

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2023
SIXTH DAY

Charleston, West Virginia, Monday, January 16, 2023

The Senate met at 11:01 a.m.

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

Prayer was offered by the Honorable Amy N. Grady, a senator from the fourth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Tom Takubo, a senator from the seventeenth district.

Pending the reading of the Journal of Friday, January 13, 2023,

At the request of Senator Deeds, 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 Clerk presented the following communications from various state agencies as required by the provisions of law:

Tax Department, State (Tax Expenditure Study) (§11-10-5s)

Treasurer, Office of the (Debt Capacity) (§12-6A-6)

The Senate proceeded to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 74, Providing for substantial deference to State Superintendent's interpretations of school laws.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Joint Resolution 2, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment.

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

Com. Sub. for Senate Joint Resolution 2 (originating in the Committee on Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to authorizing the Legislature by general law to exempt veterans who are awarded a 90 percent or greater service-connected disability from paying all or part of the ad valorem real property taxes on the property comprising their residences; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The resolution (Com. Sub. for S. J. R. 2), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

By Senator Tarr:

Senate Bill 223—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-17-3b, relating to permitting the Legislature to file suit in limited circumstances against the Executive in order to faithfully execute laws passed.

Referred to the Committee on the Judiciary.

By Senator Tarr:

Senate Bill 224—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-3-21, relating to establishing the revocation of authority for spending by an agency in support of a challenge to West Virginia law.

Referred to the Committee on Finance.

By Senator Stuart:

Senate Bill 225—A Bill to amend and reenact §60A-2-204 of the Code of West Virginia, 1931, as amended, relating generally to regulation of controlled substances by adding the active chemicals in kratom to the Schedule I substances list in order to ban the sale of kratom in West Virginia.

Referred to the Committee on the Judiciary.

By Senators Swope and Nelson:

Senate Bill 226—A Bill expiring funds to the balance of the Department of Environmental Protection, Division of Environmental Protection – Reclamation of Abandoned and Dilapidated Property Program Fund, Fund 3305, Fiscal year 2023, organization 0313, in the amount of \$10 million, from the Executive, Governor's Office, Coronavirus State Fiscal Recovery Fund, Fund 8823, Fiscal year 2023, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

Referred to the Committee on Finance.

By Senator Stuart:

Senate Bill 227—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18C-7-8, relating to creating the Promise for a Promise Act; modifying the Promise Scholarship to be given in the form of a loan to eligible students; and requiring that each recipient be awarded the loan only for each subsequent year that the student remains in West Virginia after graduation.

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

By Senator Woelfel:

Senate Bill 228—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-12-26a, relating to mandating extended supervision for defendants convicted of stalking and related felonious acts; relating to establishing the start date of such extended supervision; relating to the monitoring procedure; relating to modifications or revocations of extended supervision; relating to violations during extended supervision; and relating to delayed extended supervision.

Referred to the Committee on the Judiciary.

By Senator Maynard:

Senate Bill 229—A Bill to amend and reenact §19-25-2, §19-25-3, §19-25-4, §19-25-5, and §19-25-6 of the Code of West Virginia, 1931, as amended, all relating to limiting landowner liability for injuries to, or caused by, persons entering or going upon land for noncommercial recreational purposes, wildlife propagation purposes, military training purposes, law-enforcement training purposes, or homeland defense training purposes; clarifying that limitation on liability and duty to warn applies only to landowner permitting the general public to enter or go upon such land for recreational or wildlife propagation purposes; providing that a landowner is not liable for, and has no duty to warn of, dangerous or hazardous wild animals on the land; deleting obsolete language providing that a landowner does not confer invitee or licensee status on persons invited or permitted upon land; substituting the term "fee" for the term "charge"; defining the term "fee"; providing that for the purposes of limiting landowner liability, a fee does not include a fee for an annual event or occurrence, if the total of such fees in a year does not exceed \$25 per individual; providing that for the purposes of limiting landowner liability, a fee does not include voluntary

donations to certain charitable entities; amending the term "land" to include premises; amending the definition of the term "owner of land" to specifically include any person holding legal possession, ownership, or partial ownership of an interest in land or a person sponsoring land or premises for volunteer improvement or maintenance purposes; amending the definition of the term "recreational purposes" to specifically include parking on or traversing land to engage in recreational activities and maintaining, or making improvements to, land for the purpose of making recreational activities accessible; naming the activities of rock climbing, bouldering, and kayaking as being activities within the definition of "recreational purposes"; and making numerous technical corrections.

Referred to the Committee on the Judiciary.

By Senators Roberts, Azinger, Deeds, Phillips, Rucker, Smith, and Stuart:

Senate Bill 230—A Bill to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-28-2 and §18-28-6 of said code, all relating to allowing students in private schools to be immunized on a voluntary basis.

Referred to the Committee on Health and Human Resources.

By Senators Swope, Hamilton, Jeffries, Martin, Nelson, Roberts, Rucker, Tarr, Trump, and Woelfel:

Senate Bill 231—A Bill to amend and reenact §5B-8-1 of the Code of West Virginia, 1931, as amended, relating to transferring the administration of the West Virginia Small Business Innovation Research (SBIR) and Small Business Technology Transfer (SBTT) Matching Funds Program from the Department of Commerce to the Department of Economic Development, including, but not limited to, the authority to propose legislative rules for promulgation.

Referred to the Committee on Economic Development.

By Senator Trump:

Senate Bill 232—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-12, relating to the creation of a multi-disciplinary study group to make recommendations regarding the diversion of persons with disabilities from the criminal justice system, promote appropriate interventions and placements for inmates and persons with disabilities, and develop a plan to coordinate care, treatment, and placement for persons with disabilities in the criminal justice system and in the community.

Referred to the Committee on the Judiciary.

By Senator Clements:

Senate Bill 233—A Bill to amend and reenact §17A-6-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §17A-6B-10 of said code; and to amend and reenact §17A-6C-11, all relating to the extension of the expiration of temporary registration plates from 60 days to 90 days.

Referred to the Committee on Transportation and Infrastructure.

By Senator Jeffries:

Senate Bill 234—A Bill to amend and reenact §3-2-6 of the Code of West Virginia, 1931, as amended, relating to clarifying the uniform statewide deadline for electronically submitted voter registration applications.

Referred to the Committee on Government Organization.

By Senator Jeffries:

Senate Bill 235—A Bill to amend and reenact §3-2-2 of the Code of West Virginia, 1931, as amended, relating to voting rights of formerly incarcerated individuals; and restoring suffrage for a person incarcerated for a felony conviction upon release.

Referred to the Committee on the Judiciary.

By Senator Maynard:

Senate Bill 236—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-17B-1, §20-17B-2, §20-17B-3, §20-17B-4, and §20-17B-5, all relating to creating the Motorsports Responsibility Act; identifying purpose; defining terms; providing for duties of motorsports; and providing for duties of participants.

Referred to the Committee on Outdoor Recreation; and then to the Committee on the Judiciary.

By Senators Nelson and Queen:

Senate Bill 237—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5-10-22m and §5-10-22n; and to amend said code by adding thereto two new sections, designated §18-7A-26x and §18-7A-26y, all relating to the Public Employees Retirement System and the State Teachers Retirement System; providing a one-time bonus of \$1,500 for certain annuitants; and increasing the minimum monthly benefit for certain annuitants.

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

By Senator Nelson:

Senate Bill 238—A Bill to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to specifying when a public employee's spouse may be covered by Public Employee Insurance Act; providing for the premium cost and premium coverage associated with such coverage; and establishing an effective date.

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

By Senator Azinger:

Senate Bill 239—A Bill to amend and reenact §9-2-6 of the code of West Virginia, 1931, as amended, relating to requiring the Commissioner of Human Services to engage behavioral health and substance use disorder providers, municipal leaders, and county government leaders to study a breakdown of homeless demographic information throughout West Virginia; and reporting the findings of the study to the President of the Senate, Speaker of the House of Delegates, and the Joint Committee on Government and Finance.

Referred to the Committee on Health and Human Resources.

By Senator Woodrum:

Senate Bill 240—A Bill to amend and reenact §30-1-12 and §30-1-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated as §30-1-12a, all relating to professions and occupations; providing for provisions applicable to

all state boards of registration; requiring records of a board's proceedings to open to public inspection; prohibiting disclosure of personally identifiable information and exceptions; requiring each board to place and maintain the roster on its website the names and office addresses of all persons licensed, or registered; and practicing in this state the profession or occupation to which such board relates.

Referred to the Committee on Government Organization.

By Senator Azinger:

Senate Bill 241—A Bill to amend and reenact §16-62-2 of the Code of West Virginia, 1931, as amended, relating to making the investigation and enforcement of the Patient Brokering Act the responsibility of the Office of Health Facility Licensure and Certification (OHFLAC); and requiring OHFLAC to develop a tool to facilitate public complaints about the Patient Brokering Act.

Referred to the Committee on Health and Human Resources.

By Senator Azinger:

Senate Bill 242—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, §16-66-3, §16-66-4, §16-66-5, §16-66-6, §16-66-7, §16-66-8, §16-66-9, and §16-66-10, all relating to residential substance use disorder service programs; defining terms; establishing licensure application process for substance use disorder service programs; creating program requirements; establishing revocation process; setting forth the reconsideration process; setting forth the administrative due process provision; providing for administrative and judicial appeal; establishing reporting requirements and renewal provisions; setting requirements for continuum of care; and establishing civil penalties and injunctive relief.

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

By Senator Azinger:

Senate Bill 243—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-53-4, relating to requiring substance use disorder inpatient providers to provide transportation to their patients; prohibiting certain marketing or partnering; and requiring approval for limitation of eligibility.

Referred to the Committee on Health and Human Resources.

By Senator Woodrum:

Senate Bill 244—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1 and §5-30-2, all relating to making rosters of individuals who have obtained professional, occupational, and trade licenses, registrations, and certificates available to the public; stating purpose of article; and requiring entities that authorize individuals to practice a profession, occupation, or trade in this state to prepare and maintain a roster of authorized individuals and to make roster available to the public.

Referred to the Committee on Government Organization.

By Senator Woodrum:

Senate Bill 245—A Bill to amend and reenact §24-1-7 of the Code of West Virginia, 1931, as amended, relating to making rules and regulations of Public Service Commission subject to legislative rule-making review procedures.

Referred to the Committee on Government Organization.

By Senator Woodrum:

Senate Bill 246—A Bill to amend and reenact §31G-1-3 of the Code of West Virginia, 1931, as amended, relating to revising the membership of the Broadband Enhancement Council; reducing the total number of members of the council; reducing the number of public members of the council; and revising the number of members required to establish a quorum.

Referred to the Committee on Government Organization.

By Senator Woodrum:

Senate Bill 247—A Bill to amend and reenact §30-1-9 of the Code of West Virginia, 1931, as amended, relating to making administrative appeals and judicial review of board action subject to provisions of the Administrative Procedures Act.

Referred to the Committee on the Judiciary.

By Senator Woodrum:

Senate Bill 248—A Bill to amend and reenact §30-1-10 of the Code of West Virginia, 1931, as amended, relating to when excess funds accumulated by boards are to be transferred to the General Revenue Fund of the State Treasury.

Referred to the Committee on Finance.

By Senator Woodrum:

Senate Bill 249—A Bill to amend and reenact §30-40-3, §30-40-4, §30-40-5, §30-40-9, §30-40-11, §30-40-12, §30-40-13, §30-40-14, §30-40-15, §30-40-16, §30-40-17, §30-40-18, §30-40-19, §30-40-20, §30-40-21, §30-40-22, §30-40-25, and §30-40-26, of the Code of West Virginia, 1931, as amended; and to repeal §30-40-27, all relating to the West Virginia Real Estate License Act; amending definitions; modifying the applicability of the article; requiring certain fees to be deposited into the treasury of the state daily; eliminating requirements for certain information to be included on applications for licensure; modifying qualifications for obtaining broker's license; providing restrictions on the entities that may be issued a salesperson's license; clarifying and amending requirements for prelicense education; modifying requirements for licensing based on licensure in another jurisdiction; modifying continuing education requirements; eliminating certain requirements for persons holding a broker's license; modifying requirements for license certificates issued by the Real Estate Commission; requiring a licensed broker to reconcile trust accounts; eliminating a prohibition on financial institutions that maintain trust accounts from requiring a certain minimum balance; clarifying language related to when commission may refuse a license or revoke, suspend, or impose any other sanction against a licensee; modifying the procedure for commission to administer complaints; modifying procedure for judicial review of decisions or final orders of the commission; clarifying language regarding criminal penalties; clarifying language related to suits for collection of compensation; requiring licensees to disclose in writing whether the licensee represents the seller, the buyer, the seller and the buyer, the landlord, the tenant, or the landlord and the tenant; and repealing an outdated section of code governing the duration of existing licenses.

Referred to the Committee on Government Organization.

Senators Oliverio, Caputo, Maroney, Clements, Smith, Taylor, and Stuart offered the following resolution:

Senate Resolution 6—Congratulating Bob Huggins on his induction into the Naismith Memorial Basketball Hall of Fame.

Which, under the rules, lies over one day.

Senator Rucker offered the following resolution:

Senate Resolution 7—Designating January 17, 2023, as Girl Scouts Day at the Legislature.

Which, under the rules, lies over one day.

Senator Smith offered the following resolution:

Senate Resolution 8—Designating January 17, 2023, as Tucker County Day at the Legislature.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 3, Dr. Roland P. Sharp Memorial Road.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 83, Authorizing tactical medical professionals to carry firearms.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

The Senate proceeded to the thirteenth order of business.

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 13, 2023:

Senate Bill 1: Senator Nelson;

Senate Bill 10: Senator Stuart;

Senate Bill 53: Senator Stuart;

Senate Bill 180: Senator Barrett;

Senate Bill 184: Senator Phillips;

Senate Bill 187: Senators Woelfel, Roberts, and Stuart;

Senate Bill 188: Senators Woelfel and Queen;

Senate Bill 190: Senator Deeds;

Senate Bill 193: Senator Roberts;

Senate Bill 200: Senator Roberts;

Senate Bill 201: Senators Queen and Caputo;

Senate Bill 202: Senators Woelfel;

Senate Bill 206: Senator Queen;

Senate Bill 208: Senator Woelfel;

Senate Bill 212: Senator Caputo;

Senate Bill 214: Senator Roberts;

Senate Bill 215: Senators Swope, Trump, Woelfel, and Taylor;

Senate Bill 219: Senator Deeds;

Senate Bill 220: Senator Deeds;

Senate Bill 221: Senator Barrett;

And,

Senate Joint Resolution 2: Senators Rucker and Hamilton.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:10 a.m., the Senate adjourned until tomorrow, Tuesday, January 17, 2023, at 11 a.m.

SENATE CALENDAR

**Tuesday, January 17, 2023
11:00 AM**

UNFINISHED BUSINESS

- S. R. 6 - Congratulating Bob Huggins on his induction into Naismith Memorial Basketball Hall of Fame
- S. R. 7 - Designating January 17, 2023, as Girl Scouts Day
- S. R. 8 - Designating January 17, 2023, as Tucker County Day

SECOND READING

Com. Sub. for S. B. 83 - Authorizing tactical medical professionals to carry firearms

FIRST READING

S. B. 74 - Providing for substantial deference to State Superintendent's interpretations of school laws

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023

Tuesday, January 17, 2023

9 a.m.	Education	(Room 451M)
9 a.m.	Government Organization	(Room 208W)