makes some technical changes to the act and continues the Pesticide Control Fund.

**Senate Bill 672 (dealer inventories)** provides a way to properly appraise dealer inventory of rental cars and boats sold by boat retailers. Dealer inventory is determined July 1 of every year by the gross sales or total annual sales of the dealer's inventory during the last calendar year divided by 12. The bill also adds a method for determining the market value of rental cars. The market value report of rental car inventory is required on July 1 every year. This market value is defined as the gross value of all rental cars made available by the dealer on the first day of each month during the last calendar year. The bill defines gross value as 85 percent of the manufacturer's suggested retail price for each vehicle. Once the dealer determines the gross value of the cars, those numbers are added together and divided by 12. The assessor determines the market values for rental car dealers who were not in business the entire calendar year.

## Local Bills

**Senate Bill 217 (Piedmont City Council)** extends the time the Piedmont City Council may meet as a levying to May 31, 2007, so the voters of the city can decide to continue the municipal levy. The levy is used to maintain existing public streets, fire hydrants and road lines and for payment of any costs incurred.

**Senate Bill 757 (Smithers)** extends the time for the Smithers Town Council to meet as a levying body until May 31, 2007, for the purpose of submitting to the voters of the town the continuation of an additional town levy for solid waste services and retirement.

## Military Affairs

**Senate Bill 121 (military personnel)** tolls state licensure or registration requirements for active duty military personnel. The payment of license registration fees will be tolled during the period an armed forces member is on active duty until 60 days after the person returns. The member has a

period equal to the time spent on active duty to fulfill any continuing education requirements needed for licensure or registration.

**Senate Bill 387 (grave markers)** provides that an honorably discharged veteran may not be denied the opportunity to have a bronze military grave marker placed on his or her gravesite.

*Bill(s) related to this section:*

**Senate Bill 559, pg. 25**

**Senate Bill 667, pg. 6**

**House Bill 2931, pg. 19**

### Motor Vehicles

**Senate Bill 100 (mileage reimbursement)** requires local boards to reimburse employees for mileage expended for job-related activities outside of work with the use of a personal car. The county board must reimburse at the same rate for all employees in that county. The rate of reimbursement should be at least the lesser of the state and federal rates, and no more than the greater of the two. The rate is authorized by the travel management rule of the Department of Administration.

**Senate Bill 398 (suspended licenses)** authorizes the Division of Motor Vehicles (DMV) to deny a registration or certificate of title to a commercial motor carrier (i.e. tractor trailers or buses) if the driver of that vehicle fails to provide a United States Department of Transportation identification number or if his or her authority to operate in interstate commerce has been denied or suspended by the federal Motor Carrier Safety Administration (MCSA). When the vehicle is operated by a commercial motor carrier whose authority to operate in interstate commerce has been denied or suspended by the MCSA, the DMV may also deny registration or certificate of title. In addition, upon failure to provide the DMV with evidence that one's registration has been suspended, the commissioner must immediately notify the Public Service Commission who will make a report of the transgression.

**Senate Bill 523 (fees fund)** creates a special revenue account on July 1, 2007, called the Motor Vehicles Fees Fund. The following fees will be deposited into the Fund: reinstatement fees, fees in the Motor License Exam Fund and future fees, fees for administrative hearings, monies from the Driver's Rehabilitation Fund and future fees, and Commercial Drivers license fees. The following fees are currently deposited into special revenue accounts used

for the administration of the Division of Motor Vehicles, but will be redirected to the State Road Fund: motor vehicle registration fees, special registration plate fees, fees for the inspection of reconstructed vehicles and motorboat registration fees.

**Senate Bill 601 (car dealerships)** redefines the "relevant market area" for the purpose of establishing a new car dealership of the same make cars from 15 to 20 miles away from an existing dealership. It also extends the distance that a dealer may relocate from two to four miles. The changes made in this bill do not apply to pending applications to establish a new car dealership within the 15-mile radius prior to the effective date of this legislation.

**House Bill 2481 (vehicle registration)** allows a registrant to transfer the registration of a Class C vehicle to another Class C type vehicle titled in their name.

**House Bill 2544 (DUI)** increases the current penalty for driving under the influence and causing death from the current one to 10 years to two to 10 in order to make it more consistent with other homicide penalties.

**House Bill 2575 (commercial driver's licenses)** updates provisions relating to the issuance and disqualification of commercial driver's licenses (CDL) in order to conform to federal law. The bill brings the current code into compliance with the federal minimum requirements for the licensing of commercial motor vehicles. The penalty for a person operating a commercial motor vehicle without a CDL or other proper endorsement is reduced from a 90-day to 60-day disqualification because the West Virginia penalty exceeded the federal requirements. The bill eliminates a provision that suspends a driver's license for failure to have the CDL in possession. Civil penalties are assessed against employers that knowingly allow or require a driver to operate a commercial vehicle that is subject to a temporary ban because it poses an imminent hazard risk or is found in violation of any law pertaining to railroad highway grade crossings. In addition, the Division of Motor Vehicles (DMV) can disqualify a commercial driver's privilege upon notice from the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. The bill also gives the Commissioner of the DMV the authority to suspend, revoke or cancel a commercial driver's license if someone is convicted of an offense in another state which, if committed in this state, would be grounds for suspension, revocation, cancellation or disqualification.

**House Bill 2808 (one-trip permits)** increases the \$1 charge for one trip permits to \$5. One trip permits are issued by the State Police in the form of a sticker or decal and are valid



for 48 hours after issuance for the operation of a vehicle, whether under its own power or while being towed. Once the permit is affixed to a vehicle the permit becomes invalid for subsequent use on that or any other vehicle. The fee collected is to be dispersed as \$2.50 into the State Road Fund and \$2.50 into a special revenue account with the Division of Highways for maintenance of West Virginia Welcome Centers and rest areas along interstate highways.

*Bill(s) related to this section:*  
**Senate Bill 121, pg. 26**

**Municipalities**

**Senate Bill 615 (electric power)** authorizes a municipality that owns and operates an electric power plant to enter into contracts for the purchase of electric power from third parties. A municipality that enters into a contract is obligated to set, charge and collect fees for electric power and energy in an amount that allows them to pay off their obligations under the contract and any principal or interest on a municipal bond issued related to its electric power system.

**Senate Bill 747 (home rule)** establishes the Municipal Home Rule Pilot Program, which allows up to five municipalities and/or metro governments to exercise greater local control over select issues that are articulated in its proposed Home Rule plan and approved by a Municipal Home Rule Board. On or before Jan. 1, 2008, municipalities or metro governments interested in participating in the Home Rule Pilot Project are required to prepare and submit a written plan detailing the following: the specific laws, policies, rules or regulations which are allegedly preventing the municipality from carrying out its duties in the most cost efficient, effective and timely manner; the problems allegedly created by these laws, policies, rules or regulations; and the proposed solutions to the perceived problems, including all proposed changes to ordinances, acts, resolutions, rules and regulations. The Municipal Home Rule Board would then evaluate the competing proposals.

Before it submits any written plan to the Municipal Home Rule Board for review, the municipality must provide public notice of its proposed plan, allow the affected public an opportunity to review the plan, provide a public hearing on the plan and adopt a municipal ordinance that authorizes the municipality to submit the plan for review to the Municipal Home Rule Board. Notice of the scheduled public hearing and the opportunity to review the plan must be provided at least 30 days in advance of the public hearing.

After completing its review of the competing applications, on or before June 1, 2008, the Home Rule Board will then select at least one and no more than five municipalities and/or metro governments to participate in the project.

Once selected, the municipality would have the authority to pass an ordinance, act, resolution, rule or regulation to implement the laws and policies that it specified in its plan. The municipality would still need to follow its municipal charter and other relevant procedures for proper adoption at the local level. Further, the adopted ordinances, acts, resolutions, rules or regulations may not violate the U.S. or W.V. Constitution, federal law or W.V. Code relating to controlled substances and criminal acts and procedures. The pilot municipalities also may not adopt any ordinance, rule, regulation or resolution or take any action that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pension plan.

Under the adopted bill, if consolidation or the formation of a metro government is a part of its written and approved plan, a participating municipality would have to complete a consolidation or metro government process within two years of being selected for the pilot program, or its participation in the pilot program would terminate at the end of the two-year period.

On or before July 1, 2012, a performance review of the pilot program and the participating municipalities and metro governments is to be conducted by the Legislative Auditor's Performance Evaluation and Research Division (PERD). The division is to evaluate the effectiveness of expanded home rule on the participating municipalities and metro governments, recommend whether expanded home rule should be continued, reduced, expanded or terminated, and recommend whether any legislation is necessary. PERD may also review any other issues it considers relevant, and file its report with the Joint Committee on Government Organization on or before Jan. 1, 2013.

The Home Rule Pilot Program automatically terminates on July 1, 2013. A municipality's or metro government's authority to enact any ordinances, acts, resolutions, rules or regulations dealing with this section also expire on that date.

*Bill(s) related to this section:*  
**House Bill 2204, pg. 26**

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 41.

### Natural Resources

**Senate Bill 376 (assessing fees)** allows the Division of Natural Resources (DNR) director to assess a fee for processing scientific collecting permits. Anyone who wants to collect or procure any wildlife, including the collection of any portion of body tissue, organs or eggs, must get a scientific collecting permit from the DNR director. The director can only issue permits for scientific study purposes, not for commercial purposes.

**Senate Bill 389 (game fish)** adds blue catfish, a species native to the Ohio and Kanawha rivers, to the list of West Virginia game fish in order to restore the species by affording it the same legal protections as other game fish.

**Senate Bill 396 (wildlife data)** exempts site-specific data concerning rare or endangered animal or plant species from release under state Freedom of Information laws. The purpose of the exemption is to protect the species from possible harvesting or hunting. However, this exemption does not apply if the owner of the land in question requests the information or if the group requesting the information is an entity that has a right to purchase the land through eminent domain. In addition, parties trying to obtain the site-specific data for scientific purposes are allowed access. Information received about these rare species cannot be released to the public or sold for commercial purposes.

**Senate Bill 460 (oil & gas wells)** requires notice be given to the Director of the Division of Natural Resources, the Director of the Division of Forestry and the state forest superintendent for oil and gas well construction and maintenance. The bill requires 60 days notice for a well work permit, along with a class I-O legal advertisement. For any new road construction, written notice shall be provided to the Division of Forestry 45 days before applying for the permit. Whenever an operator wants to enter a state forest to do road maintenance, five days written notice is required, except in the event of an emergency.

**Senate Bill 582 (real estate division)** creates a centralized Real Estate Division in the Department of Administration to provide real estate, leasing and appraisal services. The executive director of the division, appointed by the Governor and confirmed by the Senate, can inspect rental properties to ensure they are being kept and operated within the terms of the rental agreement. The executive director can conclude that permanent changes to the property are necessary and he or she also has the authority to create rules within the division.

Each state agency must establish and maintain an inventory of real property (i.e. buildings, land) and annually submit it to the division, with a few state spending units exempt from this requirement. The division must review the property inventory every four years and make usage recommendations to the Governor. Public lands must also be reported to the Public Land Corporation (PLC), which is transferred to the Real Estate Division under this bill, with the division's executive director over the PLC's executive secretary.

**Senate Bill 613 (crossbow regulations)** restricts a person from having a loaded crossbow in or on a vehicle. Between the hours of 5:00 p.m. and 7:00 a.m., an unloaded crossbow can only be carried if it is in a case or taken apart and securely wrapped. A new class of permits created by the bill requires people wanting to hunt with a crossbow to get a Class Y permit.

**House Bill 2078 (tagging wildlife)** clarifies the procedure for tagging bear, bobcat, deer, wild boar and wild turkey while hunting. Hunters are required to attach a completed tag to the animal immediately after killing. If the tag is not attached to the game, the tag must be kept with the hunter, and he or she must remain with the carcass at all times. When the animal is being transported, the hunter may either tag the animal or keep the tag in hand. Once the hunter arrives at a vehicle, residence, hunting lodge or camp the animal must then be tagged. This bill requires the tag to remain on the carcass until it is taken to a conservation officer or official checking station for re-tagging. Anyone who does not have a tag can make his or her own version of the tag including the pertinent information.

**House Bill 2703 (fly fishing)** allows a student 18 years old or younger to fly fish without a license if they are receiving fly fishing instruction. The student must be supervised by an instructor and authorized by his or her school and is limited to catch and release fishing only.

**House Bill 2840 (transporting wildlife)** allows anyone who is legally allowed to hunt or fish in West Virginia to take any wildlife he or she has legally killed, caught or captured out of the state.

*Bill(s) related to this section:*

**Senate Bill 611, pg. 30**

### Parks & Recreation

**Senate Bill 521 (Hatfield-McCoy Recreation Area)** relates to rule violations, including both criminal and civil penalties, at the Hatfield-McCoy Regional Recreation Area. The



bill maintains the Hatfield-McCoy Regional Recreational Authority seek prosecution for misdemeanor violations and adds a civil penalty to be used for the most common offenses, such as failure to have a permit or safety violations. Civil penalties collected for rule violations will be deposited in the State Treasurer’s office fund for use by the Authority.

**Senate Bill 611 (facility financing)** allows the Division of Natural Resources (DNR) to enter into contracts with third parties for the financing of lodging and ancillary facilities at Chief Logan State Park, Beech Fork State Park, Tomlinson Run State Park, Stonewall Jackson Lake State Park, Lost River State Park and Canaan Valley Resort State Park. Previous law allowed the DNR to enter into contracts with third parties for the construction and operation of recreational facilities at all of these state parks - with the exception of Canaan Valley Resort State Park. This bill allows for Canaan Valley to also benefit from third party contracts for recreational facilities.

**Professions & Occupations**

**House Bill 2747 (labor licenses)** requires plumbers and fire prevention workers to be licensed before they are authorized to work. Plumbers must be licensed under the Commissioner of Labor, and fire prevention workers must apply for licenses from the State Fire Marshal. Each person licensed is required to carry his or her certification while working on any project. Both of these licensing programs will begin January 1, 2009, and under this bill several plumbers and fire workers are exempt from the requirement. After the programs are in place, the Commissioner of Labor and the Deputy Commissioner of Labor are authorized to enforce the plumber licensing requirement. The State Fire Marshal and Deputy Fire Marshal will enforce the fire protection license program.

**House Bill 2800 (Medical Imaging and Radiation Therapy Technology Board)** makes several changes to the regulation of medical imaging and radiation therapy. Beginning July 1, 2007, the West Virginia Radiologic Technology Board will be known as the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners. Also on that date, the board will add two more members: a nuclear medicine technologist and a magnetic resonance imaging technologist. The board, which will sunset July 1, 2012, will begin to license those two practices.

In addition, the bill clarifies that the Board of Medicine, with the advice of the Medical Imaging and Radiation Therapy Board, can promulgate rules for radiologist assistants.

**House Bill 3006 (Physical Therapy Board)** implements term limits for members of the Board of Physical Therapy. There are no current term limits, but the new law establishes two-year consecutive term limits for each board member. After the member has served for two consecutive years, he or she must sit out for two more years before being reappointed.

*Bill(s) related to this section:*  
**Senate Bill 511, pg. 10**  
**Senate Bill 738, pg. 17**

**Public Employees**

**Senate Bill 442 (grievance process)** overhauls much of the grievance process for state employees and teachers. Previously, there were two distinct grievance procedures; this bill merges them into a uniform process.

The process will fall under the auspices of the state Public Employees Grievance Board, which will replace the two separate boards currently in existence on July 1, 2007. The Board will consist of five members: one representing the largest labor organization in the state; one representing an education employee organization; one employer representative from the executive branch; one employer representative from secondary or higher education, and one member who is not a current employee, employer or a representative of employees in a workplace in the public, educational or higher education sector of this state. These positions would be appointed by the Governor and confirmed by the Senate. The bill also continues the Board until July 1, 2010, unless terminated, continued or reestablished.

Under the system created by this bill, there would be three levels in the process:

Level One – At this level, an employee has 15 days to file a written request for a conference or hearing with the chief administrator of an agency. The administrator must hold the conference or hearing within 10 days of receiving the request and must issue a decision within 15 days of that. However, if an employee has been fired, suspended without pay or demoted or if the employee and administrator agree, the first two levels can be skipped and the process can move directly to level three.

Level Two – Within 10 days of receiving an adverse decision at level one, an employee may file a written request for mediation, private mediation or mediation-arbitration. If the employee agrees, the Board will schedule mediation in



front of an administrative law judge (ALJ) within 20 day of the written request. Any agreement must be documented within 15 days and enforceable by writ of mandamus. However, the parties may opt for private mediation, for which they would share the costs. The timetable would be the same – 20 days to hold the mediation and 15 days to document the agreement. Again, the agreement would be enforceable by mandamus. Mediation-arbitration could be used if the parties agree; this would work the same as mediation in front of an ALJ, except if no agreement is reached, the judge can decide the matter. The timetable would be the same as for the other forms of resolution offered at this level.

Level Three – Within 10 days of receiving a written report stating that the alternative dispute resolution at level two was unsuccessful, an employee may file a written request for a hearing with the Board. An ALJ would have to schedule the hearing within a reasonable amount of time and render a decision within 30 days of the hearing.

All decisions at level three may be appealed to the Kanawha County Circuit Court within 30 days. Grounds for appeal include contradictions with law or employer policies, fraud or deceit, reliance on false evidence or abuse of judicial discretion.

**Senate Bill 589 (public service training)** gives the Director of Personnel the authority to develop programs to improve the efficiency and effectiveness of public service. These programs may consist of training, development, assistance and incentives, which may include a one-time monetary incentive.

**House Bill 3097 (savings incentive program)** requires every state employee beginning work after July 1, 2007 to pay a minimum of \$10 per pay period into the State Deferred Compensation Plan unless the state employee declines, in writing, to participate. This compensation plan defers earnings until a later date with those earnings not being taxed during the deferment period.

This bill also allows the Treasurer to establish and operate a savings incentive program beginning on the same date as above and running through Sep. 30, 2012. This will allow state employees participating in the deferred compensation plan to receive matching contributions. It will be left to the Treasurer to establish program guidelines. The Treasurer is required to allocate and credit a matching sum of up to 25 percent of the employee’s contribution. These matching contributions may not exceed \$100 for any employee in one fiscal year or \$400 over the life of the program.

**Public Service Commission**

**Senate Bill 524 (solid waste)** deals with providing proof of solid waste disposal. If a resident of this state does not subscribe to a solid waste collection service, that person must provide proof that they properly dispose of their solid waste once every 30-day period. Any person who fails to see that their waste is properly disposed of is guilty of a misdemeanor and subject to a fine of \$50 to \$1,000, or sentenced to perform 10 to 40 hours of community service (i.e. picking up litter), or both fined and sentenced to community service.

**Senate Bill 641 (assault & battery)** defines the term “Public Service Commission motor carrier inspectors and enforcement officers” for purposes of inclusion into the criminal provisions concerning malicious and unlawful wounding, battery and assault. The sentencing guidelines state that anyone convicted of malicious assault against a motor carrier inspector or enforcement officer on duty will be sentenced to three to 15 years in a state correctional facility.

*Bill(s) related to this section:*  
**House Bill 2938, pg. 26**

**Real Property**

**Senate Bill 59 (universal design)** provides immunity from civil damages for a worker, contractor, engineer or architect who, in good faith, volunteers goods or services to build universal design features. Universal design is defined in the bill to include products or environments usable by all people, without the need for adaptation or specialization. The bill also proposes a form to be developed by the Contractors Licensing Board to inform a buyer of the universal design features that would make the home entrance, interior routes of travel, kitchen and bathrooms universally accessible.

**House Bill 2571 (delinquent lands)** clarifies deadlines for redeeming delinquent lands. The new bill allows delinquent real estate to be redeemed any time before the close of business on the day before the scheduled sale date. Current law allows payment to be made until the actual time of the sale. Another provision of the bill states that the tax office must receive redemption payment for these delinquent lands by the close of business on the business day prior to the sale of the land.

**House Bill 2831 (population growth rates)** permits a growth county - one with an average population growth



rate in excess of 1 percent per year - to establish a program for the transfer of development rights from one entity to another, with approval from the voters as part of a county-wide zoning ordinance. Transferable development rights refer to the ownership of land that has been approved for development under a zoning ordinance and that can be transferred to another property owner. For instance, if two adjacent landowners, A and B, are each allowed to build a five-foot tall fence around their own property, according to this bill, landowner A could sell his development rights to landowner B, allowing B to build a 10-foot tall fence provided that A leaves his land undeveloped, or, in this case, build no fence at all. In addition, a requirement that the zoning ordinance has been in effect for five years was removed and the bill permits that the transfer of development rights is renewable.

**House Bill 3141 (personal property taxes)** will expand the entities that assessors may issue proofs of payment of personal property taxes to include firms and corporations. It also expands the reasons for which the proofs of payment may be requested. Under current law, only the taxpayer may request proof of payment of property taxes for the renewal of the registration on his or her motor vehicle.

**Retirement**

**Senate Bill 104 (annuity payments)** establishes that all public retirement plans under the Consolidated Public Retirement Board must make annuity payments by the 25th day of the month, except for December, when payments are due on the 18th. If the payment day falls on a state holiday or weekend, the payment is due the next business day.

**Senate Bill 180 (payment for qualified health)** allows retired public safety officers who are participants or members under the retirement plan administered by the Consolidated Public Retirement Board, to voluntarily elect to have amounts from an eligible retirement plan distributed in order to pay for qualified health insurance premiums. The dollar amounts of these distributions must not exceed \$3,000.

**Senate Bill 505 (CPRB)** relates to the West Virginia State Police Death, Disability and Retirement Fund. This bill designates the Consolidated Public Retirement Board as the administrator of the fund, clarifies definitions and establishes benefits.

If a member officially retires at midnight, he or she will immediately begin receiving retirement annuity payments. If a

member terminates employment at any other time of the day he or she will receive a pro rata share of a full day's amount for that day. The board will process the member's retirement petition and commence annuity payments as soon as administratively feasible after receiving properly executed forms from the agency and the member.

Any member who is not retired and becomes partially disabled is entitled to receive either 5.5 percent of the total salary they would have earned during 25 years; or \$6,000 annually from the fund and 8.5 percent of the total salary if the member becomes totally disabled. These benefits are to be distributed in equal monthly installments during his or her lifetime or until the disability eligibility terminates the day following the board's approval of the disability application. Also, any employee who becomes partially or totally disabled but has served for less than 20 years is entitled to receive 5.5 percent of the total salary that would have been earned during 25 years of service.

The surviving spouse or other dependent of a member is entitled to receive 5.5 percent of the total salary that would have been earned by the deceased member or disability retiree during 25 years or \$6,000. These benefits will be distributed in equal monthly installments during the recipient's lifetime.

**Senate Bill 539 (deputy sheriff retirement)** amends the definition of "annuity start date" for purposes of retirement from the Deputy Sheriff Retirement System. The start date is now defined as the first day of the first calendar month following receipt of the retirement application by the Consolidated Public Retirement Board after the member has ceased covered employment and reached early or normal retirement age. The bill also provides that a prerequisite to retirement is the submission of the member's application for retirement; and provides that a member's retirement benefit is based on years of service and final average salary at termination of employment rather than the actuarial equivalent of the benefit to which he or she would have been entitled had the retirement income payments commenced at the member's normal retirement age.

**House Bill 2130 (elimination of reduction in benefits)** eliminates any reduction in benefits for a deputy sheriff who reaches 65 years of age and is totally disabled due to on the job duties.

- Bill(s) related to this section:*  
**Senate Bill 134, pg. 17**  
**Senate Bill 208, pg. 13**  
**House Bill 2717, pg. 20**

### Roads & Highways

**Senate Bill 690 (tax reimbursement to DOH)** provides a refundable sales tax exemption on purchases of building and maintenance materials by a “second party” for use in the construction or maintenance of a highway project. However, the Tax Division’s reimbursement of the sales tax paid by the second party must go to the Division of Highways (DOH) and not the actual purchaser. The bill requires that at the end of each fiscal year, the DOH must provide to the Tax Department an itemized listing of highway projects with the amount of funds spent for highway construction and maintenance. In addition, the DOH must supply its request for reimbursement of this tax based on an estimate that 40 percent of the total gross funds expended by the agency during the fiscal period were for the acquisition of materials used for highway construction and maintenance. The bill does not require the Tax Division to pay this amount, nor does it require that any amounts paid be deposited into the State Road Fund, and it does not expressly preclude the taxpayer from obtaining a refund or credit separate from the reimbursement.

**House Bill 2804 (utility placement)** eliminates the strict time schedules requiring utility removal, relocation or adjustment on highway projects undertaken by the Division of Highways. This bill also places liability and costs on the utility company for failure to agree with a mutually compromised plan for removal. It also requires the Division of Highways to reimburse utility companies for later removal, relocation or adjustment due to a plan change after a project goes to construction. In order to avoid construction delays and to create an efficient and effective highway program, the bill provides that the Division of Highways may schedule quarterly meetings with the public utility companies.

**House Bill 2877 (courtesy patrol)** creates a Courtesy Patrol Fund of \$4.7 million dollars in special revenue of the State Treasury. If there is excess money in this fund, five percent of the remaining amount will be used for direct advertising of the West Virginia travel and tourism industry, and at least 20 percent of the remaining funds will be used for advertising of the state’s parks, forests, recreation areas and wildlife recreational resources. Another provision of this bill requires payment to State Police officers for their monitoring and enforcement duties on the turnpike to come from appropriations by the Legislature. Previously, this money came from the State Road Fund and the Division of Motor Vehicles. This bill also requires any matter relating to vehicle weight, including inspections of vehicles and loads, training of weight enforcement officers, administrative proceedings, personal services, employees benefits and all other costs associated

with enforcement matters to be funded by fees collected by the Public Service Commission or by money appropriated by the Legislature from the General Revenue Fund.

*Bill(s) related to this section:*

**Senate Bill 591, pg. 7**

### Rulemaking Review

**Senate Bill 274** authorizes the Department of Transportation to promulgate legislative rules.

**Senate Bill 276** authorizes the Department of Military Affairs and Public Safety to promulgate legislative rules.

**Senate Bill 278** authorizes the Department of Health & Human Resources to promulgate legislative rules.

**Senate Bill 314** authorizes the Department of Education & the Arts to promulgate legislative rules.

**Senate Bill 319** authorizes miscellaneous boards and agencies to promulgate legislative rules, including guidelines proposed by the Commissioner of Agriculture, Board of Architects, State Auditor, State Conservation Agency, Board of Examiners in Counseling, Hospital Finance Authority, Board of Landscape Architects, Massage Therapy Licensure Board, Board of Medicine, Board of Osteopathy, Board of Pharmacy, Real Estate Commission, Board of Registered Professional Nurses, Secretary of State, State Treasurer and the Board of Veterinary Medicine.

**Senate Bill 542** allows the Higher Education Policy Commission to promulgate rules relating to the West Virginia Higher Education Grant Program. The bill also authorizes the West Virginia Council for Community and Technical College Education to promulgate rules relating to the Workforce Development Initiative Program. The Legislative Oversight Commission on Education Accountability approved both of these measures during the 2006 legislative interim sessions.

**House Bill 2590** allows the Alcoholic Beverage Control Commission, Insurance Commissioner, Racing Commission and State Tax Department to promulgate legislative rules.

**House Bill 2616** authorizes the Department of Administration to promulgate legislative rules.

**House Bill 2670** authorizes the Department of Commerce to promulgate legislative rules related to the Department of



Commerce, including rules proposed by Office of Miners' Health, Safety & Training, Bureau of Employment Programs, Division of Forestry, and the Division of Natural Resources.

## Safety

**Senate Bill 68 (mine safety)** updates several portions of the state's coal mine health and safety laws.

First, the bill changes the procedures for when a mine has been found to pose an imminent danger. In addition to methods of shutting down the mine under the existing law, the director of the Office of Miners' Health, Safety and Training (OMHST) is required to review the compliance record of any mine posing an imminent danger. This review includes: a summation of any closure orders; an overview of prior violations and enforcement measures taken as a result of them; evidence of lack of good faith on the part of the mine operator in trying to rectify the violations; accident, injury or illness records that might demonstrate the existence of management problems; the number of employees; the design of the mine; and any mitigating factors. If, after review, the director finds a blatant disregard for miners' safety, he or she can shut down the mine until all violations have been corrected and the mine has been inspected.

The bill also places restrictions on the use of belt air in underground mines. Belt air refers to the use of a conveyor belt entry as a ventilation intake in working sections of the mine and while mining equipment is being installed or removed. Belt air may not be used unless it would be as safe as any alternate method of ventilation. The OMHST director can approve the temporary use of belt air in cases where it would be as safe as other sources, but only after investigating and approving a mine ventilation plan. The belt air restriction is set to expire after the completion of a federal study into the issue; at that time, the law could be re-enacted based on the study's conclusions.

In addition, stricter regulations are placed on the sealing of unused and abandoned mines. All new and existing seals have to be tested by a certified engineer to ensure that they meet federal and state standards. Any existing seals found to be inadequate would have to be replaced by the mine operator.

The bill requires mine foreman-fire bosses, who are employed by operators to check mines for dangers, to go through continuing education programs specific to their occupation. This includes at least eight hours of training every two years. This training must contain information regarding the responsibilities of the foreman-fire boss, updates on fed-

eral requirements, review of fatality and accident trends and other subjects as determined by the Board of Miner Training, Education and Certification. Failure to complete this training will result in a suspension, and after two years of failing to take the required courses, the fire boss can have his certification revoked upon appeal of the OMHST director.

Finally, the bill creates a permanent Mine Safety Technology Task Force. Of the nine-member task force, the following members are appointed by the Governor with the consent of the Senate: three members to represent operators, three members to represent miners, a certified mine safety professional from the College of Engineering and Mineral Resources at West Virginia University and an attorney with experience in issues relating to coal mine health and safety. The OMHST director will be the ninth member.

The task force will provide technical assistance to the OMHST related to the implementation of technological requirements set forth in existing code. In addition, it will study issues regarding self-contained self-rescue devices, wireless emergency communication devices, wireless emergency tracking devices and any other required protective equipment that the OMHST director determines beneficial from the expertise of the task force. On July 1 of each year, the task force will be required to submit its annual report to the Governor and the Board of Coal Mine Health and Safety. This report must contain an overview of issues regarding the implementation of the technological requirements; a summary of any emerging technologies that would improve coal mine health and safety; and recommendations, if any, for the enactment, repeal or amendment of any law that might improve coal mine health and safety through the use of technology. Also, the director will consult the task force before the approval of any new safety devices.

**Senate Bill 96 (amber lights)** allows fire departments to use flashing yellow or amber lights on their vehicles for safety purposes. This bill also stipulates which vehicles are permitted to use red flashing lights, a list that includes: ambulances, firefighting vehicles and hazard material response vehicles, among others. It further restricts the use of blue flashing lights to police vehicles and deems that the chief administrative official of each police department is who authorizes that department's police vehicles.

**Senate Bill 447 (meth treatment)** establishes new criteria for what is required to obtain a Certificate of Need in furtherance of developing an Opioid Treatment Center (i.e. for the treatment of crystal meth addiction) and sets a moratorium date on the creation of any new Treatment Centers. Also, new criteria are established for initial assessment prior to admission for entry into the opioid treatment program, such



as an initial drug test to determine whether the individual is addicted to an opioid or receiving methadone for an opioid addiction from another opioid treatment program. The patient may be admitted to the program if there is a positive test for either opioids or methadone or there are objective symptoms of withdrawal, or both, and all other criteria for admission into an opioid treatment program are met. Provisions are included for certain groups at a high risk of relapse to be made exempt from this initial test and requirements for random drug tests performed at the Center (e.g. methadone, cocaine, etc.).

**House Bill 2145 (limited use elevator)** restricts the installation of limited use and limited access elevators. These are defined as passenger elevators limited in use by their size, capacity, rise and speed and limited access by their location, possible key requirements or other restrictions. Beginning July 1, 2007, no limited use or limited access elevator may be installed in a nonresident setting unless it meets the Safety Code for Elevators produced by the American Society of Mechanical Engineers, has a method for two-way communication between the car and each floor the elevator serves, and is operated automatically. Such elevators in use before July 1 will be grandfathered in, as long as they are inspected annually.

*Bill(s) related to this section:*

**Senate Bill 67, pg. 17**

**House Bill 2877, pg. 33**

**Secretary of State**

**Senate Bill 531 (class-action lawsuits)** relates to reducing the number of copies of class action lawsuit petitions, demands or complaints that must be filed with the Secretary of State's office. The bill states that in a class action suit in which all defendants are to be served with the same process, notice or demand, service may now be made by filing with the Secretary of State and providing one copy to each defendant.

*Bill(s) related to this section:*

**Senate Bill 617, pg. 19**

**Senior Citizens**

**House Bill 3057 (elder care)** facilitates the organization of the federally funded Program for All-inclusive Care for the Elderly, or PACE. The program creates a locally managed health care delivery system that supplies primary, preventative, restorative, supportive, and end-of-life care to elderly persons

certified by the state as nursing-home eligible. In order to promote the expansion of this program, this bill establishes a legislative intent to eliminate legal, statutory, and regulatory barriers to the formation of PACE by exempting health providers that participate in the program from regulation as insurers or from regulation by the Insurance Commission. Under this bill, the local PACE programs must be set up in accordance to a contract with the United States Department of Health & Human Services, which has been prepared in consultation with the West Virginia Department of Health & Human Resources. By Jan. 1, 2008, and every three years following that date, the Secretary of the WV Department of Health & Human Resources will submit a report to the Legislative Oversight Commission of Health & Human Resources Accountability detailing the financial status of all PACE programs, the make up of enrollee services, and other information that is formally requested.

**Sunset Legislation**

**Senate Bill 171** continues the Board of Accountancy until July 1, 2017.

**Senate Bill 172** continues the Board of Respiratory Care Practitioners until July 1, 2017.

**Senate Bill 186** continues the Board of Embalmers and Funeral Directors until July 1, 2015.

**Senate Bill 187 (revising sunset law)** creates the West Virginia Performance Review Act. Under this bill, no agency or regulatory board will automatically terminate. The bill was created because the Legislature found that state government has created many state agencies that lack legislative oversight or regulatory accountability. To create an effective system of checks and balances, the Legislature has revised the entire sunset law to ensure all agencies are reviewed at least once every 12 years. During the first interim period of each year, agencies will deliver presentations to the Joint Committee on Government Operations. The presentations will include information such as goals, internal performance reviews, budget reviews and the number of employees. The committee may conduct compliance reviews if necessary. If an agency is terminated, the agency has until July 1st of the following year to complete its business. The terminating agency will have until June 30th of that year to file a written statement with the Department of Administration listing where all funds, assets, equipment and records of the agency will be disbursed.

**Senate Bill 190** continues the Board of Examiners of Psychologists until July 1, 2018.



**House Bill 2349** continues the Board of Registration for Sanitarians until July 1, 2016.

**House Bill 2527** makes several changes related to the sunrise review process. This process determines which professions or occupations require a state regulatory board. First, the bill requires that professions looking to substantially revise or expand their scope of practice must file a new application. Second, it changes the criteria for establishing a professional board. Under the previous law, a profession had to affect the public needs in a way that required an assurance of professional or occupational competence. The new law states that a profession may be regulated if the practice of the profession or occupation requires a specialized skill that is readily measured so that examination or training requirements can reasonably assure professional or occupational competence. Finally, it provides a provision that the final sunrise report by the Legislature’s Joint Standing Committee on Government Organization should be given considerable weight, although it is not binding,

**House Bill 2568 (racial profiling)** will extend the collection of racial profiling data gathered by law enforcement until December 31, 2008. The provisions will terminate in their entirety on June 30, 2009. Delaying the termination of the Act for 6 months after the end of data collection will permit the Director of the Governor’s Committee on Crime, Delinquency and Correction to publish a final public report in 2009 of the data collected in 2008.

**House Bill 2574** continues the Board of Social Work Examiners until July 1, 2017.

**House Bill 2586** continues the Board of Veterinary Medicine until July 1, 2018.

**House Bill 2587** continues the West Virginia Board of Optometry until July 1, 2018.

**Taxation**

**Senate Bill 178 (hotel occupancy tax)** authorizes that the hotel occupancy tax can be raised to no more than six percent. First, however, a vote must be taken in a public hearing in order to authorize the increase. The monies collected from this tax will be deposited in the General Revenue Fund at the respective county commissions. The bill also expands permissible expenditures of the tax to include incentives for passenger air service within the state and emergency services in certain areas.

**Senate Bill 335 (tax fees)** imposes a fee of \$20 on the transfer of real property in addition to the excise tax on the sale of factory-built homes by licensed dealers and the consumers sales and service tax. This revenue will provide funding for the West Virginia Affordable Housing Trust Fund. This bill also authorizes expenditures for administrative and operating expenses.

**Senate Bill 406 (continuing care)** includes qualified continuing care retirement communities under the provisions of the Tax Limitations Amendment for purposes of assessing whether the property is residential or commercial. This enables this particular type of retirement community to pay taxes at the Class II level, which is the same as individuals living in their own homes in the community. Currently, for tax purposes, retirement communities are classified as Class IV, which denotes commercial property, while Class II represents owner-occupied property. The bill also defines “qualified continuing care retirement community” as a licensed facility owned by a corporation or other organization exempt from federal income taxes, at which independent living, assisted living and nursing care are provided, if necessary, to qualified residents.

**Senate Bill 441 (wind power)** will change how wind power projects are treated for tax purposes. First, it limits the facility-assigned salvage value of a wind turbine and tower to no greater than 79 percent of the total value of the facility. It also clarifies the definition of “wind turbine and tower.”

Second, it increases the taxable generating capacity of wind turbines installed after March 11, 1995. Beginning in 2008, this will go from 5 percent of total official capacity to 12 percent of official capacity.

Finally, the bill creates a credit against the state business and occupation tax for wind turbines. The credit is equal to the amount of qualified contractually agreed contributions, specifically, contributions in money or property to a county, school board or city where the turbine is located made before March 1, 2007. This credit, when combined with the industrial expansion tax credit already offered, is limited to no more than half of the tax that would have been imposed if the taxable generating capacity was 5 percent of official capacity. The credit can be applied in up to nine successive tax years, and any remaining credit would be forfeited after the ninth year.

**Senate Bill 540 (tax credit)** creates a tax credit for eligible West Virginia utility taxpayers who incurred net operating loss carry-overs before December 31, 2006. The bill was created to provide transitional relief for those who incurred such a loss. The credit will be 1.25 percent of the loss.



**Senate Bill 569 (railroad fund)** establishes the Special Railroad and Intermodal Enhancement Fund. Beginning in 2008, \$4.3 million of the money collected from the corporation net income tax will be deposited annually into this fund. However, for 2016, only \$2.15 million will be deposited into the fund since it will expire on June 30 of that year. The West Virginia Public Port Authority (PPA) will administer the fund, which is intended for the construction, reconstruction, repair and maintenance of railways and railway-related structures and for the repayment of principal and interest on state bonds issued for railway purposes.

The bill also directs the PPA to study the feasibility of planning, developing, constructing and operating of the intermodal facility in Prichard (in Wayne County) to determine whether it is sustainable.

**Senate Bill 631 (sales tax exemption for certain contractors)** provides a sales tax exemption for services, machinery, supplies or materials that are bought by a contractor performing work for a person or organization currently exempt from paying sales tax. To qualify for this exemption, the goods and services must be directly used in the construction, alteration, repair or improvement of a building or structure owned by the tax-exempt entity. In addition, the sale of gasoline and special fuel would not be exempted. The exemption is a refundable credit and goes into effect July 1, 2007.

**Senate Bill 749 (business franchise tax)** requires a corporation that is part of an affiliated group and is engaged in a unitary business, to report the group's combined net income for tax purposes. An affiliated group is defined as a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners. In addition, the bill gradually reduces the business franchise tax. Beginning in 2008, the tax goes from its current 0.55 percent to 0.48 percent. The tax will be 0.41 percent for tax year 2009, 0.34 percent for 2010, 0.27 percent for 2011, and 0.21 percent for 2012. The minimum payment remains at \$50.

**House Bill 2285 (income taxes)** updates the definition of terms used in the West Virginia Personal Income Tax Act. Under the bill, taxable trust does not include a medical savings account. Contributions made by an employer to a medical savings account are not considered wages. The term "surtax" is defined as a 20 percent additional tax imposed on withdrawals from a medical savings account.

**House Bill 2314 (tax update)** updates the meaning of "federal taxable income" and certain other terms dealing with the state personnel income tax. This applies any changes made to the Federal Internal Revenue Code in 2006 to the

State Code. Such bills are passed annually to explicitly keep West Virginia tax laws up-to-date.

**House Bill 2380 (medical goods exemptions)** exempts the purchase of certain drugs, durable medical goods (such as wheelchairs and walkers), mobility enhancing equipment and prosthetic devices from the consumers sales and service tax. This exemption applies to purchases made through a health care provider, which is any person licensed to prescribe drugs intended for use in the diagnosis, cure, mitigation, treatment, or prevention of injury or disease in humans as well as any hospital, medical clinic or nursing home.

**House Bill 2775 (privilege tax)** relates to the taxation of motor vehicles. This bill provides exemptions from the payment of the privilege tax and replaces the 5 percent tax for certification of title with a 5 percent sales tax. New residents are exempt from paying the privilege tax if they show proof that they were not a resident of this state at the time the vehicle was purchased. The vehicle must be properly titled in the applicant's previous state or jurisdiction of residence

Starting July 1, 2008, a 5 percent sales tax on all motor vehicle sales to West Virginia residents will take effect. This tax also applies to vehicles purchased out-of-state. The Division of Motor Vehicles will collect the tax and deposit it in the State Road Fund in the State Treasury after deducting the amount of any refunds paid out. The Commissioner of Highways is authorized to use this revenue for design, maintenance and construction of roads in the state highway system.

This tax does not apply to rental cars, public transportation vehicles, ambulances, fire trucks or any other vehicle used to protect life property. Vehicles owned by corporations where the tax was previously paid, vehicles acquired by senior citizen service organizations and vehicles acquired by registered dealers for resale only are also exempt. Any active duty military personnel stationed outside of West Virginia who purchases a motor vehicle within nine months of returning to this state will not be required to pay the 5 percent tax.

A vehicle that is owned and titled to a resident who was not a resident at the time of purchase, who provides proof that the vehicle was titled in the previous state of residence, has evidence to show bona-fide residency in this state, can present an affidavit establishing that the vehicle is on record in the office of the assessor as personal property and applies to the Division of Motor Vehicles for a title and registration is exempt from the tax as well.

**House Bill 2917 (accelerated payment)** eliminates the requirement that accelerated payment of consumer sales and service taxes and personal income taxes are to be paid by



June 20th, starting June 1, 2007. Now, tax payments will be due in monthly installments on or before the 20th day of the month after the tax was accrued.

**House Bill 2945 (construction trades)** provides a tax credit for employers providing certain apprenticeship training programs. To qualify for the credit, the apprenticeship program must be in the construction trades and the apprentice must be registered with the Office of Apprenticeship, which is part of the U.S. Department of Labor. The program must also be administered jointly by labor and management trustees and must be in compliance with federal laws and regulations relating to apprenticeships.

The tax credit is equal to \$1 per hour worked by the apprentice during the tax year. This is capped at \$1,000 or half of the actual wages earned by the apprentice, whichever is less. The credit would first be applied to the business franchise tax, then the corporation net income tax and finally the personal income tax, if the employer qualifies as a small business corporation for tax purposes. The credit is not refundable, meaning any unused credit is lost.

**House Bill 2955 (nickel gas tax)** continues the flat-rate excise tax on gasoline at \$0.205 per gallon until August 1, 2013. This tax was set to go down to \$0.155 on August 1, 2007. The bill also requires the Commissioner of Highways to give a monthly report, starting July 2007, to the Joint Committee on Government and Finance about the amount of taxes paid into the state road fund, any matching federal funds and all expenditures from the road fund.

**House Bill 2988 (tax terms)** clarifies the definition of “return” for tax purposes. The definition for the term “return” is a tax return, information report, declaration of estimated tax, a claim or petition for a refund or a petition for reassessment that is filed with the tax commissioner. Only complete returns will be considered as filed.

**House Bill 2989 (tax shelters)** clarifies when to register tax shelters and when to file an investor list with the Tax Commissioner. A tax shelter is a legal investment that reduces an investor’s taxable income, like a 401(k) plan, and therefore, reduces the taxes owed to the state government. It also adds the term “material advisor,” to the statute as someone required to register a tax shelter under a section of the Internal Revenue Code, which conforms state provisions to federal law.

**House Bill 2990 (offset fees)** makes technical corrections to the State Code to assure the proper collection of offset fees. The bill changes who will collect these fees from the Internal Revenue Service (IRS) to the Tax Commissioner, as the Tax Commissioner imposes offset fees, not the IRS.

**House Bill 2991 (criminal background checks)** authorizes the Tax Commissioner to conduct criminal record checks for prospective employees of the Tax Division. Criminal records checks will be administered through the Criminal Identification Bureau of the West Virginia State Police and a national criminal history check through the Federal Bureau of Investigation. The results of any criminal records or criminal history will be sent to the commissioner, who will only disclose that information if it is directly related to employment.

**House Bill 2992 (nursing home tax)** brings the nursing home tax in West Virginia in compliance with federal law. The tax will be reduced to 5.5 percent of gross receipts by Nov. 1, 2007.

**House Bill 3048 (high technology manufacturers)** creates an economic opportunity tax credit for high technology manufacturers. A high technology manufacturer is a business that manufactures electronic computers, computer storage devices, and various other parts of computers. The 20-year tax credit will cover 100 percent of taxes attributable to, and which are the direct consequence of, the investment or expansion of the manufacturer. However, the investment must lead to at least 20 jobs paying more than \$45,000 per year within 12 months of the manufacturer being open.

**House Bill 3072 (local B&O taxes)** relates to local taxation. This bill authorizes a municipality to impose its business and occupation or privilege tax on any activity of a corporation, association or society that is operated exclusively for religious or charitable purposes. These organizations were previously exempt from the state’s business and occupation tax according to past legislation. In addition, the Tax Commissioner is allowed to provide the federal employer identification number of any business within the jurisdiction of the requesting assessor, sheriff or mayor. This bill also allows the sheriff and municipal finance officers to review property tax data collected by the assessor, and clarifies that all levying bodies must share the costs required to collect delinquent taxes.

*Bill(s) related to this section:*

- Senate Bill 541, pg. 12**
- Senate Bill 588, pg. 22**
- Senate Bill 690, pg. 33**
- House Bill 2309, pg. 39**

**Tobacco**

**Senate Bill 185 (tobacco settlement)** creates the Tobacco Settlement Finance Authority, which will have the power to acquire the state’s tobacco settlement share in order to manage the funds therein through the sale of bonds to secure



the state a lump sum in place of the incremental payments received from the tobacco manufacturers. It also gives the Governor the authority to sell West Virginia’s share of the tobacco settlement in order to pay off outstanding debts, as long as the net gain is \$800 million; the totality of the money gained here will go toward paying off the debt of the Teachers’ Retirement Fund, which has been predicted to cost the state \$700 million a year (in future years), to pay down our obligations to it. The Governor may also sell and assign all or a portion of the state’s share to the Tobacco Settlement Finance Authority with respect to the stipulations and intentions of the Master Settlement Agreement. Some of the terms and conditions of the sale established in any sales agreement shall include the following: 1) The Attorney General will have the authority to collect all monies due as per the master settlement agreement from any tobacco product manufacturers selling tobacco products in the state that are not in compliance with the qualifying statute or the complementary legislation pertaining to the master settlement agreement; 2) The requirement is established that the state does not agree to any amendment of the Master Settlement Agreement, et cetera, that materially and adversely affects the Tobacco Settlement Finance Authority’s ability or right to receive the state’s share that has been sold to this authority or its rights and powers under this article and the sales agreement.

*Bill(s) related to this section:*  
**House Bill 2332, pg. 14**

## Tourism

**House Bill 2309 (tax credits)** makes several changes to the tourism development tax credit. Under current law, certain tourism development projects qualify for this credit, with the maximum amount of credit equal to 25 percent of approved costs over a 10-year period. If the project is on or next to an abandoned coal mine, the maximum credit is increased to 50 percent. However, the total amount of the credit provided by the state currently cannot exceed \$1.5 million per fiscal year. The bill removes this limit but lowers the tax credit for former mines to 35 percent. It also creates a tourism development expansion tax credit for existing tourism projects, which are capped at a statewide total of \$1.5 million per year. The bill also explicitly excludes parimutuel racetracks and limited video lotteries from either tax credit.

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 41.

## Transportation

*Bill(s) related to this section:*  
**Senate Bill 398, pg. 27**  
**House Bill 2189, pg. 18**  
**House Bill 2781, pg. 18**

## Water Resources

**Senate Bill 425 (local entity loans)** increases the number of entities that are eligible to borrow money from the Water Pollution Control Fund for water and sewer projects to include regional governmental authorities, state government agencies, interstate agencies, not-for-profit associations and West Virginia corporations. The additions bring the state’s definition of a “local entity” into compliance with federal law. The bill would also authorize the Water Development Authority to take a security in an entity’s property as collateral to secure the repayment of loans made for water or sewer projects.

**Senate Bill 465 (dam safety)** authorizes the Secretary of the Department of Environmental Protection (DEP) to administer the Dam Safety Rehabilitation Revolving Fund as a special revenue fund. The Fund will include revenues from monies dispensed by the federal government, loans made by the fund, monies appropriated by the Legislature, income from investments and any other monies designated for deposit into it. The fund will finance loans for persons who own an interest in engineering, designing, altering, improving, repairing, or removing a “deficient dam.” Under this bill, a “deficient dam” is defined as a non-coal-related dam that exhibits one or more design, maintenance or operational problems that may adversely affect the performance of the dam over a period of time or during a major storm or other inclement weather that may cause loss of life or property; or a non-coal-related dam that otherwise fails to meet the requirements of this article.” Additionally, the Secretary of the Department of Environment Protection is authorized to create legislative rules to establish a Deficient Dams Rehabilitation Assistance Program, which will establish eligibility for, and direct the distribution of monies from the fund and hire staff to administer and manage the Fund.

## Workers Compensation

**Senate Bill 595 (public to private transition)** reflects transition from the state operated Worker’s Compensation System



to private insurance. Eighteen modifications were also implemented. Some of these include: allowing the Insurance Commissioner an exemption from purchasing rules for professional services; removing references to catastrophic risk; revising the bond language for self-insured employers and removing obsolete references to self-insured status from certain information.

**Zoning**

**Senate Bill 475 (Board of Zoning Appeals)** requires the West Virginia Board of Zoning Appeals to set a time for, and send notice of, an appeal hearing within 10 days of the Board receiving the appeal. The hearing will be held within 45 days of when the initial appeal was received. At least 15 days before the scheduled hearing, the Board must publish a legal advertisement, including the date, time and place of the hearing. The Board must make a decision within 30 days of the hearing. If no decision is made, the party may take additional steps to obtain a decision.

**Bill Status**  
For bill history information and full bill text of all Legislation from the 2007 Regular Session, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.

<b>April 16-18</b>		<b>2007 - 2008</b>
<b>May 6-8</b>		<b>Interim Committee</b>
<b>June 3-5</b>		<b>Meeting Dates</b>
<b>July 8-10</b>		
<b>August 19-21</b>		
<b>September 9-11</b>		
<b>October 7-9</b>		
<b>November 16-18</b>		
<b>December 9-11</b>		
<b>January 6-8, 2008</b>		

**Note:** All dates are subject to change.

**Veto Messages (15)**

- SB 70 (Overridden)**, pg. 10
- SB 148**, pg. 14
- SB 183**, pg. 8
- SB 400**, pg. 13
- SB 413**, pg. 6
- SB 414 (Overridden)**, pg. 14
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- HB 2027**, pg. 15
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