

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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REGULAR SESSION, 2016
SECOND DAY

Charleston, W. Va., Thursday, January 14, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Chad Cowan, Pastor of Care Ministries, Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Dave Sypolt, a senator from the fourteenth district.

Pending the reading of the Journal of Wednesday, January 13, 2016,

At the request of Senator Miller, 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 sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senator Gaunch:

Senate Bill 270—A Bill to repeal §19-25-7 of the Code of West Virginia, 1931, as amended, relating to insurance policies.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

By Senators Ferns and Gaunch:

Senate Bill 271—A Bill to amend and reenact §30-9-2, §30-9-3 and §30-9-7 of the Code of West Virginia, 1931, as amended, all relating to regulation of the practice of accountancy; redefining attest services; protecting board members from civil liability; and revising requirements for issuance of certificate as certified public accountant including criminal background check.

Referred to the Committee on the Judiciary.

By Senators Blair, Gaunch, Plymale and Romano:

Senate Bill 272—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6, relating to Attorney General's investigators; allowing them to carry concealed weapons under certain circumstances; and limiting liability for certain acts of investigators.

Referred to the Committee on the Judiciary.

By Senators Ferns and Stollings:

Senate Bill 273—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-45-2a, relating to required provisions regarding prior authorization of drug benefits by insurers.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

By Senator Walters:

Senate Bill 274—A Bill to amend and reenact §50-2-1 of the Code of West Virginia, 1931, as amended, relating to civil jurisdiction of magistrate courts; and allowing circuit courts to send cases to magistrate courts.

Referred to the Committee on the Judiciary.

By Senators Walters, Plymale and Woelfel:

Senate Bill 275—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18C-8-1, relating to creating a low interest student loan refinancing program for teachers; creating a special fund; establishing allocations to the fund; making legislative findings; establishing eligibility requirements; establishing refinancing rate; and providing for rulemaking.

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

By Senator Walters:

Senate Bill 276—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4a, relating to requiring influenza immunizations for health care workers; defining terms; providing criminal penalties; and establishing fines.

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

By Senators Carmichael and Woelfel:

Senate Bill 277—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to adding a definition; and increasing the criminal penalties for certain assaults and batteries.

Referred to the Committee on the Judiciary.

By Senators Ferns, Takubo, Walters, Stollings and Palumbo:

Senate Bill 278—A Bill to amend and reenact §33-20F-4 of the Code of West Virginia, 1931, as amended, relating to clarifying that Physicians' Mutual Insurance Company is not a state actor or a quasi-state actor allowing it to operate as any other commercial insurance company licensed in West Virginia.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

By Senator Ferns:

Senate Bill 279—A Bill to amend and reenact §11-1C-10 of the Code of West Virginia, 1931, as amended, relating to determining the assessed value of any share of natural resource property.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

By Senators Walters and Gaunch:

Senate Bill 280—A Bill to amend and reenact §5A-1-2 of the Code of West Virginia, 1931, as amended, relating to granting Department of Administration authority and responsibility of all personnel and human resources matters that are currently provided by personnel sections or divisions within other state departments and agencies; and eliminating those other personnel sections or divisions.

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

By Senator Ferns:

Senate Bill 281—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5A-6, relating to requiring health care providers and facilities to notify a patient when a mammogram indicates dense breast tissue; requiring certain information to be included; and specifying that it does not create a standard of care, obligation or duty that would provide the basis for a private cause of action.

Referred to the Committee on Health and Human Resources.

By Senators Walters and Carmichael:

Senate Bill 282—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-1-10, relating to collection of a fee from certain special revenue accounts.

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

By Senator Ferns:

Senate Bill 283—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-10-13a, relating to creating the crime of arson resulting from a fire in a clandestine drug laboratory and establishing criminal penalties.

Referred to the Committee on the Judiciary.

By Senator Ferns:

Senate Bill 284—A Bill to amend and reenact §16-2-3, §16-2-11 and §16-2-13 of the Code of West Virginia, 1931, as amended, all relating to powers and duties of local boards of health; granting county commissions authority to approve, modify or disapprove policies to be implemented by local boards of health; and allowing county commissions to review existing policies and approve, modify or void them.

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

By Senator Ferns:

Senate Bill 285—A Bill to repeal §48-23-101, §48-23-102, §48-23-201, §48-23-202, §48-23-203, §48-23-204, §48-23-205, §48-23-206, §48-23-207, §48-23-208, §48-23-209, §48-23-301, §48-23-401, §48-23-402, §48-23-403, §48-23-404, §48-23-501, §48-23-502, §48-23-503, §48-23-504, §48-23-505, §48-23-506, §48-23-507, §48-23-601, §48-23-701 and §48-23-801 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-16 of said code; and to amend said code by adding thereto a new section, designated §48-22-705, all relating to access to adoption records; allowing adopted adults or lineal descendants to access adoption records; clarifying what is included in a certificate of adoption maintained by the State Registrar; defining terms; setting forth rights and responsibilities of biological parents; requiring biological parents to provide social and medical information for inclusion in an adoption file; setting forth duties of the State Registrar with respect to adoption files; providing for confidentiality of adoption files; providing for rule-making authority for Secretary of the Department of Health and Human Resources; setting forth an effective date; and repealing the voluntary adoption registry.

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

By Senators Trump, Boley and Woelfel:

Senate Bill 286—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-127, relating to creating the Commission to Accelerate Statewide Coordination of Mental Health Services for Children and Adolescents; and providing findings, requirements, reports, recommendations and termination.

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

By Senators Boso and Trump:

Senate Bill 287—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15, §21-3E-16 and §21-3E-17, all relating to creating West Virginia Safer Workplaces Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; making findings; declaring public policy; determining a collection of samples, scheduling of tests and testing procedures; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing for preemption; providing protection from liability; establishing causes of action; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of certain benefits; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing.

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

By Senators Trump, Blair, Takubo, Walters, Romano and Palumbo:

Senate Bill 288—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b; and to amend and reenact §60-8-3 of said code, all relating to creating a one-day special license for charitable events to sell nonintoxicating beer and wine; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order.

Referred to the Committee on the Judiciary.

By Senators Boso and Trump:

Senate Bill 289—A Bill to amend and reenact §61-6-24 of the Code of West Virginia, 1931, as amended, relating to modifying definition of a “terrorist act” to include the intimidation directed to either an official or employee of any branch or level of government or to members of his or her family; and applying existing criminal penalties.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 290—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to assignment of wages by employers and payment of wages by payroll card; authorizing assignment without notarization or required statement that assignment cannot be for more than twenty-five percent of employee’s wages; allowing wage assignments to be valid for longer than one year; and removing requirement for written agreement to pay employee by payroll card.

Referred to the Committee on the Judiciary.

By Senators Trump and Plymale:

Senate Bill 291—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-1H-1, §62-1H-2, §62-1H-3, §62-1H-4, §62-1H-5, §62-1H-6, §62-1H-7, §62-1H-8 and §62-1H-9, all relating to law enforcement use of unmanned aircraft systems; providing operational requirements for unmanned aircraft systems; providing for the use and documentation by a law-enforcement agency; providing for retention of images; making exceptions; providing for admissibility of evidence; providing for evidence obtained in violation of this section; and defining terms.

Referred to the Committee on the Judiciary.

By Senator Karnes:

Senate Bill 292—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25, relating to creating income tax credits against personal income tax for educational expenses incurred by parents for a child under twenty-one years of age and for expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs.

Referred to the Committee on Finance.

By Senators Walters, Boso and Sybolt:

Senate Bill 293—A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to Neighborhood Investment Program Act; reauthorizing act until July 1, 2021; defining terms “community based” and “emergency assistance”; modifying definition of “economically disadvantaged area”; reducing frequency of required project transferee reports; reducing number of required advisory board meetings; reducing required number of West Virginia Development Office reports to the board; eliminating guidance on what a community based project is when the board is evaluating a project; removing requirement that Tax Commissioner annually publish addresses of taxpayers who claim the credit; and reducing frequency of program assessments by the director.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

By Senators Boso and Trump:

Senate Bill 294—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-3a, relating to permitting employers to have compulsory direct deposits of wages paid to employees provided certain conditions are met.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 295—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating to abolishing the tort of outrage.

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 1, Urging Congress propose regulation freedom amendment.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

Thereafter, at the request of Senator Romano, and by unanimous consent, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 15, 2016, at 11 a.m.
