

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Third Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



February 23, 2017
SIXTEENTH DAY

Thursday, February 23, 2017

SIXTEENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 22, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Nelson, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2123, Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2263, Lottery Commission, W.Va. State Limited Video Lottery,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 2263) was referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2542, Relating to public higher education personnel,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2542 - "A Bill to repeal §18B-7-9, §18B-7-11 and §18B-7-12 of the Code of West Virginia, 1931, as amended; to repeal §18B-9-1, §18B-9-2, §18B-9-3 and §18B-9-4 of said code; to repeal §18B-9A-3 and §18B-9A-8 of said code; to amend and reenact §18B-1B-5 of said code; to amend and reenact §18B-4-1 and §18B-4-2a of said code; to amend and reenact §18B-7-1, §18B-7-2, §18B-7-3, §18B-7-6 and §18B-7-8 of said code; to amend said code by adding thereto a new section, designated §18B-8-7; to amend and reenact §18B-9A-2, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code; and to amend said code by adding thereto a new article, designated §18B-9B-1, all relating to public higher education personnel generally; clarifying roles of Higher Education Policy Commission, Council for Community and Technical College Education and state organizations of higher education; eliminating certain human resources review by Higher Education Policy Commission and Council for Community and Technical College Education; eliminating specific references to the Vice Chancellor for Human Resources; eliminating outdated and redundant reporting requirements; eliminating requirement for Higher Education Policy Commission to create certain positions that report to Vice Chancellor for Human Resources; eliminating certain higher education organization employment ratios and requirements; eliminating higher education organization classified employee salary schedule, outdated associated requirements and definitions; eliminating certain requirements related to exercising flexibility in human resources for higher education organizations; eliminating outline of steps for implementation of classification and compensation system by Higher Education Policy Commission and Council for Community and Technical College Education; providing legislative purposes and intent for higher education personnel; defining terms; providing and revising rules relating to reductions in workforce and hiring preferences; providing for continuing education and professional development; providing for evaluation and reviews of organizations for certain human resource deficiencies, best practices and compliance with state higher education personnel laws; providing for content of certain reports from Higher Education Policy Commission and Council for Community and Technical College Education to Legislative Oversight Commission on Education Accountability; authorizing organizations to adopt rules relating to employment policies and practices for staff and faculty; providing for preemption of Higher Education Policy Commission and Council for Community and Technical Education rules conflicting with a governing board rule on faculty; defining classified and nonclassified employees; clarifying powers and duties of the Compensation Planning and Review Committee; providing that the Higher Education Policy Commission shall develop a model minimum salary schedule using West Virginia Workforce and other relevant data that organizations shall follow except in certain instances; providing that the Higher Education Policy Commission develop classification and compensation rules; providing state organizations of higher education with the ability to propose and implement approved legislative rules relating to classification and compensation with certain exceptions; and requiring any rule proposed by a state organization of higher education incorporate best human resources practices, address areas of accountability, employee classification and compensation and performance evaluation,"

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2083, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2083 – “A Bill to amend and reenact §60A-10-12 of the Code of West Virginia, 1931, as amended, relating to the Methamphetamine Laboratory Eradication Act; and increasing the felony criminal penalty for knowingly causing or permitting a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured,”

And,

H. B. 2486, Providing that when a party’s health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2486 – “A Bill to amend and reenact §33-6F-1 of the Code of West Virginia, 1931, as amended; relating to medical records and medical billing records obtained by insurers in connection with insurance claims or civil litigation; providing that such records shall be confidentially maintained by insurers in accordance with state and federal law, prohibiting restrictions that may be imposed that contradict or are inconsistent with any applicable policy of insurance or the performance of insurance functions permitted or authorized by state and federal law; requiring the State Insurance Commissioner to review the provisions of Title 114, Series 57 of the Code of State Rules and to propose new rules or modify existing rules to the extent deemed necessary,”

With the recommendation that the committee substitutes each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2585 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4 and §61-14-5, all relating to laundering of proceeds from specified criminal activities; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for seizure and forfeiture of property or monetary instruments; specifying the burden of proof in a forfeiture proceeding; clarifying conduct that constitutes separate offenses; and setting forth venue for prosecution of offenses,”

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

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

S. B. 188 - “A Bill to amend and reenact §16-5Y-2 of the Code of West Virginia, 1931, as amended, relating to clarifying the definition of ‘telehealth’ for purposes of medication-assisted treatment programs”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 222 - "A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to disqualification for unemployment benefits; providing that an individual is disqualified for benefits for any week or portion of a week in which he or she left or lost his or her job as a result of a strike; clarifying that a lockout is not a strike; providing that workers replaced with new prepayment employees are not eligible for unemployment benefits; establishing the circumstances when a worker is determined to leave or lose employment by reason of a lockout; providing the circumstances when a worker is determined to be permanently replaced by another employee; and providing that contractor employees who perform the work of a striking worker are not to be determined to have permanently replaced a striking worker"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 242 - "A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-5A-5 of said code, all relating to school calendars; removing the word 'separate' throughout the section as it relates to the number of instructional days in the school calendar; designating one noninstructional day for teachers as a preparation day for opening school and another for teachers as a preparation day for closing school; allowing teacher preparation days to be used for certain other purposes at teacher's discretion; increasing number of two-hour blocks for faculty senate meetings from four to six; removing requirement that faculty senate meetings be held once every forty-five days; permitting certain accrued minutes to be used for lost instructional days; requiring that any reimagining student instructional days be exhausted prior to using accrued minutes for lost instructional days; and encouraging the use of reimagining student instructional days to achieve the one hundred eighty instructional day requirement"; which was referred to the Committee on Education.

Bills Introduced

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

By Delegates Anderson, Arvon, Overington, G. Foster, R. Romine, Householder, Upson and Shott:

H. B. 2678 - "A Bill to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating to the rate of interest allowed for prejudgment and post-judgment interest"; to the Committee on the Judiciary.

By Delegates Summers, Frich, Overington, Paynter, Harshbarger, Moore, Dean, G. Foster, Higginbotham, Butler and Fast:

H. B. 2679 - "A Bill to amend and reenact §7-11-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, all relating to the possession of firearms in parks and park facilities generally; prohibiting county parks and recreation commissions from promulgating or enforcing rules which prohibit possession of firearms; providing magistrate courts with concurrent jurisdiction; carrying a firearm for self-defense in state parks and state forests; providing exceptions; and clarifying that nothing in the section authorizes counties or municipalities to limit a person's ability to possess, transfer over, carry or transport a firearm or ammunition in a state park, state forest, or recreational areas in state wildlife management areas under the Division of Natural Resources, provided that such person is not

otherwise prohibited from possessing firearms”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Howell, McGeehan, Folk, Householder, Kessinger, Hill, Blair, Atkinson and Fast:

H. B. 2680 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-25-19, relating to termination of the West Virginia Nursing Home Administrators Licensing Board”; to the Committee on Government Organization.

By Delegates Hamrick, Kessinger, Howell, Blair, Atkinson, Hollen and Householder:

H. B. 2681 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-23-31, relating to termination of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners”; to the Committee on Government Organization.

By Delegates Ellington, Shott, Cowles, Rowan and E. Nelson:

H. B. 2682 - “A Bill to amend and reenact §55-7B-2, §55-7B-4, §55-7B-10 and §55-7B-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §55-7B-9e, all relating to Medical Professional Liability; defining the term ‘occurrence’; providing venue preference; establishing an attorney’s fee schedule based upon amount recovered; establishing the effective date; and providing for severability”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Westfall, White, Hamrick, Hartman and Frich:

H. B. 2683 - “A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Insurance Guaranty Association Act; modifying scope and construction of act; adding and amending definitions; clarifying and adding powers, duties and rights of association; modifying provisions concerning effect of paid claims, exhaustion of coverage, prevention of insolvencies and stay of proceedings; changing due date of annual financial report; limiting covered claims; expanding association’s right to recover and be reimbursed; providing for confidentiality of financial information; and exempting certain reports and recommendations from Freedom of Information Act”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Canestraro, Lovejoy, Hollen, R. Miller, Shott and Isner:

H. B. 2684 - “A Bill to amend and reenact §17B-4-3 of the Code of West Virginia, 1931, as amended, relating to imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license by persons under the age of twenty-one”; to the Committee on the Judiciary.

By Delegates Sobonya, C. Romine, C. Miller, Westfall, Atkinson, Householder, Frich, Overington, Summers and Folk:

H. B. 2685 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-4-8, relating to clerks of circuit courts and the duty to publish reports of court cases that have exceeded the time standards for resolution and disposition”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich, N. Foster, C. Romine, Summers, Butler, Gearheart, Queen, Folk, O’Neal and C. Miller:

H. B. 2686 - “A Bill to amend and reenact §4-2-6 of the Code of West Virginia, 1931, as amended, relating to providing a mechanism for the independent evaluation of revenue estimates by West Virginia and Marshall Universities’ business colleges”; to the Committee on Education then Finance.

By Delegates Robinson, Kessinger, Moore, R. Miller, Williams, Isner, Lovejoy, Canestraro, Wilson, Dean and Thompson:

H. B. 2687 - "A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to property tax assessments; and providing that military veterans with a one hundred percent service related disability are exempt from property taxation"; to the Committee on Veterans' Affairs and Homeland Security then Finance.

By Delegates Anderson, A. Evans, Deem, R. Romine, Fast, Lewis, Westfall, Lane, Higginbotham, Harshbarger and Zatezalo:

H. B. 2688 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §54-1-3b, relating to permitting natural gas companies to enter private property without prior consent from the owner for the limited purposes of obtaining data to comply with regulatory requirements or to survey land for pipeline or pipeline facility development; requiring natural gas companies to request permission to inspect property prior to entry; requiring natural gas companies to provide owner notice of intent to enter property prior to entry; and preempting entries authorized under this section from being deemed a trespass or a taking"; to the Committee on Energy then the Judiciary.

House Calendar

Third Reading

Com. Sub. for H. B. 2404, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 14**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2404) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2404 - "A Bill to amend and reenact §36-1-20 of the Code of West Virginia, 1931, as amended; and to amend and reenact §42-4-2 of said code, all relating generally to barring persons who are convicted of certain criminal offenses from acquiring property from their victims through joint tenancy or inheritance; barring a person who has been convicted of an offense causing the death of an incapacitated adult as a principal, aider and abettor, or accessory before the fact from taking or acquiring real or personal property by survivorship when the joint tenant is a victim of the criminal offense; barring a person who has been convicted of an offense of abuse or neglect of an incapacitated adult, or a felony offense of financial exploitation of an elderly person, protected person or an incapacitated adult from taking or acquiring real or personal property by survivorship when the victim of the criminal offense if the joint holder of the title to the property and providing exceptions therefor; barring a person who has been convicted of an offense causing the death of an incapacitated adult taking or acquiring money, property, or any interest therein by descent and distribution, will, or any policy or certificate of insurance; and barring a person who has been convicted of an offense of abuse or neglect of an incapacitated adult, or a felony offense of financial exploitation of an elderly person, protected person or an incapacitated adult from taking or acquiring money, property, or any interest therein by descent and distribution, will, or any policy or certificate of insurance and providing exceptions therefor."

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

Com. Sub. for H. B. 2447, Renaming the Court of Claims the state Claims Commission; on third reading, coming up in regular order, was read a third time.

Delegate Rowe arose and inquired of the Chair regarding the process to send the bill to the Committee on Government Organization. The Speaker replied and informed the Gentleman that he could make such a motion.

Delegate Rowe moved to commit the bill to the Committee on Government Organization, which motion was rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 15**), and there were—yeas 66, nays 34, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2447) passed.

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

Com. Sub. for H. B. 2465, Modifying the requirements that allow a child witness to testify by closed circuit television; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 16**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2465) passed.

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

First Reading

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

Com. Sub. for H. B. 2001, Relating to ethics and transparency in government,

Com. Sub. for H. B. 2028, Relating to the venue for suits and other actions against the state,

Com. Sub. for H. B. 2359, Relating to offenses and penalties for practicing osteopathic medicine without a license,

And,

Com. Sub. for H. B. 2479, Uniform Deployed Parents Custody and Visitation Act.

Miscellaneous Business

Delegate Arvon asked and obtained unanimous consent that the remarks of Delegate Kessinger regarding human trafficking be printed in the Appendix to the Journal.

Delegate Marcum asked and obtained unanimous consent that the remarks of Delegate Eldridge regarding Lincoln County be printed in the Appendix to the Journal.

Delegate Isner filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2048, H. B. 2050, H. B. 2057, H. B. 2149 and H. B. 2642.

Delegates Dean and Moore filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2387.

Delegate C. Miller filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2458.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2479.

Delegate R. Miller filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 2551.

At 12:27 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 24, 2017.

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

HOUSE CALENDAR

Friday, February 24, 2017

17th Day

11:00 A. M.

SECOND READING

- Com. Sub. for H. B. 2001 - Relating to ethics and transparency in government (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2028 - Relating to the venue for suits and other actions against the state (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2359 - Relating to offenses and penalties for practicing osteopathic medicine without a license (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2479 - Uniform Deployed Parents Custody and Visitation Act (SHOTT) (REGULAR)

FIRST READING

- Com. Sub. for H. B. 2083 - Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing (SHOTT) (REGULAR)
- H. B. 2123 - Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority (E. NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2486 - Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2542 - Relating to public higher education personnel (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 2585 - Creating felony crime of conducting financial transactions involving proceeds of criminal activity (SHOTT) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, FEBRUARY 24, 2017

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON EDUCATION
9:00 A.M. – ROOM 434M**

**COMMITTEE ON JUDICIARY
9:00 A.M. – ROOM 418M**

**COMMITTEE ON GOVERNMENT ORGANIZATION
9:00 A.M. – ROOM 215E**

**COMMITTEE ON FINANCE
9:00 A.M. – ROOM 464M**

MONDAY, FEBRUARY 27, 2017

PUBLIC HEARING

H. B. 2506, Relating to the implementation of water quality standards for the protection of drinking water.

**COMMITTEE ON JUDICIARY
8:30 A.M. – HOUSE CHAMBER**

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