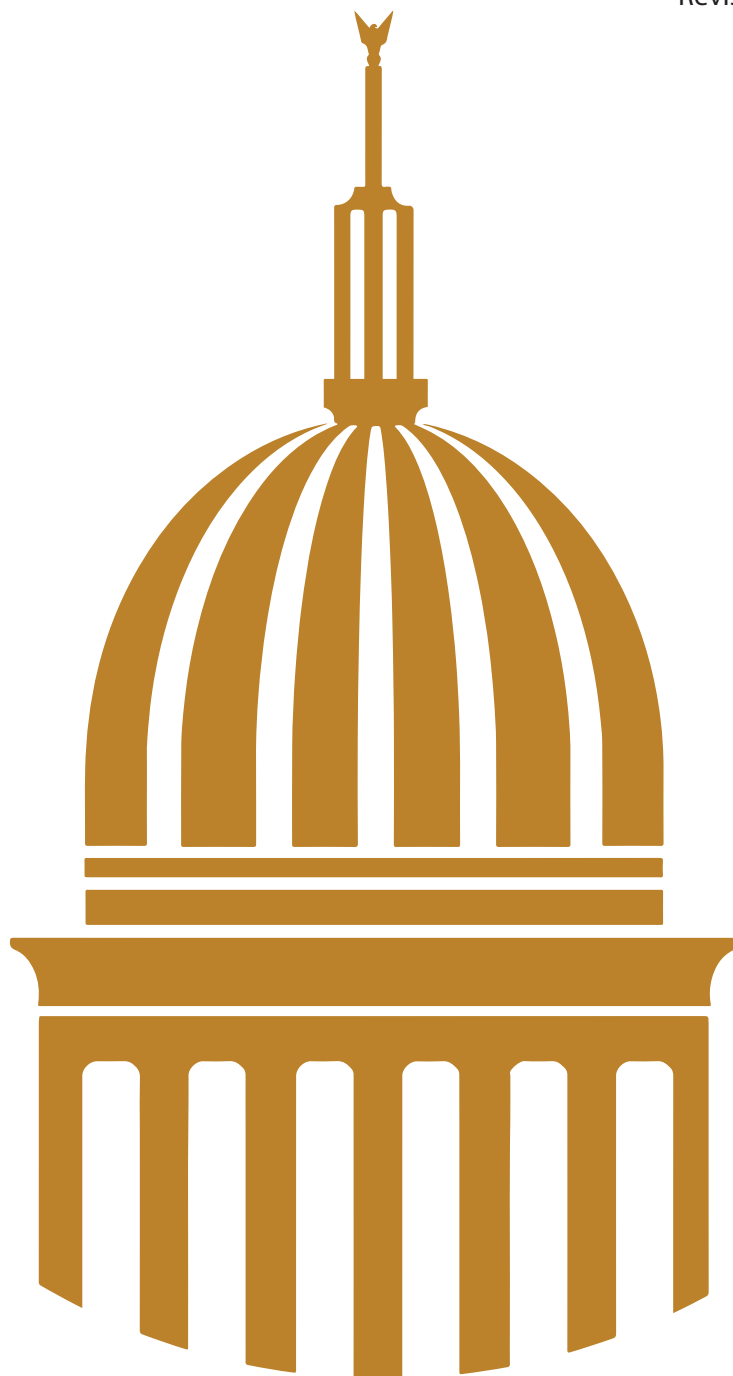


WEST VIRGINIA LEGISLATURE BILL DRAFTING MANUAL

Revised: December 2017



Prepared by:

• House Clerk's Office

• Legislative Services

• Senate Clerk's Office

West Virginia Legislature

Bill Drafting Manual

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House Clerk's Office

Legislative Services

Senate Clerk's Office

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BILL FORMAT

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 36

Bill Number

BY SENATORS STOLLINGS, GAUNCH, OJEDA, FACEMIRE,
JEFFRIES AND BEACH

Sponsors

[Introduced February 8, 2017; referred
to the Committee on Health and Human Resources]

References

Title 1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §16-46-7, relating to permitting school nurses to possess and administer
3 opioid antagonists on or near school premises.

Be it enacted by the Legislature of West Virginia: — Enacting Clause

Body **ARTICLE 46. ACCESS TO OPIOID ANTAGONISTS ACT.**
§16-46-7. School nurse access to opioid antagonists.
1 Any person employed as a school nurse and properly licensed by the West Virginia Board
2 of Examiners for Registered Professional Nurses may possess an opioid antagonist on or near
3 school premises and administer the opioid antagonist if he or she believes in good faith that a
4 student or other individual at the school is suffering from an opiate-related overdose.

NOTE: The purpose of this bill is to allow school nurses to possess and administer opioid antagonists at school.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

Explanatory Note

WORD PROCESSING FORMAT OF BILLS

A template for proposed bills, in Microsoft Word format, is available along with an updated version of the West Virginia Code from Legislative Services. The template can also be found online at

www.legis.state.wv.us/Joint/legis/services.cfm

The template contains pre-formatted field and document style information that can make the bill drafting process much easier for you. There is helpful information about using the document style sheet in a document called "Using Microsoft Word to Prepare Draft Bills", which is also available for download from the webpage referenced above.

Please use the bill template if at all possible. If, however, you are not able to use the template, here are the style specifications for the basic bill pages.

- The top margin is 1". The bottom margin is .5". The left and right margins are 1".
- The bill is double spaced, except for the Explanatory Note which is single spaced. Full justification is used, except where specifically provided otherwise.
- The base font is Arial in 11-point size. This is also the font that should be used for line numbering and page numbering.
- Page numbers begin on the first page (the first page of text, not the cover page with the bill number and sponsors) and are centered at the bottom of each page.
- Line numbering should begin with the title and then restart with the body of each section in a bill. The enacting clause, chapter, article and section headings do not include line numbering.
- The first line of the Title begins at the left margin and on line 1. The rest of the Title is indented using a hanging indent.
- The Enacting Clause begins at the left margin and is italicized.

- Chapter numbers and names are centered. All letters are capitalized, in 14-point font and bold faced.

EXAMPLE:

CHAPTER 4. THE LEGISLATURE.

- Article numbers and names begin at the left margin. If the article heading takes more than one line, the additional lines are indented using a hanging indent. All letters are capitalized and bold faced.

EXAMPLE:

ARTICLE 21. THIS IS AN EXAMPLE OF AN ARTICLE HEADING THAT TAKES MORE THAN ONE LINE.

- PART numbers and names, if included in a bill, are centered. The text is formatted using the SMALL CAPS font effect.
- Section numbers and headings begin at the left margin. There is no space between the section symbol and the chapter number. (*EXAMPLE:* §1-1-1, not § 1-1-1). If the section heading takes more than one line, the additional lines are indented using a hanging indent. The first word of a section heading is capitalized but the rest of the text in the section heading is lower case, except where the rules of capitalization require otherwise.

EXAMPLE:

§21-1-1. This is an example of a section heading that takes more than one line and uses a hanging indent for the continuing text.

- In the body of the bill each paragraph begins with a half-inch indentation from the left margin. There are no additional indentions for further divisions of a section.
- Line numbering is turned off after the main text of the bill. The Explanatory Note begins with a half-inch indentation from the left margin.

PART I

PRELIMINARY DRAFTING INSTRUCTIONS

GENERAL DRAFTING RULES

BILL TITLES

In view of Section 30, Article VI of the West Virginia Constitution and various decisions of the West Virginia Supreme Court of Appeals concerning the constitutional provision, the title of a legislative bill is of critical importance. Section 30, Article VI of the West Virginia Constitution requires that bills embrace one object, which must be expressed in the title of the bill. Particular care should be taken in the drafting of a title. Consider the following:

If a bill is to amend and reenact a statutory provision and the titles of former acts relating to the same statutory provision are sufficient, then only the new matter or change proposed by the bill need be reflected in the title. In that situation, a court, in determining whether the bill is insufficient, may look not only to the title of the bill but also to the titles of former acts which enacted or reenacted the statutory provision and if, when all of the titles are read together, the object is sufficiently stated, the court will uphold the title. ***Because it takes less time to prepare a title to cover the bill without regard to former titles than it does to locate and analyze the adequacy of former titles, each title should be prepared so that it can stand alone.***

A title should not be an index to or an abstract of the content of the bill. Consequently, generality of wording is not objectionable if the statement of the subject of the legislation is not so general as to be meaningless or deceptive.

Notwithstanding the general principles recognized in paragraph 2, the nature, scope and consequences of a bill should be included in the title.

Consistent with the general principles outlined in paragraph 2, it should be remembered that a title may limit the scope of the bill, but it cannot broaden or extend the effect of the bill as expressed in the body of the bill.

There should be some reference in the title to provisions which have far-reaching implications. For example, it is essential that the title reference criminal offenses and penalties if the bill contains them. Similarly, a bill title should reference the suspension or revocation of a license or other right, privilege, etc., the exercise of the right of eminent domain, the right of immediate entry, the removal of one from office, the imposition of civil penalties, etc., when these rights are affected by the provisions in the body of the bill.

A title should be written with regard to the above principles and not by simply copying into the title the wording of the section caption or captions contained in the body of the bill, because a section caption is not a part of the statute and is often misleading or quite incomplete when analyzed in light of the principles governing the adequacy of a title.

It is essential that a title be in proper grammatical form. The lead words are "relating to . . ." If there is more than one section included in a bill, the lead words are "all relating to . . ." Each descriptive clause should use parallel language – "defining terms;" "establishing . . .;" "clarifying . . .;" – and be separated from the others with a semicolon.

ENACTING CLAUSE

The enacting clause is provided in Section 1, Article VI of the West Virginia Constitution and is:

Be it enacted by the Legislature of West Virginia:

CHAPTER HEADINGS

Chapter headings are not included in bills except where:

More than one chapter is amended; or

A new chapter is added.

ARTICLE HEADINGS

Article headings are set forth in all bills.

SECTION NUMBERING AND HEADINGS

Section numbers and headings are set forth in all bills. In bills amending the code, numbers of sections will follow the numbering form as used in the code. *EXAMPLE:* §1-2-3 designates Chapter 1, Article 2, Section 3. If a new section is to be added, the new number normally will follow in logical sequence at the proper place of insertion in the code. Should the new section need to be added between existing sections, such as between §1-2-3 and §1-2-4, the new section would be numbered §1-2-3a.

In Local or Special Acts, the section number does not refer to a chapter or article as in bills amending the code (see Part IV p. 89); therefore, section numbers appear as §1, §2, etc. In amendments to existing sections of Local or Special Acts, section numbers shall be the same as those of the existing Local or Special Acts and logical sequence of numbering shall be followed.

Where a section heading starts with the word "Same" and the language which the word intends to convey has not been set forth in the bill in a previous section, the substituted language should be set forth in its entirety and the word "Same" eliminated. In subsequent sections, however, the above rule need not be followed since the meaning of the word "Same" has been established.

CONSTITUTIONALITY OF BILLS

If a drafter questions the constitutionality of a bill request or bill draft, he or she shall notify the person(s) who requested the draft. If the legislator(s) disagrees with the drafter, or wants the bill introduced regardless of constitutional questions, the drafter shall complete the draft. In all cases, the drafter shall make every effort to eliminate constitutional problems.

SEVERABILITY CLAUSE

The drafter does not have to add a severability clause to new sections, articles or chapters. A general severability clause which applies to all sections, articles and chapters in the code is found in West Virginia Code §2-2-10(cc). If the bill contains sections that must remain for the rest of the bill to remain, a nonseverability clause may be added, but generally this should be avoided.

EXPLANATORY NOTE

A brief single-spaced note of explanation shall be set forth at the end of each bill except the budget bill and supplementary appropriation bills. The note should be put in layman's terms, explain what the bill does, and should not be the exact same wording as the title.

The note should begin in the following form:

NOTE: The purpose of this bill is to authorize. . .

Normal capitalization of words is used in explanatory notes.

Ordinarily, this note will be typed at the bottom of the last page of a bill, and extra space will be left between the end of the bill and the note.

The content of the note shall include an explanation of the purpose of the bill. It shall also include a brief statement of the substantive changes the bill will make.

If a section, subsection or subdivision is merely renumbered or relettered, this fact shall be noted.

If a bill contains long and complicated renumbering or relettering, a cross-reference table should be included to identify the old sections with the new sections.

An explanatory note shall also be added to joint resolutions.

LOCAL OR SPECIAL ACTS

A Local or Special Act is an act of the Legislature confined to a specific area of the state. It is not a part of the code but is confined to the continuous records of the Acts of the West Virginia Legislature. Section 39, Article VI of the West Virginia Constitution contains specific enumeration of items to be covered by general laws as opposed to Local or Special Acts. See the examples on pages 85 – 89.

RESOLUTIONS

Resolutions differ from bills in that they do not amend the code or the acts of the Legislature. They take different forms according to the type of resolution to be made. There are three types of resolutions and each type serves a different purpose. These are explained on page 93 and examples of each type appear on the pages after it.

DRAFTING - PRELIMINARY STEPS

The drafter should follow these steps generally in the order listed:

- 1) Determine the object of the bill and how the legislator wants it prepared. If the drafting request form is not clear, contact the legislator promptly for clarification;
- 2) Check the pertinent statute, depending upon whether the amendment is an existing section, article or chapter;
- 3) Check all statutes on the subject to see if a similar or related statute is in effect;
- 4) Check the supplement to the code for recent amendments;
- 5) Check code annotations;
- 6) Check legislative acts that may have been passed since the supplement was issued;
- 7) Check Senate and House Journals and the Central Bill Drafting Index to see if proposed legislation has been introduced in previous sessions. If so, it can be revised in much less time than it takes to write a new bill. If a drafter uses a draft prepared outside of Central Bill Drafting or a bill from a prior session, he or she should always check for changes in the law and make dates appearing in the draft current;
- 8) Check the constitutions (WV and US); and
- 9) If proposed legislation indicates the need for a new section, article or chapter, determine the appropriate place in the code for it.

PART II

LANGUAGE AND

PREFERRED USAGE

CAPITALIZATION

Except as otherwise noted below, use normal capitalization in bills.

CAPITALIZE

The first word in a sentence and the first word in tabulated items in the listing style.

Official, full titles of state officers, departments, divisions, boards, agencies, commissions, committees and funds.

Attorney General
State Auditor or Auditor
Bureau for Public Health
Department of Health and Human Resources
Director of the Division of Natural Resources
Joint Committee on Government and Finance
President of the Senate
Public Employees' Retirement Fund
Regional Jail and Correctional Facility Authority
Secretary of the Department of Administration
Secretary of State
Speaker of the House of Delegates
State General Fund or General Fund
State Police
State Treasurer or Treasurer
the Capitol Building Improvement Fund
West Virginia Legislature
West Virginia House of Delegates
West Virginia Senate

Generally, substitutes for official titles and agency names should not be capitalized.

the board (when referring to a specific board)

the department (when referring to a specific department)

the director (when referring to the director of a specific division)

the division (when referring to a specific division)

the fund (when referring to a specific fund)

the secretary (when referring to the secretary of a specific department)

the state

the code

this code

However, the following should be capitalized:

the Governor (when referring to the Governor of West Virginia)

the House of Delegates (when referring to the West Virginia House of Delegates)

the Legislature (when referring to the West Virginia Legislature)

the President (when referring to the President of the Senate)

the Senate (when referring to the West Virginia Senate)

the Speaker (when referring to the Speaker of the House of Delegates)

the State of West Virginia

the Code of West Virginia

Geographic names.

Kanawha River

Putnam County

Months and days of the week.

January, April, September

Friday, Saturday, Sunday

Names of streets, roads, parks, and buildings.

the Capitol (when referring to the State Capitol)

North Bend State Park

the Henderson Center

the White House

U.S. Route 50

Names of nationalities and languages.

Spanish-speaking people

English language

Political parties and religious denominations.

the Democratic party

the Methodist church (but, First Methodist Church)

the Republican party

Official titles of organizations, institutions, and branches of the military.

Air Force (when referring to the United States Air Force)

American Lung Association of West Virginia Associated Press

National Guard

United States Air Force West Virginia University

But do not capitalize "armed forces"

Federal and international entities.

Always use the correct name of an entity, and do not use acronyms as abbreviations.

Federal Bureau of Investigation

United Nations

United States Department of the Interior

United States House of Representatives

United States Senate

World Bank

Titles of specific acts, federal laws, and other official documents.

Acts of the Legislature
Equal Rights Amendment
Internal Revenue Code
Rules of Civil Procedure
Social Security Act
the Constitution of the State of West Virginia
the Constitution of the United States

References to the West Virginia Code and the Code of West Virginia.

However, don't capitalize the word "code" when standing alone without the full name of the code.
E.g., "chapter three of this code" and "other provisions of the code".

Holidays, religious days, and historic events.

Fourth of July
Passover
Thanksgiving Day

The first word after each "Whereas" in a resolution.

Whereas, The forest products industry will be best served . . .
Whereas, Citizens of this state regularly contribute . . .

The second word of hyphenated titles.

Community-Board
Labor-Management Relations Board
High-Technology Corridor

All letters of all words in a West Virginia Code chapter heading used in a bill.

EXAMPLE:

CHAPTER 6C. PUBLIC EMPLOYEES.

All letters of all words in a West Virginia Code article heading used in a bill.

EXAMPLE:

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

In definitions where a quoted term starts a sentence, only the first word of the quoted term, unless the term is a proper name or would otherwise be capitalized.

“Unusual purchase or addition” means . . .

“West Virginia University” means . . .

DO NOT CAPITALIZE THE FOLLOWING:

Words such as "city", "county", "state", etc., when standing alone.

second class city (but, City of Charleston)

the county (but, Kanawha County)

of the state and of this state

Directional parts of states and counties (except in surveyors' reports and other such documents).

central Kanawha County

northeastern states

northern West Virginia

General designations of buildings.

library in Kanawha County (but, the Kanawha County Library)
the Charleston post offices
the county courthouse

The words "government" or "federal" (except when "federal" is a part of the name of the agency or statute).

However, use "United States" instead of "federal" when referring to a specific entity that does not have "federal" in the name. Always use the correct name of an agency.

federal agencies (but, Federal Bureau of Investigation)
United States Department of Health and Human Services
United States Social Security Administration

Titles of county or municipal officers, agencies, or committees.

assessor
clerk of the circuit court
county commissioners
prosecuting attorney

References to laws on a specified subject.

federal election laws
federal tax laws (but, Internal Revenue Code)
motor vehicle laws

Names of seasons of the year.

spring
summer session

References to portions of the code.

articles three, four and six of this chapter
section two of this article
as referenced in this code

SPELLING

The official reference for spelling, use of hyphens, etc., is Merriam-Webster's Collegiate Dictionary, Eleventh Edition. For the drafter's convenience, however, some of the most frequently misspelled words are listed below:

| | |
|----------------------------|------------------------------------|
| acknowledgment | pari-mutuel |
| antemortem | percent |
| attorney in fact | per centum |
| | pipeline |
| barbershop | postaudit |
| beauty shop | postcard |
| buses | postmortem (adjective, noun, verb) |
| bylaws | post-mortem (adverb) |
| bypass | post office |
| | post-secondary |
| canceled | preplan |
| clear-cut | preschool |
| clearinghouse | privately owned land |
| cochairmen | pro rata |
| courthouse | prorate |
| | |
| even-numbered years | quasi-public |
| ex officio | |
| extracurricular | reemploy |
| | reenlist |
| firefighters | reexamine |
| foregoing | rights-of-way |
| | rulemaking |
| guideline | |
| guidepost | semiannually |
| | statehouse |
| in-service training | statewide |
| insofar | supersede |
| | |
| joint stock | three tenths of one percent |
| joint-stock company | three-tenths percent |
| judgment | timetable |
| | to wit |
| law-enforcement officer | trademark |
| BUT strict law enforcement | trade name |
| | truck line |
| moneys | updated |
| | usage |
| noncancelable | |
| noncompliance | vice chairman |
| nonduty | vice president |
| nonprofit | |
| nonpublic | waterworks |
| nonsuit | willful |
| nonuniform | |
| | |
| one and one-half days | |
| one-half cents | |
| one half of a mile | |
| one-half mile | |
| out-of-state travel | |

WORDS FREQUENTLY CONFUSED

- affect - always a verb; applies to a stimulus strong enough to bring about a reaction or some modification.
Synonyms: Influence, impress, sway.
Example: Rain affects crops.
- effect - as a verb means to cause to come into being.
Synonyms: Cause, induce, do, accomplish, execute, achieve.
Example: Maintenance of state roads is effected during the summer.
- effect - as a noun means something that is produced by an agent or cause.
Synonyms: Result, consequence, outcome.
Example: Rules have the effect of law.
- biannual - twice a year
biennial - once every two years
- capital - city; money or assets; first rate
capitol - statehouse
- council - a group
counsel - advice, advisor, attorney; to advise
- ensure - to make certain
insure - to protect against loss
- farther - actual distance
further - additional; more advanced
- interstate - between states
intrastate - within one state
- marital - pertaining to marriage
martial - military
- practicable - workable
practical - useful
- principal - head of a school; also the main one of several things
principle - rule of conduct; main fact of law
- sanatorium - an establishment for treating a particular disease
sanitarian - one who is especially versed in sanitary measures
sanitarium - health resort
- stationary - in a fixed position
stationery - paper
- therefor - in place of; for that; for it
therefore - conclusion; consequently; hence

NUMBERS, MONEY, DATES, AND TIME

NUMBERS

Spell out numbers that start a sentence and whole numbers from zero through nine. Spell out simple fractions and hyphenate them. Otherwise, use numerals to indicate numbers greater than nine and for any number with a decimal point. However, where a number is formed by pairing a single, whole number with a larger unit – thousand, million, etc. – the unit may be spelled out instead of using a string of zeroes. Treat the whole number according to the zero through nine convention above, e.g, “four million”, but “17 million” (17 is greater than nine.) Never use the article “a” to represent one; “a hundred pounds” is not correct.

Spell out the ordinal numbers first through ninth. For larger numbers (e.g. “87th Airborne Division,”) use the numeral form. Use full-size letters, not superscript characters, to mark ordinal numbers (st, nd, rd, th) written as numerals.

Some examples of correct number usage:

- The regular session of the Legislature, 1970;
- The second extraordinary session of the Legislature, 1968;
- Five members of the Senate;
- Composed of 10 members of the House of Delegates;
- The committee shall report in 30 days;
- Commencement of the 58th Legislature;
- Senate Concurrent Resolution 1 (exception);

MONEY

Money is written in figures rather than words. Do not include the cents amount if there are zero cents. Only include cents when it is necessary to specify a precise portion of a dollar.

- \$350 per diem, not to exceed \$2,500 in total
- \$10 million
- \$37.50
- \$1.05 per ton

Any changes in amounts of money should be indicated by striking through the complete old amount and underscoring the complete new amount.

OLD: a fine of five hundred dollars

NEW: a fine of \$500

(does not require strike-through and underscore because the amount stays the same.)

EXAMPLE: Changing \$45.00 to \$45.50

~~\$45.00~~ \$45.50

~~forty-five~~ dollars \$45.50

Large amounts, a million or more, will be indicated as shown in the example below:

OLD: five million dollars

NEW: \$5 million

However, a complex amount such as five million, two hundred thirty-seven thousand, nine hundred forty-two will be shown as \$5,237,942.

Examples that will remain the same:

one-dollar bill

five-dollar bill

Only include a notation of cents when the amount is not an even dollar amount. Never use the “¢” symbol. If the specified amount is less than a dollar, spell out the word “cents”.

OLD: one dollar fifty cents

NEW: \$1.50

OLD: eighty-five cents

NEW: 85 cents

DATES

Dates should be shown in the conventional style of month in words, day and year in numerals. Do not use ordinal numbers in specified dates, e.g. on July 1 of each year, NOT: July 1st of each year.

To amend a date that is in the current style use these examples:

~~July~~ September 1, 1989

July 4 31, 1989

July 1, ~~1989~~ 1990

~~July 1, 1989~~ October 31, 2017

To update a date reference from the old text form to the modern style, it is not necessary to use strike-throughs or underscores as long as the date itself is not changed. However, to make a change to a date, strike-through and underscore the complete text of the date that is changed.

Updating the form for an existing date in the code:

“the first day of July, two thousand eighteen” -> simply replace with “July 1, 2018”

Changing an existing date in the code:

the first day of July, two thousand eighteen March 1, 2020

Always use the full number of a year when referring to a range of years.

CORRECT: school year 2008-2009

INCORRECT: school year 2008-09

TIME

Show times in numeric form, with morning and afternoon hours indicated with a.m. or p.m. in lower-case letters.

CORRECT: 10:00 a.m.

INCORRECT: ten o'clock ante meridiem

[Note: the word “meridian” is always incorrect.]

Indicate noon as 12:00 p.m. and midnight as 12:00 a.m.

PUNCTUATION

Usually a bill requires little punctuation. Short, simple sentences avoid the need for excessive punctuation and prevent possible misinterpretation.

COMMAS

Use commas sparingly, but commas should be used when necessary for a clear indication of the Legislature's meaning and intent.

Common phrases set off by commas include:

- including, but not limited to,
- , in whole or in part,
- guilty of a felony and, upon conviction thereof,

The Legislature now uses the serial or "Oxford" comma. Within a series of words, phrases, or clauses, include a comma with the item before the conjunction, e.g., "men, women, and children."

SEMICOLONS

When a sentence is divided into two or more long and complex independent clauses, either of which requires several commas, use a semicolon to separate the two independent clauses. However, it is preferable and usually provides a clearer understanding of the law that two sentences be used instead.

COLONS

Do not use a colon in the body of a bill except for the purpose of introducing a series or preceding a proviso. The first word of a series following the colon is capitalized. The series should be separated by semicolons.

QUOTATION MARKS

Do not include punctuation within quotations marks, such as at the end of a quoted word or phrase, a colon in the body of a bill except for the purpose of introducing a series or preceding a proviso.

CORRECT: The label shall display the words, “Not for resale”.

INCORRECT: The label shall display the words, “Not for resale.”

DASHES

There are two, primary uses for dashes. The first one occurs sometimes in bills, after a word or phrase to indicate the topic of a subsection or smaller division of a bill. The topic phrase is written in italics, followed by a period, a space, a dash, and then another space.

EXAMPLE:

“(e) *Rule-making authority.* - The director of the division shall propose . . .”

In many old sections of code, double dashes may appear in this context, but that was a legacy of earlier computer systems and only a single dash is used now.

The other common use for a dash occurs in title amendments when referencing the proper name of the bill. The bill name and number is written in bold face text and separated from the bill title by a dash. (See page 123.)

“**Eng. H. B. 4000**—A Bill to amend and reenact §48-2A-3b of the Code of West Virginia, 1931, as amended, relating to divorce, annulment or separation.”

SPACING AFTER PUNCTUATION

Always use a single space after a punctuation mark.

Now that we are using a proportional font and styled paragraphs, it is no longer necessary to use two spaces after a period.

RULES OF DRAFTING - STYLE AND GRAMMAR

Consistency

- Don't use different words to denote the same thing.
- Don't use the same words to denote different things.
- Use the same words and phrases in a new section or new article or in an amendment to a section or article that are already used in other parts of the section, article or chapter.

EXAMPLE: If "spouse" is used, do not change the reference in your bill to "widow or widower". If several notices are to be sent by "registered mail", do not change the reference in your bill to "certified mail".

- Use the same grammatical form in a series.

EXAMPLE: Gerunds - selling, advertising, marketing, etc. Infinitives - to sell, to advertise, to market, etc.

- Use parallel construction. This ensures that all items in a series relate to the initial phrase.

EXAMPLE: The commissioner shall:

- (1) Report to . . .
- (2) Advise the . . .
- (3) Supervise the . . .

Brevity

Brevity is strongly recommended, but don't overdo it and create confusion.

Sentences

Sentences should be short and express only a single thought. Clarity is better than appearance.

Order

State circumstances first; then, the law; and at the end, the exceptions. Short exceptions may be stated first. Avoid unwieldy circumstances. Make a list where necessary.

Tense

Avoid future tense (will be paid) and future perfect tense (will have been paid). Use present tense (is paid).

Imperative and Permissive Construction

To impose an obligation to act, use "shall". To confer a right, privilege or power, use "may".

Do not combine powers and duties.

CORRECT: The commissioner shall issue the permit.

(It is the commissioner's duty to issue the permit.)

CORRECT: The commissioner may hold a hearing.

(The commissioner may hold a hearing, but is not obligated to do so.)

INCORRECT: The commissioner has the following powers and duties:

(This does not specify which acts are mandatory and which are discretionary.)

Do not use the word "shall" to confer a right. That implies a duty to enjoy the right.

CORRECT: His or her annual salary is \$28,000.

INCORRECT: He or she shall receive an annual salary of twenty-eight thousand dollars.

To prohibit an action, use "may not". But, avoid "No person may" and instead use "A person may not".

Definitions

Say "means"; not "shall mean".

Voice

Use active rather than passive voice, especially when imposing duties, to avoid confusion as to who has the duty to act.

CORRECT: The secretary shall file the annual report.

INCORRECT: The annual report shall be filed.

Person

Use third person.

Singular—Plural

Use singular and not plural unless the law must specifically address plural items.

Gender

Use both masculine and feminine versions of pronouns together or, if possible, avoid gender specific pronouns or nouns. Avoid the singular “he”.

EXAMPLE: “he or she”; “him or her”

Use gender neutral terms where possible, e.g., “the official” instead of “he”.

Directness

Use positive rather than negative.

Parenthetical phrases

Be consistent and pair commas. Use "()" only when absolutely necessary.

Capitalization

Under-capitalize rather than over-capitalize. Follow the rules beginning on page 25.

Word Pairs or Paired Phrases

Avoid using pairs with the same effect.

“Null and void”, “sole and exclusive”, “each and all”, “full and complete”, “order and direct”, “over and above”, and “rules and regulations.”

Avoid using pairs with the lesser included.

"Any and all", "means and includes", "authorized and directed".

Abbreviations

Avoid abbreviations except a.m. and p.m.

Avoid surplusage

EXAMPLE: "Actual sighting of . . ." The word "Actual" is surplusage.

Clarity

State who is required to take an action.

CORRECT: The commissioner shall submit a report to

INCORRECT: A report shall be submitted to

Acronyms

Do NOT use acronyms, e.g. DHHR, in bill titles. However, you may use acronyms in the body of a bill in the following form. Use the full name of the entity the first time it is referenced, followed by the acronym in parentheses, e.g. "the Federal Emergency Management Agency (FEMA)". All following references within that section should then use the acronym. You must restart this reference format with each new section.

POSSESSIVES FREQUENTLY CONFUSED

If the plural ends in -s, add an apostrophe. If the plural does not end in -s, add -'s.

EXAMPLES:

anyone's property

children's welfare

clerk's office

clerks' offices

workers' compensation

COMMON ISSUES IN DRAFTING

- Boldface should mean boldface.
- Repeal only. Do not repeal and subsequently amend and reenact the same section or reintroduce it as a new section. "Repeal and reenact" is incorrect.
- Amend and reenact existing code, whether redesignating sections or changing subject matter completely.
- Textual references should conform to the latest, official name, e.g., Division of Motor Vehicles, Department of Health and Human Resources, etc.
- In bill titles, if two or more sections are addressed, the language is "all relating to". If only one section is addressed, omit the word "all".
- In instances where there are two or more chapters or articles, the proper chapter or article heading should be inserted preceding the initial article heading or section heading of that chapter or article.
- Levels of division of a section:
 - section
 - subsection (a), (b), (c)
 - subdivision (1), (2), (3)
 - paragraph (A), (B), (C)
 - subparagraph (i), (ii), (iii)
 - clause (I), (II), (III)
- If a section is divided and the division commences immediately following the section heading, the divided parts are referred to as "subsections". If there is an introductory paragraph following the section heading, the divided parts are referred to as "subdivisions".
- In referring to a specific division within another code section, use the full numeric citation to the section and the lesser division. When referring to another portion within the same code section, the reference is indicated by a number in parenthesis and the phrase "of this section".

CORRECT: "referred to in §16-8-2(1) of this code . . ."

INCORRECT: "referred to in subdivision (1), §16-8-2 . . ."

BUT NOTE: "as specified in subdivision (2), subsection (b) of this section . . ."

STRIKE-THROUGHS AND UNDERSCORING

DELETION - USE OF STRIKE-THROUGHS

Listed below are some general rules for the use of strike-throughs to indicate material removed from the present law. Deleted material is indicated by the use of the font attribute “strikeout” (-). The general rule to remember in the use of strike-throughs is to make everything as clear as possible to the reader. This may require the striking through of words which also will occur in the new language being inserted. **IT IS BETTER TO STRIKE THROUGH A WHOLE PHRASE, SENTENCE, PARAGRAPH OR SECTION THAN TO HAVE A CONFUSING COMBINATION OF STRIKE-THROUGHS, UNDERSCORES AND UNCHANGED WORDS.**

The strike-through guidelines are as follows:

- (1) In amending existing law, changes desired are indicated by striking with a continuous line the unwanted matter and underscoring with a continuous underscoring of any inserted matter, whether an addition to the law or a substitution for matter stricken from the law. The purpose of the striking and underscoring of material is to enable the reader at a glance to distinguish between the law as it now exists and the proposed law. The purpose of both strike-throughs and underscoring is to allow the legislators and other interested persons to identify from the bill itself just what it accomplishes without the time-consuming task of comparing the bill with existing law. Amendatory material drafted without strike-throughs and underscoring is, in effect, blind legislation;
- (2) When amending sections of the statutes, the parts that are to be omitted or changed must first be shown and then stricken through, and all inserted or new parts must be underscored.

EXAMPLE: Registrations recorded under ~~this section~~ these sections . . . (The new material always follows the stricken material. Never reverse this order.);

- (3) Amendments to the Constitution, Special Acts and Rules of the Legislature also require striking and underscoring the changes, the same as when amending the statutes;
- (4) Regardless of the version of the text being considered (e.g., introduced bill, committee substitute, amendment, conference report, etc.) strike-throughs and underscoring always reflect proposed changes to the West Virginia Code - not changes between different bills and amendment versions. Always check the Supplement to the West Virginia Code for the most recent code text.
- (5) If the material to be stricken consists of more than one sentence, the new or scored material replacing the old or stricken material should be inserted at the end of all stricken material;
- (6) Periods should logically be carried to the end of the sentence where you are inserting new material and not left at the end of the stricken material. This treatment is the same as in

simple amendments where new material is inserted after a specified word and before the period;

- (7) Usually, words not affected by the proposed amendment are not deleted. Sometimes, however, this results in difficult reading. In such cases, strike through the entire phrase and insert and underscore the new phrase;

CORRECT: ~~the Steamroller College of Musical Knowledge~~ the Supreme College of All Knowledge;

INCORRECT: the ~~Steamroller~~ Supreme College of ~~Musical~~ All Knowledge;

- (8) When changing the verb tense or word endings, strike through or underscore the entire word and not just the part to be changed, deleted or added.

CORRECT: Any person owning ~~twenty-five horses~~ one horse

INCORRECT: Any person owning ~~twenty-five~~ one horses

CORRECT: Any person owning ~~one horse~~ six horses

INCORRECT: Any person owning ~~one~~ six horses

CORRECT: ~~chairman~~ chair

INCORRECT: chairman

CORRECT: ~~horse~~ horses

INCORRECT: horses

CORRECT: ~~(4)~~ (2)

INCORRECT: (4 2)

STRIKE-THROUGH PUNCTUATION RULES

It is generally unnecessary to strike through deleted punctuation if there is no word accompanying the punctuation in the strike-through. Likewise, it is unnecessary to underscore new punctuation standing alone.

Correct punctuation shall be shown before strike-throughs.

(Original Text): The sky is blue, but remember grass is green.

(As Amended):

CORRECT: The sky is blue. ~~but remember~~ Grass is green.

INCORRECT: The sky is blue ~~but remember~~. Grass is green.

If punctuation appears at the beginning of the strike-through, disregard punctuation.

(Original Text): . . . presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection: *Provided, however,* That nothing contained in . . .

(As Amended):

CORRECT: . . . presents appropriate credentials. ~~nor shall any~~ No person may obstruct, hamper or interfere with any such inspection. ~~*Provided, however,* That nothing~~ Nothing contained in . . .

INCORRECT: . . . presents appropriate credentials. ~~;~~ ~~nor shall any~~ No person may obstruct, hamper or interfere with any such inspection. ~~;~~ ~~*Provided, however,* That~~ Nothing contained in . . .

Punctuation should only be stricken-through if it appears within other stricken-through language. Do not show the removal just of punctuation by strike-through; simply omit the stricken punctuation if that is the only change.

EXAMPLE: Removal of comma only.

(Original Text): Do not mix apples, and oranges.

(As Amended): Do not mix apples and oranges.

INCORRECT: Do not mix apples, and oranges.

When changing reference to a date, time, code section, or monetary amount from an old, text format to the modern format, strike-throughs and underscores are not necessary as long as the

change is **to form only**. If, however, the change is to a different date, time, code section or monetary amount, then strike-throughs and underscores must be used.

Reformatting an existing code reference:

OLD: . . . as required by section seven, article seven, chapter three of this code

NEW: . . . as required by §3-7-7 of this code

Changing a code reference (from section seven to three-a):

OLD: . . . as required by section seven, article seven, chapter three of this code

NEW: . . . as required by ~~section seven, article seven, chapter three~~ §3-7-3a of this code

Reformatting a date:

OLD: by the thirtieth day of June, two thousand eighteen . . .

NEW: by June 30, 2018 . . .

But when changing the date:

OLD: by the thirtieth day of June, two thousand eighteen . . .

NEW: ~~by the thirtieth day of June, two thousand eighteen~~ June 30, 2020

ADDING A COMMA

There is no need to underscore the addition of a punctuation mark.

(Original Text): When any vacancy exists because of a failure to make a nomination,

(As Amended):

CORRECT: When any vacancy exists, because of a failure to make a nomination,

COMMA AND STRIKE-THROUGH WITH NEW LANGUAGE ADDED

(Original Text): When any vacancy exists because of a failure to make a nomination, . . .

(As Amended):

CORRECT: When any vacancy exists ~~because of a failure to make a nomination~~ due to the death of a candidate, . . .

SUBSECTIONS AND SUBDIVISIONS

Subsections are *independent parts* of a section.

If a section begins immediately following the section heading with the designation (a) or (1), it is a subsection. Any consecutive, similar designation thereafter also indicates a subsection. Subsection is the term for each of the divisions (a) and (b) below. Subsections usually start with small letters. Note that if you designate a portion of a statute with an (a) or a (1), you must also have at least one corresponding portion designated with the next letter or number in sequence. There can be no single, standalone subsection or subdivision.

EXAMPLE:

§31-20-4. Governing body; organization and meetings; quorum; administrative expenses.

(a) The governing body of the authority shall consist of the voting members of the board as provided for in §31-20-3 and shall exercise all the powers given to the authority in this article. On the second Monday of July of each odd-numbered year, the board shall meet to elect a chairman and a secretary from among its own members. The Secretary of the Department of Administration or his or her designated representative shall serve as treasurer of the board.

(b) A majority of the members of the board constitute a quorum, and a quorum must be present for the board to conduct business. Unless the bylaws require a larger number, action may be taken by majority vote of the members present. . .

Subdivisions are *dependent* parts of a section or a subsection.

If a section begins with a preliminary or introductory statement followed by the designation (a) or (1), it is a subdivision. Any consecutive similar designation thereafter also indicates subdivisions. Subdivision is the term for (1) and (2) below:

EXAMPLE:

§31-17-1. Definitions and general provisions.

As used in this article:

(1) "Secondary mortgage loan" means a loan made to an individual or partnership which is secured, in whole or in part, . . .

(2) "Person" means an individual, partnership . . .

The following is an example of code text omitting subsections and using subdivisions (1), (2) and (3) and paragraphs (A), (B) and (C):

§19-20A-4. Definitions.

Each person vaccinating a dog or cat for rabies shall provide a "certificate of rabies vaccination" which shall contain the following information:

- (1) Name of the county where the owner of the animal resides;
- (2) Name, address, and telephone number of the owner;
- (3) Identification of the animal by
 - (A) Color or colors;
 - (B) Age at time of vaccination;
 - (C) Breed, or dominant breed;
 - (D) Weight; and
 - (E) Sex, including a statement of whether the animal is spayed or neutered;
- (4) Vaccination tag number;
- (5) Type of vaccine, the manufacturer of the vaccine and the serial number; and
- (6) Date of the vaccination.

PROVISOS

Provisos in bills should not be used indiscriminately when other language is sufficient. Use "except" or "but" or start a new sentence where a proviso is not essential.

Provisos are preceded by a colon. Provisos are italicized and in the following form and sequence:

- : *Provided, That*
- : *Provided, however, That*
- : *Provided further, That*
- : *And provided further, That*

If more than four provisos are needed, continue to use "And provided further, . . ." as many times as needed within that paragraph.

This sequence of provisos applies within one paragraph of a bill and must start over with each new paragraph.

INTERNAL CITATIONS TO THE WEST VIRGINIA CODE

References to other sections of the West Virginia Code in the body of bills or resolutions are to be written as numeric citations indicating chapter, article, and section. In general, the words “of this code” should follow the citation, e.g. “§14-2-2 of this code”.

CORRECT: §14-2-2 of this code

INCORRECT: W. Va. Code § 14-2-2

Please remember that our legislative style differs from other legal writing styles (e.g. “Blue Book form”) and there should be no space between the section symbol and the numeric citation.

The full “[cite] of this code” format is not necessary when referring sections within the same portion of the code in which the reference appears, e.g. “as provided in this article” or “in subsection (b) of this section”.

References to another article of the code should follow the form “§30-3-1 *et seq.* of this code” with *et seq.* in italics. The phrase “*et seq.*” is an abbreviation for the Latin words *et sequentes* and a period should always follow “*seq.*”

References to another chapter of the code should follow the form “chapter 3 of this code” where the number of the chapter is always represented as a numeral regardless of whether it is a single or double-digit number.

As a general practice, the drafter should avoid overly specific or overly broad references to other portions of the code. Pinpoint references to a specific subdivision, paragraph or clause, e.g. “§5F-2-1(b)(2)(C)”, may lead to problems later if portions of the statute are renumbered in subsequent legislation. References to provisions of an entire chapter, on the other hand, do little to help the reader find relevant law. It is best to limit cross-references to sections or articles, when possible.

The following page provide examples of common internal reference situations.

Cross-reference to one section of West Virginia Code:

OLD: section one, article one of this chapter

NEW: §5-1-1 of this code

Cross-reference to provisions of an article of the code:

OLD: as provided in article three of this chapter.

NEW: as provided in §29A-3-1 *et seq.* of this code.

Cross-reference to a smaller, component portion of a code section:

OLD: described in subsection (a), section four hundred five, article four of this chapter.

NEW: described in §44D-4-405(a) of this code.

Reference to multiple sections of code:

For multiple sections that are not in a continuous range: “§11-3-12, §11B-1-1, §11B-1-7, §11B-1-8, and §16-4-33 of this code.” (Use the section symbol at the beginning of each numeric citation.)

Specifying a range of sections:

OLD: sections thirty-three-a through thirty-three-f of this article.

NEW: §5A-3-3a through §5A-3-33f of this code.

[Use full numeric citation; not “§5A-3-3a through -33f”]

When referring to sections of other codes or rules in the format “section ____ of _____ code,” use the word “section” rather than a section symbol. Otherwise, standard legal citation form is acceptable to refer to specific provisions of other codes or rules.

by Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code.

Section 304 of the Model State Administrative Procedure Act

42 U.S. Code § 1983 (note the space following the section symbol)

Refer to the following pages for more information on citations to federal authorities.

CITATION TO FEDERAL AUTHORITIES; ADOPTION BY REFERENCE

Federal statutes.

A citation to federal statutory law should be made to the official federal code, i.e., the United States Code, indicating title and section.

EXAMPLE: 42 U.S.C. § 1983

Note that citations to statutes and codes other than the Code of West Virginia should use a space between the section symbol (§) and the number of the section.

Do not cite unofficial federal codes (United States Code Annotated or United States Code Service). A citation only to an act of Congress by its official name, a popular name or the original session law is not preferred because of the difficulty readers will have in locating the cited material with this information.

EXAMPLE: Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193.

This citation assumes not only that the reader knows how to locate the material cited but that he or she has access to a library or database where it can be retrieved.

A citation to the official federal code may be accompanied by additional information if it is helpful to the reader.

EXAMPLE: . . . 42 U.S.C. § 666(a), as amended by §369 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, . . .

Federal regulations.

A citation to all federal rules and regulations should be made to the Code of Federal Regulations by title, section and year.

EXAMPLE: 40 C.F.R. § 264.1052 (1992)

Additional information may be provided.

EXAMPLE: . . . the air emission standards for pumps in light liquid service established by regulations of the federal environmental protection agency and set forth in 40 C.F.R. § 264.1052 (1992).

Adoption by reference.

Use caution in adopting federal law by reference. The Supreme Court of Appeals in the case of STATE V. GRINSTEAD, 157 W.Va. 1001, 206 S.E.2d 912 (1974) held that “although statutes adopting laws or regulations of other states, the federal government, or of its agencies, effective at the time of adoption are valid, attempted adoption of future laws, rules or regulations of other states or the federal government or of its agencies is unconstitutional as an unlawful delegation of the legislative power”.

CRIMINAL PENALTIES

In bills amending an existing section that already contains criminal penalty provisions, the existing form of penalty shall be amended to conform to the appropriate penalty provision set forth below. However, care must be taken not to change the existing provisions for fine and imprisonment unless the bill is intended to make those changes.

The appropriate criminal penalty form set out below should be followed in bills adding new sections with criminal penalties or adding criminal penalties to existing sections.

Although the amounts of or limits on fines and the jail or prison sentences will vary, these penalty provision forms shall be followed as nearly as practicable:

. . . is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

. . . is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than one year, or both fined and confined.

. . . is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than 10 nor more than 20 years.

. . . is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1, 000 or imprisoned in a state correctional facility not less than one year, or both fined and imprisoned.

. . . is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than 10 years or imprisoned in a state correctional facility not more than one year and fined not more than \$500.

[See the rules for numbers and money beginning on page 33.]

SPECIAL REVENUE ACCOUNTS

In general, all fees and taxes are deposited into the General Revenue Fund. Some fees and taxes are dedicated to specific purposes by statute and are placed in special accounts in the State Treasury. In times of fiscal constraints, the Legislature has redesignated these special funds to meet the fiscal priorities that it has established.

In 1992, the Legislature amended West Virginia Code §12-2-2. The amendments to this section provided language to override the specific provisions of law in other code sections that dedicate special revenue and require its deposit into a special account. Thus, under current law, if the Legislature finds that an excess of funds is present in a particular special revenue account, then the Legislature may transfer those funds by passage of a supplementary appropriation. Special revenue accounts, of course, may still be created. However, there are issues that should be addressed by the drafter when so doing.

The manner that the funds deposited into the special account may be expended should be specified by the statute that creates the account. Furthermore, in order to maintain oversight over special revenue accounts that may be created from time to time, the Legislature has generally required that special revenue accounts be appropriated in the budget bill. The following language is suggested in creating special revenue accounts:

“All moneys collected shall be deposited in a special account in the State Treasury to be known as the [New Account Name]. Expenditures from the fund shall be for the purposes set forth in this [section, article, or chapter, as appropriate] and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, [following fiscal year] expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.”

It is also suggested that Finance Committee counsel be notified of the creation of special revenue accounts so that the account can be added to the budget bill the following fiscal year. Furthermore, it is often necessary for the Finance Committee staff to work with the agency or board for whom the account is created to ensure that proper procedures are followed so that funds can be available for expenditure in a timely manner.

Note: official fund names should be capitalized.

REPORTS AND OTHER FILINGS

Often legislators wish to require agencies to submit written reports, findings, audits, financial statements, or other types of filings with the Legislature. It is not a good practice to have such reports submitted directly to a legislative committee or officer.

Henceforth, statutory provisions should designate the Joint Committee on Government and Finance as the only legislative recipient. This will facilitate the tracking of this information and to provide a single point of contact when any member of the Legislature or the public seeks access to the information filed. Bills should also require that such filings be made in electronic format.

If a report is to be filed with the executive branch, though, it is acceptable to designate a specific agency or officer as the recipient, particularly if requested by the agency.

Here are some examples of recommended language to require reporting:

The agency shall, following the close of each fiscal year, prepare an annual report detailing the categories of expenditures from the fund and listing all sources of revenue as well as a closing balance for the year. The report shall be submitted in an electronic format to the Joint Committee on Government and Finance no later than eight weeks after the close of the fiscal year.

The commission shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to the receipts, disbursements, contracts, leases, assignments, loans, grants and all other matters relating to the financial operation of the commission. The person performing such audit shall furnish a copy of the audit report to the Secretary of Finance and Administration, where it shall be placed on file and made available for inspection by the general public. The person performing the audit shall also submit an electronic copy of the audit report to the Legislature's Joint Committee on Government and Finance.

RULES

Pursuant to the West Virginia Administrative Procedures Act, [§29A-1-1 *et seq.*] West Virginia has rules, not regulations. The Secretary of State publishes the Code of State Rules [CSR], which codifies the rules following final authorization by the Legislature. There are several factors to consider when granting an agency rulemaking authority. These include:

Does the bill require a legislative rule?

Refer to Chapter 29A [State Administrative Procedures Act] for definitions of legislative, procedural and interpretative rules to see which type of rule is appropriate. After approval of the Legislature and Governor, legislative rules have the force and effect of law, while interpretative and procedural rules are promulgated without direct legislative authorization. Avoid making internal acts or procedures of agencies or boards legislative rules because of the implications associated with failure to comply with mandatory legal duties.

What type of authority does the agency or board currently have?

Some state agencies are exempt from legislative rulemaking while others may already have sufficient authority to propose a rule without additional authorization.

Does the rule need emergency rule authorization status?

If the Legislature determines it necessary, it can direct an agency to propose an emergency rule.

CORRECT LANGUAGE FOR AUTHORIZING MANDATORY LEGISLATIVE RULES:

“ . . . shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code.”

CORRECT LANGUAGE FOR AUTHORIZING PERMISSIVE LEGISLATIVE RULES:

“ . . . may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code.”

CORRECT LANGUAGE FOR AUTHORIZING EMERGENCY LEGISLATIVE RULES:

“ . . . shall [may] promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.”

AMENDMENTS TO EXISTING LEGISLATIVE RULES

There are two ways to amend existing legislative rules:

- (1) A bill can be drafted amending the specific rule in question; or
- (2) If the rule is before the Legislature because the agency is attempting to change or create a rule, the rule may be amended as part of its legislative authorization bill.

In either case, the bill and any amendments must refer to the rule series, page, line and words of the rule being amended. It is suggested that drafters contact one of the rule-making committee attorneys to assure that rule amendments are in proper form.

EXAMPLE:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Barbers and Cosmetologists.

The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of §30-27-6 of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 26, 2017, relating to the Board of Barbers and Cosmetologists (operational standards for schools of barbering, cosmetology, hair styling, nail technology, and aesthetics, 3 CSR 04), is authorized, with the following amendments:

On page three, by striking out all of subdivision 3.1.r. in its entirety;

On page three, subdivision 3.2.d. by striking out the sentence "Theory classes shall be taught at least 12 hours per week."; and

On page three, by striking out all of subdivision 3.2.s. in its entirety.

USE OF AGENCY AND SUBDIVISION NAMES

The drafter should refer to an agency or a subdivision by the name designation set forth in the code. Do not refer to an agency or a subdivision by its "popular" name. Use §5F-2-1 as a reference for correct agency or subdivision names.

And see the note about the use of acronyms on page 41.

APPROPRIATION BILLS - GENERAL LAW

Moneys cannot be appropriated in general law statutes and the Legislature cannot be bound to appropriate specific moneys for a program in a current fiscal year for future years.

Do NOT include any general law in an appropriation bill.

See West Virginia Constitution, Article VI, Section 51.

STAGGERED TERMS OF OFFICE

Staggered terms of office may be established through a provision similar to the following:

"Each member shall serve for a term of five years. Of the members of the commission first appointed, one shall be appointed for a term ending June 30, 2019, and one each for terms ending one, two, three and four years thereafter."

Provisions in the following code sections provide additional examples for the drafter:

§5-10-6

§30-7A-5

§30-32-3

GENERAL RULES OF STATUTORY CONSTRUCTION

The court's function is simply to ascertain what the law is and to give effect to it. The court gives a presumption of validity to every statute.

Where language is clear and plain, the court will not look to the Legislature's intent.

Words are given their ordinary meaning.

Legislative intent will be pursued if possible and will be followed even if it is not the literal meaning of the words.

Rules of construction may be invoked only where the language is ambiguous.

In pari materia - All law dealing with the same subject matter will be read together insofar as possible.

Special provisions prevail over general provisions.

There are two rules for conflicts between provisions of the same act:

The last provisions in the act prevail.

The provision which conforms to the policy and intent of the act prevails.

Any provisions of an act which are not repealed or amended and reenacted continue in effect.

The court presumes the Legislature did not intend to enact frivolous legislation, so it gives effect to new language.

If act A refers to existing statute B by specific date or act of the Legislature, the repeal or amendment of statute B does not affect its application in act A.

If act A refers to existing statute B generally without reference to a specific date or act:

The repeal of statute B terminates its application in act A; and

The amendment of statute B will be given effect in its application in act A.

Time - *EXAMPLE:* City given authority to have a franchise tax "as now permitted by law". "Now" means as permitted by law as written at the time this act was enacted giving city authority to have a franchise tax.

Act with repealer clause - If an act is declared unconstitutional, the repealer is declared void unless the Legislature clearly meant otherwise.

EXAMPLE: An act contains repeal of some language and replacement with new language. New language is stricken by court; old language is retained and not repealed.

Curative or saving clause or act - There is no effect if the saving act is repealed after its provisions have been accomplished. This is similar to the severability clause.

When a statute embodying common law is repealed, the law reverts to the common law.

Severability - (See *also* Severability Clause, page 19) If any part of a statute is declared unconstitutional, the rest remains in effect unless:

- a. The statute provides otherwise;
- b. The court decides the Legislature did not intend that result; or
- c. If standing independently, it is too incomplete or complicated to be carried out.

The general severability clause already in the code would keep almost all remaining provisions in effect.

Liberal or strict construction

Laws strictly construed:

- i. Criminal laws;
- ii. Laws in derogation of the common law;
- iii. Laws infringing or constricting property rights, such as zoning laws;
- iv. Special privilege laws; and
- v. Mandatory acts - acts made void if not done in compliance with the law.

Laws liberally construed:

- i. Redress of existing grievances;
- ii. Protection of rights;
- iii. Correcting obvious evils;
- iv. Giving rights of action; and
- v. Election laws.

Reasonable construction principle.

Reasonable construction will be followed by the court rather than absurd construction. If it has a choice of declaring an action legal or illegal, the court will choose to make the act legal.

Expressio unius est exclusio alterius.

The inclusion of one is the exclusion of all others listed.

Only use the word "including" when the general category will not include the special items.

Ejusdem generis.

General words are construed to include only those things of like character to those listed. For example, where a statute forbids concealment on one's person of "pistols, revolvers, derringers, or other dangerous weapons," the term "dangerous weapons" may be construed to comprehend only dangerous weapons of the kind enumerated; i.e., firearms, or perhaps more narrowly still, handguns.

Singular always includes plural unless it is obvious the Legislature meant otherwise.

Gender – "His or her" should be used.

"Person" also means a corporate body, society, associations and partnerships.

"Real property" includes lands, tenements, and hereditaments.

"May", "shall", "must", and "should."

May is permissive. It confers a discretionary right, power, or privilege.

"The commissioner may inspect records."

The commissioner may if it is necessary or proper, but the commissioner is not obligated to do so.

Shall is mandatory. It imposes a duty or obligation to act.

"The commissioner shall issue a license."

It is the commissioner's duty to do so.

Avoid the use of "must" whenever possible, unless used as a condition precedent with inanimate subjects.

"The information on the form must include the date and time of the incident."

Avoid the use of "should" or "ought".

"Month" means calendar month. "Year" means calendar year unless explicitly stated as a "fiscal year".

Technical terms - Technical terms are given their technical meanings.

Same meaning rule - A word repeated later in a statute will be given the same meaning as its earlier use.

Punctuation - Spirit and reason of the law prevails over punctuation.

Definitions - A court may change old definitions.

And, or - A court may change "and" to "or" but generally the terms are not interchangeable.

Purpose clauses - Preamble and purpose sections neither enlarge nor contract powers in the main body.

Interpretation of words - If a court has interpreted a word or phrase and the Legislature uses it, then the court assumes the Legislature used it in the way it was interpreted and will apply it the same way.

Retroactive vs. prospective application - A bill is prospective and not retroactive unless it is clearly indicated otherwise by the bill.

INFORMATION SOURCES FOR BILL DRAFTERS

Acts of the Legislature.

Check the Acts of the Legislature for local and special laws and for additional examples of appropriation bills. There is an Index for Special Acts through 1998.

Legislative Library.

It has copies of the Acts of the Legislature, old code compilations, Journals of the House of Delegates and the Senate, as well as journals and state newspaper articles concerning the Legislature.

LEXIS and WESTLAW

These are vital sources for other states' statutes and court decisions.

Council of State Governments, States Information Center, (606) 244-8253

National Conference of State Legislatures, (303) 364-7700

These organizations are sources of other states' laws and studies on issues of interest to state legislatures.

Directory of State Legislative Staff

This is a source for names and telephone numbers of staff members of other legislatures.

Reed Dickerson

The Fundamentals of Legal Drafting

The Interpretation and Application of Statutes. Professionalizing Legislative Drafting

Robert J. Martineau

Drafting Legislation and Rules in Plain English

Lawrence E. Filson

The Legislative Drafter's Desk Reference

Norman J. Singer

Sutherland Statutes and Statutory Construction

PART III

**BILL TITLES AMENDING EXISTING STATUTES,
ENACTING NEW STATUTES IN CODE,
AND REPEALING EXISTING STATUTES IN CODE**

ABOUT BILL TITLES

All sections in a bill title are listed in numerals and with the complete number (i.e., chapter-article-section) §1-2-3.

All sections in new articles or chapters must be listed individually. All sections must be preceded by a section symbol (§). E.g., §50-7-1, §50-7-2, §50-7-3, . . .

Sections in the title and enacting clause are to be listed in the following order:

All sections that are **repealed** are listed first and in order as they appear in the code; and **all other sections** included in the bill are listed in the order that they appear in the code, **except** when there are sections that are amended and reenacted as well as added in the same article, then the clause containing the sections that begin with the section number that would appear first in the code is listed first in the title.

EXAMPLE:

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §33-41-4a, §33-41-8a, and §33-41-14; and to amend and reenact §33-41-8 and §33-41-10 of said code, all relating to ...

As §33-41-4a comes before §33-41-8 in the code, the clause containing the sections that are added to the article are listed first even though §33-41-8 appears before §33-41-8a and §33-41-14 in the code.

In the next example, since §33-41-8 is the first section in the clause identifying sections that are amended and reenacted in article 41, and it appears in the code before §33-41-9a, the first section in the clause of sections that are to be added to article 41, the clause containing the sections that are amended and reenacted is listed first in the title as well as the enacting section.

EXAMPLE:

A BILL to amend and reenact §33-41-8 and §33-41-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §33-41-9a and §33-41-10, all relating to ...

EXAMPLES OF BILL TITLES AMENDING SECTIONS OF CODE

BILL TITLE amending and reenacting a single section:

A BILL to amend and reenact §9-4-21 of the Code of West Virginia, 1931, as amended, relating to . . .

BILL TITLE amending and reenacting sections in two or more articles of the same chapter.

A BILL to amend and reenact §20-20-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-21-4 of said code, all relating to . . .

EXAMPLES OF BILL TITLES CREATING NEW SECTIONS OF CODE

BILL TITLE creating a new section:

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9A-10A-5, relating to . . .

BILL TITLE adding new sections in different articles:

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-1-2; and to amend said code by adding thereto a new section, designated §1-3-4, all relating to . . .

BILL TITLE adding new article.

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-5-1, §1-5-2, 12 §1-5-3, §1-5-4, and §1-5-5, all relating to . . .

BILL TITLE amending code by adding new chapter.

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §19A-1-1, §19A-1-2, §19A-1-3, . . . , all relating to . . .

[All sections in each article must be written individually with a § symbol preceding each section.]

EXAMPLES OF BILL TITLES WITH AMENDED AND NEW SECTIONS OF CODE

BILL TITLE amending sections and adding new sections in same article:

A BILL to amend and reenact §4-2-1, §4-2-2, and §4-2-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §4-2-4, §4-2-5, and §4-2-6, all relating to . . .

BILL TITLE amending sections and adding a new section in same article, but the new section is in the middle of the amended sections.

A BILL to amend and reenact §3-2-1, §3-2-2, §3-2-3, §3-2-4, and §3-2-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §3-2-4a, all relating to . . .

BILL TITLE amending a section and adding a new section in different articles:

A BILL to amend and reenact §18-7-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-9A-12a, all relating to . . .

BILL TITLE amending a section and adding a new section to the same article, and adding a new article and amending a section in a later article:

A BILL to amend and reenact §1-10-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §1-10-5c; to amend said code by adding thereto a new article, designated §1-10C-1, §1-10C-2, and §1-10C-3; and to amend and reenact §1-11-15 of said code, all relating to . . .

EXAMPLE OF BILL TITLE WHEN PRIOR AMENDMENTS NOT YET IN EFFECT

BILL TITLE amending sections of code previously amended by a prior bill that has not yet become effective:

A BILL to amend and reenact §6B-1-6 of the Code of West Virginia, 1931, as amended, as contained in Chapter 1, Acts of the Legislature, first extraordinary session, 2005; to amend and reenact §6B-2-4 and §6B-2-10 of said code, as contained in said acts; and to amend and reenact §6B-3-3a and §6B-3-3c of said code, as contained in said acts, all relating to . . .

REPEALING SECTIONS OF CODE

With the elimination of Enacting Sections from bills in 2018, bills that repeal provisions of code must reflect the action of the repeal within the body of the bill as well as within the title.¹ This is accomplished through one of the following methods, depending upon the scope of the repeal provisions.

If a bill only repeals one section or a group of sections of current code and **does not make any other amendments or add new sections**, indicate the repealed provisions in the same format as a Local Bill, numbering the repeal heading with a single numeral:

A BILL to repeal §16-2K-1 and §16-2K-2 of the Code of West Virginia, 1931, as amended,
relating to the Programs of All-Inclusive Care for the Elderly.

Be it enacted by the Legislature of West Virginia:

§1. Repeal of article creating Programs of All-Inclusive Care for the Elderly.

That §16-2K-1 and §16-2K-2 of the Code of West Virginia, 1931, as amended,
are repealed.

This format may be used to repeal multiple sections of code in different chapters or articles. The numbering of each repeal header should restart with the numeral 1 with each article or chapter. See the following page for an example.

¹ Previously bills contained language in the Enacting Section to indicate which sections would be repealed and those sections would not necessarily be listed within the body of the bill.

A BILL to repeal §17-5-1, §17-5-2, §17-5-3, §17-5-4, §17-5-5, §17-5-6, §17-5-7, §17-5-8, §17-5-9, §17-5-10, §17-5-11, and §17-5-12 of the code of West Virginia, 1931, as amended; and to repeal §17C-15-29 and §17C-15-38 of said code all relating to repeal of antiquated and inoperative provisions of code.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. STATE CONVICT ROAD FORCE.

§1. Repeal of article creating State Convict Road Force.

That §17-5-1 through §17-5-12 of the Code of West Virginia are repealed.

ARTICLE 15. EQUIPMENT.

§1. Repeal of sections relating to approval of vehicle equipment by Commissioner of Division of Highways.

That §17C-15-29 and §17C-15-38 are repealed.

(For an example of a bill using this format to repeal multiple sections of code in different chapters and articles, see 2010 Regular Session HB 4134.)

When a bill mixes repeal provisions **with new or amended provisions**, the repealed sections should be listed in the body of the bill, in the order those sections appear in the code. List the section heading and, where the body of the section normally would appear, delete the section body and simply write, “[Repealed.]”

See the next page for an example of how this would appear within a bill. The following pages provide examples of describing repeal actions in Bill Titles.

FORM OF BILL REPEALING SECTIONS OF CODE

A BILL to repeal §8-16-19 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-18 and §8-16-21a of said code; to amend and reenact §16-13A-8 and §16-13A-9 of said code; and to amend and reenact §24-1-1b of said code, all relating to operation and regulation of certain water and sewer utilities . . .

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

§8-16-18. Rates, fees or charges for services rendered by works.

The governing body shall have plenary power and authority and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use and services rendered, to be paid by the person using the same, receiving the services thereof, or owning the property improved or protected thereby, and may readjust rates, fees or charges from time to time after notice to the property owners as specified under §16-13A-1 et seq. of this code.

§8-16-19. Appeal to Public Service Commission from rates fixed.

[Repealed.]

§8-16-21a. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether ~~or not all or~~ any part of such properties ~~may lie~~ is located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may . . .

**EXAMPLES OF BILL TITLES REPEALING SECTIONS OF CODE
AS WELL AS OTHER ACTIONS**

BILL TITLE repealing a section in the code and amending another section in same article.

A BILL to repeal §26-5-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §26-5-3 of said code, relating to . . .

BILL TITLE repealing sections of code and adding new article in different chapters.

A BILL to repeal §5A-2-34, §5A-2-35, §5A-2-36, §5A-2-37, and §5A-2-38 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §29-16-1, §29-16-2, §29-16-3, . . . , all relating to . . .

BILL TITLE repealing a section in the code and adding a new section in different chapters.

A BILL to repeal §1-1-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §3-2-11a, relating to . . .

BILL TITLE reenacting article with the same number but having a different number or designation of sections, with new language.

A BILL to repeal §1-1-1a and §1-1-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §1-1-1, §1-1-2, §1-1-3, §1-1-4, and §1-1-5 of said code; and to amend said code by adding thereto two new sections, designated §1-1-6 and §1-1-7, all relating to . . .

[All sections in the existing article must be identified as either amended and reenacted or repealed. All sections in the reconstituted article must be identified as either amended and reenacted or new. All sections in the reconstituted article must be listed individually and be preceded by a § symbol. In the Explanatory Note following the bill, state that the entire article was rewritten.]

EXAMPLES OF BILL TITLES FOR MORE COMPLEX COMBINATIONS OF ACTIONS

BILL TITLE repealing section(s) of article(s), repealing article(s), amending and reenacting section(s) of article(s), and adding new section(s) to article(s):

A BILL to repeal §18-5-14 and §18-5-17 of the Code of West Virginia, 1931, as amended; to repeal §18-6-1, §18-6-2, §18-6-3, . . . of said code; to amend and reenact §18-3-9 of said code; to amend said code by adding thereto a new section, designated §18-3-11; to amend and reenact §18-4-10 of said code; and to amend and reenact §18-5-1a, §18-5-4, §18-5-13, and §18-5-31 of said code, all relating to . . .

[All sections in the repealed article must be written individually with a § symbol preceding each section.]

BILL TITLE, concerning different chapters, repealing sections in different articles of different chapters; and amending and reenacting different sections in one article and amending and reenacting separate article in same chapter.

A BILL to repeal §7-5-19 of the Code of West Virginia, 1931, as amended; to repeal §11-1-4, §11-1-5, §11-1-6, . . . of said code; to repeal §11-2-2, §11-2-5, §11-2-6, . . . of said code; to amend and reenact §7-1-1 and §7-1-5 of said code; and to amend and reenact §7-7-1, §7-7-2, §7-7-3, . . . of said code, all relating to . . .

[All repealed and reenacted sections must be listed individually and be preceded by a § symbol.]

BILL TITLE concerning one chapter of the code, repealing an article, repealing other articles and enacting new articles in lieu thereof, and amending several articles and sections of other articles.

A BILL to repeal §27-10-1, §27-10-2, §27-10-3, §27-10-4 and §27-10-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §27-1-1, §27-1-2, §27-1-3, §27-1-4, §27-1-5, 13 §27-1-6, §27-1-7, §27-1-8, §27-1-9, §27-1-10, §27-1-11, 14 §27-1-12, §27-1-13, §27-1-14, §27-1-15, §27-1-16 and §27-1-17 of said code; to amend and reenact §27-1A-1, §27-1A-2, §27-1A-4, §27-1A-5, §27-1A-6, §27-1A-7, §27-1A-8, §27-1A-9 and §27-1A-10 of said code; to amend and reenact §27-2-1, §27-2-2, §27-2-3, §27-2-4 and §27-2-5 of said code; to amend and reenact §27-3-2 of said code; to amend and reenact §27-4-1, §27-4-2, §27-4-3 and §27-4-4 of said code; to amend and reenact §27-5-1, §27-5-2, §27-5-3, §27-5-4, §27-5-5, §27-5-6, §27-5-7, §27-5-8, §27-5-9 and §27-5-10 of said code; to amend and reenact §27-6-1, §27-6-2, §27-6-3, §27-6-4, §27-6-5, §27-6-6, §27-6-7 and §27-6-8 of said code; to amend and reenact §27-7-1, §27-7-3, §27-7-4 and §27-7-5 of said code; to amend and reenact §27-8-1, §27-8-2, §27-8-2a, §27-8-2b and §27-8-3 of said code; to amend and reenact §27-9-1 of said code; to amend and reenact §27-11-1, §27-11-2, §27-11-3 and §27-11-5 of said code; to amend and reenact §27-12-1, §27-12-2 and §27-12-3 of said code; and to amend and reenact §27-13-2 of said code, all relating to . . .

BILL TITLE, concerning different chapters, repealing sections and articles in different chapters, amending sections in a different chapter and adding a new article to a different chapter. Bills with more than one chapter should have chapter headings.

A BILL to repeal §5-12-1, §5-12-2, §5-12-3, . . . of the Code of West Virginia, 1931, as amended; to repeal §10-1-12, §10-1-13, §10-1-14, . . . of said code; to repeal §29-1-1, §29-1-2, . . . of said code; to repeal §29-17-1, §29-17-2, . . . of said code; to amend and reenact §18-10-11 and §18-10-12 of said code; and to amend said code by adding thereto a new article, designated §29-1A-1, §29-1A-2, §29-1A-3, §29-1A-4, . . . all relating to . . .

[All sections repealed and added must be listed individually and be preceded by a § symbol.]

PART IV
EXAMPLES OF LOCAL AND SPECIAL ACTS

(Complete Form for Local Act)

A BILL establishing the Fayette County Public Library Board to maintain a library to serve the residents of Fayette County; providing the board with power to operate such public library; and providing a stable method of financing the operation of a public library.

Be it enacted by the Legislature of West Virginia:

FAYETTE COUNTY PUBLIC LIBRARY BOARD.

§1. Fayette County Public Library Board created; joint support by board of education and county commission.

There is hereby created the Public Library Board, which shall establish and operate a Fayette County Public Library, which library shall be supported by the Board of Education of Fayette County and by the County Commission of Fayette County, as a joint endeavor of the two governing authorities in the manner provided in this act.

§2. Board appointments, powers and duties generally; officers; bylaws and rules.

The board consists of five members who serve without compensation. Before July 1, 1971, the Board of Education of Fayette County shall appoint two members, appointing one member for the term of one year and one member for the term of three years. The County Commission of Fayette County shall appoint two members, appointing one person for the term of two years and one person for the term of four years; and the four members so appointed shall appoint a fifth member for a term of five years. The initial terms of office shall commence on July 1, 1971. Each successor member shall be appointed by the governing authority which had appointed the predecessor member and each successor member shall be appointed for a term of five years, except that any person appointed to fill a vacancy occurring before the expiration of the term

serves only for the unexpired portion of the term. Any member of the board is eligible for reappointment and the governing authority which appointed any member may remove that member for cause. There shall be an annual meeting of the board on the second Monday in July in each year and a monthly meeting on the day in each month which the board may designate in its bylaws. A special meeting may be called by the president, the secretary or any two members of the board and shall be held only after all of the directors are given notice of the meeting in writing. At all meetings three members are a quorum and at each annual meeting of the board it shall elect, from its membership, a president, a vice president, a secretary and a treasurer: *Provided*, That the librarian may be elected secretary or treasurer. The board shall adopt bylaws and rules as are necessary for its own guidance and for the administration, supervision and protection of the library and all property belonging to the library. The board has all the powers necessary, convenient and advisable for the proper operation, equipment and management of the library; and except as otherwise especially provided in this act, has the powers and is subject to the duties which are conferred and imposed, respectively, upon library directors by §10-1-6 through §10-1-11 of the Code of West Virginia.

NOTE: The purpose of this bill is to create a public library board to operate a Fayette County Public Library.

BILL TITLE providing a new local or special act. No reference to code or acts in this case.

A BILL authorizing the expenditure of surplus funds by the Wayne County Commission.

Be it enacted by the Legislature of West Virginia:

WAYNE COUNTY HEALTH CENTER AND CLINIC.

§1. County commission authorized to create special fund for a health center and clinic.

The County Commission of Wayne County is hereby authorized and empowered to use any unexpended sums and surpluses, presently or hereafter existing, in the General Fund or in any special . . .

BILL TITLE to amend sections of local or special act, not included in the code, when the chapter consists of more than one section and the sections to be amended have not previously been amended. Only sections to be amended should be inserted in the bill.

A BILL to amend and reenact sections two and four, chapter thirty-nine, Acts of the Legislature, regular session, 1964, all relating to

BILL TITLE amending section of local or special act, not included in the code, when same has been amended subsequent to the enactment.

(Do not insert reference to every year it has been amended - only insert reference to year of enactment and last time amended.)

A BILL to amend and reenact section one, chapter one, Acts of the Legislature, regular session, 1960, as last amended and reenacted by chapter two, Acts of the Legislature, regular session, 1963, relating to . . .

BILL TITLE amending sections of local or special act, not included in the code, when the sections were first enacted at the same legislative sessions and were last amended by acts of different sessions.

A BILL to amend and reenact section two, chapter 38, Acts of the Legislature, regular session, 1964, as last amended and reenacted by chapter 220, Acts of the Legislature, regular session, 1967; and to amend and reenact section four of said chapter, as last amended and reenacted by chapter 64, Acts of the Legislature, regular session, 1968, all relating to . . .

BILL TITLE amending sections of local or special act, not included in the code, when the sections were first enacted at different legislative sessions and were last amended by acts of different sessions.

A BILL to amend and reenact section two, chapter 38, Acts of the Legislature, regular session, 1964, as last amended and reenacted by chapter 220, Acts of the Legislature, regular session, 1967; and to amend and reenact section two-a, chapter 15, Acts of the Legislature, regular session, 1965, as last amended and reenacted by chapter one, Acts of the Legislature, regular session, 1970, all relating to . . .

BILL TITLE amending entire local or special act, not included in the code, when same has been amended subsequent to the enactment.

(Do not insert reference to every year it has been amended - only insert reference to year of enactment and last time amended.)

A BILL to amend and reenact chapter 200, Acts of the Legislature, regular session, 1955, as last amended and reenacted by chapter 179, Acts of the Legislature, regular session, 1965, relating to . . .

BILL TITLE, ENACTING CLAUSE, and BILL BODY repealing a local or special act (chapter in Acts) and transferring funds.

A BILL to repeal chapter 128, Acts of the Legislature, regular session, 1945, relating to the establishment of a Capitol Salvage Committee; and providing for the transfer of any unexpended balance remaining in the special revenue account established by said chapter to the General Revenue Fund.

Be it enacted by the Legislature of West Virginia:

CAPITOL SALVAGE COMMITTEE.

§1. Repeal of act creating Special Salvage Committee; transfer of funds.

Chapter 128, Acts of the Legislature, regular session, 1945, is hereby repealed, and any unexpended balance remaining in the special revenue account established under the provisions of said chapter are hereby transferred to the General Revenue Fund.

PART V

APPROPRIATION AND

SUPPLEMENTARY APPROPRIATION BILLS

Because line items in the state budget must be tightly integrated with all legislation and state revenue, appropriation bills or supplementary appropriation bills **SHOULD NOT** be drafted by anyone other than the attorneys for the Finance Committees of the House and Senate.

If, however, you need examples of appropriation bills or supplementary appropriation bills for any reason, please contact the respective finance committees:

House of Delegates Committee on Finance – 340-3230

Senate Committee on Finance – 357-7980

PART VI
RESOLUTIONS

ABOUT RESOLUTIONS

There are three types of resolutions considered by the Legislature: Joint Resolutions, Concurrent Resolutions, and Simple Resolutions. Each type is used for a different purpose and they also have different formats. The name of a resolution includes the house from which the resolution originates, the type of resolution, and a numeral assigned by the clerk of the originating house. Do not use the abbreviation "No." preceding the numeral because this is superfluous.

EXAMPLES:

House Concurrent Resolution 64
Senate Joint Resolution 5
House Resolution 11

Joint Resolutions are used to propose amendments to the West Virginia Constitution and to ratify a proposed amendment to the United States Constitution. A Joint Resolutions looks much like a bill in form and has a cover page just like a bill. The main difference between the form of a bill and the form of a Joint Resolution is that all lines are numbered in a Joint Resolution and numbering starts again with each new page.

Concurrent Resolutions are used for other actions which require concurrence by both houses, but which do not require a bill or a joint resolution. Common concurrent resolutions include adjourning or reconvening the Legislature, amending the Joint Rules of the Legislature, extending the regular 60-day session, requesting the Joint Committee on Government and Finance to conduct an interim study, and naming memorials or highway structures. Another purpose for a concurrent resolution is to withdraw the question of ratification or rejection of an amendment to the State Constitution that is pending before the voters of the state. All lines, beginning with the resolution title, are numbering and numbering restarts with each additional page.

Simple Resolutions are used for expressing the will or order of the Senate or the House on matters that relate solely to the house considering the resolution and that do not require action or concurrence by the other house. Common purposes include amending the rules of the House or the rules of the Senate, commemorating or eulogizing a person; and authorizing the introduction of a bill past the cut-off date. All lines, beginning with the resolution title, are numbering and numbering restarts with each additional page.

It is not common for people other than legislative staff to prepare resolutions, but if one wishes to draft a resolution for a legislator's consideration, document templates are available from Legislative Services. Contact this Division at 304-347-4800 to request a template.

IN THE FOLLOWING EXAMPLES, LINE NUMBERS HAVE BEEN OMITTED FOR CLARITY

JOINT RESOLUTIONS

A joint resolution is the mechanism used to amend our State Constitution.* A joint resolution may be used to:

- Repeal a part of the Constitution;
- Amend one or more sections of the Constitution and repeal others, in the same or different articles;
- Amend the Constitution by rewriting one or more section(s) or article(s);
- Amend the Constitution by adding one or more new section(s) or article(s);
- Amend the Constitution to authorize a general obligation bond issue; and
- Ratify a proposed amendment to the United States Constitution.

Joint Resolutions look much like bills in form and have a cover page just like the bills. The main difference between the form of a bill and the form of a Joint Resolution is that all lines are numbered in a Joint Resolution and numbering starts again with each new page.

* *W. Va. Code §3-11-1* provides:

Any amendment to the Constitution of the state may be proposed in either house of the Legislature by a joint resolution.

When an amendment as proposed is agreed to as provided by section two, article fourteen of the Constitution, the question of ratification or rejection of such amendment shall be submitted to the voters of the state.

The Legislature may, by concurrent resolution adopted by a two-thirds vote of the members elected to each house, withdraw from consideration the question of ratification or rejection by the voters of such amendment in any session prior to the election at which it is to be submitted to the voters.

W. Va. Const. Art. XIV, §2 provides:

Any amendment to the Constitution of the state may be proposed in either house of the Legislature at any regular or extraordinary session thereof; and if the same, being read on three several days in each house, be agreed to on its third reading, by two thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and it shall be the duty of the Legislature to provide by law for submitting the same to the voters of the state for ratification or rejection, at a special election, or at the next general election thereafter, and cause the same to be published, at least three months before such election in

some newspaper in every county in which a newspaper is printed. If a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the state. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. Whenever one or more amendments are submitted at a special election, no other question, issue or matter shall be voted upon at such special election, and the cost of such special election throughout the state shall be paid out of the State Treasury.

[Repealing section(s) of the State Constitution]

SENATE JOINT RESOLUTION 5

(By [insert name of sponsor])

[Introduced ; referred to the

Committee on .)

Proposing an amendment to the Constitution of the State of West Virginia repealing section eleven, article XII thereof, relating to appropriation for state normal schools; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred seventy-six, which proposed amendment is that section eleven, article XII be repealed. Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered "Amendment No. 1" and designated as the "Repeal of Appropriation for State Normal Schools Amendment" and the purpose of the proposed amendment is summarized as follows: "To repeal section eleven, article XII of the State Constitution which provides that no appropriation shall hereafter be made to any state normal school, or branch thereof, except to those already established and in operation, or now chartered."

[Amending and repealing different sections of the State Constitution]

HOUSE JOINT RESOLUTION 2

(By [insert name of sponsors])

[Introduced ; referred to the

Committee on .]

Proposing an amendment to the Constitution of the State of West Virginia, repealing section ten, article IV thereof; and amending sections one and two of said article, all relating to elections and officers; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred eighty-six, which proposed amendment is that section ten, article IV be repealed; and that sections one and two of said article be amended, all to read as follows:

ARTICLE IV. ELECTION AND OFFICERS.

§1. Eligibility to vote.

23 The citizens of

§2. Ballot voting.

In all elections by the people, the mode of voting . . .

[Amending and rewriting existing section(s) of the State Constitution]

SENATE JOINT RESOLUTION 1

(By [insert name of sponsors])

[Introduced ; referred to the

Committee on .]

Proposing an amendment to the Constitution of the State of West Virginia, amending section six, article X thereof, relating to the granting of the credit of the state and state aid to political subdivisions of the State; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred sixty-eight, which proposed amendment is that section six, article X thereof, be amended to read as follows:

ARTICLE X. TAXATION AND FINANCE.

§6. Credit of state not to be granted in certain cases.

The credit of the state shall not be granted to, or . . .

NOTE: The purpose of this resolution is . . .

(Amending an existing article of the State Constitution by adding thereto a new section)

HOUSE JOINT RESOLUTION 1

(By [insert sponsor's name])

[Introduced ; referred to the

Committee on .]

Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section fifteen, relating to the authority of the Legislature to refer to and prospectively adopt provisions of the laws of the United States in imposing a tax on incomes or in respect to or measured by income and limiting the authority of the Legislature to tax measures; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of the proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred sixty-eight, which proposed amendment is that article X thereof be amended by adding thereto a new section, designated section fifteen, to read as follows:

ARTICLE X. TAXATION AND FINANCE.

§15. Imposition and measurement of tax on incomes by reference to laws of the United

States; limitation on authority to tax incomes.

The power of taxation of the Legislature . . .

(Amending the State Constitution by authorizing a bond issue)

SENATE JOINT RESOLUTION 2

(By [insert sponsor's name])

[Introduced; referred to the
Committee on.]

Proposing an amendment to the Constitution of the State of West Virginia authorizing the issuing and selling of state road bonds in an amount not exceeding three hundred fifty dollars; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred sixty-eight, which proposed amendment is as follows:

The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate . . .

(Ratifying a proposed amendment to the United States Constitution)

HOUSE JOINT RESOLUTION 6

(By [insert sponsor's name])

[Introduced ; referred to the
Committee on .]

Ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women.

WHEREAS, The Ninety-second Congress of the United States of America at its second session by a constitutional two-thirds vote in both houses adopted a joint resolution proposing an amendment to the Constitution of the United States, which joint resolution is in the following words:

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE ____

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

Therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature of the State of West Virginia hereby ratifies this proposed amendment to the Constitution of the United States; and, be it

Resolved further, That the Secretary of State of the State of West Virginia notify the Administrator of General Services, Washington, D. C., the President of the Senate of the United States and the Speaker of the House of Representatives of the United States of this action by forwarding to each of them a certified copy of this joint resolution adopted by the West Virginia Legislature.

The following "*Resolved further*" boiler plate paragraph is to be included in all joint resolutions. Amendments proposed by joint resolution will always be numbered "1" until a joint resolution has been adopted and numerically designated as "Amendment No. 1" for placement on the ballot. Amendments will then be numbered "2" until a second joint resolution has been adopted, and so on. Numbering reverts to "1" after the election on a set of numbered amendments has been held.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered "Amendment No. 1" and designated as the "Federal Grants and County and Municipal Aid Amendment" and the purpose of the proposed amendment is summarized as follows: "To amend the State Constitution to permit the Legislature to appropriate state funds for use in matching or maximizing grants-in-aid from the federal government or others to any county, municipality or other political subdivision of the state and to impose or dedicate a state tax or taxes for the aid of counties, municipalities or other political subdivisions of the state."

The following language is to be used in joint resolutions to designate the election at which a proposed amendment to the State Constitution will be put to the voters. It should be inserted as the only provision that comes between the resolving clause ("*Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto.*") and the text of proposed amendment.

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2018, or at any special election held prior thereto for the purpose of presenting to the voters of the state the question of ratification or rejection of one or more constitutional amendments, which proposed amendment is as follows:

CONCURRENT RESOLUTIONS

Provide for:

- Adjourning and reconvening of the Legislature;
- Extending the regular 60-day session;
- Requesting that the Joint Committee on Government and Finance conduct an interim study;
- Amending the Joint Rules of the Senate and House;
- Withdrawing from consideration by the voters the question of ratification or rejection of an amendment to the State Constitution; and
- Effecting all other actions which require concurrence by both houses but which do not require a bill or a joint resolution, such as naming a bridge or highway, expressing the sense of the Legislature on an issue, establishing a joint committee of the Legislature and authorizing the joint bills and expenses of the Legislature.

[Interim Study Resolution]

SENATE CONCURRENT RESOLUTION 40

(By [insert sponsors' names])

[Introduced February 12, 2018]

Requesting the Joint Committee on Government and Finance study vocational, technical and adult education in and for the State of West Virginia.

Whereas, Education for work has been and is an integral part of a total education program; and

Whereas, A significant percentage of adults of this state lack adequate education in basic and work skills areas; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study vocational, technical, and adult education in and for the state; and, be it . . .

The following "*Further Resolved*" boiler plate paragraphs are to be placed at the end of all Joint Committee on Government and Finance interim study resolutions. The same paragraphs should be used in resolutions for studies to be conducted by committees other than the Joint Committee on Government and Finance, with the name of the appropriate committee substituted for Government and Finance. Fill in the correct year for reporting to the full Legislature, as appropriate.

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

[Resolution Naming a Highway Asset in Memoriam]

HOUSE CONCURRENT RESOLUTION 25

(BY DELEGATES ABLE, BAKER AND CHARLES)

[Introduced February 2, 2018]

Requesting the Division of Highways name bridge number 17-0.357 (17AX053), locally known as the Steel Big Coal Bridge, carrying County Route 10 over Big Coal Run in Harrison County, the “Sgt. John Smith, Jr., Memorial Bridge”.

Whereas, John Smith, Jr., was a lifelong resident of Harrison County, and was a graduate of Vandalia High School and West Virginia Volunteer College; and

Whereas, Sgt. John Smith, Jr., served with distinction in three tours of duty with . . .

Whereas, It is fitting that a permanent memorial be established to honor the life and service of Sgt. John Smith, Jr.; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 17-0.357 (17AX053), locally known as the Steel Big Coal Bridge, carrying County Route 10 over Big Coal Run in Harrison County, the “Sgt. John Smith, Jr., Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Sgt. John Smith, Jr., Memorial Bridge”; and, be it

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

[NOTE: The House of Delegates does not “direct” its Clerk to provide any records, but on Senate resolutions the proper language is, “That the Clerk of the Senate is directed to forward a copy . . .”]

[Amending an existing section of the Joint Rules of the Senate and the House]

SENATE CONCURRENT RESOLUTION 17

(By Senators Gamma (Mr. President) and Theta)

Amending Joint Rules of the Senate and House of Delegates.

Resolved by the Legislature of West Virginia:

That Rule 15 of the Joint Rules of the Senate and House of Delegates be amended to read as follows:

Printing Enrolled Bills

15. After a bill has been passed by both houses, the text from which it was originally printed shall be corrected as to any typographical errors that may not previously have been corrected and to include any amendments that may have been made by either house since the last printing of the bill. After the text has been so corrected, not less than fifty copies of the bill shall be printed. ~~Twelve of these copies shall be on seven and one-fourth by ten bond paper, twenty-pound basis of at least fifty percent rag content for the use of the Joint Committee on Enrolled Bills, One of which the copies, when properly authenticated, shall become the Enrolled Bill. and the remainder shall be on twenty-pound basis, sulphite bond paper.~~ In the case of enrolled bills authorizing the promulgation of a proposed legislative rule, a copy of the full text of the proposed legislative rule which the bill incorporates by reference shall be appended to the bill which has been properly authenticated and designated to be the Enrolled Bill . . .

SIMPLE RESOLUTIONS

Simple resolutions provide for:

- Expressing the will or order of the Senate or the House on matters which do not require concurrence by the other house;
- Authorizing the House Committee on Rules to arrange a special calendar;
- Amending the Rules of the House or the Rules of the Senate;
- Commemorating or eulogizing a person;
- Recognizing achievements of a person or institution; and
- Granting permission to introduce a bill or joint resolution after the introduction cut-off date (the 41st day of the 60-day session in the Senate and the 35th day of the 60-day session in the House).

[Resolution Eulogizing a Person]

SENATE RESOLUTION 33

(By [insert sponsors' names])

Commemorating the passing of Walter “Dickory Doc” Hickory, gentleman, humorist, and statesman.

Whereas, Walter “Dickory Doc” Hickory was born June 12, 1927, at Stock Sinks, Monroe County, and died in the year 2016 at the age of eighty-nine at Lewisburg, Greenbrier County; and

Whereas, During his long and colorful life, Walter “Dickory Doc” Hickory gave unselfishly of himself to his community, his county and his state and, in so doing, left this world a better place than it was when he entered it; and

Whereas, The passing of Walter “Dickory Doc” Hickory should not go unnoticed; therefore, be it

Resolved by the Senate:

That the Senate hereby commemorates the passing of Walter “Dickory Doc” Hickory, gentleman, humorist, and statesman; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy . . .

[Line numbering begins with the title of the resolution.]

[Amending the rules of the House or the Senate]

HOUSE RESOLUTION 42

(By [insert sponsors' names])

Amending House Rule Nos. 83 and 84, relating to committee meetings and hearings.

Resolved by the House of Delegates:

That House Rule Nos. 83 and 84 be amended to read as follows:

Committee Meetings

83. Meetings of all committees shall be upon a call of the chairman, but no committee

...

Committee Hearings

84. The introducer of a bill, and all other persons who shall so request the chairman . . .

[Adding to the rules of the House or the Senate]

HOUSE RESOLUTION 10

(By [insert sponsors' names])

Amending the rules of the House of Delegates, relating to remarks in the Journal.

Resolved by the House of Delegates:

That the Standing Rules of the House of Delegates be amended by adding thereto a new rule to read as follows:

Inserting Remarks in Journal

132a. An address or the remarks of any member made on the floor of the House on any subject or any question before the House may be inserted in the Journal with the consent of the House only on the request of the member who made the address or remarks.

[Authorizing introduction of a bill after cut-off date]

SENATE RESOLUTION 64

(By [insert sponsors' names])

Granting permission to introduce a bill relating to minimum pay scales and employment terms for school auxiliary and service personnel; defining terms in this connection; other rights, privileges, and benefits of such personnel; authorizing county boards of education to establish higher salary schedules; and authority of the State Board of Education in relation thereto.

Resolved by the Senate of West Virginia, two thirds of the members present and voting agreeing thereto:

That in accordance with Senate Rule No. 14, permission is hereby given to introduce a bill with the following title:

A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended, relating to minimum pay scales and employment terms for school auxiliary and service personnel; defining terms in this connection; other rights, privileges and benefits of such personnel; authorizing county boards of education to establish higher salary schedules; and authority of the State Board of Education in relation thereto.

PART VII
AMENDMENTS

REQUIREMENTS FOR AMENDMENTS

Identify Delegate(s), Senator(s) or committee sponsoring the amendment.

Amendments must be identified with page, section and line references, in that order. Make sure the amendment references derive from, and apply to, the original, jacketed version of the bill lodged at the Clerk's desk or in the Clerk's office.²

Amendments **MUST BE** filed in the system prior to submitting to the Clerk's office or to the floor. Please make sure amendment is filed in correct session. (*EXAMPLE: 2018RS*)

Make sure name of amendment filed in the system also appears on the top of the hard copy submitted to the Clerk. (Name on hard copy and name in system **MUST BE IDENTICAL!**)

Amendments must have line numbers and page numbers. Amendments should be printed as single-sided sheets.

Submit four copies of each amendment to the Clerk's office.

If an entire section, article or chapter is added or stricken, amendments to title must reflect the same. If an entire section, article or chapter is added, it must be underlined to show that it is new.

For title amendments, the entire new title is submitted, with the amendments incorporated into it, rather than amendments being made to it.

In most cases, amendments are not necessary to make corrections such as grammar and misspelled words. Check with the Clerk's office regarding the need for corrections.

² Legislative staff should prepare amendments so that page and line numbers refer to the original, jacketed bill text. It is critical to compare proposed changes to any bill with the text that appears in the jacketed bill. The Clerk's staff frequently make editorial changes and clerical corrections to these original bills that do not appear on other copies.

IMPORTANT DISTINCTIONS BETWEEN HOUSE AND SENATE AMENDMENT LANGUAGE

The House and Senate use different conventions when referencing punctuation that appears at the end of text to be inserted or stricken by the amendment. The House standard is to mention the punctuation in text form outside of the quoted words. The Senate standard is to include the added or stricken punctuation within the quotation marks.

HOUSE: Delegate Yankee moves to amend the bill on page two, section two, line four, by striking out the words "and cats" and the comma.

SENATE: Senator Stone moves to amend the bill on page two, section two, line four, by striking out the words "and cats,".

The two houses also use different language for making amendments to the title of a bill. The Senate convention is to explain the amendment action in detailed wording, "to amend the bill by striking out the title and substituting therefor a new title, to read . . ." The House, on the other hand, uses a simpler, more abbreviated form, "to amend the title of the bill, to read . . ."

Note these differences in the examples on the following pages.

COMMITTEE AMENDMENTS

Naming Conventions - Committee Amendments:

SB88 S JUD AM #1

SB88 S JUD AMT

HB2005 S GOV AM #1

HB2005 S GOV AM #2

SB88 = Bill type & number

S = S for Senate or H for House

JUD = Judiciary (Committee Abbreviation)

AM = Amendment

AMT = Amendment to Title

#1 = Indicates set of amendments adopted by the committee; on occasion, a bill may be rereferred to committee and a second set of amendments may be adopted.

Number of Copies - Committee Amendments:

File four copies of each set of amendments with the Chief Desk Clerk in the Senate, with the Parliamentarian in the House. **Attach one set of amendments to each of the four committee report forms.** In the Senate, all amendments must be filed in Central Files and submitted to the Chief Desk Clerk at least one hour before floor session. In the House, amendments must be filed in Central Files and must be submitted to the Parliamentarian before the amendment may be taken up.

FLOOR AMENDMENTS

Naming Conventions - Floor Amendments:

SB200 SFA LINCOLN 1-14 #1

SB200 SFA LINCOLN 1-14 #2

HB2231 SFA ROMEO 2-5 #1

HB2231 SFAT ROMEO 2-5

| | |
|---------|---|
| SB200 = | Bill type & number |
| SFA = | Senate Floor Amendment |
| HFA = | House Floor Amendment |
| SFAT = | Senate Floor Amendment to Title |
| ROMEO = | Last name of person sponsoring amendment |
| 1-14 = | Date typed |
| #1 = | Indicates set of amendments to the same bill. |

A member may have more than one set he or she is considering for introduction.

Number of Copies - Floor Amendments:

In the Senate, the Chief Desk Clerk will need four copies of the amendment and, in the House, the four copies go to the Parliamentarian. In addition, your member may or may not choose to have sufficient copies made for distribution to all the members when the amendment is reported on the floor.

Filing Location - Floor Amendments:

Each amendment must be filed in Central Files before the amendment may be considered on the floor. In the Senate, amendments must be filed at least **one hour** before the floor session.

Once they are so filed, all floor amendments become public.

**IN ANY CASE, DO NOT LEAVE FOR THE DAY WITHOUT FILING
FLOOR AMENDMENTS TO CENTRAL FILES.**

SAMPLE TITLE AMENDMENTS

HOUSE STYLE

Delegate Victor moves to amend the title of the bill, to read as follows:

H. B. 2525 - A Bill to amend and reenact §60A-2-204 of the Code of West Virginia, 1931, as amended, relating to listing of Schedule I Controlled Substances . . .

The Committee on the Judiciary moves to amend the title of the bill, to read as follows:

Com. Sub. for Senate Bill 75 - A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24a; to amend and reenact §17B-3-9 of said code; and to amend and reenact §17C-5A-1, §17C-5A-2 and §17C-5A-2a of said code, all relating to State Police; . . .

SENATE STYLE

Senator Clue moves to amend the bill by striking out the title and substituting therefor a new title, to read as follows:

Senate Bill 4000-A Bill to amend and reenact §48-2A-3b of the Code of West Virginia, 1931, as amended, relating to divorce, annulment, or separation.

The Committee on the Judiciary moves to amend the bill by striking out the title and substituting therefor a new title, to read as follows:

Senate Bill 4000-A Bill to amend and reenact §48-2A-3b of the Code of West Virginia, 1931, as amended, relating to divorce, annulment, or separation.

AMENDMENTS STRIKING TEXT

Delegates Sierra and Tango move to amend the bill on page ten, after line ten, by striking out all of section three.

U V U V U

Delegate Victor moves to amend the bill on page twenty, section one, line six, after the word "house", by striking out the words "or other structure".

U V U V U

Senator Scrabble move to amend the bill on page thirty, after line fifteen, by striking out the remainder of the paragraph (or subsection, bill, etc.).

AMENDMENTS INSERTING TEXT

Senator Rock moves to amend the bill on page two, section one, line three, after the word "owner" by inserting the words "or the dog".

U V U V U

Senator Paper moves to amend the bill on page five, line ten, after the word "person," by inserting the following: "and must prove his or her claim by a preponderance of the evidence."

U V U V U

Senator Scissors moves to amend the bill on page three, after line seventeen by inserting a new section, designated section five, to read as follows:

§10-1-5. Head tax on cats.

There shall be levied a \$1 head tax on cats, payable to the county . . .

AMENDMENTS STRIKING OUT AND INSERTING TEXT

Delegate Kilo moves to amend the bill on page two, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

ARTICLE 1B. ADDITIONAL REVIEW OF PROPERTY APPRAISALS; IMPLEMENTATION.

§11-1B-16. Reimbursement of costs to assessor and sheriff.

Except for the mailing required by §11-1B-6(c) of this code, the assessor and sheriff shall be reimbursed by the Tax Commissioner only for the postage expended by either of them to mail any notices required to be mailed by such assessor or sheriff by this article.

U V U V U

Senator Scrabble moves to amend the bill on page five, section one, line three, after the word "cats" by striking out the word "or" and inserting in lieu thereof the word "and".

U V U V U

Delegate Juliet moves to amend the bill, beginning on page seven, by striking out all of section 16 and inserting in lieu thereof the following:

§11-1B-16. Reimbursement of costs to assessor and sheriff.

Except for the mailing required by §11-1B-6(c) of this code, the assessor and sheriff shall be reimbursed by the Tax Commissioner only for the postage expended by either of them to mail any notices required to be mailed by such assessor or sheriff by this article.

MULTIPLE CHANGES THROUGH ONE AMENDMENT

The Committee on the Judiciary moves to amend the bill on page two, section two, line fifteen, by striking out the word “their” and inserting in lieu thereof the word “this”;

On page two, section three, by striking out the section heading and substituting therefor a new section heading, to read as follows:

§17C-22-3. Common carrier laws do not apply to ridesharing; requiring liability insurance.;

On page four, section three, lines sixty-nine and seventy, by striking out the words “or regulations”;

On page four, section three, line eighty, after the word “agency” by changing the period to a colon and inserting the following proviso: *Provided*, That the subject rangers shall pay the tuition and costs of training.;

And,

On page five, section three, line ten, after the word “article.” by adding the following: In the case of a member who died during active duty, such flag shall be provided by the Secretary of State at no charge.

**AMENDMENT STRIKING OUT EVERYTHING AFTER ENACTING CLAUSE
& INSERTING NEW LANGUAGE**

The Committee on Finance moves to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF
STATUTES; DEFINITIONS.**

§2-2-1a. Special memorial days.

The Governor shall, by proclamation, declare January 15 of each year as a special memorial day, but not a legal holiday, to be known as Martin Luther King Day. Martin Luther King Day may be observed by any public employee, who shall not be refused time off from employment for that day: *Provided*, That such day of absence shall be charged to the employee's annual or accrued vacation leave.

**AMENDMENT STRIKING OUT EVERYTHING
& INSERTING PROVISIONS OF SENATE BILL**

The Committee on Finance moves to amend the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the provisions of Engrossed Senate Bill 484.

**AMENDMENT STRIKING OUT REMAINDER OF BILL
& INSERTING SUBSTITUTE TEXT**

The Committee on the Judiciary moved to amend the bill on page four, section thirty-five, after line forty-three, by striking out the remainder of the bill and inserting in lieu thereof the following:

(b) As a condition of remaining in good standing with the lending institution and the state and as a condition of having the loan renewed for up to four years, the loan recipient shall receive supervision and counseling provided by the small business development center. Eligible small businesses shall also grant the lending institution the right to provide information on the status of the loan to the small business development center so as to assist the small business.

(c) The Small Business Development Center and the Treasurer shall take any and all steps necessary to implement, advertise and monitor compliance with the linked deposit program. and monitor compliance of eligible lending institutions. The Small Business Development Center shall monitor the compliance of eligible small businesses.

(d) By January 31 of each year, the Small Business Development Center shall report on the linked deposit program for the preceding calendar year to the West Virginia Development Office, which shall then report to the Joint Committee on Government and Finance. The reports shall set forth the name of the small business, terms, delinquency and default rates, job growth, gross income evaluation and amounts of the loans upon which the linked deposits were based.

APPENDIX

APPENDIX

PREFERRED WORDS AND PHRASES

Here are words and phrases to avoid. This list shows preferred alternatives.

| <u>Avoid</u> | <u>Preferred</u> |
|---|---|
| absolutely null and void | void |
| afforded or accorded | given |
| aforesaid, aforementioned | "the", "that", "those", or a specific reference |
| and it shall be the duty of | shall |
| and/or | A or B, or both |
| any and all | "any" or "all" |
| at such time as | when |
| attempt (verb) | try (verb) |
| at the time of his death | when he dies |
| at the place | where |
| be and the same is hereby | is |
| bonds, notes, checks, drafts, and other evidences of indebtedness | evidences of indebtedness |
| bring an action | sue |
| calculate | compute |
| carry out | execute; complete |

| <u>Avoid</u> | <u>Preferred</u> |
|--------------------------------------|-------------------------|
| cease | stop |
| constitute | "be" or "is" |
| consequence | result |
| deem | consider or determine |
| do and perform | do |
| does not operate to | does not |
| during such time as | while |
| during the course of | during |
| each and all | "each" or "all" |
| each and every | "each" or "every" |
| employ (meaning to use) | use |
| endeavor (verb) | try |
| enter into a contract with | contract with |
| evidence, documentary or otherwise, | evidence |
| examine witnesses and hear testimony | take testimony |
| expend | spend |
| fail, refuse and neglect | fail |
| feasible | possible |
| final and conclusive | conclusive |
| formulate | make |

| <u>Avoid</u> | <u>Preferred</u> |
|-----------------------------|--|
| for the duration of | during |
| for the reason that | because |
| forthwith | “immediately” or “promptly” |
| from and after | after |
| full and complete | full |
| give consideration to | consider |
| give recognition to | recognize |
| have knowledge of | know |
| have need of | need |
| hereafter | after this article takes effect |
| if any person shall violate | any person who violates this article shall |
| if it shall appear | if it appears |
| if it shall be necessary | if it is necessary |
| if there be | if there is |
| in order to | to |
| inquire | ask |
| institute | begin; start |
| in the case | if |
| in the case of | “when” or “where” |
| in the event that | if |

| <u>Avoid</u> | <u>Preferred</u> |
|---|-------------------------|
| in the preceding section | in section one |
| is able to | can |
| is applicable | applies |
| is defined and shall be construed to mean | means |
| is dependent on | depends |
| is directed | shall |
| is entitled to | may |
| is hereby authorized and empowered | may |
| is hereby vested with the power and authority | shall |
| is null and void, and of no effect | void |
| is ordered and directed | shall |
| is required to | shall |
| is the duty of | shall |
| is unable | cannot |
| it is his duty to | shall |
| it is lawful to | may |
| it shall be unlawful | it is unlawful |
| make application | apply |
| make payment | pay |
| make provision for | provide for |

| <u>Avoid</u> | <u>Preferred</u> |
|---------------------------------------|----------------------|
| matter transmitted through the mail | mail |
| maximum | most |
| member of a partnership | partner |
| minimum | least |
| modify | change |
| must | shall |
| necessitate | require |
| no later than June 30, 2019 | before July 1, 2019 |
| none whatever | “no” or “none” |
| null and void | void |
| obtain | get |
| of a technical nature | technical |
| on and after July 1, 2019 | after June 30, 2019 |
| on or after | after |
| or, in the alternative, | or |
| parts or portions | parts |
| per annum | “per year” |
| per centum | percent |
| per day | a day |
| person of suitable age and discretion | adult (or state age) |

| <u>Avoid</u> | <u>Preferred</u> |
|-----------------------------------|---|
| possess | have |
| preserve | keep |
| prior to | before |
| provision of law | law |
| purchase | buy |
| render (meaning "to give") | give |
| retain | keep |
| rules and regulations | rules |
| said item | "the item," "that item," or "those items" |
| same | "it," "he or she," or "him or her" |
| shall be deemed to | is |
| shall be in full force and effect | shall be in force |
| shall have | may |
| sole and exclusive | sole |
| speed up | hasten; expedite |
| subsequent to | after |
| such | the; that; those |

| <u>Avoid</u> | <u>Preferred</u> |
|--------------------------|-------------------------|
| terminate | end |
| the place of his abode | his or her abode |
| thereof | of the |
| thereon | on the |
| to wit | namely |
| transmit | send |
| unless and until | "unless" or "until" |
| until such time as | until |
| utilize (meaning to use) | use |
| whatsoever | "when" or "whatever" |
| whenever | whenever; when; if |
| whosoever | whoever |
| will | often "shall" |

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