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THIRTY-SIXTH DAY

Wednesday, February 14, 2018

THIRTY-SIXTH 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, February 13, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 4154, on Second Reading, Special Calendar, to the House Calendar.

Committee Reports

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. 4392, Relating to Medicaid subrogation liens of the Department of Health and Human Resources,

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. 4392) was referred to the Committee on the Judiciary.

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:

Com. Sub. for S. B. 46, Permitting pharmacists to inform customers of lower-cost alternative drugs,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 46) was referred to the Committee on the Judiciary.

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. 4465, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy,

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. 4465) 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. 4481, Relating to mandatory inter-board reporting by licensees or registrants of the boards of medicine, osteopathic medicine, nursing,

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. 4481) was referred to the Committee on Government Organization.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund,

And,

H. B. 4512, Relating to the State Road Construction Account,

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. 4347 and H. B. 4512) were each referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4447, Providing for a uniform and efficient system of broadband conduit installation,

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. 4447) was referred to the Committee on the Judiciary.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4488, Relating to the Hatfield-McCoy Recreation Authority,

And reports the same back with the recommendation that it do pass, 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. 4488) 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. 4542, Allowing public service districts to accept payment by credit card,

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. 4542) 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. 2745, Adding the examination of Advanced Care Technician,

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 Health and Human Resources.

In accordance with the former direction of the Speaker, the bill (H. B. 2745) was referred to the Committee on Health and Human Resources.

Delegate Walters, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System,

H. B. 4289, Relating to disability pensions of municipal employees,

H. B. 4290, Requiring certain funds of a policeman's or a firemen's pension and relief fund be invested with the West Virginia Investment Management Board,

And,

H. B. 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4219, H. B. 4289, H. B. 4290 and H. B. 4539) were each referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2612, Repealing section relating to unattended motor vehicles and penalties.

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

Com. Sub. for S. B. 57 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22B-1-7a; to amend said code by adding thereto a new section, designated §24-1-7a; and to amend said code by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, §46A-6N-6, §46A-6N-7, and §46A-6N-8, all relating to third-party litigation financing; providing that a party involved in a proceeding before the environmental boards shall disclose whether their attorney is being paid for by someone other than the party involved; providing disclosure requirements; providing that a party involved in a proceeding before the Public Service Commission shall disclose whether their attorney is being paid for by someone other than the party involved; providing disclosure requirements; defining terms; providing that a litigation financier shall register as a litigation financier in this state; providing registration requirements for business entities, partnerships, and individuals; providing that litigation financiers shall secure a bond or an irrevocable letter of credit; providing to whom the bond is payable; requiring that the litigation financiers amend their registration if their information changes or becomes inaccurate; providing that the Secretary of State may promulgate rules; providing that the terms of the litigation financing transaction shall be set forth in a completed, written contract; providing that the litigation financing contract shall contain a right of rescission; providing that a litigation financing contract shall contain certain written acknowledgements and disclosures; providing that a litigation financier shall not pay or offer to pay commissions, referral fees, or other consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees for referring a consumer to the litigation financier; providing that a litigation financier shall not accept

commissions, referral fees, or other consideration; providing that a litigation financier shall not advertise false or misleading information; providing that a litigation financier shall not refer a consumer to a specific attorney, law firm, medical provider, chiropractor, or physical therapist; providing an exception; providing that a litigation financier shall supply copies of the contract to the consumer or consumer's attorney; providing that a litigation financier shall not attempt to waive any of consumer's remedies; providing that a litigation financier shall not attempt to effect arbitration or otherwise effect waiver of a consumer's right to a jury trial; providing that a litigation financier shall not offer legal advice; providing that a litigation financier shall not assign the litigation financing contract; providing that a litigation financing contract shall contain certain disclosures and terms; providing form disclosures; providing that a violation shall render the contract unenforceable; providing that a court may award costs and attorneys' fees against defendant; clarifying authority of the Attorney General; providing that a contingent right to receive an amount under a legal claim may be assigned by a consumer; providing a priority of liens; providing exceptions for certain liens and claims; providing a maximum annual fee; providing a maximum frequency annual fee charges; providing that fees may compound semiannually but not based on any lesser time period; providing means for calculating annual percentage fee or rate of return; providing maximum terms for fees; and restricting incorporation of prior obligations"; which was referred to the Committee on Government Organization then the Judiciary.

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

Com. Sub. for S. B. 290 - "A Bill to amend and reenact § 22-11-6 of the Code of West Virginia, 1931, as amended, relating to standards of water quality and effluent limitations; providing that the secretary may issue water pollution control permits that contain water quality-based effluent limits that are adjusted to reflect credit for pollutants in the permittee's intake water; providing that the secretary may not set benchmarks for substances in, or conditions of, discharges of stormwater that are more restrictive than the acute aquatic life water quality criterion, the federal benchmark, the chronic aquatic life water quality criterion, or the ambient aquatic life advisory concentration; providing that the secretary shall establish effluent limits for stormwater that are developed in accordance with mixing zones that are appropriate for relevant conditions, upon request by a permit applicant; and providing that the secretary shall promptly develop guidance for determining how benchmarks in permits demonstrate the adequacy of stormwater best management practices"; 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 and requested the concurrence of the House of Delegates in the passage, of

S. B. 365 - "A Bill to amend and reenact §59-1-2c of the Code of West Virginia, 1931, as amended, relating to the Young Entrepreneur Reinvestment Act; waiving certain fees for individuals under 30 years of age creating certain business organizations; and eliminating sunset date for expiration of fee waivers"; which was referred to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

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

Com. Sub. for S. B. 375 – “A Bill to amend and reenact §19-35-2, §19-35-3, and §19-35-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-5, all relating to farmers markets; removing local health departments from farmers market vendor permit process; transferring rules and regulations for farmers markets, cottage foods, acidified foods, nonpotentially hazardous foods, and exempted foods from Department of Health and Human Resources to Department of Agriculture; requiring rules to set forth quantity limitations for cottage foods; clarifying consignment farmers markets; defining terms; requiring registration of farmers markets; expanding farmers market vendor permit to permit the sale of cottage foods; establishing fees for farmers market vendor permits; clarifying certain farm and food products require other permits; permitting local health departments to inspect and suspend food establishment permits in certain circumstances; permitting the Department of Agriculture to establish regulations permitting the sampling of certain farm and food products; permitting local health departments to sample and inspect farmers market vendors in certain circumstances; permitting local health departments to invoke cessation of production in certain circumstances; clarifying scope, labeling, and sources of cottage foods; requiring online farmers market sales be delivered in person; permitting home, farm, community, or commercial kitchen to be used by cottage foods vendor as determined by the Department of Agriculture; and clarifying that a farmers market vendor permit is not required to sell nonpotentially hazardous foods and exempted foods”; 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 and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 446 - “A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, §19-36-5, and §19-36-6, all relating to agritourism generally; creating the Agritourism Responsibility Act; making findings; establishing authority and duties of the Commissioner of Agriculture related to agritourism; defining terms; establishing duties of agritourism businesses and participants in agritourism activities; limiting liability of agritourism businesses, employees, and volunteers associated therewith; requiring notice of certain rights, limitations on liability, and responsibilities of participants in agritourism activities; immunizing agritourism business and agritourism professionals from certain acts of simple negligence and exceptions thereto; authorizing Commissioner of Agriculture, in consultation with the Secretary of Commerce, to promulgate and propose rules; clarifying that operation of agritourism business does not change status of the facilities and property used for building code and tax purposes; and exempting structures of agritourism business occasionally used for events from building code requirements for entities engaged in such activities on a full-time basis”; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

Special Calendar

Third Reading

Com. Sub. for H. B. 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia; 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. 96**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Byrd, Folk, McGeehan and Pushkin.

Absent and Not Voting: Fast, Hornbuckle and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2995) 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. 4024, Relating generally to direct cremation or direct burial expenses for indigent persons; 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. 97**), and there were—yeas 65, nays 33, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Boggs, Byrd, Campbell, Canestraro, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Frich, Hicks, Hornbuckle, Iaquina, Isner, Kelly, Lynch, Marcum, Maynard, R. Miller, Moye, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Statler, Storch, Thompson, Upson, Wagner and Williams.

Absent and Not Voting: Fast and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4024) passed.

Delegate Cowles moved that the bill take effect July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 98**), and there were—yeas 87, nays 11, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge, Ferro, Hicks, Hornbuckle, Howell, Isner, Marcum, Pyles, Rodighiero, Sponaugle and Thompson.

Absent and Not Voting: Fast and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4024) takes effect July 1, 2018.

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. 4027, Creating an education permit for allopathic physician resident; 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. 99**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fast and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4027) 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. 4180, Relating to wildlife resources; 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. 100**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fast and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4180) 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. 4197, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation; 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. 101**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fast and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4197) 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. 4279, Relating to adult protective services system; 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. 102**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fast and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4279) 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. 4306, Permitting local boards of health to combine without approval from the Commissioner of the Bureau for Public Health; 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. 103**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Fast and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4306) 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

Com. Sub. for S. B. 154, Authorizing Department of Administration to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 184, Authorizing DOT promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, section one, line five, after the word “authorized”, by striking out the period and inserting in lieu thereof the following: “with the following amendments:

On page seven, subsection 8.1, after the word ‘conditions’, by adding ‘unless longer lease terms have been approved by the Commissioner for utility accommodation leases.’; and

On page eight, subsection 8.4, after the word ‘conditions’, by adding ‘unless longer lease terms have been approved by the Commissioner for utility accommodation leases.’”

The bill was then ordered to third reading.

Com. Sub. for H. B. 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2890, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3104, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4268, Co-tenancy Modernization and Majority Protection Act; on second reading, coming up in regular order, was read a second time.

An amendment to the bill, offered by Delegates Anderson and Shott, was reported by the Clerk, as follows:

On page seven, section three, line one, after the word "article", by striking out the comma and the words "and in the absence of specific contract language to the contrary".

On page nine, section four, line seventeen, after the word "payments", by inserting the words "or other non-royalty mineral payments".

On page ten, section four, line thirty, after the word "covenant", by inserting the words "has chosen or".

On page twelve, section six, line one, by striking out the words "With respect to" and inserting in lieu thereof the word "When".

On page twelve, section six, line two, by striking out the word "and".

On page twelve, section six, line six, after the word "tracts", by inserting the words "on which surface disturbance does not occur or tracts".

And,

On page twelve, section six, line nine, by striking out the words "was enacted" and inserting in lieu thereof the words "is used".

Delegates Capito, Byrd and Howell requested to be excused from voting on questions related to the amendments and passage of Com. Sub. for H. B. 4268 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

Subsequently, the amendment offered by Delegates Anderson and Shott was adopted.

Delegates Fleischauer and Pethtel moved to amend the bill on page nine, section four, line three, by striking out the words "three fourths" and inserting in lieu thereof the words "nine tenths".

On the adoption of the amendment, Delegate Fleischauer demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 104**), and there were—yeas 40, nays 57, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Frich, Hamilton, Hartman, Hicks, Hill, Hornbuckle,

Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, McGeehan, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Fast, Marcum and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegate Isner moved to amend the bill on page fifteen, section five, line twenty-three, after the word “transfer”, by inserting the words “50 percent of”.

And,

On page fifteen, section five, line twenty-six, after the word “code”, by striking out the period and inserting in lieu thereof a comma and the words “and 50 percent of the revenue shall be deposited into the Public Employees Insurance Agency Stability Fund and expended pursuant to §11B-2-32 of this code.”

On the adoption of the amendment, Delegate Isner demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 105**), and there were—including pairs-yeas 50, nays 47, absent and not voting 3, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Marcum Nay: Westfall

Nays: Adkins, Ambler, Anderson, Atkinson, Blair, Butler, Capito, Cooper, Cowles, Criss, Deem, Ellington, Espinosa, A. Evans, Foster, Gearheart, Graves, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hollen, Householder, Howell, Jennings, Kelly, Lane, Maynard, C. Miller, Moore, Nelson, Overington, Pack, Queen, Rohrbach, C. Romine, R. Romine, Rowan, Shott, Sobonya, Summers, Wagner, Walters, White, Zatezalo and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Fast, Upson and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

An amendment to the bill, offered by Delegate Folk, was reported by the Clerk on page nine, section four, line one, by striking out the word “If” and inserting in lieu thereof the words “In cases where there are nine or more royalty owners, if”.

Whereupon,

Delegate Folk asked and obtained unanimous consent to reform the amendment.

Delegate Folk then moved to amend the bill on page nine, section four, line one, by striking out the word “If” and inserting in lieu thereof the words “In cases where there are seven or more royalty owners, if”.

On the adoption of the amendment, Delegate Folk demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 106**), and there were—yeas 90, nays 6, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Capito, E. Evans, Foster, Jennings, Nelson and Zatezalo.

Absent and Not Voting: Fast, Marcum, Walters and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

Delegate Robinson moved to amend the bill on page ten, section four, line thirty-eight, by striking out the period, inserting a colon and the following proviso:

“Provided, That the pro rata share of royalty, lease bonus and delay rental payments shall be calculated by using the highest payments by the operator, owner or their affiliates within a 10 mile radius of the subject mineral property.”

Delegate Robinson asked unanimous to reform the amendment, which consent was not given, objection being heard.

Whereupon,

Delegate Robinson then asked and obtained unanimous consent that the amendment be withdrawn.

Delegate Jennings moved to amend the bill on page eleven, section four, line fifty-five, after the word “provisions”, by striking out the period and inserting in lieu thereof a colon and the following:

“Provided further, That consenting cotenants and their lessees, operators, agents, contractors or assigns shall only develop the specifically targeted stratigraphic formation and 100 feet above and below said formation; nonconsenting cotenants and unknown or unlocatable interest owners will retain all rights to all other formations unless or until reasonable efforts are made to renegotiate under this section for each additional formation. If a consenting cotenant has made a lease only for the targeted formation, in that case the nonconsenting cotenants and unknown and unlocatable cotenants shall receive the highest royalty, bonus and delay rental in the lease which was executed for the targeted formation.”

On the adoption of the amendment, Delegate Jennings demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 107**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Capito, Kelly, Lane, Nelson and Zatezalo.

Absent and Not Voting: Fast, Householder, Marcum, Walters and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

Delegate Robinson moved to amend the bill on page ten, section four, line thirty-eight, by striking out the period, inserting a colon and the following proviso:

“Provided, That the pro rata share of royalty, lease bonus and delay rental payments shall be calculated by using the highest payments by the operator, owner or their affiliates for interests greater than 5 acres, within a 10 mile radius of the subject mineral property.”

On the adoption of the amendment, Delegate Robinson demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 108**), and there were—yeas 38, nays 57, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hill, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, McGeehan, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Fast, Householder, Marcum, Walters and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4270, Providing for the timely payment of moneys owed from oil and natural gas production; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4361, Bestowing the West Augusta Award upon each West Virginian graduating from U. S. Military Academies with the highest grade point average; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4433, Declaring certain claims against an agency of the state to be moral obligations of the state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

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 S. B. 163, Authorizing DEP promulgate legislative rules,

Com. Sub. for S. B. 165, Authorizing DHHR promulgate legislative rules,

S. B. 379, Supplemental appropriation from State Excess Lottery Revenue Fund to DHHR,

S. B. 382, Supplemental appropriation of Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund,

S. B. 384, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR,

S. B. 385, Decreasing and adding appropriations out of Treasury to DHHR and MAPS,

Com. Sub. for S. B. 386, Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission,

And,

S. B. 388, Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration.

Com. Sub. for H. B. 2464, Relating to disclaimers and exclusions of warranties in consumer transactions for goods; on first reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4343, Relating to the delivery of financial statements to bank shareholders; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4376, Expiring funds to the balance of the Department of Health and Human Resources; on first reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4385, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4389, Expiring funds to the Enterprise Resource Planning System Fund; on first reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4400, Relating to the West Virginia Physicians Mutual Insurance Company; on first reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4402, Relating to the prevention of sexual abuse of children on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4462, Allowing off duty members and officers of the department of public safety to guard private property; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4473, Relating to use of state funds for advertising to promote a public official or government office; on first reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Fast and Wilson.

Miscellaneous Business

Delegate Storch noted to the Clerk that she was absent on yesterday when the votes were taken on Roll Nos. 92 and 93 and had she been present she would have voted "Yea" thereon.

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be added as a cosponsor of the following bills:

- Delegate Frich for H. B. 4481
- Delegates Adkins and Upson for H. C. R. 57

At 2:14 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 15, 2018.

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

SPECIAL CALENDAR

Thursday, February 15, 2018

37th Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 154 - Authorizing Department of Administration to promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 184 - Authorizing DOT promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2694 - Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas (NELSON) (REGULAR)
- Com. Sub. for H. B. 2890 - Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects (NELSON) (REGULAR)
- Com. Sub. for H. B. 3104 - Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund (NELSON) (REGULAR)
- Com. Sub. for H. B. 4015 - Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies (HOWELL) (REGULAR)
- Com. Sub. for H. B. 4268 - Co-tenancy Modernization and Majority Protection Act (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4270 - Providing for the timely payment of moneys owed from oil and natural gas production (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4361 - Bestowing the West Augusta Award upon each West Virginian graduating from U. S. Military Academies with the highest-grade point average (COOPER) (REGULAR)
- H. B. 4433 - Declaring certain claims against an agency of the state to be moral obligations of the state (NELSON) (EFFECTIVE FROM PASSAGE)

H. B. 4434 - Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement (SHOTT) (REGULAR)

SECOND READING

Com. Sub. for S. B. 163 - Authorizing DEP promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 165 - Authorizing DHHR promulgate legislative rules (SHOTT) (JUDICIARY COMMITTEE AMENDMENT PENDING) (EFFECTIVE FROM PASSAGE)

S. B. 379 - Supplemental appropriation from State Excess Lottery Revenue Fund to DHHR (NELSON) (EFFECTIVE FROM PASSAGE)

S. B. 382 - Supplemental appropriation of Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund (NELSON) (EFFECTIVE FROM PASSAGE)

S. B. 384 - Decreasing and increasing appropriations from State Fund, General Revenue to DHHR (NELSON) (EFFECTIVE FROM PASSAGE)

S. B. 385 - Decreasing and adding appropriations out of Treasury to DHHR and MAPS (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 386 - Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission (NELSON) (EFFECTIVE FROM PASSAGE)

S. B. 388 - Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 4343 - Relating to the delivery of financial statements to bank shareholders (SHOTT) (REGULAR)

H. B. 4385 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (NELSON) (EFFECTIVE FROM PASSAGE)

H. B. 4402 - Relating to the prevention of sexual abuse of children (SHOTT) (REGULAR)

H. B. 4462 - Allowing off duty members and officers of the department of public safety to guard private property (SHOTT) (REGULAR)

FIRST READING

Com. Sub. for H. B. 2464 - Relating to disclaimers and exclusions of warranties in consumer transactions for goods (SHOTT) (REGULAR)

H. B. 4376 - Expiring funds to the balance of the Department of Health and Human Resources (NELSON) (EFFECTIVE FROM PASSAGE)

H. B. 4389 - Expiring funds to the Enterprise Resource Planning System Fund (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 4400 - Relating to the West Virginia Physicians Mutual Insurance Company (SHOTT) (REGULAR)

Com. Sub. for H. B. 4473 - Relating to use of state funds for advertising to promote a public official or government office (SHOTT) (REGULAR)

HOUSE CALENDAR

Thursday, February 15, 2018

37th Day

11:00 A. M.

SECOND READING

Com. Sub. for H. B. 4154 - Establishing the 2018 Regulatory Reform Act (SHOTT) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

THURSDAY, FEBRUARY 15, 2018

SMALL BUSINESS, ENTREPRENEURSHIP & ECONOMIC DEVELOPMENT

9:00 A.M. – ROOM 434M

BANKING & INSURANCE

10:00 A.M. – ROOM 215E

COMMITTEE ON RULES

10:45 A.M. – BEHIND CHAMBER

COMMITTEE ON HEALTH & HUMAN RESOURCES

2:00 P.M. – ROOM 215E

COMMITTEE ON ENERGY

2:00 P.M. – ROOM 418M

PREVENTION & TREATMENT OF SUBSTANCE ABUSE

3:30 P.M. – ROOM 215E

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