

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2023
SECOND DAY

Charleston, West Virginia, Thursday, January 12, 2023

The Senate met at 11:01 a.m.

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

Prayer was offered by the Honorable Rollan A. Roberts, a senator from the ninth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Amy N. Grady, a senator from the fourth district.

Pending the reading of the Journal of Wednesday, January 11, 2023,

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

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

The Senate then proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

Senate Bill 65, Granting municipal fire marshal authority to assist law-enforcement officer.

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

Com. Sub. for Senate Bill 65 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §8-15-1 of the Code of West Virginia, 1931, as amended, relating to municipal fire departments; and granting municipal fire marshal the authority to assist in the lawful execution of another law-enforcement officer's official duties.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

The bill (Com. Sub. for S. B. 65), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

Senate Bill 79, Relating to compensable diseases of certain firefighters covered by workers' compensation.

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

Com. Sub. for Senate Bill 79 (originating in the Committee on Government Organization)—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to compensable diseases of certain firefighters covered by workers' compensation; establishing rebuttable presumption of injury arising out of and in the course of employment for certain covered firefighters that develop bladder cancer, mesothelioma, and testicular cancer; and providing that the rebuttable presumption expires on July 1, 2026, unless extended by the Legislature.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

The bill (Com. Sub. for S. B. 79), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

The following bills and joint resolution were introduced and read by their titles:

By Senator Oliverio:

Senate Bill 151—A Bill to amend and reenact §11-21-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-21-3a; and to amend and reenact §11-21-20 of said code, all relating to levying a tax on a pass-through entity's income apportioned to West Virginia for pass-through entities that elect to pay West Virginia income tax at the entity level; and authorizing a refundable income tax credit for an owner for such tax paid.

Referred to the Committee on Finance.

By Senator Oliverio:

Senate Bill 152—A Bill to amend and reenact §3-5-1 of the Code of West Virginia, 1931, as amended, relating to changing the time of holding primary elections in this state to the second Tuesday in August 2024, and in each second year thereafter.

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

By Senators Rucker, Azinger, Deeds, Maynard, Roberts, and Smith:

Senate Bill 153—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2S-1 §16-2S-2, §16-2S-3, §16-2S-4, §16-2S-5, and §16-2S-6, all relating to the creation of the West Virginia Chemical Abortion Prohibition Act; creating the offense; providing no liability to the patient; providing a rule of construction regarding ectopic pregnancy; providing for definitions; creating severability; and providing for disposal of discarded abortion drugs.

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

By Senators Hamilton, Deeds, and Stuart:

Senate Bill 154—A Bill to amend and reenact §61-7-10 of the Code of West Virginia, 1931, as amended, relating to penalizing the removal of a manufacturer's or importer's serial number from a firearm or to possess a firearm with a missing manufacturer's or importer's serial number.

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

By Senators Rucker, Azinger, Deeds, Maynard, Roberts, and Smith:

Senate Bill 155—A Bill to amend and reenact §16-1-6 of the Code of West Virginia, 1931, as amended, relating to the Commissioner of the Bureau for Public Health; requiring medical professionals to report to the Bureau for Public Health all injuries and side effects from vaccines and produce an annual report for the Legislature; requiring medical professionals that deliver vaccines to receive educational materials from the Bureau for Public Health about negative side effects from vaccines and to be formally trained every five years; and requiring the Commissioner to make available a mechanism for individuals, including parents, to report adverse impact from vaccines.

Referred to the Committee on Health and Human Resources.

By Senator Caputo:

Senate Bill 156—A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1A-5 of said code; to amend and reenact §3-3-1, §3-3-1a, §3-3-2, and §3-3-2a of said code; to repeal §3-3-3a of said code; to amend and reenact §3-3-5, §3-3-9, §3-3-10, and §3-3-12 of said code; to amend and reenact §3-6-6, §3-6-7, and §3-6-9 of said code; to amend said code by adding thereto a new section, designated §3-9-14; and to amend and reenact §3-9-19 of said code, all relating to modernization of procedures for voting in public elections; modifying voter identification procedure at the polls; removing authority of election commissioners and poll clerks to dispute voter claims of disability; authorizing all registered voters to vote absentee ballot by mail; simplifying the requirements for an emergency absentee ballot; providing for secure receipt of hand-delivered absentee ballots; providing for stand-alone drop-off locations for deposit of completed absentee ballots; revising terms and procedures for casting an absentee ballot by mail; reforming the procedures and grounds for challenging an absentee ballot; specifying the form and printed text of envelopes for

absentee ballots; establishing a pre-canvass procedure for ballots received in advance of Election Day; authorizing voter cure for potentially deficient absentee ballots; establishing a criminal offense of coercion and intimidation of a voter; defining a criminal offense of unauthorized marking of another person's absentee ballot; providing criminal penalties for violations; and correcting citations and grammar throughout.

Referred to the Committee on the Judiciary.

By Senator Phillips:

Senate Bill 157—A Bill to amend and reenact §5B-2A-5 of the Code of West Virginia, 1931, as amended, relating to clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office.

Referred to the Committee on Energy, Industry, and Mining.

By Senator Trump:

Senate Bill 158—A Bill to amend and reenact §48-2-301 of the Code of West Virginia, 1931, as amended, relating to establishing that 18 years of age is the age of capacity and consent to marry; and removing the ability of a person under 18 years of age to obtain a marriage license and marry with consent of their parents, legal guardians, or by petition to the circuit court.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 159—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-66-1, §16-66-2, and §16-66-3, all relating to authorizing the treatment of persistent symptoms of hypothyroidism as a similar but distinguishable disease from hypothyroidism; requiring insurers to provide coverage for care for persistent symptoms of hypothyroidism; and requiring the West Virginia Board of Medicine to notify all medical professionals of this legislation.

Referred to the Committee on Health and Human Resources.

By Senator Trump:

Senate Bill 160—A Bill to amend and reenact §5B-1A-1, §5B-1A-2, §5B-1A-3, §5B-1A-4, §5B-1A-5, §5B-1A-6, and §5B-1A-9 of the Code of West Virginia, 1931, as amended, all relating to establishing the West Virginia Rail Trails Program consisting of rail-to-trail and rail with trail programs; updating definitions to include a definition of "rail with trail"; expanding State Rail Authority to acquire railroad rights-of-way and land for both trail programs; clarifying that rail-to-trail program may not unreasonably limit ability to restore rail service on railroad rights-of-way; and expanding limitation of and exception to liability to railroad owners under certain circumstances.

Referred to the Committee on Outdoor Recreation.

By Senator Blair (Mr. President), Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, and Woodrum:

Senate Bill 161—A Bill to amend and reenact §20-1-10 of the Code of West Virginia, 1931, as amended, relating to the authority of the Division of Natural Resources to manage and dispose of property.

At the request of Senator Takubo, unanimous consent being granted, the bill was taken up for immediate consideration, reference to a committee dispensed with, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 161 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Senate Bill 161 pass?"

Senator Martin requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he has a family member on the Public Lands Corporation.

The Chair replied that any impact on Senator Martin would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 161) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 161) takes effect from passage.

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

By Senator Blair (Mr. President), Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, and Woodrum:

Senate Bill 162—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-1-22, relating to authorizing the director of the Division of Natural Resources to lease state-owned pore spaces underlying state forests, natural and scenic areas, and management areas, and other lands under the jurisdiction and control of the director for carbon sequestration; prohibiting the leasing of pore spaces underlying state parks; establishing competitive bidding process; providing for procedures and requirements; and authorizing the director to directly award a pore space under certain circumstances when necessary for an economic development project.

At the request of Senator Takubo, unanimous consent being granted, the bill was taken up for immediate consideration, reference to a committee dispensed with, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 162 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Senate Bill 162 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 162) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 162) takes effect from passage.

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

By Senator Trump:

Senate Joint Resolution 6—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new subsection, designated subsection (g), relating to providing for a homestead exemption for veterans with 100 percent service-connected disabilities.

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

Senator Takubo offered the following resolution:

Senate Resolution 4—Recognizing Eat Right West Virginia Day January 13, 2023, at the Legislature.

Which, under the rules, lies over one day.

Senator Smith offered the following resolution:

Senate Resolution 5—Honoring the public service of Dr. Richard Lechlitter for the occasion of Mineral County Day at the Legislature.

Which, under the rules, lies over one day.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on January 11, 2023:

Senate Bill 104: Senator Phillips.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on January 11, 2023:

Senate Bill 1: Senator Queen;

Senate Bill 2: Senator Karnes;

Senate Bill 4: Senator Smith;

Senate Bill 5: Senator Karnes;

Senate Bill 6: Senator Roberts and Phillips;

Senate Bill 7: Senator Smith;

Senate Bill 8: Senator Phillips;

Senate Bill 9: Senator Karnes;

Senate Bill 10: Senators Karnes, Martin, Maynard, Tarr, Grady, Taylor, Roberts, and Smith;

Senate Bill 11: Senators Roberts, Phillips, and Tarr;

Senate Bill 18: Senator Phillips;

Senate Bill 21: Senator Roberts;

Senate Bill 23: Senators Karnes and Phillips;

Senate Bill 27: Senator Phillips;

Senate Bill 29: Senator Phillips;

Senate Bill 40: Senator Phillips;

Senate Bill 41: Senators Grady and Queen;

Senate Bill 43: Senator Phillips;

Senate Bill 56: Senator Roberts;

Senate Bill 61: Senators Phillips and Queen;

Senate Bill 74: Senator Roberts;

Senate Bill 80: Senator Phillips;

Senate Bill 81: Senator Queen;

Senate Bill 83: Senator Phillips;

Senate Bill 85: Senator Phillips;

- Senate Bill 86:** Senator Phillips;
- Senate Bill 89:** Senator Grady;
- Senate Bill 93:** Senator Roberts;
- Senate Bill 99:** Senator Roberts;
- Senate Bill 101:** Senators Roberts and Queen;
- Senate Bill 102:** Senator Grady;
- Senate Bill 103:** Senator Roberts;
- Senate Bill 104:** Senators Taylor, Karnes, and Tarr;
- Senate Bill 115:** Senator Taylor;
- Senate Bill 120:** Senator Tarr;
- Senate Bill 121:** Senators Roberts and Tarr;
- Senate Bill 122:** Senators Roberts and Phillips;
- Senate Bill 125:** Senators Karnes, Phillips, and Tarr;
- Senate Bill 126:** Senator Weld;
- Senate Bill 127:** Senator Chapman;
- Senate Bill 128:** Senator Karnes;
- Senate Bill 130:** Senator Grady;
- Senate Bill 133:** Senators Martin and Karnes;
- Senate Bill 134:** Senator Smith;
- Senate Bill 136:** Senator Grady;
- Senate Bill 137:** Senator Grady;
- Senate Bill 139:** Senator Nelson;
- Senate Bill 142:** Senator Nelson;
- Senate Bill 147:** Senators Nelson and Grady;
- Senate Joint Resolution 1:** Senator Phillips;
- Senate Joint Resolution 2:** Senator Phillips;

And,

Senate Joint Resolution 3: Senator Nelson.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:30 a.m., the Senate adjourned until tomorrow, Friday, January 13, 2023, at 9 a.m.

SENATE CALENDAR

**Friday, January 13, 2023
9:00 AM**

UNFINISHED BUSINESS

S. R. 4 - WV Academy of Nutrition and Dietetics

S. R. 5 - Honoring public service of Dr. Richard Lechliter for Mineral County Day

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023



Friday, January 13, 2023

10 a.m.

Workforce

(Room 208W)