

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Third Legislature
Second Regular Session

Held at Charleston
Published by the Clerk of the House



January 17, 2018
EIGHTH DAY

Wednesday, January 17, 2018

EIGHTH 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 Tuesday, January 16, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 2662, Prohibiting the waste of game animals, game birds or game fish,

H. B. 2693, Relating to state ownership of wildlife,

H. B. 2696, Relating to crossbow hunting,

H. B. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license,

And,

H. B. 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2662, H. B. 2693, H. B. 2696, H. B. 2708 and H. B. 3020) were each referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 2641, Relating to pension benefits exempt from state income taxation,

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 Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 2641) was referred to the Committee on Finance.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 2566, West Virginia Fresh Food Act,

And,

H. B. 3027, Imposing a tax on cattle which is to be used to help fund the U. S. Department of Agriculture's Wildlife Services Fund,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2566 and H. B. 3027) were each referred to the Committee on Finance.

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. 4002, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020,

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

Com. Sub. for H. B. 4002 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-2-2c, relating to the decennial redistricting of the House of Delegates and providing that following the reapportionment and redistricting of the Legislature following the United States Census in 2020, all delegates shall be elected from one hundred single member districts,"

And,

H. B. 4013, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state,

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

Com. Sub. for H. B. 4013 - "A Bill to amend and reenact §56-1-1 of said code, all relating to venue in West Virginia state courts as it applies to nonresidents of the state and providing that a nonresident generally may not bring an action in the state unless all or a substantial part of the acts or omissions giving rise to the claim asserted occurred in this state and providing exceptions,"

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. 4009, State Settlement and Recovered Funds Accountability Act,

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 Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 4009) was referred to the Committee on Finance.

Delegate Fast, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

H. B. 2546, Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned,

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. 2546) 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. 3089, Relating to the adoption of instructional resources for use in the public schools,

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

Com. Sub. for H. B. 3089 - "A Bill to amend the Code of West Virginia, 1931, as amended; thereto a new section, designated §18-2A-10, relating to the adoption of instructional resources for use in the public schools; providing for transition to new provisions for instructional resources adoption; defining instructional resources; providing for adoption cycle rule; requiring person, firm or corporation desiring to offer instructional resources for use by students to file statement containing and verifying certain information; requiring state board to provide list of vendors to counties; prohibiting county board from adopting or using instructional resources not in compliance; disqualification of person, firm or corporation for failure to honor terms of filing; supplementary resources exempted; requiring necessary instructional resources be furnished to students free of charge, including reasonable access to electronic resources; requiring county board policy on instructional resources adoption and specifying minimum provisions; and prohibiting board of education member or employee from acting as sales agents for person, firm or corporation filing statement with superintendent,"

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4026, Exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act,

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

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4025, Permitting reciprocity for licensure as a pharmacy technician,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 4025) was referred to the Committee on Government Organization.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4023, Relating to the regulation of dialysis technicians,

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 Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 4023) was referred to the Committee on Government Organization.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4035, Creating a legislative coalition to study and report to the Legislature on palliative care,

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. 4035) was referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2843, Permitting Class III and Class IV municipalities to be included in the West Virginia Tax Increment Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2843) was referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2654, Expanding county commissions' ability to dispose of county or district property,

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. 2654) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4038, Requiring training conducted on behalf of a state agency to be provided in state-owned facilities,

And,

H. B. 4039, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4038 and H. B. 4039) were each referred to the Committee on Finance.

Bills Introduced

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

By Delegates Hanshaw, Ambler, Kessinger, Lynch, Pethel and Mr. Speaker (Mr. Armstead):

H. B. 4161 - "A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting the State Conservation Committee and the Conservation Agency from the requirements of the Purchasing Division for contracts related to flood recovery or stream restoration, and all contracts with the United States Geological Survey"; to the Committee on Government Organization then the Judiciary.

By Delegates Hanshaw, Ambler, Kessinger, Lynch, Pethel and Mr. Speaker (Mr. Armstead):

H. B. 4162 - "A Bill to amend and reenact §19-21A-4 of the Code of West Virginia, 1931, as amended, relating to granting authority to the State Conservation Committee to contract for flood response and related stream restoration work and to collaborate with federal agencies to respond to flooding and certain related recovery and restoration"; to the Committee on Government Organization then the Judiciary.

By Delegates Kessinger, Criss, Higginbotham, Butler, Foster, Summers, Zatezalo, Hamrick, Arvon, Cooper and Dean:

H. B. 4163 - "A Bill to repeal §29-20-2, §29-20-3, §29-20-4, §29-20-5 and §29-20-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-20-1 of said code, all relating to termination of the Women's Commission; declaring Women's Commission terminated and not in existence after June 30, 2019; directing commission to wind up affairs, arrange for disposition of funds, assets, equipment and records, and cease all activities before July 1, 2019; and repealing provisions of code related to Women's Commission"; to the Committee on Government Organization then Finance.

By Delegates Wagner, Deem, Overington, Zatezalo, Anderson, Statler, Nelson, Hill, Lane, Butler and Ellington:

H. B. 4164 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-2-2c, relating to election of members of the House of Delegates in districts having more than one delegate; and providing that the delegates be elected from numbered divisions"; to the Committee on the Judiciary.

By Delegates Moye, Paynter, Butler, E. Evans, Fast, R. Miller and Kessinger:

H. B. 4165 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-3-23, relating to prohibiting employers from requiring employees to have certain electronic devices implanted in or permanently attached to his or her body; and providing criminal penalties for violators"; to the Committee on the Judiciary.

By Delegates Westfall, Kessinger, Paynter, Foster, Hamrick, Butler, Statler and Summers:

H. B. 4166 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e, and to amend and reenact §19-12A-6a of said code, all relating to establishing a special revenue fund to be known as the "Capital Improvements Fund — Department of Agriculture Facilities" for the purposes of funding capital improvements to the Department of Agriculture's facilities"; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates Graves, Hamrick, Jennings, laquinta, Howell, Pyles, Hill, Criss, Diserio and Paynter:

H. B. 4167 - "A Bill to repeal §30-6-8, and §30-6-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-6-3, §30-6-4, §30-6-5, §30-6-6, §30-6-7, §30-6-10, §30-6-11, §30-6-12, §30-6-13, §30-6-14, §30-6-15, §30-6-16, §30-6-17, §30-6-18, §30-6-20, §30-6-21, §30-6-22, §30-6-23, §30-6-24, §30-6-25, §30-6-26, §30-6-28, and §30-6-29 of said code; and to amend said code by adding thereto a new section, designated §30-6-4a, all relating to regulation of cremation, embalming, and funeral service directing; terminating the Board of Funeral Service Examiners; transferring the functions of the board to the Secretary of State; amending definitions; specifying duties for the transfer of functions and property; providing special provisions and authority to the Secretary of State to facilitate the transfer; continuing the effect of existing rules and authorizing the promulgation of emergency rules; creating a special revenue account; terminating the prior special revenue account; providing for the transfer of assets and liabilities; repealing provisions for obsolete forms of licenses; updating the requirements for renewal of licenses; specifying powers and

procedures for conducting hearings and rendering disposition of contested cases; granting the authority to suspend or revoke an authorization to practice without a prior hearing under certain circumstances; providing for referral of criminal matters to appropriate authorities; and correcting references and updating terms throughout”; to the Committee on Government Organization then Finance.

By Delegates Anderson, Kelly, Zatezalo, Lane, Westfall and Higginbotham:

H. B. 4168 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §54-1-3b, relating to entry onto private property for certain purposes by a federally regulated natural gas company without written permission of the property owner; requiring a written request for permission to inspect property prior to entry; requiring notice of intent to enter property prior to entry; declaring the legal status of such entry; distinguishing lawful entry under other authority; and limiting property owner’s liability with respect to the company’s entry”; to the Committee on Energy then the Judiciary.

By Delegates Barrett, Shott, Overington, Moore, Kessinger, Lane, Queen, Upson, Lovejoy, Canestraro and R. Miller:

H. B. 4169 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9A-4, relating to requiring certain establishments and facilities to post human trafficking assistance notices; establishing posting notices and contents of notice; directing the Director of the Division of Justice and Community Services to administer the program; authorizing state agents to give notice of violations; providing for criminal penalties for failure to comply with posting of notices once given notice of lawful duty to post; and defining terms”; to the Committee on the Judiciary.

By Delegates Criss, Paynter, Martin, Graves, Jennings, Ward, Howell, Pyles, Sypolt, Hill and Diserio:

H. B. 4170 - “A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10, §5A-12-11, and §5A-12-12; to amend said code by adding thereto a new section, designated §12-6D-7; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26, and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies; repealing provisions relating to the central motor pool; continuing management of state owned or leased aircraft through an aviation division; continuing the Fleet Management Office; providing powers and duties of the Director of the Fleet Management Office; continuing special fund; requiring reporting of state vehicles to Fleet Management Office; requiring reporting to and inventory of vehicles by State Agency for Surplus Property; requiring reporting to and inventory of vehicles by Enterprise Resource Planning Board; authorizing a rental pool; requiring legislative compliance audit; requiring new title, registration, and license plates for state vehicles; allowing the Commissioner of the Division of Motor Vehicles to issue special plates to organizations and entities; requiring agencies to apply for a new uniform vehicle title and registration plate; exempting confidential information relating to certain vehicles from public disclosure under the Freedom of Information Act; authorizing rule-making; and requiring annual reports to Legislature and Governor”; to the Committee on Government Organization then Finance.

By Delegates Pushkin, Lynch, Bates, Rohrbach, Byrd, Diserio, R. Miller, Lovejoy, White and Lane:

H. B. 4171 - “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §17C-14-16, relating to prohibiting smoking in an enclosed motor vehicle

when a child under the age of eight is present; penalty”; to the Committee on Health and Human Resources then the Judiciary.

House Calendar

Third Reading

H. B. 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency; 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. 2**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Moore, Rohrbach and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2869) passed.

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

Second Reading

H. B. 4005, Clarifying that appeals to the Supreme Court are a matter of right; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for H. B. 4020, Making technical corrections in the code when referencing chapter 49; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blair, Moore, Rohrbach and White.

Miscellaneous Business

Delegate Householder asked and obtained unanimous consent that the remarks of Delegate Gearheart during Remarks by Members today be printed in the Appendix to the Journal.

Delegate Frich filed forms with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2831, H. B. 4026 and H. B. 4156.

Delegate Householder filed forms with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 2436, H. B. 2488, H. B. 2489, H. B. 2523, H. B. 2580, H. B. 2703, H. B. 2799, H. B. 2871 and H. B. 3084.

Delegate Gearheart filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 2871.

Delegate Upson filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 2383.

Delegate Maynard filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2938.

Delegate C. Miller filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2938.

At 11:31 a.m., the House of Delegates adjourned until 11:00 a.m., Thursday, January 18, 2018.

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

HOUSE CALENDAR

Thursday, January 18, 2018

9th Day

11:00 A. M.

THIRD READING

H. B. 4005 - Clarifying that appeals to the Supreme Court are a matter of right (SHOTT) (REGULAR)

SECOND READING

Com. Sub. for H. B. 4020 - Making technical corrections in the code when referencing chapter 49 (SHOTT) (REGULAR)

FIRST READING

Com. Sub. for H. B. 3089 - Relating to the adoption of instructional resources for use in the public schools (ESPINOSA) (REGULAR)

Com. Sub. for H. B. 4002 - Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020 (SHOTT) (REGULAR)

Com. Sub. for H. B. 4013 - Clarifying venue in West Virginia state courts as it applies to nonresidents of the state (SHOTT) (REGULAR)

H. B. 4026 - Exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act (ELLINGTON) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

THURSDAY, JANUARY 18, 2018

HOUSE CONVENES AT 11:00 A.M.

**SMALL BUSINESS, ENTREPRENEURSHIP & ECONOMIC DEVELOPMENT
9:00 A.M. – ROOM 434M**

**BANKING & INSURANCE
10:00 A.M. – ROOM 215E**

**SENIOR CITIZEN ISSUES
1:00 P.M. – ROOM 215E**

FRIDAY, JANUARY 19, 2018

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

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