2023 Regular Session

Summary of Bills

1st Session – 86th Legislature

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Notes About This Publication

Produced by Jacque Bland, Communications Director – West Virginia Senate. Information was compiled and edited from available resources including Bill Summaries, bill abstracts, Conference Committee reports and bill titles. Details pertaining to a specific bill may have updated since the bill's original passage. Electronic versions of this book and other publications are available for download at https://www.wvlegislature.gov/Senate1/president.cfm. For corrections, questions or additional information, please email jacque.bland@wvsenate.gov or call 304-357-7999.

Judiciary

Senate Bill 10

Campus Self-Defense Act

The general purpose of this bill is to allow persons who are holders of concealed handgun permits to carry same on the campuses of the state institutions of higher education.

- The bill creates an exception to any general prohibition a school might have regarding carrying a handgun on campus.
- The authorization extends to persons holding a current and valid WV provisional (age 18-21) license, standard license (21 and older) and persons from other states holding a current and valid license per W. Va. Code §61-7-6a including reciprocity city and recognition of out of state licenses.

The amended sections all contain the same language, stating that on and after July 1, 2024, the governing entities of the various types of higher education programs may only restrict or regulate license holders consistent with the new §18B-4-5b.

Subsection (a) of the new section authorizes license holders to carry concealed on campus per limitations in subsection 5.

Subsection (b) allows colleges to continue to regulate and restrict carrying in the following campus locations in compliance with §61-7-14 of this code:

- At an organized event taking place at a stadium or arena with a capacity of more than 1,000 spectators;
- At a daycare facility located on the property of the state institution of higher education;
- In the secure area of any building used by a law-enforcement agency on the property of the state institution for higher education;
- In an area of the property of the state institution of higher education that has adequate security measures in place to ensure that pistols or revolvers are not carried by the public into the area. As used in this section, “adequate security measures" means the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any pistols or revolvers into the area, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that pistols or revolvers are not carried in those areas by members of the public;
- In an on-campus room or rooms in which a student or employee disciplinary proceeding is being held;
- In sole occupancy offices on the campus and in the buildings of the state institution of higher education. "Sole occupancy office" means a room with at least one door and walls that extend to the ceiling that is assigned to a single person as his or her workspace. This subdivision does not authorize a state institution of higher education to prohibit, regulate, or restrict faculty or staff members who hold a current and valid license to carry a concealed deadly weapon from carrying a concealed pistol or revolver in his or her assigned office;
- At a primary or secondary education school-sponsored function being held in a specific location on the property of the state institution of higher education that is rented, leased, or under the exclusive use of the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

- At a private function that is being held in a specific location on the property of the state institution of higher education that is rented, leased, or under the exclusive use of an entity that is not affiliated with the state institution of higher education for the actual period of time the function is occurring;
- In any area on the property of the state institution of higher education where possession of a firearm is prohibited by state or federal law;
- In specifically designated areas in which patient-care or mental health counseling is being provided;
- In high hazardous and animal laboratories, defined as laboratories with:
    - Greater than 55 gallons of Class I flammable liquids and/or significant quantities of acids, bases, organics, pyrophorics, peroxides, bio-hazardous materials, extremely toxic materials or pyrophoric or toxic gases classified NFPA 704 Category 3 or higher;
    - Hazardous gases with K-size or larger cylinders containing corrosive, reactive, flammable, toxic, and/or oxidizer gases classified NFPA 704 Category 2 or higher;
    - MRI and/or NMR equipment capable of generating significant magnetic fields with field strength of at least 5 gauss is measured outside the equipment or 5 gauss line typically at least 3 feet and as much as 20 feet from equipment;
    - Large cylinders of acetylene; or,
    - Animal research laboratory spaces in locations not accessible to the public or generally accessible to students and staff; or
- In on-campus residence halls, except common areas such as lounges, dining areas, and study areas.

Subsection (c) allows an employee who holds a license whose job requires being in residence halls to carry therein.

Subsections (d) and (e) require colleges to provide a secure location for guns in residence halls or make safes available for residence hall rooms. It also requires the institutions to develop a policy to coordinate having sufficient resident rooms for license holders in residence halls with a storage room. A reasonable fee may be charged for storage room use or safes.

Subsection (f) allows for school discipline for license holders who violate restrictions.

Subsection (g) prohibits license holders and anyone else from carrying when the gun is visible or threatening a breach of the peace.

Subsection (h) states the legislatures intent and limits the liability of schools.

Subsection (i) defines license to carry as previously explained.

Subsection (j) names the 2023 amendments the "Campus Self-defense Act."

Subsection (k) adopts July 1, 2024, as the effective date.

CODE REFERENCE: West Virginia Code §18B-1-16, §18B-1B-4, §18B-2A-4, and §18B-B-6 – amended; §18B-4-5b – new

DATE OF PASSAGE: February 21, 2023

EFFECTIVE DATE: February 21, 2023, with internal effective date of July 1, 2024

ACTION BY GOVERNOR: Signed March 1, 2023

Senate Bill 132

Clarifying criminal offense of harassment

This bill amends West Virginia Code §61-2-9a to provide that any person who harasses or stalks another person with the intent to cause the person to physically injure themselves, or to take their own life, or who continues to harass or stalk another, knowing or having reason to know that the person is likely to injure themselves, or to take their own life based in whole, or in part, on such harassment or stalking is guilty of a felony and upon conviction is subject to a sentence of incarceration in a correctional facility for a determinate sentence of not less than 2 years nor more than 10 years.

CODE REFERENCE: West Virginia Code §61-2-9a – amended

DATE OF PASSAGE: February 1, 2023

EFFECTIVE DATE: May 2, 2023

ACTION BY GOVERNOR: Signed February 6, 2023

Senate Bill 136

Requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have treatment plan to be eligible for probation

This bill amends §62-12-2 to provide that anyone who is found guilty, or pleads guilty to Solicitation of a minor via computer, may only be eligible for probation after undergoing a physical, mental, and psychiatric or psychological study and diagnosis which shall include an ongoing treatment plan requiring active participation in sexual abuse counseling at a mental health facility or through another approved program. The bill also provides that nothing disclosed during this study may be made available to any law enforcement agency or other party, or admissible in court unless that which was disclosed indicates a plan of the probationer to do harm to any person, animal, institution, or property and then can only be released only to those persons necessary for protection of said, person, animal, institution, or property

This bill amends §62-12-9 to provide that in every case in which the probationer has been convicted of the following offenses against a child, the probationer may not live in the same residence as any minor child, nor exercise visitation with any minor child, and may have no contact with the victim of the offense:

- §61-3C-14b Solicitation of a minor via computer
- §61-8A-1, et seq. Preparation, Distribution, or Exhibition of Obscene Matters to Minors;
- §61-8C-1, et seq. Filming of Explicit Conduct of Minors; and

The bill contains a proviso that allows that a probationer may petition the circuit court where the conviction occurred for a modification of this term and condition of his or her probation with the burden on the probationer to demonstrate that a modification is in the best interest of the child.

CODE REFERENCE: West Virginia Code §62-12-2 and §62-12-9 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 142

Modifying procedures to settle estates of decedents

This bill amends the current law which requires the publication of a short form settlement of an estate be before this estate may be closed. Accordingly, when a short form is filed, it means all administrative matters are concluded, all claims and taxes have been paid, and all heirs agree to the proposed settlement of the estate.

The current law provides for two probate systems. In counties that use a fiduciary commissioner probate system, a "short form settlement" may be filed with the county probate office by the personnel representative of an estate when all claims and taxes have been paid. When approved by a County Commission the estate may be closed. However, in counties that use a fiduciary supervisor probate system, when a short form settlement is filed, the estate cannot be closed until publication and expiration of a 30-day notice period as required by §44-3A-4a(e).

In order to make the two probate systems similar, the bill amends §44-3A-4a(e) to eliminate the publication requirement for short form settlements in fiduciary supervisor probate systems. This new process allows the fiduciary supervisor to record the short form, mail copies to each beneficiary, and hold the short form for 10 days to give any beneficiary the opportunity to object or request a referral to a Fiduciary Commissioner. If no objection or referral request is made, the county commission can confirm the settlement and close the estate. If an objection or referral request is made, the commission may either confirm the settlement or refer the estate to a fiduciary commissioner.

The final substantive amendment amends §44-4-9 to eliminate the publication requirement for short form settlement of estates. This same section is amended to allow for a Class I as opposed to a Class II legal advertising in regards to publishing requirements for fiduciary commissioners.

CODE REFERENCE: West Virginia Code §44-2-1, §44-2-29, §44-3A-4a, and §44-3A-19 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 146

Modifying regulations of peer-to-peer car sharing program

The bill amends several sections in the law governing the Peer-to-Peer (PTP) Car Sharing Program, which is a program or business platform which connects vehicle owners to individuals who want to rent the vehicles. The amendments section-by-section are as follows:

§17A-6F-1. Scope.: Current law regulates transactions involving PTP car services, required insurance coverage for vehicles in the PTP program, state and local taxation of PTP transactions, and the authority of airport and airport authorities to regulate PTP car services provided to airport customers. The bill amends this section by removing the ability of airports and airport authorities to regulate PTP car services provided to airport customers.

§17A-6F-2. Definitions.: The bill amends two definitions, "Car sharing program agreement" and "Car sharing termination time."

Current law defines a "Car sharing program agreement" as the terms and conditions that govern the use of a vehicle in the PTP car sharing program. The bill clarifies that the definition does not apply to "master rental agreements or rental agreements" used by businesses that engage in daily passenger car rentals.

Regarding "car sharing termination time", current law provides for three ways in which a car sharing agreement terminates. It is the earliest of (1) when the vehicle is returned to the location agreed to in the PTP car sharing agreement, (2) when the vehicle is returned to an alternative location agreed to by the car owner and the person renting the car, or (3) when the vehicle owner or designee takes possession and control of the vehicle. The amendment clarifies that the alternative location must be included in the car sharing agreement.

§17A-6F-3. Insurance coverage during car sharing period.: The bill amends several subsections in section 3.

In subsection (a), current law provides that the minimum amount of insurance coverage during a car sharing period must be at least $750,000 to cover bodily injury and property damage to third parties, uninsured and underinsured motorists, and personal injury protection losses.

The bill reduces the minimum coverage amount from $750,000 to $25,000 for bodily injury or death for one person per accident, or $50,000 for two or more persons per accident, and $25,000 for damage to property of others per accident. This also applies to uninsured and underinsured vehicles. The amendment also removes the requirement for insurance coverage for personal injury protection losses.

In subsection (d), current law references the minimum amounts of insurance coverage and requires the PTP program to make sure that the policy provides coverage for a vehicle during each car sharing period and covers the vehicle owner and the person renting the vehicle and that the policy acknowledge that the vehicle is made available through the PTP program or that it does not exclude use of the vehicle by the driver renting the vehicle.

The bill amends subsection (d) to reference the new minimum amounts of insurance coverage required by subsection (a) and clarifies that the acknowledgment that the vehicle is made available through the PTP program or that it does not exclude the driver is an "either or" requirement.

Next, current subsection (f) provides that the insurance required by subsection (d) is the primary insurance during each car sharing period. The bill clarifies that the primary insurance requirement may

be satisfied by an insurance policy maintained by either (1) the vehicle owner, (2) the driver renting the vehicle, (3) a PTP car sharing program, or (4) a combination of the three as provided in subsection (e).

The amendment also seems to clarify that if a claim occurs during a car sharing period in another state that has minimum financial limits higher than those required by West Virginia, then the minimum insurance coverage required to be maintained in this state would have to increase to the other state's higher minimum limits.

In subsection (g), current law requires the PTP program to assume primary liability for a claim when it provides a part of or all the insurance required by this section and when a dispute exists regarding who was in control of the vehicle at the time of a loss and when the PTP program does not retain or fails to provide information relating to vehicle use to insurers and parties as required by section six.

The amendment here provides that the insurer(s) or the PTP program providing the coverage required by this section assumes primary liability for a claim when a dispute exists regarding control and failure by the PTP program to retain or provide the required vehicle information, or when a dispute exists regarding whether the shared vehicle was returned to the alternatively agreed to location.

The amendment to subsection (h) allows the insurer or the PTP program providing coverage under subsection (g) to seek indemnity from the vehicle owner if the vehicle owner did in fact operate the vehicle at the time of the loss.

Finally, the amendment to this section deletes current law, subsection (k), which requires the PTP program to provide primary coverage for a loss if a dispute arises regarding whether termination of car sharing time has occurred or expired.

§17A-6F-5. Exclusions for personal vehicle liability insurance policy.: In Section 5 current law provides that an insurance policy issued for a vehicle in the PTP car sharing program may exclude coverage for bodily injury and property damage, uninsured and underinsured motorist coverage, medical payments, comprehensive physical damage, collision physical damage, and personal injury protection.

The bill amends this section by removing personal injury protection from the list of coverages which may be excluded to match the amendment to section three which no longer requires insurance coverage for personal injury protection.

§17A-6F-7. Exemption; vicarious liability.: The amendment to this section is stylistic in nature. The section provides that the PTP car sharing program (the platform) and the shared vehicle owner are exempt from vicarious liability "in accordance with" federal law (49 U.S.C. §30106) and state or local law that imposes liability based upon vehicle ownership. The amendment deletes the term "in accordance with" and replaces it with "consistent with".

§17A-6F-13. Registration, notification, and automobile safety recalls.: The bill amends this section by eliminating the requirement that the PTP program must notify the owner of a vehicle in the program that the owner's personal insurance may exclude peer-to-peer car sharing activity.

CODE REFERENCE: West Virginia Code §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-5, §17A-6F-7, §17A-6F-13 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 161

Authorizing DNR to manage and dispose of property

This bill repealed language relating to the Public Land Corporation and to authorize DNR to directly dispose of property under the jurisdiction of the agency. The bill deleted requirements for DNR reporting property that is no longer needed to the Public Land Corporation for disposal. The bill authorized DNR to dispose of property of the Division with approval in writing by the Secretary of Commerce. The bill provided that the Director of DNR may convey property for money, security, or other property deemed suitable for DNR purposes.

CODE REFERENCE: West Virginia Code §20-1-10 – amended

DATE OF PASSAGE: January 20, 2023

EFFECTIVE DATE: January 20, 2023

ACTION BY GOVERNOR: Signed January 24, 2023

Senate Bill 162

Authorizing director of DNR to lease state-owned pore spaces in certain areas for carbon sequestration

This bill authorized the DNR Director to lease and develop pore spaces underlying state forests, natural and scenic areas, wildlife management areas, and other lands under DNR control for carbon sequestration. The bill requires written approval of the Secretary of Commerce to lease and develop pore spaces, and it applies to pore spaces underlying state forest, natural and scenic areas, wildlife management areas, and other lands under DNR control except lands underlying state parks. The bill requires a Class I legal advertisement in the affected county or counties and posting on the DNR main website for 14 days. The bill requires a bidding process with awards to the highest responsible bidder except in instances where the Secretary of Commerce and the Secretary of Economic Development certify that a lease is a necessary component of an economic development project, where the lease shall afford a market value or greater royalty.

CODE REFERENCE: West Virginia Code §20-1-22 – new

DATE OF PASSAGE: January 20, 2023

EFFECTIVE DATE: January 20, 2023

ACTION BY GOVERNOR: Signed January 24, 2023

Senate Bill 191

Relating to liability for payment of court costs as condition of pretrial diversion agreement

This bill provides that persons whose cases are being dealt with through both "pretrial diversions" and "deferred adjudications" are liable for any applicable court costs. The payment shall be a condition of the deferred adjudication agreement once they are placed into community corrections.

The bill also adds that a court order or agreement may add restitution as a condition of a pretrial diversion or deferred adjudication. There is a proviso that financial inability to pay these costs may not be a basis for denying a person the ability to participate in a deferred adjudication.

CODE REFERENCE: West Virginia Code §62-11C-9 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 208

Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders

This bill requires all current law enforcement officers to receive a course of basic training on autism spectrum disorders, Alzheimer's, and related dementias as part of their mandated in-service training requirement every three years.

CODE REFERENCE: West Virginia Code §30-29-5a – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 220

Industrial Hemp Development Act

This bill is to regulates the processing, distribution and sale of kratom and certain hemp-derived cannabinoids for human consumption (delta-8, delta-10 tetrahydrocannabinols) under the Commissioner of Agriculture.

This bill does the following:

- Hemp-derived cannabinoids are regulated by the new section §19-12E-12, and Kratom by the new article 19-12E-1 et seq. This section does not apply to naturally occurring plant-based derivative products not containing tetrahydrocannabinol content.
- The bill limits sales of kratom and hemp-derived cannabinoids to persons 21 years of age and older.
- Sets up a regulatory scheme for both products designed to limit physical availability of the products.
- Authorizes the Alcohol Beverage Control Administration Commission (ABCA) to assist in enforcing regulations on the products at the retail level.
- Imposes an excise tax of 11% on the sale of the products, the proceeds of which are divided between the Commissioner of Agriculture, the anti-drug fund, and the ABCA enforcement fund.
- Declares products not approved by the Commissioner to be contraband and subject to seizure, forfeiture, and destruction.
- Creates new criminal offenses for unlawful possession, distribution, and sale of unapproved products and distributing to persons under 21.
- Grants ABCA enforcement authority in the new article §60-10-1 et seq.

CODE REFERENCE: West Virginia Code §19-12E-12, §19-12F-1 et seq., and 60-10-1 et seq. – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 232

Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system

This bill creates a multi-disciplinary study group to make recommendations to the Legislature about dealing with persons with disabilities in the criminal justice system. The group would be convened by the Chair of the Dangerousness Assessment Advisory Board and would be made up of the 18 members listed below from multiple disciplines:

- The Statewide Forensic Clinical Director;
- The Statewide Forensic Coordinator;
- The two forensic psychiatrists who are members of the board;
- The two psychologists who are members of the board;
- The Director of the Office of Drug Control Policy;
- A designee of the Supreme Court of Appeals
- A designee of the Bureau of Children and Adult Services with experience in juvenile forensic matters;
- A designee of the Division of Corrections and Rehabilitation;
- A designee of the Division of Rehabilitation Services;
- A designee of the Prosecuting Attorney's Institute;
- A designee of the Public Defender Services;
- A designee of the West Virginia Behavioral Healthcare Providers Association who is a licensed clinician with forensic patient experience;
- A designee of the West Virginia Hospital Association;
- A designee of the West Virginia Housing Development Fund;
- A designee of Disability Rights of West Virginia;
- A designee of the West Virginia Sheriff's Association;
- A designee of the Juvenile Justice Commission; and
- A designee of the West Virginia University Center for Excellence in Disabilities.

The open meeting law and FOIA do apply to the group. Non-governmental members will receive the standard per-diem pay rate. Finally, recommendations from the group are to be to the Senate President and Speaker of the House by November 30, 2023.

CODE REFERENCE: West Virginia Code §27-6A-12 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 247

Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act

Chapter 30 of the West Virginia Code establishes boards which govern the licensing and regulation of various professions and occupations (e.g., dentistry, accounting, and engineering). Among other things, a Chapter 30 board is statutorily authorized to suspend or revoke the licenses of members to practice in the field regulated by that board.

The bill makes appeals of final board action (i.e., denial, suspension, or revocation of a license or registration, or disciplinary action) subject to the appellate provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 et seq. As a result, appeals of final board decisions will be filed with the Intermediate Court of Appeals instead of a Circuit Court.

CODE REFERENCE: West Virginia Code §30-1-9 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 258

Requiring local entities to enforce immigration laws

This bill amends two sections in Chapter 46B, which regulates rent-to-own transactions. The bill makes two straightforward changes. First, it removes the existing "fair market value" ceiling on rent-to-own transactions. Prior to enactment, it was unlawful to enter into a rent-to-own transaction for an item with a fair market value of greater than $10,000; that cap has been removed. Second, the bill permits sellers offering a rent-to-own option to require the buyer to pay a security deposit. Under existing law, security deposits were not permitted.

CODE REFERENCE: West Virginia Code §46B-2-1 and §46B-3-8 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 276

Awarding service weapon of retiring State Fire Marshal

This bill reduces the number of years a Fire Marshal, full-time deputy fire marshal, or full-time assistant fire marshal must serve before being awarded his or her service weapon upon retirement from 20 years to 10 years. The bill makes the same reduction for such personnel retiring with less than 10 years of service due to a total physical disability as a result of service with the Fire Marshal. The bill clarifies language relating to when a service weapon may not be awarded to such personnel due to federal or state firearms prohibitions, mental incapacity, or dangerousness of the employee.

CODE REFERENCE: West Virginia Code §15A-10-25 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: March 2, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 298

Relating to non-federally declared emergencies and non-states of emergency

The bill authorizes local emergency services entities to enter into mutual aid agreements with fire and emergency medical services located in border counties of contiguous states for day-to-day cooperation.

CODE REFERENCE: West Virginia Code §15-5-9 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 335

Authorizing Department of Homeland Security to promulgate legislative rules

This bill contains 11 rules from the Department of Homeland Security and is known as Bundle 6.

Governor's Committee on Crime, Delinquency, and Corrections, Protocol for Law Enforcement Response to Domestic Violence, 149 CSR 03

The rule amends a current legislative rule by extending the existing Sunset Provision by five years changing the termination date from June 30, 2023, to August 1, 2028.

Emergency Management, National Flood Insurance Program, 170 CSR 07

The rule is new. It reflects passage of Engrossed Committee Substitute for House Bill 4295 in the 2022 Regular Session, which transferred the National Flood Insurance Program (NFIP) from the Office of the Insurance Commissioner to the Emergency Management Division within the Department of Homeland Security.

The rule establishes that the NFIP will be supervised by the Emergency Management Division and requires the Emergency Management Division to develop templates to be used to help communities comply with NFIP. The rule also requires state floodplain managers, Emergency Management, and NFIP to develop a strategic plan for development of shared goals and their implementation.

Finally, the rule provides that administration of the NFIP is the responsibility of the Division of Emergency Management.

Fire Commission, Hazardous Substance Emergency Response Training Programs, 87 CSR 03

The rule amends a current legislative rule to amend the sunset date from July 1, 2023, to August 1, 2028.

Fire Commission, Certification of Home Inspectors, 87 CSR 05

The rule repeals a current legislative rule. Certification of home inspectors is now under the purview of the State Fire Marshal so the provisions of the rule are being moved to 103 CSR 07.

Fire Commission, Volunteer Firefighters' Training, Equipment, and Operating Standards, 87 CSR 08

The rule amends a current legislative rule. The rule 1) adds a sunset provision; 2) updates authority of the rule; 3) includes the definition for "probationary firefighter"; 4) updates references to the West Virginia Division of Emergency management from the Department of Homeland Security; 5) includes the minimum training levels for probationary firefighters; 6) allows the Fire Commission to use the modular training program as an alternative to the Emergency Vehicle Operations Course to meet the training requirement for operators of fire vehicles; 7) updates the approved curriculum and authorizes the Commission to create a policy to specify further exclusions; 8) clarifies equivalencies; and 9) deletes Appendices 87-8 A - F.

Subdivision 4.1.9 allows the State Fire Commission to create a policy to specify further exclusions from the specified curriculum. This subdivision needs to be deleted as any further exclusions need to be made by amendment to the legislative rule.

Fire Marshal, Certification of Electrical Inspectors, 103 CSR 01

The rule amends a current legislative rule. It addresses the certification of electrical inspectors by: 1) adding a sunset provision; 2) including the definition for "Journeyman electrician" and adding reference to "Journeyman electrician" throughout the rule; 3) setting forth the requirements for reciprocity, including

a state law examination, if required by the Board; 4) setting forth the process for the denial, limitation, suspension, or revocation of electrical inspectors licenses and requiring State Fire Marshal to promulgate a procedural rule; and 5) clarifying the disposition of complaints by removing the Fire Commission from the process.

Fire Marshal, Supervision of Fire Protection Work, 103 CSR 03

The rule amends a current legislative rule. It 1) adds a sunset provision; 2) updates the definition for "Journeyman sprinkler fitter"; 3) removes the definition of "Sprinkler Fitter in Training"; 4) removes obsolete language relating to the minimum qualifications to obtain licensure and removes other requirements; 5) provides for reciprocity and requires a state law exam if required by the Board; 6) authorizes the State Fire Marshal to deny an application for initial licensure in certain instances where the applicant has a criminal conviction; 7) specifies the reasons for which the State Fire Marshal may deny, limit, suspend, or revoke a license; 8) sets forth penalties for a person performing or offering to perform fire protection work without a license; and 9) makes changes to the appeals and hearing processes.

Fire Marshal, Electrician Licensing, 103 CSR 05

The rule amends a current legislative rule. It 1) extends the sunset provision; 2) removes the Apprentice Electrician license and defines the term "Electrician's Assistant/Helper" who replace Apprentice Electricians; 3) reduces the required work experience for Master and Journeyman electricians; 4) allows an applicant for licensure under the age of 18 who is enrolled in an approved electrical vocation program to take the exam and receive the license upon turning 18; 5) authorizes the State Fire Marshal to develop exams or contract with a private testing agent; 6) provides for reciprocity; 7) raises the penalty fee for renewing an expired license from $15 to $50; 8) rewrites the section on the State Fire Marshal's ability to deny an application for licensure or limit, suspend, or revoke any license based on specific authority given in statute; and 9) makes changes to the appeals and hearing processes.

Fire Marshal, Certification of Home Inspectors, 103 CSR 07

The rule is new. Pursuant to Enrolled Committee Substitute for Senate Bill 586 which was passed during the 2020 Regular Session, this rule moves the "Certification of Home Inspectors" from the State Fire Commission series in 87 CSR 05 to the State Fire Marshal series in 103 CSR 07.

It defines home inspection, outlines what must be included in a home inspection, defines unethical conduct by home inspectors, and creates penalties for prohibited acts.

State Police, West Virginia State Police Professional Standards Investigations, Employee Rights, Early Identification System, Psychological Assessment and Progressive Discipline, 81 CSR 10

The rule amends a current legislative rule.

It 1) replaces the phrase use of force with the phrase response to resistance or aggression throughout the rule; 2) provides a statute of limitations of 12 months for the filing of complaints against WVSP employees; 3) provides for the use of real-time data in the Early Identification System; 4) addresses procedure for those facing disciplinary action; and 5) adds a waiver provision following notice of disciplinary action.

State Police, Modified Vehicle Inspections, 81 CSR 4

This rule is a current legislative rule which did not go through the rule-making process. The amendments remove requirements for fenders, the positioning of the outmost edge of a tire regarding the fender, fender well or other wheel enclosure, and the minimum width of fender flares.

Currently, vehicles with large tires are failing inspection. Owners are getting around the inspection by putting regulation tires on to pass inspection and then putting the large tires back on.

CODE REFERENCE: West Virginia Code §64-6-1 et seq. – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 345

Authorizing Department of Revenue to promulgate legislative rules

This committee substitute contains 11 rules from the Department of Revenue and is known as Bundle 7.

Division of Financial Institutions, Rule Pertaining to Money Transmission Services, 106 CSR 23

This rule establishes permissible investments for cash (or cash equivalents), irrevocable letters of credit, and additional permissible investments that money transmission services may hold to satisfy the fiduciary duties. Finally, the rule adds new language that would be added requirements for compliance with West Virginia Code, examination by the Division of Financial Institutions, and penalties for failure to so comply.

Insurance Commission, Bail Bondsmen in Criminal Cases, 114 CSR 103

This rule removes a previous requirement that bail bondsmen be residents of West Virginia with a valid WV ID.

When this rule was taken up by the LRMRC, an amendment was offered and adopted which appears in this committee substitute. The amendment affects the different types of bondsmen. For professional bondsmen, it adds more types of security which a bondsman may pledge with the Insurance Commissioner to order to meet that definition. For surety bondsmen, the amendment includes insurance company underwriting agreements to meet that definition. The amendment avoids the issue of all bondsmen in the state being required to become licensed as an insurance agent, the deadline for which has already passed. The Insurance Commission has already amended its emergency rule to reflect this amendment.

Insurance Commission, Suitability in Annuity Transactions, 114 CSR 11B

This rule requires insurance agents (referred to as producers) that sell annuities to act in the best interest of the consumer when making a recommendation of an annuity and requires insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed. This rule is based on the NAIC's "Suitability in Annuity Transactions Model Regulation" (Model 275), as amended in 2020. The rule also includes provisions governing Exemptions (Section 3), Definitions (Section 4), Duties of Insurers and Insurance Producers (Section 5), Insurance Producer Training (Section 6), Compliance Mitigation, Penalties and Enforcement (Section 7) and Recordkeeping (Section 8).

An amendment was offered and adopted in the House that removed a proviso in the rule prohibiting a private cause of action for violations. The Senate concurred in the House amendment.

Insurance Commission, Pharmacy Auditing Entities and Pharmacy Benefit Managers, 114 CSR 348

This rule updates terminology, prohibits a pharmacy benefit manager from limiting a consumer's access to prescription drugs through the designation of specialty drugs, prohibits a pharmacy benefit manager from placing certain requirements or restrictions on a pharmacist or pharmacy, updates requirements for 340B (federal drug discount program) entities, clarifies how drug acquisition cost is calculated, requires pharmacy benefit managers to disclose any sub-networks for specialty drugs to the Insurance Commissioner, prohibits a pharmacy benefit manager from limiting network access, provides clarification regarding assessment of fees related to adjudication of claims, provides clarification regarding criteria for requirements of methodologies, and requires notice of contract changes.

Significantly, Section 10 is new and deals with specialty drug complaints, which are consumer complaints to the Commissioner when a pharmacy or an insured person believes the insurer is unreasonably designating the drug as a specialty drug. The Commissioner consults with the Board of Pharmacy to determine reasonableness of the designation and, if found unreasonable, requires the insurer to remove the specialty drug designation and allow for the drug to be prescribed normally and filled in any pharmacy.

The rule also includes provisions governing applicability of the rule (Section 1) definitions (Section 2), Registration of Auditing Entities (Section 3), Licensure of Pharmacy Benefit Managers (Section 4), Responsibilities and Prohibited Acts (Section 5), Network Adequacy and Reporting Requirements (Section 6), examinations of Pharmacy Benefit Managers (Section 7), penalties and reimbursement (Section 8), Consumer Choice for Pharmacy Benefits (Section 9), and Specialty Drug Complaints [new] (Section 10).

Lottery Commission, West Virginia Lottery Sports Wagering Rule, 179 CSR 09

This rule sets forth the regulations, qualifications, and requirements for sports wagering in West Virginia, which is regulated by the Lottery Commission. The rule closes a perceived gap in the regulation of Daily Fantasy Sports (DFS). Daily fantasy sports are not defined in our state code as sports wagering, which has given companies the opportunity to offer parlay sports wagers as part of their daily fantasy sports product and not have such be a "wager." The rule defines Daily Fantasy Sports in line with a written opinion of the WV Attorney General. It allows persons playing fantasy games to play against another person and not the company offering the game or the house. The definition provides that fantasy sports are between two or more participants who manage imaginary teams for a predetermined prize. Winning the game is determined by the skill and knowledge of the participant and is determined in large part by statistical data not on the score, point spread, or performance of a single team.

The rule also contains new definitions regarding confidentiality in account information and affiliate companies. Daily fantasy sports are still generally excluded.

There are additional definitions of "Confidential Player Account Information" which is player account balances and personally identifiable information – which is also defined in the rule as data which is used to uniquely identify a person such as name, SS#, etc. A definition of "Registrant" is also included. This means affiliate companies such a sports wagering marketing affiliate companies which have the purpose of offering a link in the form of a click on ad to redirect a participant to a sports wagering site.

The General Requirements section has been updated and now includes identical language to that set forth in West Virginia Code §29-22D-1 et seq. This includes the general exclusion of daily fantasy sports.

Finally, a new section pertains to Licensing and Registration and makes the rule consistent with the Interactive Wagering Rule. The change allows market affiliates to act as a registrant of wagering services, not a supplier, which also changes the fee from $1000 per year to $100 per year.

Tax Division, Municipal Sales and Use Tax Administration, 110 CSR 28

This rule implements the provisions of W. Va. Code §11-10-27, amended in House Bill 4461 from the 2022 Regular Session, that provide that the Tax Commissioner's administrative fees for collecting municipal sales and use taxes be deposited into the Tax Administration Services Fund instead of the Local Sales Tax and Excise Tax Administration Fund, and fixes those fees at 1% of collections. The amendments also remove language relating to computing the fee under the provisions of law before the passage of House Bill 4461.

Tax Division, Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes, 110 CSR 01J

This rule lists the estates subject to property taxation under the rule. Natural gas liquids were added throughout this section as a separate substance. Oil, natural gas liquids, and natural gas are separately and specifically listed.

The modified rule adds and changes definitions of many key terms, including actual annual operating costs, gross receipts, natural gas liquids, and total production.

Specific sections detailing the methods of valuing the different types of property (e.g., oil producing, natural gas producing, home-use only wells, etc.) are either added or revised.

Values for oil and/or natural gas producing property will be determined through the process of applying a yield capitalization model to net receipts. Net receipts are the gross receipts, less royalties paid, and less actual annual operating costs for the working interest. A yield capitalization model is applied to the gross royalty payments for the royalty interest.

The rule contemplates valuation when ownership of the property is split by lease or agreement.

The rule then describes the valuation determination for oil and natural gas wells, as well as the valuation of a royalty interest.

The different models for valuation are then described, including the yield capitalization model, the working interest model, and the royalty interest model. A decline rate adjustment is also contemplated and described. The capitalization rate is stated to be state-wide and determined annually. The rule also states that depletion of the asset must be considered. Also considered by the Commissioner is the proportion of equity and debt used by the industry to support ongoing activities. Certain factors regarding this consideration are laid out in the rule.

The rule states that gross proceeds are determined at the point of sale of the output of a well in an arm's length transaction. There are also calculations contemplated for when the lessee's contract sets the sales price of natural gas as a percentage of the purchaser's gross proceeds after processing the gas.

Valuations regarding sale to market affiliates, related parties, and times when a purchaser provides services typically the responsibility of the lessee are also considered.

Retention of relevant data for audit purposes must be retained. The rule describes various costs and how they must be allocated as well as a distinction between allowable and non-allowable costs.

The rule then describes a default method of valuation for when the producer does not file a complete return by the August 1 due date. The return to be filed is then described.

The rule states that the Commissioner will publish an annual summary of the variables used to determine the value of oil or natural gas property. The published variables will include information about the capitalization rates and the safe harbor rates.

The rule concludes with provisions concerning confidentiality of records and data.

Tax Division, Farm-To-Food Bank Tax Credit, 110 CSR 13DD

The rule amends the sunset date to August 1, 2028.

Tax Division, West Virginia Film Industry Investment Act, 110 CSR 13X

This rule implements changes made to WV Code §11-13X-1, et seq., enacted in House Bill 2096 in the 2022 Regular Session that reinstated a tax credit for companies engaged in the business of producing film industry productions, which had ended in 2018. In addition to removing the $5 million aggregate maximum

amount of credit that can be taken each year, administration of the program is moved to the Department of Economic Development and the minimum qualifying expenditure threshold was changed from $25,000 per project to $50,000 per year, among other changes, including changes to definitions (section 2), the amount of the tax credit (section 3), requirements for the credit and the application for the credit (section 4), review by the Department of Economic Development (section 5), forfeiture of the credit (section 6), uses and transferability of the credit; (section 7), confidentiality (section 8), requirements to claim the tax credit, applicability of various tax laws, and maintenance of records (section 9), and effective dates, sunset date, and preservation of film tax credits earned prior to the sunset date (section 10).

There is a newly added amendment to the application section of the rule. That section mentions the requirements of the application for "commercials," which are explicitly deemed not to be "qualified projects" in section 2, subsection 2.1 of the rule. The amendment merely removes the word "commercials," but leaves all other language intact.

Tax Division, Property Transfer Tax, 110 CSR 22

This rule amends the sunset date to August 1, 2028.

Tax Division, Personnel Rule for the Tax Division, 110 CSR 42

Amends the sunset date to August 1, 2028.

CODE REFERENCE: West Virginia Code §64-7-1 et seq. – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 356

Authorizing DOT to promulgate legislative rules

This committee substitute contains 6 rules relating to the Department of Transportation and is known as Bundle 8.

Division of Motor Vehicles, Administrative Due Process, 91 CSR 01

This rule amends a current legislative rule. It eliminates references to administrative hearings for DUI offenses and to the Office of Administrative Hearings. These amendments are a result of the passage of Committee Substitute for Senate Bill 130 during the 2020 Regular Session, which terminated the Office effective July 1, 2020, and transferred DUI hearings to the courts.

This rule also updates the administrative process for other types of hearings, allowing electronic or telephonic hearings to be conducted, and electronic requests for hearings to be made. It increases docket fees and fees and mileage paid to witnesses at administrative hearings and modifies the hearing transcript fee provisions.

Division of Motor Vehicles, Examination, and Issuance of Driver's License, 91 CSR 04

This rule amends a current legislative rule. As a result of the passage of House Bill 4535 during the 2022 Regular Session, the rule deletes the requirement for a school eligibility certificate to be presented before a driver's license may be issued to an applicant under the age of 18.

The rule also allows issuance of an identification card without a photo for religious reasons. The amendment is the result of passage of Enrolled Committee Substitute for House Bill 2177 during the 2022 Regular Session.

It also allows an applicant for a license to return to take the road skills examination without waiting the otherwise mandatory seven days if the applicant failed because of a mechanical defect in his or her vehicle and the defect is corrected. First-time applicants for a CDL, for a school bus or passenger endorsement or for a hazardous material endorsement to a CDL must successfully complete a Federal Motor Carriers Safety Administration Entry Level Driver's Training Course before they may take the road skills or endorsement examination under the rule.

Division of Motor Vehicles, Denial, suspension, revocation, disqualification, restriction, nonrenewal, cancellation, administrative appeals, and reinstatement of driving privileges, 91 CSR 05

This rule amends a current legislative rule. It amends the administrative process for adverse actions by DMV against an individual's operator's license. Currently, hearings contesting adverse actions are taken to circuit court. The rule provides for an administrative hearing by DMV with an appeal taken pursuant to the contested cases provisions of W. Va. Code, §29A-5-1 et seq. The amendment is the result of passage of House Bill 4535 during the 2022 Regular Session.

The rule amends the current rule regarding suspension of operators' licenses under the points system. It allows a licensee to pay a $200 penalty fee in lieu of the suspension and any reinstatement fee, if he or she has not used that alternative in the preceding two years.

The rule modifies provisions relating to the effect of failure to comply with school attendance law on licensure. It lowers the age to 17 or below for which school attendance requirements apply, and no longer allows suspension or denial of a license. Instead, the license may be restricted to driving for work or medical purposes or for religious or educational pursuits.

The rule adds a new provision requiring the Division to take the same action against the license of an individual convicted in municipal or similar courts as would be required if the offense for which the conviction was entered is substantially similar to an offense defined in code. Where no mandatory sanction is specified by code, the DMV commissioner has discretion to enter the sanction entered by the court.

The section regarding the Alcohol and Drug Test and Lock Program has been amended to allow participation in the program of a person whose license has been revoked for driving under the influence of a controlled substance; and a person who has been convicted of driving on a suspended or revoked license, if the person serves the revocation or suspension period as additional participation time in the program. Additionally, language has been added providing for a temporary letter of authorization to operate a motor vehicle prior to receipt of a specially marked restricted license. The participant must apply for the restricted license immediately upon installation of the equipment. It now also provides that due consideration be given when lawfully prescribed medication yields a positive result in a drug test.

Finally, the rule adds a new section implementing W. Va. Code §17D-4-3, allowing the commissioner to suspend the license and related registration of individuals who have failed to timely satisfy a judgment. It establishes a procedure for determining the validity of the judgment and that the judgment falls within the scope of the relevant code section, provides for payment of certain fees set out in code, and authorizes reinstatement of the license and registration upon proof of satisfaction of the judgement, consent of the judgment creditor, discharge in bankruptcy, or expiration of the judgment.

Division of Highways, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance, 157 CSR 02

This rule amends a current legislative rule. It gives the Commissioner the exclusive authority to designate excess real property and requires that all deeds transferring any interest owned by the Division be quitclaim deeds.

Department of Transportation, State Rail Authority Organizations and Meetings, 172 CSR 01

This rule is being repealed because the State Rail Authority no longer exists.

CODE REFERENCE: West Virginia Code §64-8-1 et seq. and §64-12-5 – amended

DATE OF PASSAGE: March 8, 2023

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Senate Bill 361

Authorizing miscellaneous boards and agencies to promulgate legislative rules

This bill contains 49 rules from Miscellaneous Agencies and Boards and is known as Bundle 9.

Board of Accountancy, Board Rules and Rules of Professional Conduct, 01 CSR 01

This rule amends a current legislative rule. It amends definitions and the certification process. Most significantly it amends the educational coursework which a candidate must complete to be eligible to sit for the Certified Public Accountants (CPA) exam. According to the Board, this reflects the changes to the Uniform CPA Exam published by the American Institute of Certified Public Accountants which will be implemented in January 2024. Finally, the timeframe for which passing test results remain valid was 18 months from the date of the test but is now being changed to 18 months from the time in which a candidate is notified of the passing score.

Board of Acupuncture, Advertising by Licensed Acupuncturists, 32 CSR 05

This rule amends a current legislative rule. It eliminates the following recognized titles of acupuncturists in this state: Master of Science in Oriental Medicine: Certified Acupuncturist: and Acupuncture Physician and modifies Doctorate of Acupuncture and Oriental Medicine. It requires that all titles be commensurate with education and training.

Board of Acupuncture, Standards of Practice of Acupuncture by Licensed Acupuncturists, 32 CSR 06

This rule amends a current legislative rule. It removes references to sterilization of equipment and instead requires use of a clean needle technique and standards of practice in accordance with the Council of Colleges of Acupuncture and Herbal Medicines.

The rule also references Injection therapy as opposed to point puncture (aquapuncture) and defines what is entailed in the therapy, sets forth permissible substances, and requires practitioners trained in injection therapy to comply with the ability to perform resuscitative procedures. The rule limits when a practitioner may use pointpuncture. The House amended the rule to include that the practitioner must wash his or her hands before examining patients or handling acupuncture needles and other instruments and between patients.

Board of Acupuncture, Continuing Education Requirements, 32 CSR 09

This rule amends a current legislative rule. It removes provisions relating to record maintenance by the provider, approval by the Board of continuing education courses offered by a provider, application for course approval, instructors, advertisement, and denial, withdrawal, and appeal of approval. The rule removes requirements on both providers and licensees regarding documentation of the CE credits. The number of required credit hours is reduced from 24 to 15 every two years, and the number of CE credit hours which may come from an alternative source such as administrative management, language training, or education methodology is reduced from 12 to 6.

Department of Agriculture, West Virginia Apiary Rule, 61 CSR 02

This rule amends a current legislative rule which establishes general operating rules and procedures for the inspection of apiaries, control of bee diseases, and limitation of liability for beekeepers. It requires a permit if bees are imported into West Virginia for any reason. Provisions regarding an educational bee registration exemption as well provisions requiring sterilization in instances of transmissible bee diseases

are deleted. The House added language requiring the Agriculture Commissioner to mail an application for registration to all persons known to keep bees from the previous year.

Department of Agriculture, Schedule of Charges for Inspection Services: Fruit, 61 CSR 8B

This rule amends a current legislative rule which establishes charges for federal-state inspection service for fruit. The rule updates the rate for GAP.GHP/Audits from a specified hourly rate to a general reference to the hourly rate established by USDA's Agricultural Marketing Service pursuant to WVDA/USDA cooperative agreement.

Department of Agriculture, Noxious Weeds Rule, 61 CSR 14A

This rule amends a current legislative rule which sets forth provisions governing noxious weeds, including definitions, cooperative suppression activities, prohibitions, and a list of noxious weeds. The rule amends Appendix A to update the federal noxious weed list to include 15 new terrestrial species.

Department of Agriculture, Grade A Pasteurized Milk, 61 CSR 15

This rule amends a current legislative rule which establishes minimum requirements governing Grade "A" pasteurized milk. The rule updates references to federal materials being incorporated by reference, including removal of one portion of the Appendix Q of the USDA Grade "A" Pasteurized Milk Ordinance and the addition of three USDA publications.

Department of Agriculture, Inspection of Nontraditional Domesticated Animals, 61 CSR 23D

This rule amends a current legislative rule which governs the inspection of nontraditional domestic animals (antelope, bison, etc.) and edible products derived from them by updating the sunset date.

Department of Agriculture, Hemp Products, 61 CSR 30

This rule amends a current legislative rule, which sets forth procedures and requirements for registration and regulation of hemp products sold within West Virginia The rule clarifies the authority of the Department to deny product registrations considered potentially hazardous and/or which pose a threat to consumer safety, deletes the requirement to include list of items intended for sale in the application to sell and distribute hemp products, deletes language excluding tetrahydrocannabinols from the standard for misbranded labels, deletes language specifying maximum percentage of tetrahydrocannabinolic acid for the minimum age labeling requirement to apply, and adds language authorizing the minimum age on label to be more restrictive than 18 years old.

Livestock Care Standards, 61 CSR 31

This rule amends a current legislative rule which governs the care and well-being of livestock. The rule adds and defines the term "dispossess" and replaces reference to "euthanize" with "dispossess".

Department of Agriculture, Farm to Food Bank Tax Credit, 61 CSR 36

This rule amends a current legislative rule which sets forth procedures and requirements for the Department's administration of the farm-to-food bank tax credit. The current rule specifies that the Department must determine if the listed value of donated edible agricultural products is reasonable based on fair market value and clarifies that this value is to be compared with the value claimed on the receipt form to ensure the value claimed is not higher. This rule updates the protocol for the Department's review of the estimated value of edible agricultural products when the taxpaying farmer does not include an invoice or other statement identifying the price received for products of comparable grade or quality for a previous sale. New language provides the protocol for when the price of the donated product cannot be determined and authorizes the Department to request additional information from the taxpayer.

Department of Agriculture, Farmers Markets, 61 CSR 38

This rule amends a current legislative rule which establishes the framework for regulation of farmers markets and farmers markets market vendors. The definition of a farmers' market is amended to include an on-farm market. A requirement has been added for any vendor selling fresh uncut produce at a farmers' market to complete and submit an annual produce affidavit form to the Department, only while the Department receives Food Safety Modernization Act funding from the federal Department of Agriculture. It has also been amended to add freeze-dried foods as a potentially hazardous farm and food product requiring a vendor permit in order to be sold at a farmers' market.

The rule adds safe handling instructions and any required date or lot codes to labeling requirements. Lastly, it adds USDA-inspected or certified facilities to the list of sellers of potentially hazardous food which must obtain a vendor permit from the Department to sell at farmers market and waives the vendor permit fee for these facilities.

Athletic Commission, Regulation of Boxing, 177 CSR 01

This rule amends a current legislative rule. The current rule allows for one-night semi-professional match-style fighting (non-MMA) events in which bouts must be 3 rounds, 60 seconds per round with 60 second rest periods between rounds. This rule would allow the Commission to authorize promotors to hold a one-night championship match-style contest where the Commission selects the number of rounds and how long they last, as long as a match (excluding rest periods) does not exceed 10 total minutes. It also provides that a contestant can't be barred from participation in such a match-style contest based upon prior wins in semi-professional tournament style events.

Athletic Commission, Regulation of Mixed Martial Arts, 177 CSR 02

This rule amends a current legislative rule. The current rule mandates that an amateur MMA fighter's first 3 bouts must be limited to 2-minute rounds with a minute rest period in between with each subsequent bout the time increases to 3-minute rounds with a minute rest period in between. This rule allows the Commission to establish a policy which could modify the number and time of rounds of an amateur contestant's fourth and subsequent bouts as long as the total bout (excluding rest periods) does not exceed 15 minutes.

Auditor, Standards for Voluntary Payroll Deductions, 155 CSR 03

This rule amends a current legislative rule. It removes any previously allowable voluntary deductions for employee associations. This is in response to Committee Substitute for House Bill 2009 which passed during the 2021 Regular Session.

The rule removes language regarding 1st and 2nd pay periods in favor of the now-standard bi-weekly pay period methodology for voluntary deductions.

The rule also: sets forth the procedure for an employee or officer to request an allowable voluntary deduction; makes the Auditor's authorization and approval of voluntary deductions permissible rather than mandatory; allows the Auditor to approve a charitable or commercial organization that does not have at least 50 employees from at least 2 state agencies; and allows the Auditor to approve any deduction that is not prohibited by law.

Conservation Agency, Operation of West Virginia State Conservation Committee and Conservation Districts, 63 CSR 01

This rule amends a current legislative rule which establishes procedures for election and appointment of conservation district supervisors, expenditures of funds by the State Conservation Committee, and compliance with the Open Governmental Proceedings Act.

The rule sets forth the qualifications for elected or appointed conservation district supervisors; adds provisions regarding elections, terms of office for county district supervisor, applicability of W. Va. Code §6-1-1 et seq. regarding removal of conservation district supervisors, and procedures when no candidate seeks office. The requirement for county district supervisor to be a farmer with minimum 5 years of land management or related experience, strong working interest in natural resources, and knowledge of conservation best management practices has been deleted and a requirement has been added that county district supervisor have experience in agriculture, conservation, or natural resources.

Finally, the rule clarifies the applicability of fund expenditure requirements and sources of funding, clarifies restrictions on use and availability of (state) watershed improvement program funds, removes references to watershed improvement districts, and adds references to local government usage of funds.

Conservation Agency, Conservation District Accounting and Auditing Standards, 63 CSR 04

This rule is new. It prescribes accounting and auditing requirements and establishes the minimum system of account and auditing practices and procedures that are to be used by conservation districts, which will be supplemented by local policies and procedures developed by the conservation districts themselves. The rule: defines terms; sets forth general requirements regarding administration of the accounting and auditing standards; explains basis of accounting and requires accounting records to be maintained on an accrual basis; sets forth requirements for signatures on transactions; provides requirements for bank accounts and institutions to be used by conservation districts for receipt and maintenance of funds; contains requirements for reconciliation of bank accounts and certificates of deposit; sets forth procedures for receipts processing; sets forth procedures for expenditure processing (invoices and bills); sets forth procurement processes for all funds held in a conservation district except co-administered funds; provides procedures for handling of conservation district contracts for projects using co-administered funds; contains requirements regarding fixed assets; sets forth procedures relating to payroll; provides requirements pertaining to financial statements; contains requirements for records and record retention; provides requirements for annual audits of the conservation districts; sets forth procedures for handling suspected fraud, waste, and abuse of assets; and lists supplemental policies and procedures to be established by the State Conservation Committee and by the conservation districts, respectively.

Board of Dentistry, Dental Recovery Networks, 05 CSR 15

This rule amends a current legislative rule relating to West Virginia Dental Recovery Networks (WVDRN). The rule opens the program to applicants for licensure; provides that participation in the WVDRN will not be disclosed to the Board, as long as it is voluntary and in compliance with the terms of the agreement to participate; and provides personally identifiable information (PII) will not be included in statistical reporting to the Board regarding the WVDRN. Finally, the rule will allow the WVDRN to assess the costs of participation in the WVDRN to participants.

Board of Funeral Service Examiners, Funeral Director, Embalmer, Apprentice, Courtesy Card Holders and Funeral Establishment Requirements, 6 CSR 01

This rule amends a current legislative rule which governs licensing and conduct of embalmers, funeral directors, funeral establishments, and courtesy card holders. The rule: includes hydrolyzation process in the definition of cremation; updates apprenticeship requirements to refer to combined funeral director and embalmer license as a funeral service license; changes the supervision requirement for an apprentice funeral director from direct to general; provides requirements for an apprenticeship for a funeral director only license; adds hydrolyzation to provision governing care of bodies involved in a crime or suspected crime; exempts business cards from advertising provisions; adds a new provision requiring 2 years to complete requirements for licensee-in-charge and provides a deadline of July 1, 2024, for completion; adds a prohibition on a licensed funeral establishment performing services if it is unable to hire full licensee-in-charge within 30 days; increases 5-year apprenticeship renewal fee to $125 and fee for 1-year extension of apprenticeship to $100; and adds requirement that 1 of 3 general funeral service continuing education hours must be in ethics.

Board of Funeral Service Examiners, Crematory Requirements, 6 CSR 02

This rule amends a current legislative rule which governs licensing and conduct of embalmers, funeral directors, funeral establishments, and courtesy card holders. The rule: defines terms; requires crematory and hydrolyzation facilities to have a certificate of registration; provides a certification requirement for crematory facilities and authorizes the Board to regulate certificate holders; requires crematory operator requirements to encompass the hydrolysis process; specifies who may perform or arrange steps in funeral process; requires a funeral service licensee to remove objects from a body and deletes language authorizing removal of objects by crematory operators; adds continuing education requirements for crematory operators; and adds requirements for hydrolysis certification.

Board of Funeral Service Examiners, Fee Schedule, 6 CSR 07

This rule amends a current legislative rule which establishes a schedule for fees paid to the West Virginia Board of Funeral Services Examiners. The rule adds a $200 initial license fee for funeral director only license and a $250 biennial renewal fee for funeral director only license.

Board of Landscape Architects, Registration of Landscape Architects, 9 CSR 01

This rule amends a current legislative rule. The current rule requires applicants for licensure as a landscape architect provide four references upon application. This rule would lower this requirement to just three references, which reportedly reflects the national standard.

Board of Medicine, Licensing of Physicians and Podiatric Physicians and Disciplinary Procedures for Applicants, licensees, Credential Holders, 11 CSR 01A

This rule amends a current legislative rule. It is in response to Enrolled Committee Substitute for Senate Bill 585, which passed during the 2022 regular legislative session, and created a new code section W. Va. Code §30-3-11c, relating to administrative licenses. Specifically, physicians who seek to manage the integration of clinical medicine, strategy operations, and other business activities related to the delivery of health care services, advise both public and private organizations on health care matters; authorize and deny financial payments for care; organize and direct research programs; review are provided for quality purposes; and perform other similar duties that do not require or involve direct patient care may now apply for an administrative license.

This rule sets forth the qualification and application requirements for an administrative medicine license, establishes practice parameters pursuant to an administrative medicine license, including a prohibition on clinical practice; sets forth the process and limitations related to converting an unrestricted medicine license (including those granted via interstate compact) to an administrative medicine license and vice versa; and establishes that the professional conduct standards set forth in the Medical Practice Act and the Board's rules apply to administrative medicine licenses.

This rule provides that an administrative medicine license is valid for a period of two years and that an administrative medicine license is not eligible for inactive status, as inactive licenses relate to the ability to practice clinical medicine. An administrative medicine license is subject to the same denial, probation, limitation, discipline, suspension or revocation as other licensees and professional credential holders.

Board of Medicine, Licensing, Disciplinary and Complaint Procedures; Continuing Education, Physician Assistants, 11 CSR 01B

This rule amends a current legislative rule. It is in response to House Bill 214 enacted during the 2022 Second Extraordinary Legislative Session which modified the prescriptive authority for physicians and provided the Board with rulemaking authority. The rule provides for the regulatory framework for the licensure, regulation, and discipline of physician assistant practice in West Virginia. It authorizes a physician's assistant to practice at one or more additional locations not included on his or her activated practice notification on an occasional basis not to exceed two days per month per location; and provides that the only limits on prescriptive authority relate to controlled substances and narcotics.

Board of Medicine, Collaborative Pharmacy Practice, 11 CSR 08

This rule amends a current legislative rule. The rule is in response to Enrolled Committee Substitute for House Bill 4324, passed during the 2022 Regular Legislative Session, which modernized collaborative pharmacy practices and streamlined procedures relating to the registration of collaboration with the Boards of Pharmacy, Medicine, and Osteopathic Medicine. This rule is agreed upon by the Board of Medicine, the Board of Pharmacy, and the Board of Osteopathic Medicine.

The rule specifies the requirements for collaborative pharmacy practice. It establishes requirements for the development of a collaborative pharmacy agreement between collaborating pharmacists and physicians at the practice level and outlines the process and requirements of submission of a valid practice notification to the boards. It also establishes eligibility for participation in collaborative pharmacy practice agreements and sets forth the role of the Board of Pharmacy in verifying pharmacist eligibility. It requires that the boards maintain a list of all practice notifications for collaborative pharmacy practice.

Board of Medicine, Prohibiting Sexual Misconduct by Healthcare Practitioners, 11 CSR 16

This rule is new and is in response to Enrolled Committee Substitute for Senate Bill 606 which passed during the 2022 Regular Session. It provides that sexual misconduct, by either sexual contact or sexual interaction, constitutes gross misconduct. It also explicitly states that patient consent, or patient initiation, to any sexual contact/sexual interaction/sexual impropriety with a practitioner is not a defense to any charge that the practitioner engaged in sexual misconduct or a mitigating factor to any charge that the practitioner engaged in sexual misconduct.

This rule also prohibits a practitioner from committing sexual misconduct with a patient surrogate, establishes parameters by which a practitioner may have a romantic relationship with a former patient that is not categorized as sexual misconduct, addresses other types of sexual misconduct, including sexual harassment, that would constitute prohibited sexual misconduct by a practitioner, and provides that

practitioners who engage in sexual misconduct, or other violations of the professional conduct standards contained in this rule are subject to license/credential denial proceedings or disciplinary action.

Board of Optometry, Optometric Telehealth Practice, 14 CSR 12

This rule is new. It lays out the requirements for the practice of optometric telemedicine. It requires the optometrist performing telehealth to have received and reviewed the patient's records, performed some examination, provided the patient with information about services to be performed, and initiated any additional diagnostics or referrals as needed. The standard of care for providing optometric care in the State of West Virginia via telehealth services by a registrant or licensed optometrist is the same as for in-person care. This rule also states that nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion determines that an in-person encounter is required. A telehealth optometrist may not prescribe Schedule II drugs.

The rule also sets forth the process for an optometrist wishing to participate in telemedicine to register with the Board and removes the exception to the prohibition on using any automated refractor or other automated or remote testing device to generate refractive data.

Board of Osteopathic Medicine, Osteopathic Physician Assistants, 24 CSR 02

This rule amends a current legislative rule in response to House Bill 214 which was passed during the 2022 Second Special Session of the WV Legislature. The rule regards osteopathic physician assistants and relates to their licensing, practice, prescribing limitations, professional discipline, and continuing education. The rule allows a physician assistant to practice on behalf of a health care facility at one or more additional locations, such as a health fair, that are not included on a practice notification on an occasional basis of 2 days per month per location. It also provides that a physician assistant may not prescribe a Schedule I controlled substance. A physician assistant can prescribe a 3-day supply of a Schedule II controlled substance and must comply with existent state laws regarding opioids and narcotics. Otherwise, there are no formulary limitations to a physician assistant's prescriptive authority.

Board of Pharmacy, Licensure and Practice of Pharmacy, 15 CSR 01

This rule amends a current legislative rule. Substantive changes were made to the rule with respect to the provisions for a pharmacist-in-charge and for a Pharmacist Consultant.

Locations that need a pharmacist consultant are specified. These include: a hospital or medical clinic without a pharmacy; a humane society; a weight loss clinic; an urgent care clinic; a long-term care facility; and an opioid treatment facility or medication assisted treatment facility. They do not include: a teaching institution/researcher; emergency services; law enforcement; or a veterinary hospital or clinic.

Requirements related to a pharmacist consultant no longer apply to the following facilities: a skilled nursing facility; intermediate nursing facilities; nursing homes; rest homes; personal care centers; governmental agencies; jails and correctional facilities; clinics and other places where a pharmacy permit is not held but a controlled substance permit is required; or any place where a pharmacists' expertise is needed to increase or improve patient care and safety in the use of drugs and devices or where expertise is needed to ensure proper storage conditions and safeguards.

Board of Pharmacy, Uniform Controlled Substances Act, 15 CSR 02

This rule amends a current legislative rule. The purpose of the rule is the registration and control of the manufacture and distribution of controlled substances in West Virginia. The only substantive amendment is to the section which requires a wholesale drug distributor to report suspicious orders. It now requires the reporting be on a Board supplied form.

Board of Pharmacy, Registration of Pharmacy Technicians 15 CSR 07

This rule amends a current legislative rule. It has been amended to increase the ratio of pharmacists-in-charge to pharmacy technicians and/or pharmacy technician trainees from one to four to one to six.

Board of Pharmacy, Regulations Governing Pharmacy Permits, 15 CSR 15

This rule amends a current legislative rule. The purpose of the rule is to govern the licensure and regulation of pharmacy permits.

New language regarding advertising has been which prohibits advertising that may jeopardize the health, safety, or welfare of patients. A pharmacy may not require a pharmacist to participate in advertising. Additional language provides for a working environment that protects the health, safety, or welfare of a patient, which includes adequate staff, appropriate opportunities for uninterrupted rest, and adequate time to complete professional duties. A new section adds a whistleblower protection clause. It provides that a permit or license holder in violation of federal or state whistleblower laws may be subject to disciplinary action by the Board.

Board of Pharmacy, Inspections, 15 CSR 19

This rule is new. It is in response to a report of the Post Audit Division that found that the Board of Pharmacy lacked formal, written policies, procedures, and processes for its inspection program.

The rule requires an inspector to meet minimum qualifications that include at least 10 years of pharmacy practice experience and completion of training offered by the Board, the National Investigator and Inspector Training Basic Course, and the National Association of Boards of Pharmacy Certification for Inspection Sterile Compounding Facilities.

The Board may parcel the state into regions each with approximately the same number of licensed facilities. Each inspector would be assigned a region in which they would be responsible for inspecting all facilities licensed by the Board.

The rule also has requirements regarding frequency of inspections, notice of inspections, unscheduled inspections, necessary requirements for inspections, and reports to the Board.

Board of Pharmacy, Donated Drug Repository Program, 15 CSR 20

The rule is new and is in response to the passage of Enrolled House Bill 2817 during the 2022 Regular Session of the Legislature which created the Donated Drug Repository Program.

The rule contains provisions relating to waivers for donors and eligible recipients from any provision of the rule related to this program if it is in the interest of public health; allows persons or entities to dispose of an eligible drug by donating it to an eligible recipient; defines an eligible recipient; requires drugs from a donor to be in tamper-resistant packaging or have a tamper evident seal; specifies who may donate legally obtained pharmaceuticals; specifies which drugs may or may not be donated; requires identifying information be removed; and sets forth requirements for storage and inventory. It requires donated drugs be kept separate from other inventory and provides for repackaging.

Eligible patients must meet income guidelines consistent with Medicaid eligibility, be uninsured or underinsured, or enrolled in a public assistance program. If a donated drug exceeds the need for indigent patients, that drug may be dispensed to other persons in need.

With respect to dispensing the drugs, it must be consistent with law. The drugs must be dispensed pursuant to a valid prescription. The patient must be provided appropriate counseling. Donated drugs may not be resold and are considered nonsalable.

The rule contains record keeping requirements and limits liability unless the conduct is willful or wanton misconduct.

Board of Psychologists, Code of Conduct, 17 CSR 06

This rule amends a current legislative rule by extending the sunset provision from July 1, 2023, until August 1, 2028.

Board of Registered Professional Nurses, Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct, 19 CSR 03

This rule amends a current legislative rule in response to Senate Bill 518 passed during the 2022 Regular Legislative Session.

This rule governs applicants for licensure as a registered nurse that were educated in the United States or one of its territories, veterans, and applicants for licensure as a registered nurse that were educated outside the United States or one of its territories. It clarifies the process of completing the state and federal background check; clarifies what actions are necessary by the applicant to supplement his or her personal history as it relates to establishing good character and a clean professional credentialling history relates to paying required fees for licensure by examination; clarifies the amount of training that is required to make veteran training commensurate with civilian training; and specifies required examinations.

A new section has been added relating to a temporary permit for an exam applicant. This subsection increases the time for which an exam applicant can possess a permit from 90 to 180 days or until the licensing examination results are released. Temporary permits are non-renewable.

The rule also requires that an applicant for endorsement submit to a state and federal background check and increases the length of time a temporary permit is valid for an endorsement applicant from 90 days to 180 days.

The time frame for renewal of a license is changed from annual to biennial, specifically October 31 of each even numbered year.

Board of Registered Professional Nurses, Advanced Practice Registered Nurses Licensure Requirements, 19 CSR 07

This rule amends a current legislative rule in response to House Bill 214, which passed during the 2022 First Extraordinary Session, which expanded the prescriptive authority of W. Va. Code §30-7-15a.

A new section has been added which provides for standards relating to the scope of practice for Advanced Practice Registered Nurses. It allows Advanced Practice Registered Nurses to perform nursing acts consistent with their education, training, and experience and which they are competent to perform. There is an amendment included that clarifying the circumstances of national recertification.

Board of Registered Professional Nurses, Limited Prescriptive Authority for Nurses in Advanced Practice, 19 CSR 08

This rule amends a current legislative rule in response to House Bill 214, which passed during the 2022 First Extraordinary Session, which expanded the prescriptive authority for nurses in advanced practice. It strikes through the previously applicable restrictions on APRN prescriptive authority and replaces that language with language regarding their currently expanded prescriptive authority.

Board of Registered Professional Nurses, Continuing Education and Competence, 19 CSR 11

This rule amends a current legislative rule that has not been reviewed since 2007. Most of the amendments are technical in nature or remove obsolete language. It eliminates the “twelve-month”

reporting period for continuing education credits, thus, linking continuing education reporting to license renewal which is now biennial.

Board of Registered Professional Nurses, Fees for Services Rendered by the Board, 19 CSR 12

The rule amends a current legislative rule in response to Enrolled Committee Substitute for Senate Bill 518 passed during the 2022 Regular Legislative Session which affected several fees.

This Section addresses the schedule of fees assessed by the Board of Registered Nurses. The rule removes the separate fee for a temporary permit and incorporates this into the RN endorsement fee reduces the current fee from $100.00 to $25.00; increases the renewal fee from $60.00 to $95.00 based on an increases in the time a license is valid from one to two years; removes the fee for a duplicate license and name change; removes the fee for a frameable certificate reduced the fee for endorsement of advance practice registered nurses from $50.00 to $30.00; and adds the following new fees $7.00 relating to an RN conversion to a muti-state license, $10.00 relating to a name change, $50.00 relating to a New Prelicensure Nursing Education Program Application, and $100.00 relating to an RN and APRN Telehealth Registration (Initial and Renewal).

Board of Registered Professional Nurses, Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database, 19 CSR 14

This rule amends a current legislative rule by amending the scope of the rule to set forth the provisions of W. Va. Code §60A-9-5A (a) relating to registering with the Controlled Substances Monitoring Program.

Board of Registered Professional Nurses, Telehealth Practice Requirements; Definitions, 19 CSR 16

This rule amends a current legislative rule. It establishes procedures for the practice of telehealth for registered nurses and advanced practice registered nurses. The rule allows advance practice registered nurses to prescribe Schedule II controlled substances and clarifies the option that in-person treatment be available if the practitioner thinks that an in-person visit is required. It is amended to remove the requirement that a telehealth provider verify that a patient had visited an in-person health care practitioner within 12 months of an initial telehealth service by the provider.

Secretary of State, Early voting In-Person Satellite Precincts, 153 CSR 13

This rule amends a current legislative rule which governs criteria to assure neutrality and security in the selection process for early in-person satellite precincts and establishes processes and deadlines for establishing the precincts. The rule changes references from satellite precinct to community voting location throughout the rule. The rule: adds a requirement that a community voting location proposal to be in writing; authorizes the county executive committee chairs to nominate sites as early voting community voting locations and provides requirements for the nomination process; deletes language requiring early voting satellite precinct proposals to be approved on a per-election basis and replaces this provision with authority for an approved community voting location to be used in subsequent elections and provides requirements for continued use; adds a provision with process for handling an emergency community voting location change up to 60 days before election day; and specifies the process for handling a community voting location change within 60 days of election day.

Secretary of State, Combined Voter Registration and Driver Licensing Fund, 153 CSR 25

This rule amends a current legislative rule which establishes guidelines for the Combined Voter Registration and Driver Licensing Fund. The rule: specifies that the rule applies to the remainder of the Combined Voter Registration and Driver Licensing Fund; deletes and reserves entire section relating to

administration of the fund and deposit of $0.50 DMV license issuance fee; and deletes the obsolete provision regarding payment for National Change Of Address service.

Secretary of State, Administrative Procedures for the Nonpublic Funding for Election Administration Fund, 153 CSR 54

This rule is new. It establishes administrative procedures and eligibility of West Virginia counties to apply and receive funding for election administration and related expenses from nonpublic funding sources, payable from the Nonpublic Funding for Election Administration Fund created by W. Va. Code §3-1A-9.

It specifies the public bodies and officials who are subject to this rule, requires a covered public body or official to apply to the State Election Commission (SEC) to receive funding from the Nonpublic Funding for Election Administration Fund and specifies information to be included in the application; outlines the process for application review, including applicable deadlines, public meeting protocol, deliberations on the application including factors for consideration, decision-making and communication of the decision to the applicant, steps following approval or denial, and the process for reconsideration of a rejected application; and outlines the process for donations made by a nonpublic funding source, including requirement for donations to be deposited into the Nonpublic Funding for Election Administration Fund and distributed by the SEC, handling of suggested recipients or purposes specified by a donor, protocols for partial or full revocation of a donation, and requirements for notice by the SOS to the nonpublic funding source.

Treasurer, Enforcement of the Uniform Unclaimed Property Act, 112 CSR 05

This rule amends a current legislative rule regarding the Uniform Unclaimed Property Act based on the passage of Enrolled Committee Substitute for House Bill 4511 during the 2022 Regular Session, which made substantive changes to that Act.

The amendment adds provisions relating to virtual currency, securities, and the termination of retirement plans. One of the key amendments to the rule allows the Treasurer to waive the requirement to file a claim for property having a value of less than $5,000, that is not a tangible item, and that does not require a W-9 (a form used to obtain taxpayer information to assist the holder to provide informational reporting to the IRS) to be completed. The program implementing this change is called “West Virginia Cash Now”.

The rule also adds a section prohibiting the Treasurer from selling a military medal or award and prescribing how transfer of the medal or award is to be accomplished.

Treasurer, Hope Scholarship Program 112 CSR 18

This rule is new. It effectuates the funding mechanism of the Hope Scholarship Act found in §18-31-1 et seq. of the code.

This rule sets forth eligibility requirements to receive Hope Scholarship funds. To be eligible, a student must: be a resident of the state; have not successfully completed a secondary education program; be under 21 years old; and meet other enrollment criteria. Section 3 also provides criteria for participation, if on July 1, 2024, the participation rate in the program (made up of both participants and eligible applicants) during the previous school year is less than 5% of net public school enrollment adjusted for state aid purposes for the previous school year; provides for termination of an account if a student for any reason becomes ineligible during the academic year,

This rule sets forth the application process and sets forth the minimum information which the application must contain. To enroll, the application must be submitted by the designated account holder on the student's behalf. This section also requires renewal applications, to be submitted every year and empowers the Board to accept applications from eligible students who missed the application period on an ad hoc basis.

The rule also requires the authorized account holder, be only one eligible person authorized to manage the account on behalf of the student. Eligible persons are the student's parent, guardian, custodian, or other person with legal authority to act on behalf of the student, as determined by the Board; or the student, if he or she is 18 or older on or before the first day of the academic year. The rule allows a secondary account holder who meets the same eligibility requirements as the primary account holder and is limited in his or her authority to use the funds to purchases using the online portal. A primary account holder may remove the secondary account holder's access at any time by submitting a request to the Board. This section provides for the removal of an authorized account holder under specified circumstances.

CODE REFERENCE: West Virginia Code §64-9-1 et seq. – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 409

Authorizing Department of Commerce to promulgate legislative rules

The Committee Substitute, which is the Department of Commerce Bundle, contains 10 rules. It is known as Bundle 10.

Development Office, Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program, 145 CSR 15

This rule amends a current legislative rule, which governs the West Virginia Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program (Matching Funds Program) that provides grants for West Virginia for-profit small businesses. The rule reduces from three to two the monthly periods per year during which applications for participation in the Matching Funds Program will be accepted by the Department of Commerce. Thus, applications would be accepted only during the periods of January 1 – 31 and July 1 – 31, rather than during the periods January 1 – 31, May 1 – 31 and September 1 – 30 each year. The agency advises that this is necessary because the history of recent Matching Funds Program revenues from the p-card rebate program have been insufficient for a full funding of awards three times a year.

Division of Labor, Board of Manufactured Housing Construction and Safety Rule, 42 CSR 19

This rule amends a current legislative rule. The Board of Manufactured Housing Construction and Safety has been approved by the federal Department of Housing and Urban Development (HUD) as the state administrative agency (SAA) with respect to enforcement of federal manufactured housing construction and safety standards. To maintain that designation, HUD conducts periodic reviews of the Board's programs and rules. This rule address concerns identified by HUD during its most recent review and will allow the Board to continue to be the SAA for manufactured housing in the state.

Most of the changes made by the amendments are technical. The rule authorizes the Board to provide private home inspections to help resolve consumer complaints. It also authorizes random inspections of private manufactured home installations to hold installers responsible for the work they perform. It provides an hourly inspection fee and allows the payment of reasonable expenses.

The rule amends the complaint handling procedures, making the process clearer and more specific. It adds a new section regarding cease-and-desist orders which authorizes the Board to order persons engaged in the manufactured housing business without a license to stop doing so immediately and to impose a penalty of not less than $200 nor more than $1,000.

Division of Labor, Supervision of Plumbing Work, 42 CSR 32

This rule amends a current legislative rule, relating to the licensing and regulation of plumbing work by the Division of Labor. The amendments implement changes resulting from the passage of Enrolled Committee Substitute for House Bill 2008 during the 2021 Regular Session and Enrolled Committee Substitute for House Bill 4634 during the 2022 Regular Session.

House Bill 2008 altered the requirements for licensure for all classifications of plumbers: plumbers-in-training, journeyman plumbers, and master plumbers, essentially requiring passage of a written examination for licensure as a journeyman, passage of a written examination plus at least one year as a journeyman for licensure as a master, and payment of a fee not to exceed $25 for licensure as a plumber-in-training. The rule reflects those changes.

House Bill 4634 effected a form of universal licensure recognition, authorizing licensure for plumbers who are licensed in other states, or have work experience in other states that do not license plumbers. The rule reflects those requirements.

Division of Labor, Regulation of HVAC Work, 42 CSR 34

This rule amends a current legislative rule. Passage of Enrolled Committee Substitute for House Bill 2008 in 2021 Regular Session and Enrolled Committee Substitute for House Bill 4634 in 2022 Regular Session necessitated amendment of the existing rule relating to HVAC work.

House Bill 2008 modified the requirements for licensure for HVAC technicians. The rule reflects a reduction in the experience required for licensure as an HVAC tech from 8,000 hours (2,000 hours on HVAC systems plus 6,000 hours of HVAC-related work, including sheet metal industry work) to 2,000 hours. It also reflects the elimination of the 2,000 hours experience requirement for HVAC residential technician licensure.

The rule also adds provisions implementing the licensure recognition requirements of House Bill 4634 from the 2022 Regular Session relating to licensing based on work experience licensing when the applicant is licensed in another state.

Division of Labor, Registration of Service Persons and Service Agencies, 42 CSR 35

This rule amends a current legislative rule by extending the sunset date.

Division of Labor, Registration of Weighing and Measuring Devices Used by Businesses in Commercial Transactions, 42 CSR 36

This rule amends a current legislative rule by extending the sunset date.

Division of Natural Resources, Hunting, Fishing, and Other Outfitters and Guides, 58 CSR 11

This rule amends a current legislative rule by extending the sunset date.

Division of Natural Resources, Commercial Whitewater Outfitters, 58 CSR 12

This rule amends a current legislative rule. It reflects changes approved by the Whitewater Commission for flow rate changes that reduced the regulatory burden on some waters which had previously been designated as whitewater zones. The rule also adds some additional permitted rental zones.

Finally, the rule increases the cubic feet per second inner tube restriction on several parts of the New River; allows inner tube, canoes, inflatable kayaks, kayaks, standup paddle boards, and rafts from Teays Landing to the bridge at Hawks Nest State Park; and forbids rental of any vessel or watercraft at flows exceeding 10,000 cubic feet per second for the Thurmond location.

Division of Natural Resources, Special Motorboating Regulations, 58 CSR 27

This rule amends a current legislative rule. It reflects changes requested by the Pleasants County Commission and the City of Morgantown.

Each political subdivision solicited public comment on its proposed changes and then applied to DNR for a rule change based on the results. Pleasants County sought to extend a no wake zone on the Ohio River due to safety concerns in an adjacent swimming area.

Both Pleasants County and Morgantown requested the removal of buoy requirements to sync with US Coast Guard federal regulatory changes.

Division of Natural Resources, Miscellaneous Permits and Licenses, 58 CSR 64

This rule amends a current legislative rule by extending the sunset date.

CODE REFERENCE: West Virginia Code §64-10-1 et seq. – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 461

Relating to WV public employees grievance procedure

The bill updates the procedures which govern claims brought by public employees alleging a violation, misapplication, or misinterpretation of the statutes, policies, rules, or written agreements applicable to them.

The bill clarifies that neither actions taken by an employer related to declared states of preparedness or states of emergency, nor matters relating to protected classes under the West Virginia Human Rights Act, may be grieved.

The bill exempts the Division of Personnel as a party to grievances involving Department of Transportation employees.

The bill requires a grievant to provide a signed and notarized grievance and provides that a grievant's failure to sign or notarize the grievance will result in dismissal without prejudice.

The bill provides for the extension of time limits for cause when requested by a party.

The bill requires a grievant representative to provide the name and work location of each employee being represented and requires the grievant to identify their representative.

The bill provides that the grievant or employer may prevail by default in the absence of a required response and either party may appeal that decision.

The bill provides that a party may assert a motion to dismiss on certain grounds (including untimeliness, lack of jurisdiction, failure to state a claim) and requires the resolution of motions to dismiss within 10 days before further proceedings can take place.

The bill sets forth a process for appeal and potential remand of a level one finding of untimeliness of the grievance filing and requires the administrative law judge to decide timeliness issues within 30 days.

The bill prohibits revival of a dismissed grievance that is subsequently consolidated.

The bill mandates that grievances are held in abeyance when an employee is on leave.

The bill limits the employee representative to serve in the capacity of representative in no more than five grievances per year, requires employee accounting for grievance time, and further requires the employee representative to request annual leave for any time in excess of four hours (per grievance).

The bill requires an administrative law judge to schedule a level three hearing within 30 days of receipt of the appeal.

The bill permits chief administrators to resolve scheduling/preparation time disagreements, record the initial conference and permits them to adopt procedural rules.

Finally, the bill updates language to reflect that level three decisions are appealed directly to the Intermediate Court rather than Kanawha County Circuit Court, and that attorney fees and costs may be awarded to a prevailing appellant; however, the clarifies that attorney fees and costs may only be recovered from a grievant if he or she has not substantially prevailed at any level of the grievance process or any appeal to the Intermediate Court of Appeals or the Supreme Court of Appeals.

CODE REFERENCE: West Virginia Code §6C-2-1, §6C-2-2, §6C-2-3, §6C-2-4, and §6C-2-6 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 490

Patrol Officer Cassie Marie Johnson Memorial Act

This bill creates the new criminal offense of willful obstruction of certain public safety officers acting in his or her official capacity and thereby causing the death of the officer. It is named the Patrol Officer Cassie Marie Johnson Memorial Act.

Specifically, the bill criminalizes knowing willful and forcible obstruction of a law enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, State Fire Marshal, a deputy or assistant fire marshal, firefighter or EMS personnel who at the time is acting lawfully in his or her official capacity and the obstruction proximately causes the death of one of the listed workers. "Forcibly" is defined as "actions involving the use of physical force." This is a felony and upon conviction, shall be sentenced to 15 years to life in prison.

CODE REFERENCE: West Virginia Code §61-6-11a – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 13, 2023

Senate Bill 495

Providing correctional institutions and juvenile facilities video and audio records be confidential

This bill makes corrections to the existing law regarding confidentiality of facility video, incident reports, and investigation reports of the Division of Corrections and Rehabilitation.

Court and administrative tribunals may order disclosure with limits on the use of the document's recordings or records. The bill also clarifies that such records may be subject to disclosure pursuant to the West Virginia Freedom of Information Act and provisions of W. Va. §49-5-101 relating to juvenile records.

Counsel for possible litigants and family members of persons who suffered an alleged injury or died in custody are allowed to view facility video, incident reports, or investigation reports but not possess otherwise confidential records for purposes of determining if litigation is viable.

CODE REFERENCE: West Virginia Code §5A-4-8a – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 508

Clarifying reporting and disclosure requirements for grassroots lobbying expenditures

This bill amends monetary thresholds under Chapter 6B (the Ethics Act) related to "grass roots lobbying campaigns." Under prior law, after spending more than $200 in one month or $500 over a three-month period on a campaign aimed at the public and designed to influence legislation, (e.g., passing out flyers in support of a bill, holding a rally, or encouraging citizens to contact their representatives, an individual was required to register as the sponsor of a grass roots lobbying campaign). After registration, a sponsor was also required to disclose the names of any person who had donated more than $25 dollars to that campaign.

The amended bill raises these monetary thresholds. Now, an individual must spend more than $1,000 dollars in one month or more than $5,000 over three months to trigger the registration requirement. Only donors who donate at least $1,000 are required to be disclosed. The bill further clarifies that only donors whose donations are made "for the purpose of furthering" the grass roots lobbying campaign are required to be disclosed.

CODE REFERENCE: West Virginia Code §6B-3-5 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 516

Relating to requirements for disclosure of donor contributions

This bill adds a new definition—"membership organization political action committee"—in the state code section regulating elections. This new definition clarifies the difference between a membership organization and a membership organization political action committee, the latter of which is organized for the primary purpose of influencing an election taking place in West Virginia. The committee substitute further clarifies that not every membership organization qualifies as a political action committee.

The bill also raises the minimum single donation amount that triggering the independent expenditure disclosure requirement from $250 to $1,000. Finally, the committee substitute adds language clarifying that disclosure is limited to those donations made for the purpose of furthering electioneering communications.

The Secretary of State has a policy and related rules that distinguish between membership organizations that are focused on influencing elections and those that are not. The new definition places that distinction expressly in the state code. The increase in the disclosure threshold is consistent with Supreme Court precedent permitting anonymous political speech and reduces the disclosure burden on individuals and entities that expend relatively low monetary amounts that qualify as independent expenditures.

CODE REFERENCE: West Virginia Code §3-8-1a, §3-8-2, and §3-8-2b – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 529

Allowing businesses to register as limited liability limited partnerships

This bill provides for recognition of limited liability limited partnerships and requires the use of "Registered Limited Liability Limited Partnership", "L.L.L.P.", or "LLLP" as the suffix of the entity name. Accordingly, business entities registered as LLLPs in other states can use that same suffix when doing business in West Virginia and are not required to register a new name with an LLP (Registered Limited Liability Partnership) designation.

CODE REFERENCE: West Virginia Code §47B-10-3 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 534

Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements

The bill:

- Clarifies amendments made to code in House Bill 4848 from the Regular Session of 2022.
- In order to expand tourism opportunities, it grants manufacturing licensees a limited off-site retail privilege at private fairs and festivals when all parties agree to permit such activity.
- Authorizes municipalities to create private outdoor designated areas that are zoned for alcohol consumption in the area for alcohol drinks sold by qualified permit holders who are also Class A licenses.
- Allows beer slushies;
- Requires payment of taxes and fees;
- Removes time-limited gallonage cap on distilleries, mini-distilleries, and micro-distilleries;
- Clarifies that micro-distilleries are subject to some general provisions of code applicable to mini-distilleries and distilleries;
- Creates a private food court license and a private coliseum or center license;
- Clarifies dual licensing provisions so a fair and festival can dually operate at a private coliseum or center;
- Permits a private wine restaurant to operate a separately licensed but connected wine specialty shop.
- Modifies some on-site food requirements to offset food price measures for private club bars and private cigar shops.
- Updates some definitions and requirements.
- Allow manufacturers to substitute portable kitchen and food trucks to meet kitchen requirements, but such substitution only permits alcohol sales when the food truck is operating at the manufacturer's location.
- Permits free standing liquor retail outlets greater freedom for sampling liquor and increases the volume of the sample.
- Permits an exception to admission to dance hall requirements for a private coliseum center, private food court, and a private outdoor designated area.
- Prohibits municipalities from requiring at least one alcohol related license if the state already requires a license for the activity.

CODE REFERENCE: West Virginia Code §11-16-3, §11-16-6a, §11-16-6d, §11-16-6f, §11-16-8, §11-16-9, §60-3A-3a, §60-3A-8, §60-4-3a, §60-4-3b, §60-7-2, §60-7-6, §60-8A-5, and §60-8-27 – amended; §8-12-26, §60-7-2a, §60-7-8a, §60-7-8g, and §60-8-8g – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 546

Adding and removing certain compounds from controlled substance list

At the recommendations of the Board of Pharmacy with the cooperation of the West Virginia State Police forensics lab, this bill updates the list of scheduled drugs and substances of the Controlled Substances Act. The bill updates the Schedules which have not been updated since 2017. The effect of scheduling is how a drug or substance is scheduled determines the criminal penalties for a violation of the act for unlawful possession, manufacture, or distribution. Under West Virginia law, only the legislature can amend the schedule and if a substance is not scheduled there is no criminal offense.

The bill, in addition to the recommendations of the Board of Pharmacy, also adds delta-8, and delta-10 tetrahydrocannabinols to Schedule I. Arguably delta-8 and 10 are already scheduled due to current language in §60A-2-204 which places tetrahydro-cannabinols, their synthetic equivalents, resinous extractives of cannabis, its immediate derivative and their isomers with similar chemical structure and pharmacological activity in schedule 1 currently. This also makes clear that all the tetrahydrocannabinols are included whether specifically listed or not. It also makes xylazine a schedule IV drug.

The bill removes Pregabalin from Schedule V. And finally, the bill exempts cannabis products lawfully manufactured, distributed, or possessed pursuant to the Industrial Hemp Act and the Medical Cannabis Act.

CODE REFERENCE: West Virginia Code §60A-2-204, §60A-2-206, §60A-2-210, and §60A-2-212 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 548

Clarifying what parties can redeem delinquent property and limiting those entitled to bid

Under current law, any person entitled to pay taxes on a delinquent property may redeem the property by payment of outstanding taxes and interest. The bill additionally authorizes redemption by the owner of delinquent property whose interest is not subject to separate assessment, and by a lienholder on the property or an undivided interest in the property.

The bill clarifies that the property will be sold to the highest eligible bidder at a public auction held by the Auditor. The bill requires bidders to pre-register with the Auditor's office or to complete and execute a notarized affidavit affirming that they meet the applicable requirements on the day of the sale, and provides that they cannot at the time of registration have failed to make a payment from a prior auction; be delinquent in the payment of real property taxes to any county; have a history of noncompliant with county or municipal code enforcement violations; be subject to legal proceedings involving real property code enforcement violations; or have failed to comply with a raze or repair order in the five years preceding the purchase. The bill requires companies that seek to bid to be registered with the Secretary of State and be authorized to conduct business in West Virginia. The bill provides rulemaking authority to the Auditor to effectuate these provisions.

Citizens of or entities with a connection to a "Country of Particular Concern" (as designed by the U.S. State Department) cannot participate in the Auditor auctions. The list of those countries is updated annually and, as November 2022, includes Burma, China, Cuba, Eritrea, Iran, North Korea, Nicaragua, Pakistan, Russia, Saudi Arabia, Tajikistan, and Turkmenistan.

With respect to properties going through the unsold land process, the Auditor is authorized to hire an attorney for a title examination on auctioned property and to require the purchaser reimburse the Auditor for that expense. Alternatively, the bill provides that a purchaser may hire an attorney to provide the title examination at his or her own cost.

The Auditor is further permitted to refuse to sell unsold lands if the buyer does not meet the previously specified pre-registration requirements or if the citizen or entity is connected to a "Country of Particular Concern."

The bill updates various notice provisions including the certification list, notice of auction, and post-sale redemption provisions to align with these changes.

CODE REFERENCE: West Virginia Code §11A-3-2, §11A-3-13, §11A-3-38, §11A-3-45, §11A-3-46, §11A-3-47, §11A-3-48, and §11A-3-56 – amended; §11A-3-45a and §11A-3-48a – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 558

Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media

This bill adds a new section to Chapter 62, which governs criminal procedure. The bill prohibits law enforcement agencies from routinely posting on social media the booking photographs of individuals arrested for allegedly committing a "minor crime."

The definition of "minor crime" is tied to West Virginia's recently revised expungement statute, W. Va. §61-11-26. Thus, law enforcement agencies (but not the Division of Corrections, which is specifically exempted) are prohibited from posting the booking photographs of arrested individuals charged with crimes that would be expungable — generally, misdemeanors and non-violent felonies, subject to the numerous exceptions outlined in §61-11-26 — on social media unless one of several exemptions (including when the individual is a fugitive or otherwise a danger to public safety, and in response to a court order) applies.

The bill also provides a mechanism for individuals whose booking photos have been shared on social media to request the removal of their photo in the event a charge is dismissed, a jury returns a not-guilty verdict, or a conviction is subsequently overturned. It also shields law enforcement agencies from civil liability in the event of an accidental post that violates the provisions of this section, so long as the dissemination occurred in good faith.

CODE REFERENCE: West Virginia Code §62-1-6A – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 568

Relating to Dangerousness Assessment Advisory Board

This bill:

- States that the primary purpose of the Dangerousness Assessment Board is to provide advice to circuit courts in matters of placement for persons found not guilty by reason of mental illness or incompetent to stand trial and non-restorable;
- Statutorily declares that the Board is independent of, and not under the supervision of, the Secretary of the DHHR; and
- States that the Board, in its discretion, and at a court's request may, offer advice and opinions as to matters of treatment, replacement custody, and supervision of persons found not guilty by reason of mental illness or non-restorable.

CODE REFERENCE: West Virginia Code §27-6A-13 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 573

Relating to child support guidelines and Support Enforcement Commission

The bill updates the child support formula, adds criteria for attributed income, and addresses incarcerated parents. The bill addresses the federal requirements which allow the Bureau of Child Support Enforcement (BCSE) and bring West Virginia into compliance with federal law to maintain eligibility for federal funding.

The bill revises the factors a court evaluates when attributing income to include noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, physical and mental health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

The bill authorizes courts to permit a deduction from gross income of the parties in determining child support when there are student loan payments being made. The bill sets forth specific requirements that must be met for this deduction to be allowable and, if allowed, what must be done moving forward by the parties regarding changed loan circumstances.

The bill provides that income is not attributed to an obligor who is incarcerated, and incarcerated individuals cannot be treated as voluntarily unemployed when establishing or modifying a support obligation. The new language found in both the attributing income and incarceration subsections is mandated under federal law (45 CFR 302.56).

The monthly basic child support obligation table, which had not been updated since 1999 and was based on 1997 child rearing costs, is also being updated to reflect 2022 financial data. The threshold for a manual calculation for the basic child support obligation is increased from $1,550 to $2,600 per month. The amount for an ability to pay calculation and self-support reserve is increased from $500 to $997.

Finally, the bill increases the multiplier for the extended shared parenting adjustment from 1.5 to 1.6.

CODE REFERENCE: West Virginia Code §48-1-205, §48-13-301, §48-13-303, §48-13-403, §48-13-404, and §48-13-501 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 608

Correcting list of items which are considered deadly weapons

The bill corrects an internal section reference. The bill specifically references by subdivision the items in the list which are "deadly weapons."

CODE REFERENCE: West Virginia Code §61-7-2 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 631

Updating administration, funding, and requirements for federal elections held in WV

Senate Bill 631 undertakes code clean-up and other minor alterations to statutory provisions related to the administration of elections in West Virginia.

Via the Help America Vote Act (HAVA), the federal government appropriates money designed to assist states and their political subdivisions upgrade and secure their voting machines and related election infrastructure. Portions of this money are "use it or lose it." This bill authorizes the Secretary of State to directly purchase equipment and invest in upgrades to electronic systems and other election infrastructure with HAVA money sitting in the already-established County Assistance Voting Equipment Fund, in order to avoid it going unused. The bill authorizes the Secretary of State to propose the expenditures, which must then be approved by the State Election Commission.

The bill also provides that voter registrations received via the state's approved electronic registration system can be submitted until one minute before midnight on the deadline day.

Finally, existing law requires county clerks to report, within 120 days, certain voting data to a statewide database. The bill shortens the deadline for those submissions to 80 days. This will help the Secretary of State catch potential discrepancies and irregularities with enough time to correct any error before local election results are certified.

CODE REFERENCE: West Virginia Code §3-1-48, §3-2-6, and §3-2-18 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 633

Requiring prompt appearances for persons detained on capiases

The bill provides that a defendant who is arrested in a county other than where the indictment or charge is pending will be arraigned by the magistrate court in that county. However, if the defendant remains incarcerated after the arraignment, he or she will be transported to the regional jail servicing the charging county within five days of arrest.

This bill provides that if a defendant admitted to bail and released fails to appear at a scheduled court appearance, a court may issue a capias or bench warrant for failure to appear if the court determines that it provided the defendant with "effective notice of the court appearance," defined as a notice stating the date, time, location, and purpose of the hearing, transmitted to the defendant or defendant's counsel, no fewer than 10 days prior to the scheduled court appearance, or fewer than 10 days if waived by the court upon a finding of emergent circumstances.

The bill also provides that for purposes of failure to appear after indictment, newspaper publication alone does not constitute effective notice. The bill provides for a 24-hour grace period for a defendant to voluntarily appear when a defendant did not receive effective notice or when a defendant has no documented history of failure to appear. If the defendant appears within the 24-hour timeframe, he or she is not subject to prosecution under this section.

The bill authorizes a court to issue a capias upon credible information of danger to a person or the community, new criminal conduct, or a bail violation other than failure to appear.

The bill provides that, upon an arrest in the county where the indictment or charge is pending, bail hearing will be scheduled and held within five days of the arrest.

The bill provides that upon the appearance in the county in which the indictment or charge is pending of a defendant against whom a capias has been issued, the court must provide written notice to the sheriff for dissemination to all appropriate law-enforcement agencies that the warrant or capias is no longer active and order it to be immediately removed from all databases.

The bill provides that where a defendant is arrested and held under a capias for failure to appear in the county wherein the charge or charges is pending, and he or she is entitled to admission to bail, an initial appearance shall be held as soon as practicable, or within five days whichever is sooner, and bail shall be considered pursuant to W. Va. Code §62-1C-1a. The bill requires the court to provide written notice to the sheriff that the capias warrant is no longer active for dissemination purposes so that this record can be immediately removed from all applicable databases upon the appearance of a defendant upon an indictment or complaint upon which a warrant or capias has been issued.

CODE REFERENCE: West Virginia Code §62-1-7, §62-1c-17b, and §62-2-17 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 647

Relating to substantiation of abuse and neglect allegations

The bill creates a mechanism to seal records of child abuse and/or neglect relating to employment inquiries. The bill requires sealing of records in instances where there is a substantiated finding, and a petition could have been filed, but a petition was not filed. This occurs after one year unless there is another substantiated finding.

It also requires an unsubstantiated finding in cases where an allegation is initially substantiated, a petition is filed, and the petition does not result in an adjudication of child abuse and/or neglect.

It creates a discretionary sealing of records where there is an adjudication of abuse and/or neglect by petition to the Court after five years have elapsed unless there is another substantiated allegation of abuse and/or neglect.

The bill specifies certain factors the Court may consider in granting or denying a petition. The bill defines sealing of a record as pertaining only to an inquiry relating to possible employment

Finally, the bill requires DHHR to propose legislative rules.

CODE REFERENCE: West Virginia Code §49-4-601b – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2004

Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct

The bill creates the Second Amendment Financial Privacy Act ("Act") in response to Visa, Mastercard, and American Express adopting a unique Merchant Category Code for firearms and ammunition retailers ("firearms code"). The bill provides that the legislative intent is to "prohibit the misuse of payment card processing systems to surveil, report, or otherwise discourage constitutionally protected firearm, firearm accessories or components, and ammunition purchases and sales within West Virginia's jurisdiction."

The bill defines "protected financial information" as a customer's payment card transactional records that are "based on the assignment of a firearms code" and prohibits any financial institution involved in facilitating or processing a payment card transaction from disclosing a customer's protected financial information unless the disclosure is expressly permitted by law and the information is not disclosed based upon the assignment of a firearms code; made pursuant to a valid warrant issued in a criminal investigation, subpoena, or a customer's written authorization; or only stating that the financial institution does not possess the information. A financial institution may not require a customer to provide written authorization for disclosure of protected financial information as a condition of doing business with the financial institution.

The bill also prohibits a financial institution from utilizing a firearms code to engage in discriminatory conduct, such as declining a lawful payment card transaction based on the assignment of a firearms code; limiting or declining to do business with a customer or potential customer based on the assignment of a firearms code to previous lawful transactions involving the customer; charging a higher transaction or interchange fee to a merchant compared to the fee charged for similarly situated merchants based upon the assignment of a firearms code; or taking any action against a customer or merchant intended to suppress lawful commerce involving firearms or ammunition.

With respect to enforcement, the bill creates a civil action for liquidated or compensatory damages against any financial institution or government entity that violates the Act. A successful plaintiff can also obtain injunctive relief and reasonable attorney's fees. Prior to filing a civil action, an aggrieved party must give a financial institution the right to cure a violation, incorporating by reference the right to cure procedures in the West Virginia Consumer Credit and Protection Act.

Finally, the bill authorizes the Attorney General to conduct investigations and enforce the requirements of the Act by seeking injunctive relief in the courts. The bill also authorizes the Commissioner of Banking to administer requirements of the article and permits the State Treasurer to disqualify an offending financial institution from the competitive bidding process or from any other official selection process.

CODE REFERENCE: West Virginia Code §31A-2A-4 – amended; §31A-2B-1 through §31A-2B-10 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2008

Requiring local entities to enforce immigration laws

This bill establishes a new article concerning federal immigration law enforcement in Chapter 15 of the state code. The bill prevents state and local entities, including but not limited to law enforcement agencies, from adopting "sanctuary city" policies—that is, procedures, ordinances, directives, or any other rule or regulation that prohibits cooperation with federal immigration authorities or materially interferes with the enforcement of federal immigration law.

The bill contains a non-exhaustive list of policies such entities cannot adopt. Thus, the bill prevents covered entities from establishing policies that restrict or prohibit:

- Inquiries into the immigration status of any person;
- Transmitting, requesting, and/or receiving information regarding immigration status to or from a federal immigration enforcement agency;
- Maintaining, archiving, or otherwise storing for subsequent use information relating to immigration status;
- Exchanging information relating to immigration status with another local entity, state entity, or federal immigration agency;
- Complying with an immigration detainer;
- Complying with a request from a federal immigration agency seeking to be notified prior to the release of an inmate subject to an immigration detainer;
- Providing a federal immigration agency with an inmate's incarceration status or release date;
- Assisting or cooperating with a federal immigration agency;
- Participating in an intergovernmental cooperative program authorized by the federal Immigration and Nationality Act;
- Permitting a federal immigration officer to conduct immigration law enforcement activity at a municipal jail, county jail, or Division of Corrections and Rehabilitation facility.

The bill also imposes several mandatory duties on specific covered entities. A law enforcement agency that takes initial custody of an individual subject to an immigration detainer is required to record the individual's status in their case file, notify the court which has jurisdiction to release the individual on bail or bond, and comply with a valid detainer to the extent required by law. A court which receives notice under the auspices of this section is obliged to record that fact in the individual's case file. And any local jails, as well as the state Division of Corrections, is obliged to enter into an arrangement with the federal government to temporarily house individuals who are subject to immigration detainers.

The bill also contains procedural mechanisms designed to ensure compliance with its substantive components. Most notably, the bill declares that any elected official who takes official action allowing a sanctuary city policy (one violative of this article) to come into or continue in effect has engaged in malfeasance in office and acted in neglect of his or her duty, and thus can be removed from office. The bill also permits any person, expressly including federal immigration authorities, to file a complaint with the West Virginia Attorney General alleging the existence of such a policy and authorizing the Attorney General to investigate. If the Attorney General determines there is sufficient evidence, he or she can file suit seeking to enjoin the violation. The bill also extends the protections of West Virginia's Whistle-Blower law to individuals who report violations or suspected violations of the article to the Attorney General.

Finally, the bill authorizes the Attorney General to defend local entities who have sought to comply with the provisions of this article in good faith against a suit brought under this section and directs the implementation of this article be accomplished without discrimination on the basis of race, religion, language, color, national origin, and be otherwise in accordance with the constitution and laws of both West Virginia and the United States.

CODE REFERENCE: West Virginia Code §15-15-1 through §15-15-9 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2221

Relating to bankruptcy

House Bill 2221 amends §38-10-4, the section which outlines the property and other things of value West Virginians are permitted to exempt from their bankruptcy estate if they declare bankruptcy. The bill updates the monetary thresholds for several existing exemptions—for household goods, jewelry, the debtor's trade tools, and payments received as a result of personal bodily injury—which had not been adjusted in nearly 30 years. The adjusted amounts are now largely in line with amounts exempted under federal law and account for the impact of inflation.

The bill also adjusts the substantive treatment of life insurance. It expands a previously limited exemption for life insurance proceeds that have been paid out to the debtor (or are being paid out in the form of an annuity) to have no limitation. Thus, a debtor can exempt all life insurance proceeds from their bankruptcy estate. The bill also fully exempts the cash redemption/surrender value of life insurance policies owned by the debtor who name someone else as a beneficiary.

CODE REFERENCE: West Virginia Code §38-10-4 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2509

Creating the Uniform Premarital Agreement Act

The bill creates the Uniform Premarital Agreement Act and applies to premarital agreements signed on or after July 1, 2023. The bill requires a premarital agreement to be in writing, be signed by both parties, and contain an acknowledgement that both parties have had an opportunity to consult with separate legal counsel.

The bill provides that a premarital agreement may be enforced without consideration and is effective upon marriage.

Parties are permitted to contract regarding property rights including the disposition of property upon the dissolution of marriage or death; modification or elimination of spousal support (subject to certain limitations); the making of a will or trust to carry out the terms of the premarital agreement; ownership rights and disposition of death benefits from life insurance proceeds; choice of law governing construction; and any other matter not in violation of public policy or statute.

The bill specifically prohibits any agreement whereby the right of a child to support is adversely affected.

After marriage, parties are permitted to amend or revoke the agreement only if the amendment or revocation is reduced to writing and signed by the parties.

The bill provides that a premarital agreement may not be enforced against a party if the party contending the agreement is unenforceable proves that he or she did not execute the agreement voluntarily; that either party was under the age of 18; and that the agreement was unconscionable when executed, and before the execution of the agreement if the party did not receive adequate financial disclosures; did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations beyond what was provided; and did not know, and reasonably could not have known, of the property or obligations. The bill clarifies what constitutes adequate financial disclosure.

If a modification or elimination of spousal support causes a party to be eligible for public assistance at the time of separation, the family court, notwithstanding the terms of the agreement, may require the party to pay spousal support to the extent that spouse would no longer require public assistance.

The court may refuse to enforce a term of the premarital agreement that is unconscionable at the time of signing or would result in substantial hardship for a party because of a material change in circumstances arising after the agreement was signed. Issues regarding unconscionability and substantial hardship are to be resolved as a matter of law by the family court judge.

The bill provides that a term in an agreement is unenforceable if it adversely affects a child's right to support; limits or restricts a remedy available to a victim of domestic violence under West Virginia law; purports to modify the grounds for a court-decreed separation or marital dissolution available under West Virginia law; or penalizes a party for initiating a legal proceeding leading to a court-decreed separation or marital dissolution.

The bill clarifies that a term defining the rights or duties of the parties regarding custodial responsibility is not binding on a court.

If a marriage is determined to be void, an agreement that would have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Finally, the bill provides that any applicable statute of limitations is tolled during the marriage, but other equitable defenses are available.

CODE REFERENCE: West Virginia Code §48-1A-101, §48-1A-201, §48-1A-301, §48-1A-401, §48-1A-501, §48-1A-601, §48-1A-701, §48-1A-801, §48-1A-901, §48-1A-1001, and §48-1A-1101 – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2564

Repeal of administrative hearing procedures for DUI offenses

In 2020, the Legislature provided for the phase-out and termination of the Office of Administrative Hearings (OAH), which held DMV license revocation proceedings for DUI-related offenses (Senate Bill 130). Specifically, it provided that OAH would no longer have jurisdiction over DUI-related offenses occurring after June 30, 2020, and that OAH would be terminated a year later, after the resolution/dismissal of all DUI appeals for offenses occurring on or before June 30, 2020. Although OAH was terminated, obsolete statutes relating to OAH still remained in Code.

This bill repeals West Virginia Code §17C-5A-2, an obsolete statute relating to hearings, revocation of licensure, and review by OAH; and the entirety of Article 5C, in Chapter 17C (W. Va. Code §17C-5C-1 through §16C-5C-5), all obsolete statutes relating to OAH.

CODE REFERENCE: West Virginia Code §17C-5A-2, §17C-5C-1, §17C-5C-1a, §17C-5C-2, §17C-5C-3, §17C-5C-4, §17C-5C-4a, §17C-5C-4b, §17C-5C-5 – repealed

DATE OF PASSAGE: February 3, 2023

EFFECTIVE DATE: May 4, 2023

ACTION BY GOVERNOR: Signed February 14, 2023

House Bill 2605

Relating to Good Samaritan law

This bill expands the immunity to a person trained, licensed, or certified professionals or an entity who voluntarily in good faith renders or provides emergency care, or assistance at the scene of an accident, emergency, or disaster without payment for rendering or providing these services may be liable for civil damages as the result of any act or omission at the scene in rendering or providing such emergency care or assistance. The bill then provides definitions relating to "emergency" and "disaster."

The bill also provides that no person trained in a qualified program of "emergency services," or entity, who voluntarily and in good faith renders or provides advice, assistance, equipment, or materials, without payment for said advice or assistance, at the scene of an actual or threatened emergency, accident, or disaster is liable for any civil damages as a result of any act or omission at the scene. This bill then amends the Code to provide that immunity from civil liability is not extended to persons, or entities, who by act or omission caused or contributed to the cause of the actual or threatened accident, emergency, or disaster. The bill then provides definitions relating to "emergency," "disaster," and "emergency services."

CODE REFERENCE: West Virginia Code §55-7-15 and §55-7-17 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2621

Relating generally to bail bondsman

The bill ends the practice of bail bondsmen using real estate as the collateral pledged by bondsmen, while grandfathering in any bondsman who has a license prior to July 1, 2024 until that bondsman's license is suspended or revoked. The bill imposes a testing regime for both existing bondsman and future individuals who apply for a bondsman license.

The bill deletes language that exempted professional bondsmen acting in criminal cases from the definition of "surety" set forth in the Insurance Code, thereby permitting the Insurance Commissioner to exercise regulatory authority over bondsmen. The bill specifies which "approved securities" the Insurance Commissioner may accept from bail bondsmen and provides that real estate cannot be offered as a direct security after July 1, 2024. The bill exempts bondsmen from having to be licensed as an insurance producer with a property and casualty line of authority. Finally, the bill requires the Insurance Commissioner to formulate testing requirements for all initial license applicants.

CODE REFERENCE: West Virginia Code §33-1-1, §51-10-1, and §51-10-8 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2638

Authorizing the Department of Administration to promulgate a legislative rule relating to purchasing

This Committee Substitute contains 2 rules from the Department of Administration and is known as Bundle 2.

Department of Administration, Purchasing, 148 CSR 01

The rule amends a current legislative rule in response to Enrolled Committee Substitute for House Bill 4499, passed during the 2022 Regular Session.

Section 3 requires spending units formally exempted from this rule who could choose to follow it, to follow it unless they have established their own rules, The requirement that all spending units adhere to all automated systems prescribed by the Director of Purchasing has been deleted.

Section 4 regarding competitive bids in state purchases has been amended. It provides alternatives to competitive bids as provided in §5A-3-10c of the code, if that method is determined to be in the best interest of the spending unit and the state. Alternative procurement methods include:

- A direct award procurement described in W. Va. Code § 5A-3-10c and Section 7.5;
- An emergency procurement described in W. Va. Code § 5A-3-15 and Subsection 7.6.1;
- A purchase that falls below the agency's established no bid threshold described in W. Va. Code § 5A-3-11 and Subsection 7.2.1; and
- If the State conducts a request for quotation for a commodity or service, and all responsive bids received are higher than a publicly posted price for that same commodity or service, the State may cancel the solicitation and procure that commodity or service directly from the source of the publicly posted lower price but may only pay the publicly posted lower price or less. A publicly posted price in this context means pricing posted on a publicly accessible website, in a vendor catalogue, or some other advertising media, and expressly excludes verbal or unpublished pricing, or any pricing sourced directly from vendors after bids have opened.

Buyer qualifications are removed, except that the Purchasing Division may require qualifications if they are uniformly applied to each job title.

Section 6.6 adds three new subparts which allow the Purchasing Division to seek additional information from a bidder for clarification purposes, allows the Director to object to separable terms that, if agreed to by the bidder, get deleted from the bid, and allows the division to require the bidder sign additional documentation related to such things as contract terms, privacy requirements, etc., which weren't contemplated in the bidder's bid.

Section 6.9 is changed to make the bid bond process electronic.

Section 7 removes the former dollar caps in favor of delegated procurement thresholds which may be increased for any spending unit by the Director. The rule is amended to reflect the bidding process through wvOASIS. Section 7.6 sets forth the procedure for emergency procurements. Spending units are required to provide the Division documentation so that it may adhere to its requirement of public publishing.

Section 12 has been amended to allow the Director to recognize prequalification agreements established by other public entities for the purpose of conducting a delegated prequalification bid, but approval must be obtained prior to issuing the delegated prequalification bid and the delegated

prequalification bid must be directed to all entities within the prequalification group known to offer the commodity or service in question.

Department of Administration, Parking, 148 CSR 01

The rule amends a current legislative rule. The change extends the sunset date of rule to August 1, 2032. An amendment from the LRMRC was adopted that shifts the parking fee from the employees to the entity for which they work.

CODE REFERENCE: West Virginia Code §64-2-1 et seq. – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: March 2, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2640

Authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules

The Committee Substitute contains 8 rules relating to the Department of Environmental Protection and is known as Bundle 3.

Department of Environmental Protection, Standards of Performance for New Stationary Sources, 45 CSR 16

The rule amends a current legislative rule which establishes and adopts national standards of performance and other requirements for new stationary sources of air pollution, as promulgated by the United States Environmental Protection Agency (EPA) pursuant to the federal Clean Air Act (CAA).

The rule adopts and incorporates by reference annual updates to the federal counterpart promulgated by EPA as of June 1, 2022. These modifications are necessary to maintain consistency with the federal counterpart and allow West Virginia to continue as the primary enforcement authority of federal new source performance standards in this State. Finally, the promulgation history of the rule is updated.

Department of Environmental Protection, Requirements for Operating Permits, 45 CSR 30

The rule amends a current legislative rule. which establishes and adopts national standards of performance and other requirements for new stationary sources of air pollution, as promulgated by the United States Environmental Protection Agency (EPA) pursuant to the federal Clean Air Act (CAA).

This rule provides for the establishment of a comprehensive air quality permitting system consistent with the requirements of Title V of the CAA and the state operating permit program requirements of 40CFR Part 70. This rule establishes: (a) the obligation for a source to obtain a Title V operating permit; (b) applicability for other sources, including exemptions and deferred sources; (c) permit application, content, issuance, renewal, reopening, revision, review, suspension, modification, revocation, and reissuance requirements, and (d) Title V fee requirements. All fees collected pursuant to this rule shall be expended solely to cover all reasonable direct and indirect costs required to administer the Title V operating permit program and accounted for in accordance with this rule.

The fee structure is being revised as recommended by the U.S. EPA in its September 2021 Title V Program Evaluation Report, August 2019 Title V Permit Fee Evaluation Report, and May 2015 Title V Program Evaluation Report and other revisions were made to comport with Revisions to the Petition Provisions of the Title V Permitting Program [85 Fed. Reg. 6431, February 5, 2020] and Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs and the Federal Operating Permit Program [87 Fed. Reg. 19042, April 1, 2022]. Obsolete transitional language was removed, and other clarifications were made.

These amendments are necessary to maintain consistency with the federal counterpart and allow West Virginia to continue as the primary enforcement authority of federal new source performance standards in this State. Finally, the promulgation history of the rule is updated.

Section 8 relating to fees has been completely rewritten. It:

- Replaced the annual emissions only fee to an annual fee that includes an emissions fee, base fee, and complexity fee components.

- The emissions fee factor is a calculation based on the 3-yr average of the DAQ Title V Fund expenses. The calculated emissions fee factor is now multiplied by the amount of actual emissions released by the specific source to determine the emissions fee component.
- The emissions fee cap was removed.
- The Certified Emissions Statement (CES) was eliminated. (Emission reporting requirements remain.)
- The Title V fee program does not reference the Rule 22 minor source fee program.

Table 45-30A Hazardous Air Pollutants - This table was struck in its entirety, consistent with the revised definition.

Table 45-30B - Class I and Class II Substances - This table was struck in its entirety, consistent with the revised definition.

LRMRC proposed the following clean-up amendment:

On page 39, subdivision 8.1.a.1, by striking the number "$15,000" and inserting in lieu thereof the number "$5,000".

The committee substitute contains several amendments which have already been included in the modified rule. There is a committee amendment to remove those amendments.

Department of Environmental Protection, Emission Standards for Hazardous Air Pollutants, 45 CSR 34

The rule amends a current legislative rule which establishes a program of national emission standards for hazardous air pollutants as promulgated by the United States Environmental Protection Agency (EPA) pursuant to the Clean Air Act (CAA).

The rule incorporates by reference annual updates to the federal counterpart promulgated by EPA as of June 1, 2022. Revisions to the rule include the annual incorporation by reference amendments of the NESHAPs promulgated by the EPA under 40 CFR Part 63 as of June 1, 2022, that include: (a) Carbon Black Production and Cyanide Chemicals Manufacturing Residual Risk and Technology Reviews, and Carbon Black Production Area Source Technology Review; (b) Flexible Polyurethane Foam Fabrication Operations Residual Risk and Technology Review and Flexible Polyurethane Foam Production and Fabrication Area Source Technology Review; (c) Clean Air Act Section 112 List of Hazardous Air Pollutant: Amendments to the List of Hazardous Air Pollutants (HAP); (d) Mercury Cell Chlor-Alkali Plants Residual Risk and Technology Review; (e) Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction; (f) Refractory Products Manufacturing Residual Risk and Technology Review; (g) Stationary Combustion Turbines; Amendments; (h) Surface Coating of Automobiles and Light-Duty Trucks, Surface Coating of Metal Cans, Boat Manufacturing, i) Clay Ceramics Manufacturing; Technical Correction and (j) General Provisions Technical Correction.

These modifications are necessary for the State to fulfill its responsibilities under the CAA and will allow the DEP to continue to be the primary enforcement authority in this State for National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by EPA.

Department of Environmental Protection, Control of Ozone Season Nitrogen Oxides Emissions, 45 CSR 40

This rule modifies an existing DEP rule which establishes a program of national emission standards for hazardous air pollutants as promulgated by the United States Environmental Protection Agency (EPA) pursuant to the Clean Air Act (CAA).

The modifications incorporate by reference annual updates to the federal counterpart promulgated by EPA as of June 1, 2022.

These modifications are necessary for the State to fulfill its responsibilities under the CAA and will allow the DEP to continue to be the primary enforcement authority in this State for National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by EPA. The modifications also update the promulgation history of the rule.

Section 4 relating to applicability has been amended to update the classification of certain units as not being subject to this rule since they are already the subject of a Federal NOx ozone season emissions trading program.

Department of Environmental Protection, Rules for Quarrying and Reclamation, 38 CSR 03

The rule amends a current legislative rule promulgated under the Quarry Reclamation Act which governs the extraction of non-coal minerals by quarrying.

Section 6.8 relating to blasting has been amended to require blasters to be approved by the Secretary, be current in their Blaster's Certification, and have the certification in their possession while conducting blasting activities. The Certified Blaster is in charge of and responsible for the design, loading, and firing of the blast.

Department of Environmental Protection, Recycling Assistance Grant Program, 33 CSR 10

The rule amends a current legislative rule and is promulgated under the A. James Manchin Rehabilitation Environmental Action Plan in W. Va. Code §22-15A-1 et. seq. The rule sets out guidelines and procedures for providing grants to local governments and other parties to plan, initiate, expand, or upgrade recycling programs, public education programs, and recycling market procurement efforts.

The rule has been in effect since 2008. Overall, the changes are needed to update the rule for current technology and marketplace circumstances. The rule adds language under multiple sections to add "source reduction programs" which are those programs that reuse waste materials to avoid using recycling centers and landfills. The rule adds additional flexibility to the department concerning the "Cure period", removes language prohibiting certain parties who do not participate in tax and fee collection from receiving grants, removes the 20-year minimum lease limitation for recycling facilities construction and improvements. Allows grant money to be used for a reasonable share of costs of audits required by West Virginia Code §12-4-14 up to a maximum of $2,000 and increases the maximum grant size from $20,000 to $35,000 for Recycling Feasibility Study and Planning Grant, Local Government.

Section 12 relating to requirements for grant recipients has been amended to require that requests for changes in a grant budget be in writing and not significantly alter the original scope of the grant, requires a minimum of three verbal bids for recipient purchases between $5,000 and $10,000; allows electronic bids, requires written bids for all purchases estimated to be more than $10,000, requires all bids be recorded in the required reports and retained in the recipient's file, prohibits any attempt to segregate a project into sections having an estimated value of less than $10,000, sets forth notice to solicit bids and documentation requirements, allows feasibility studies to be procured using a Best Value Procurement method, and allows, the Department to waive or modify the bidding procedures to allow direct purchase of commodities and services under defined circumstances.

Department of Environmental Protection, Reclamation of Abandoned and Dilapidated Properties Grant Program, 33 CSR 13

The rule is new and is promulgated under the A. James Manchin Rehabilitation Environmental Action Plan in W. Va. Code §22-15A-1 et seq. The rule sets out guidelines and procedures to assist county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks in the remediation of abandoned, blighted, and dilapidated structures or properties. Enrolled Committee Substitute for Senate Bill 552 which passed during the 2022 regular session is the basis for the rule.

Section 2 defines terms including "Abandoned" and "Dilapidated."

Section 3 creates the Reclamation of Abandoned and Dilapidated Properties (RADP) Grant Program and sets forth the application process. Grants are available to county commissions and municipalities to remediate abandoned and dilapidated structures by demolition or deconstruction. The grants are awarded for a period of one year from the date of the grant agreement. One six-month extension may be granted for good cause if a request is submitted before the expiration of the grant period. Subsequent grants may be obtained by a grantee through submission of a new application, as long as all the objectives of the current grant have been completed.

Section 4 sets applicable conditions for funding under the program: The project must provide environmental improvement by decreasing imminent danger, risk to public health and welfare and negative visibility of structures. The project may provide for redevelopment of property or new development initiatives.

Section 5 relates to the authorized use of grants funds in an approved program. Uses may include asbestos testing; asbestos removal prior to demolition; demolition of the structure; costs associated with disposal at a permitted landfill or materials recovery center; site stabilization; legal costs associated with securing properties for demolition; and other costs approved by the department.

Section 6 relates to unauthorized uses of grants. A grantee may not use a grant to replace funds currently budgeted to demolish or deconstruct a structure or for expenditures not related to demolition or deconstruction of a structure. Also, grant funds may not be used for land acquisitions; environmental testing of soil conditions; administrative costs; beautification costs not related to site stabilization; office equipment; entertainment; alcoholic beverages, meals, and gratuities; lobbying expenses; or landfill operations or management.

Section 7 relates to the review of applications. The department may reject applications not meeting eligibility and submission requirements and may partially award or reject applications based on available funding. The department must submit those recommended for funding to the Secretary and the Governor for approval.

Section 8 relates to grant recipient requirements. Grant funding is disbursed at the time of receipt of invoices and all other required information for approved expenditures on at least a 30-day rolling basis. This section contains provisions on the maintenance of financial and other records, requires the grantee, and requires the grantee to submit a final report to the department within 30 days following the last day of the grant period and specifies information to be contained in the report.

Section 9 relates to site visits. It allows the department to periodically conduct site visits.

Section 10 requires all unexpended grant funding at the end of the grant period to remain within the program.

The House amended the rules to ensure the program gives priority to structures in "high traffic areas, tourism corridors, and/or common open spaces."

Department of Environmental Protection, Reclamation of Solar and Wind Electricity Generation Facilities, 60 CSR 11

The rule is new and is promulgated under the West Virginia Wind and Solar Energy Facility Reclamation Act, W. Va. Code §22-32-1 et seq. created in Enrolled Committee Substitute for Senate Bill 492 which passed during the 2021 regular session. The rule establishes requirements and bonding for the decommissioning of solar and wind generation facilities to guarantee the decommissioning.

An owner of a solar or wind generation facility must decommission its facility and pay for the costs of decommissioning. Decommissioning activities must begin within 90 days after abandonment and be completed within 24 months unless the owner receives departmental approval of an alternative plan.

The owner of a facility which commenced operations on or before July 1, 2021, is to submit by July 1, 2022, the date that the generation facility commenced operations; a decommissioning plan; and identification of landowners.

An owner that commences commercial operation after July 1, 2021, is to submit certain information after commencing operation. Within 90 days, the department will notify the owner of any deficiencies in the decommissioning plan. Within 90 days after receiving a deficiency notice, an owner must address all deficiencies and resubmit the decommissioning plan.

New owners must confirm compliance with the decommissioning agreement of the prior owner or submit an alternative decommissioning agreement for approval.

Within one year of commencing operations, each non-exempt facility will pay a fee to the Wind and Solar Decommissioning Account of $100 per megawatt of generation capacity, and $50 per megawatt of generation for each subsequent modification.

The department may inspect solar or wind generation facilities to ensure compliance.

Unless exempt, the owner of a facility must prepare a decommissioning plan which includes a commitment to remove all aboveground equipment such as solar panels, turbines, foundations, and structures. The plans must include an estimate of the cost of decommissioning the facility with supporting calculations.

The facility is to be returned to the approximate original topography with grading, topsoil, and revegetation to prevent adverse hydrological effects.

In lieu of the decommissioning plan requirements, parties may reach an alternative decommissioning agreement. The alternative agreement must be provided to the department for review. The parties are required to grant the department and the Public Service Commission authority to enforce compliance with the alternative agreement. Decommissioning agreements, which legally bind exempt parties, are subject to review and comment by the department not approval.

The owner of facility is exempt from the decommissioning and bonding requirements of this rule if the facility has a nameplate capacity of less than 1.0 megawatts; is operated by regulated public utility who can demonstrate financial integrity; or if the facility is legally bound by a decommissioning agreement, based upon a qualified independent party and executed before July 9, 2021; or was granted authorization or waiver to construct by the Public Service Commission, conditioned upon the execution of the agreement before July 9, 2021.

A facility remains exempt unless it is found to be in breach of an agreement, the agreement is found to be unenforceable; a facility is transferred to a party not bound by the agreement; or expands its facility by 50% or more in total disturbed acreage.

Unless exempt, each solar and wind generation facility must provide a decommissioning bond conditioned on the faithful decommissioning of the facility. The department shall set the estimated bond amount for the department to perform the decommissioning work. The bond amount must be based on estimated costs submitted by the owner and acceptable to the department; estimated costs to the department that may arise to perform the work; and other cost information.

The value of the bond shall be based upon the total disturbed acreage, less salvage value, and shall not exceed the total projected future cost of decommissioning, less salvage value.

The department must notify the owner of the facility of any denial, approval, or modification to the decommissioning plan or the bond amount. Any person adversely affected by a decision of the department may appeal that decision to the Environmental Quality Board and thereafter to the appropriate court of law.

Unless exempt, an owner who is required to provide a bond payable to the state in a form acceptable to the department and the Attorney General in a sum determined by the department conditioned on the faithful decommissioning of the facility.

If the owner of a facility fails to submit a decommissioning bond or a properly executed and legally binding decommissioning agreement, the department must provide notice to the owner and may assess a penalty of not more than $10,000.00 for the first day of violation and an additional penalty of not more than $500.00 for each day the failure continues.

If the owner transfers ownership to a successor owner, the department must release the bond posted by the owner. The successor owner must provide a bond that meets the requirements.

An owner must receive approval from the department prior to replacing any bond. The department shall approve a replacement bond within 90 days of receipt of the request for replacement if it meets the requirements of these rules.

Once every five years, an owner may request a reduction of the required bond amount by submitting an amended decommissioning plan. If the department finds that the amended plan reduces the estimated cost to complete decommissioning, the department may approve reducing the bond.

The department is required to review each nonexempt decommissioning plan and bond amount every five years after a facility is bonded, or when a new owner submits a revised decommissioning plan. The department may increase the amount of the bond if the facility has expanded or the cost to decommission the facility has otherwise increased.

The owner must submit either a surety bond, collateral bond, letter of credit, or certificate of deposit in a form acceptable to the department and to the Attorney General.

An owner may satisfy the bonding requirements by submitting a surety bond that complies with the requirements of this section. The requirements concern amounts, powers of attorney, bankruptcy terms, and suspension or cancellation issues. An owner may satisfy the bonding requirements by submitting a letter of credit that complies with the requirements this section. The requirements concern the characteristics of the bank, irrevocability, ability to pay to the department upon demand, amount, and others.

An owner may satisfy the bonding requirements by submitting a certificate of deposit that complies with the requirements. The requirements concern the amount, FDIC, renewability, ability to pay, release terms, and certain waivers.

If an owner fails to decommission a facility as set forth in the decommissioning plan and did not commence action to rectify deficiencies within 90 days after notification, the department may cause the bond to be forfeited for the entire facility. The notification must include the reasons for the forfeiture, the amount to be forfeited, times for corrective action, and available appellate rights.

The department must release a bond if the department is satisfied that an owner has completed decommissioning of a facility in accordance with the decommissioning plan. The owner shall allow the department to inspect the facility to verify the adequacy of decommissioning for bond release.

Upon bond forfeiture for an abandoned facility, the department may take any necessary action to secure and decommission the facility.

Appendix A sets forth a list of solar and wind generation facilities that are exempt from the rule.

The following House amendments were adopted:

On page 5, subparagraph 4.1.d.iii after the word, 'slabs" by inserting the words "to a minimum depth of 36 inches below the surface";

On page 5, subsection 4.4 after the word "receipt" by adding the following:

"The department shall only deny an alternative decommissioning agreement if they determine that it will not result in the restoration of the property to a condition in which it can be used towards the same or a similar use as its use prior to the onset of the alternative decommissioning agreement.";

And,

On page 7, by striking out subdivision 6.2.a and inserting in lieu thereof subdivision 6.2.a to read as follows:

"6.2.a. Estimated costs of decommissioning and salvage value as submitted by the owner in the decommissioning plan and in accordance with these rules with such costs estimated by the department using current machinery production handbooks and publications or other documented or substantiated cost estimates acceptable to the department."

CODE REFERENCE: West Virginia Code §64-3-1 et seq. – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2648

Authorizing certain agencies and boards of the DHHR to promulgate a legislative rule

The Committee Substitute contains 18 rules relating to the Department of Health and Human Resources and is known as Bundle 5.

Department of Health and Human Resources, Food Establishments, 64 CSR 17

The House, in the committee substitute, directed DHHR to add the following amendments to the current legislative rule:

On page 2, by striking out all of subdivision 3.1.h. and inserting in lieu thereof a new subdivision 3.1.h. to read as follows:

3.1.h. Chapter 6, section 6-501.115 is not applicable if the following conditions are met:

3.1.h.1. The dog is prohibited from entering any areas where food is being prepared

3.1.h.2. The dog owner will be asked to leave, if a dog creates a nuisance;

3.1.h.3. The establishment is licensed as a private club, restaurant, brew pub, or micro distillery;

3.1.h.4. The establishment has liability insurance for dog-related incidents;

3.1.h.5. Dog accidents are cleaned and sanitized. Dog waste stations are available. A written procedure shall be established and posted concerning dog accident cleanup; and

3.1.h.6. Signage is present indicating that the establishment is dog friendly.

Department of Health and Human Resources, Procedures Pertaining to the Dangerousness Assessment Advisory Board, 64 CSR 26

The rule is new. It explains the responsibilities and administration of the Dangerousness Assessment Advisory Board. The Board was created as an advisory board by statute pursuant to Enrolled Committee Substitute for Senate Bill 702 during to 2021 Regular Session.

The purpose of the board is to provide opinion, guidance, and informed objective expertise to circuit courts as to the appropriate level of custody or supervision necessary to ensure that forensic patients who have been judicially determined to be incompetent to stand trial and not restorable or not guilty by reason of mental illness are in the least restrictive environment available to protect the forensic patient, other persons, and the public generally.

The rule provides for the conduct of meetings, confidentiality, immunity of Board members and compensation.

Department of Health and Human Resources, Standards for Local Boards of Health, 64 CSR 73

The rule amends a current legislative rule. The rule establishes the standards for the provision of basis public health services by local boards of health. This rule is enforced by the Commissioner for the Bureau for Public Health and the Center for Local Health. The amendments were made necessary by the passage of House Bill 4113 during the 2022 Regular Session of the Legislature which changed the focus of local boards of health to the provision of basic health services.

Section 4 is completely rewritten. It addresses the distribution and monitoring the state aid formula, provides for the continuity of staff to support the provision of basic public health service and daily operations; requires the board to have liability insurance at least equivalent to that which is available to local boards through BRIM and provides for the maintenance of records.

Section 5 sets forth the basic public health services to be provided by a local board including and the standards for those services. The services include community health promotion, communicable and reportable disease service standards, environmental health protection, immunization, and threat preparedness.

Section 6 of the rule relates to reports and records. A requirement was added for the development of a data retention policy for medical records, laboratory results, and case reports.

Section 7 of the current rule relating to the general administration of the local health department has been deleted. Section 7 of the rule relates to performance-based evaluation, site visits, and plans of correction. The Center for Local Health is required to develop and facilitate bi-directional relationships with local health departments. A performance-based team appointed by the Commissioner is to conduct an on-site review at a minimum of every four years of all local public health department's basic public health service programs.

Section 8 of the current rule which addressed financial management was deleted. This section was replaced with a new section specifying the membership and duties of the 9 member WV Public Health Advisory Board which is to: collaborate with the Bureau to design and implement a performance-based evaluation system; collaborate with the Bureau to design and develop tools for assessment of local health departments; and provide training for local health departments and state appointees.

Section 9 of the current rule which related to physical facilities was deleted. It now contains the provisions of the current rule relating to penalties. It has been amended to require the approval of a local boards plan to correct deficiencies by the Commissioner, the Board of Health and the appointing authority.

Department of Health and Human Resources, Medical Examiner Requirements for Postmortem Inquiries, 64 CSR 84

The rule amends a current legislative rule. The amendments were by the passage of Enrolled Committee Substitute for House Bill No. 4340 that passed during the 2022 Regular Session of the Legislature. The rule regulates the conduct of medico-legal investigations of the cause of death, sets procedures for postmortem examination of deceased persons and the examination of substances collected as part of that process.

Section 8 relates to pronouncement, investigation, and certification of death. Technical changes were made to this section. Two new methods are added for the identification of a body. They are identification by obtaining the assistance of a law enforcement entity with the capacity to digitally capture and compare fingerprints and identification by serialized prosthetics, implants, or medical devices. This section also requires that a unique identifier to be assigned to an unidentified decedent.

Section 9 of the rule relates to obtaining blood, body fluids, and tissue material for examination. County medical examiners are only to help with determining the cause and manner of death and are no longer responsible for completion of a death certificate.

Section 10 sets forth the standards to transportation of the body. It has been amended to require that the transport company to have a transportation agreement on file with the Bureau.

Section 12 sets forth the standards for documentation of findings obtained by medico-legal death investigations by the county medical examiner, assistant county medical examiner, or county coroner. It has been amended to allow an alternative submission for death certificates if the Electronic Death Reporting System (DAVE) is unavailable for an extended period.

Section 13 sets forth the requirements of authorization for cremation by Office of Chief Medical Examiner, County Medical Examiner, Assistant County Medical Examiner, or County Coroner. It has been amended by deleting language referring to the "pronouncing physician's" signature. It also specifies that only a medical examiner may determine a manner of death that is anything other than natural. Any death certificate with a manner of death other than natural must be certified by a medical examiner. If certified by any other provider, the death must be immediately referred to the Office of Chief Medical Examiner.

Section 14 sets forth the requirements for the death certificate. It requires that county medical examiners, provide investigatory findings to help establish the cause and manner of death. The Office of Chief Medical Examiner is then required to complete and certify the death certificate. This section also provides that under exigent circumstances county medical examiners may complete and certify a paper death certificate.

Section 16 of the rule sets forth the standards for performance of the forensic autopsy. It has been amended to remove the authority of the county medical examiner and the county coroner's ability to authorize a forensic postmortem examination of a body. The deputy chief medical examiner now has that authority.

Section 17 of the rule sets forth the standards for specimen collection and testing and has been amended to add different types of tests that can be performed including but not limited to anthropological studies, neuropathological studies, forensic odontology review, or DNA analysis.

Section 18 sets forth the release of information and states that no preliminary information is released and that the Chief Administrator is the designated records custodian.

Section 20 sets forth the criteria for human remains and personal property. It has been amended to provide that prior to the release of custody of the remains to an organ procurement organization the Office of Chief Medical Examiner must receive verbal or written authorization from the organ procurement organization and that the decedent or legal next of kin has approved or authorized organ/tissue/cornea recovery." This section has been amended to permit release of personal property to the funeral home/crematorium/transport agency authorized by the next of kin to accept custody of the decedent.

Section 24 is a new section relating to the temporary disposition or internment of unclaimed decedents in the custody of the OCME. It specifies the two types of unclaimed decedents that OCME has custody of are: Category 1 a decedent that is or has been the subject of an Office of Chief Medical Examiner medico-legal death investigation for which the Office of Chief Medical Examiner assumed custody of the remains directly from the place of death and Category 2 a decedent for whom the Office of Chief Medical Examiner did not conduct a medico-legal death investigation but whose remains are in the custody of the Office of Chief Medical Examiner. The Office of Chief Medical Examiner assumed custody of the decedent, at some point, because they remain unclaimed in the custody of a funeral home, crematorium, or other entity for an extended period of time. The Office of Chief Medical Examiner does not take custody of unclaimed decedents in Category 2 cases in the normal course of business. This section specifies the requirements for the disposition of each category.

Section 25, which is new, sets forth the standards for temporary disposition or internment of unidentified decedents in the custody of the office of the chief medical examiner.

The House adopted the following amendments to the rule:

On page 14, by striking out all of section 13.5. and inserting in lieu thereof a new section to read as follows:

"13.5. This section applies only to remains of persons whose death have been pronounced within the State of West Virginia or for remains of persons whose deaths have been pronounced in another state and does not have a prior authorization for cremation issued by the state in which the death occurred." The amendment was adopted by the Senate.

Department of Health and Human Resources, Medical Cannabis Program – Growers/Processors, 64 CSR 110

The rule amends a current legislative rule that includes general provisions related to growers/processors pursuant to the WV Medical Cannabis Act. Pursuant to a statutory change in 2022, unless otherwise required for litigation or investigative purposes, the length of time surveillance video must be retained has been reduced from two years to 180 days.

Department of Health and Human Resources, Medical Cannabis Program – Dispensaries, 64 CSR 112

The rule amends a current legislative rule related to dispensaries pursuant to the WV Medical Cannabis Act. Pursuant to a statutory change in 2022, unless otherwise required for litigation or investigative purposes, the length of time surveillance video must be retained has been reduced from two years to 180 days.

Department of Health and Human Resources, Financial Disclosure Rule, 65 CSR 13

The rule amends a current legislative rule by changing the sunset date to August 1, 2028, from the previous date, March 14, 2023.

Department of Health and Human Resources, Uniform Bill Data Base, 65 CSR 34.

The rule is new. It establishes the procedures for the collection, retention, use, and disclosure of data from the uniform bill database, including provisions for the safeguards to protect the privacy, integrity, confidentiality, and availability of any data; procedures for the collection of data elements, required data format, code tables, edit specifications thresholds required for a submission to be considered complete, methods for submitting data, submission schedules, and fees for data requests payable by users.

Section 3, data collection and retention, this section states that DHHR may hire a data discharge vendor to collect and analyze UB data directly. The Hospital Data Submission System (HDSS) maintains the master data base and provides copies of the data to the DHHR on a quarterly basis in a data warehouse under the control of the DHHR.

Section 4 discusses data published on the Internet. This section states that generally data published on the Internet will be di-identified in accordance with HIPAA standards and requires the following variables to be omitted: name; all geographic subdivisions smaller than a state; all elements of dates (except year(for dates directly related to an individual including birth data, date of death etc,; telephone number, fax numbers, electronic mail address; social security numbers, medical record numbers, health plan beneficiary numbers, account numbers; certificate/license numbers; vehicle identifiers and serial numbers including license numbers; device identifiers and serial numbers; web universal locators; internet protocol address numbers; biometric identifiers; full fac photographic images and comparable images; and any other unique identifying numbers, characteristic, or code.

Section 5 discusses, data use and disclosures. This section states that the DHHR uses UB data for health surveillance, to inform health care policy, and to evaluate the effectiveness of programs. It sets forth the process a party must follow which requests more than a de-identified data set or a limited data set.

Section 6 sets forth a fee structure that has been established for certain types of reports and data.

Section 7 sets forth the procedure for requesting data. It provides that internal or external users may request a limited data set on specific request forms and provides the place for submission of the forms. This section states that requests may be approved as submitted or additional clarification or modifications may be required. External entities may be required to sign a data use agreement. If a request is approved, an encrypted report will be sent to the requestor.

Department of Health and Human Resources, Methodologies to Examine Needs for Substance Use Disorder Treatment Facilities Within the State, 69 CSR 13

The rule amends a current legislative rule that establishes procedures for the development of methodologies to examine the relative need for substance use disorder treatment facilities within the state.

The rule extends the sunset provision from March 22, 2023, to August 1, 2028.

Department of Health and Human Resources, Core Behavioral Health Crisis Services System, 69 CSR 19

The rule is new. It applies to any person, partnership, association, or corporation that operates a 988-crisis hotline center in the state and all other persons or entities engaging in services that assist individuals who use the 988-crisis hotline center. A 988-crisis hotline is a state-identified center participating in the National Suicide Prevention Lifeline Network to respond to statewide or regional 988 calls, chats, or texts. The network is a national network of local crisis centers that provide free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, seven days a week.

The rule sets forth the means for designating crisis hotline specifies and the duties of the crisis hotline center. It also specifies training for a center's staff, methods for sharing information and required reporting and data collection

The rule has a fiscal impact of $1,863,984. This estimate was provided by Vibrant Health, the Substance Abuse Mental Health Services Administration national contractor for the Suicide Hotline. The 988-call center will be funded by the DHHR Bureau for Behavioral Health (BBH). Federal Funding will be used when available. After funding the call center for 2-3 years, BBH may need an appropriation to continue funding the 988-call center. The 988-call center will create 25 new jobs and provide a primary contact for crisis services for WV.

Department of Health and Human Resources, Child Care Centers Licensing, 78 CSR 01

The rule amends a current legislative rule which establishes standards and procedures for the licensure of child care centers under the provisions of W. Va. Code 49-2-101 et seq. and related federal and state code provisions.

The rule adds additional subjects to those required for pre-service training and adds a definition for the term "Serious Injury." It prohibits a care giver under the influence of any substance, including medical cannabis, that would impair their ability to care for children to be on the premises or have contact with the children.

The rule updates the WV Cares language. It adds a sex offender registry check requirement in staff member or volunteer's state of residency and out-of-state residency during the past five years, and adds an interstate background check requirement for providers, staff, and volunteers with out-of-state residency and out-of-state residency during the past five years. A new staff member must have documentation confirming a valid criminal background check has within the past 180 days as opposed to the current 12 months.

The rule also requires all staff to complete 15 hours of approved training annually, which may be used to complete other training requirements, requires certification in Pediatric CPR, adds an immunization grace period for children experiencing homelessness and children in foster care, permits a serious incident to be reported via email and revises nutrition plans to meet current USDA Child and Adult Care Food Program meal and snack pattern requirements.

Department of Health and Human Resources, Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults and Vulnerable and Transitioning Youth Group Homes and Programs in West Virginia, 78 CSR 03

The rule amends a current legislative rule which establishes standards and procedures for the licensure of residential child care and treatment facilities and vulnerable and transitioning youth group homes and programs.

The rule changes the employee-to-patient ratios for a psychiatric residential treatment facility from 1-to-3 to 1-to-4 during day and evening hours. During nighttime sleeping hours the ratio changes from 1-to-6 to 1-to-8.

Department of Health and Human Resources, Family Child Care Facility Licensing, 78 CSR 18

The rule amends a current legislative rule which establishes standards and procedures for the licensure of child care centers under the provisions of W. Va. Code 49-2-101 et seq. and related federal and state code provisions.

The rule adds additional subjects to those required for pre-service training and adds a definition for the term "Serious Injury". It provides that all children 12 and under are included in the calculation of children in the facility, adds requirements for field trips and water activities, adds an immunization grace period for children experiencing homelessness and children in foster care, adds additional training requirements for a family child care facility operator and the staff, and prohibits a care giver under the influence of any substance, including medical cannabis, that would impair their ability to care for children to be on the premises or have contact with the children.

The rule updates the WV Cares language. It adds a sex offender registry check requirement in staff member or volunteer's state of residency and out-of-state residency during the past five years, and adds an interstate background check requirement for providers, staff, and volunteers with out-of-state residency and out-of-state residency during the past five years. A new staff member must have documentation confirming a valid criminal background check has within the past 180 days as opposed to the current 12 months.

Department of Health and Human Resources, Family Child Care Home Registration, 78 CSR 19

The rule amends a current legislative rule to bring the rule into compliance with 45 CFR Part 98 Child Care and Development Fund; to include requirements with Bureau for Public Health and make any other necessary changes.

The rule adds additional subjects to those required for pre-service training and adds a definition for the term "Serious Injury". It prohibits a care giver under the influence of any substance, including medical cannabis, that would impair their ability to care for children to be on the premises or have contact with the children.

The rule also clarifies a child care home must be closed for a 6 hour period every 18 hours, requires the development and implementation of a safety plan that is practiced twice annually, requires notice be given to parents containing specified information if there are pets in the home and notice to parents if a

new pet is brought into the home, and adds an immunization grace period for children experiencing homelessness and children in foster care.

The rule updates the WV Cares language. It adds a sex offender registry check requirement in staff member or volunteer's state of residency and out-of-state residency during the past five years, and adds an interstate background check requirement for providers, staff, and volunteers with out-of-state residency and out-of-state residency during the past five years. A new staff member must have documentation confirming a valid criminal background check has within the past 180 days as opposed to the current 12 months.

Department of Health and Human Resources, Informal, and Relative Family Child Care Home Registration, 78 CSR 20

The rule amends a current legislative rule which establishes standards and procedures for the licensure of child care centers under the provisions of W. Va. Code 49-2-101 et seq. and related federal and state code provisions.

The rule adds additional subjects to those required for pre-service training and adds a definition for the term "Serious Injury". It prohibits a care giver under the influence of any substance, including medical cannabis, that would impair their ability to care for children to be on the premises or have contact with the children.

The rule updates the WV Cares language. It adds a sex offender registry check requirement in staff member or volunteer's state of residency and out-of-state residency during the past five years, and adds an interstate background check requirement for providers, staff, and volunteers with out-of-state residency and out-of-state residency during the past five years. A new staff member must have documentation confirming a valid criminal background check has within the past 180 days as opposed to the current 12 months.

The rule requires notice be given to parents containing specified information if there are pets in the home and notice to parents if a new pet is brought into the home, adds an immunization grace period for children experiencing homelessness and children in foster care, and requires the development and implementation of an evacuation plan and a safety plan that is practiced twice annually.

Department of Health and Human Resources, Out of School Time Child Care Center Licensing, 78 CSR 21

The rule amends a current legislative rule which establishes standards and procedures for the licensure of child care centers under the provisions of W. Va. Code 49-2-101 et seq. and related federal and state code provisions.

The rule adds additional subjects to those required for pre-service training and adds a definition for the term "Serious Injury". It prohibits a care giver under the influence of any substance, including medical cannabis, that would impair their ability to care for children to be on the premises or have contact with the children, adds an immunization grace period for children experiencing homelessness and children in foster care, and revises nutrition plans to meet current USDA Child and Adult Care Food Program meal and snack pattern requirements.

The rule updates the WV Cares language. It adds a sex offender registry check requirement in staff member or volunteer's state of residency and out-of-state residency during the past five years, and adds an interstate background check requirement for providers, staff, and volunteers with out-of-state residency and out-of-state residency during the past five years. A new staff member must have

documentation confirming a valid criminal background check has within the past 180 days as opposed to the current 12 months.

Department of Health and Human Resources, Goals for Foster Children, 78 CSR 25

The rule repeals an existing legislative rule because the authorizing statute was amended in 2020; House Bill 4092 struck the specific mandate for the rule. Since the former subsection (c) of W. Va. Code §49-126-2 no longer exists, the rule is technically void pursuant to W. Va. Code §29A-1-3b(b).

Department of Health and Human Resources, Deemed Head Start Child Care Center Licenses, 78 CSR 28

The rule is new and pursuant to Committee Substitute for House Bill No. 4662 which passed during the 2022 Regular Session. The rule establishes standards and procedures for the Head Start classrooms overseen by a Head Start Agency to be deemed a child care center licensed under the provisions of W. Va. Code §49-2-115a and related federal and state code. A deemed license allows the applicant access to WV Cares. The rule defines terms, sets forth an application process, authorizes the Department to investigate complaints, and provides for revocation of a license or the reversion to another license if the Office of Head Start is no longer funding the agency.

Department of Health and Human Resources, All-Payer Claims Database – Submission Manual, 114A CSR 03

The rule is new. The rule attaches a manual which contains the substantive content of the rule. The All-Payer Claims Database includes claims from public and private health plans, including private insurance plans, Medicare, and Medicaid. Claims data refers to administrative records created when health care providers require payment (bill) for services delivered to patients. Claims used for billing purposes contain coded information for diagnosis and procedures.

House Bill 2029 which passed this Session and has been signed by the Governor repealed the article of the Code that created the All-Payer Claims Database. The LRMRC recommended that the rule be disapproved.

All-Payer Claims Database – Data Submission Requirements

This rule was amended into the rules bundle due to the passage of House Bill 2029 which passed this legislative session and was signed by the Governor, repealing the section of code which authorizes the All-Payer Claims Database. The rule will be repealed by the agency.

CODE REFERENCE: West Virginia Code §64-5-1 et seq. and §64-12-2 et seq. – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2862

Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments

The bill establishes a standard of care for shareholder voting which applies to both the West Virginia Board of Treasury Investments ("BTI") and the West Virginia Investment Management Board ("IMB"), to be effective July 1, 2024. The bill requires that all shareholder votes that BTI and IMB (collectively "the Boards") are authorized to cast, or entrust to a fiduciary, are cast solely in the pecuniary interests of the underlying fund's beneficiaries. The Boards are expressly prohibited from casting, or permitting a fiduciary to cast, any shareholder vote for the purpose of furthering non-pecuniary interests.

The bill defines pecuniary factors as those factors having a direct and material effect on the financial risk or return to beneficiaries based on an investment pool's objectives and funding policy. The bill clarifies that environmental, social, corporate governance, or other similar considerations are not pecuniary factors, unless a prudent investor would determine that such a consideration directly and materially affects the financial risk or return to beneficiaries. Any factor that does not meet the definition of pecuniary factor is considered a non-pecuniary factor under the bill.

Additionally, the bill prohibits the Boards from adopting a policy of casting shareholder votes, or permitting a fiduciary to cast shareholder votes, according to the recommendations of a proxy advisor firm unless such firm commits, in writing, to make all shareholder voting recommendations to the Boards according to the standard of care. A fiduciary must provide the Boards with advance notice of any shareholder vote concerning non-pecuniary interests to provide the Boards with a reasonable opportunity to instruct the fiduciary how the vote must be cast.

The bill allows the Boards to waive requirements of the bill related to money managers, if those requirements could cause significant loss to the funds under management or significantly limit investment options. To adopt a waiver, the Boards would have to make a finding that reasonable and good faith efforts have been made to find a fiduciary meeting the requirements of the bill.

The bill makes clear that the Boards are not required to divest from any private market funds or from indirect holdings in actively or passively managed investment funds. However, if the manager of such a fund offers "proxy voting choice options," the Boards must exercise those options according to the standard of care. "Proxy voting choice options" refers to a set of features that some fund managers now offer institutional clients, in which the clients may participate in proxy voting decisions when legally and operationally viable.

Finally, the bill requires each Board to publish an annual report on its website, tabulating and describing all shareholder votes cast by the Board or its fiduciaries.

CODE REFERENCE: West Virginia Code §12-6C-13 – amended; §12-6-11a – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2875

Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR

The bill authorizes circuit judges to waive a home study in cases of grandparent adoption.

CODE REFERENCE: West Virginia Code §49-4-114 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3018

Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court

Currently, West Virginia law permits an individual under the age of 18 to marry (1) if the marriage applicant is 16 years old or older and the applicant's parents or guardian consents; or (2) if the marriage applicant is under 16 years old, a circuit court judge may order the county commission to issue a marriage license upon consent of the parents and a finding that the issuance of a license is in the best interests of the marriage applicant. The bill removes these exceptions and establishes that the age of consent for marriage for all persons, both male and female, is 18 years old. The bill clarifies that a minor under 18 lacks capacity to marry until certain consents are obtained.

The bill provides that a 16- or 17-year-old minor may marry a person up to four years older than him or her upon the valid written consent from the minor applicant and his or her parent(s) or legal guardian(s). The bill provides requirements for a signed and acknowledged affirmation by the minor and the acknowledged consent of the parent(s) or legal guardian(s).

The bill authorizes a married 16- or 17-year-old minor to petition for annulment of his or her marriage without consent of his or her parents or guardians.

Finally, the bill clarifies that it does not annul or void a marriage entered into prior to enactment or an otherwise legal marriage entered into outside of West Virginia.

CODE REFERENCE: West Virginia Code §48-2-103 – repealed; §48-2-106 and §48-2-301 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3146

Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act

House Bill 3146 is an adoption of a model statute, the Public Meetings During Emergency Act. Its primary purpose is to provide a framework for allowing and governing virtual public meetings during declared emergencies.

The bill defines terms, outlines when virtual public meetings are permitted, establishes procedure for the conduct of such meetings, ensures that observation by and participation of the public is facilitated, sets rules for notice, and references the acts interaction with the federal Electronic Signatures Act.

CODE REFERENCE: West Virginia Code §6-9C-1 through §6-9C-10 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3156

Raising the compensation rates of panel attorneys

This bill increases the amount of compensation (from $3,000 to $4,500) and expenses (from $1,500 to $2,500) that panel attorneys can claim in their billing vouchers from. It also increases investigative services hourly rate of pay from $30 to $40. Lastly, it provides for payment for representation in expungement proceedings when cases have been dismissed or there is an acquittal.

CODE REFERENCE: West Virginia Code §29-21-13a – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3190

Amending the definition of "minor"

The bill adds to the definition of "minor" in multiple sections. This is solely for purposes of law-enforcement operations by people representing themselves to be minors. The change is to clarify that persons over 18 may represent themselves as minors in undercover or "sting" type operations and violations will not be jeopardized thereby.

CODE REFERENCE: West Virginia Code §61-3C-14b, §61-8A-1, §61-8B-1, and §61-14-1 – amended; §61-8-32 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3270

To amend the deliberate intent statute to limit noneconomic damages to $500,000

Under current law, West Virginia employers who are covered under the workers compensation system enjoy immunity from employee suits for workplace injuries. However, an injured employee may bypass an employer's workers compensation immunity and bring a "deliberate intent" civil action (also sometimes referred to as a Mandolidis action) against the employer by establishing that an injury was caused because the employer deliberately exposed the employee to unsafe working conditions.

The bill imposes a new requirement for deliberate intent cases based on an employee suffering from occupation pneumoconiosis, such as black lung or silicosis. In those cases, the employee is required to prove that the employer fraudulently concealed or manipulated dust samples or air quality samples to be successful in a deliberate intent claim.

The bill also imposes a limit on compensatory damages for noneconomic loss, applicable to deliberate intent causes of action accruing on or after July 1, 2023. Such damages may not exceed the higher of two times the economic damages before the post-verdict offset or $500,000. The bill links the cap to the Consumer Price Index and requires annual increases to account for inflation until the cap reaches $750,000.

CODE REFERENCE: West Virginia Code §23-4-2 – amended; §23-4-2A – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Became law without Governor's signature March 11, 2023

House Bill 3302

To recognize unborn child as distinct victim in a DUI causing death

The bill amends W. Va. Code §17c-5-2 to include an embryo and fetus as separate and distinct victims of DUI causing death or serious bodily injury. It amends W. Va. Code §61-3-20 which lists offenses where the fetus as a separate victim as to certain offenses to expressly include those offenses.

CODE REFERENCE: West Virginia Code §17c-5-2 and §61-2-30 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 15, 2023

House Bill 3332

Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election

The strike and insert, like its predecessor Senate Bill 482, would add 11 magistrates in the following counties:

- Kanawha (+ 3 Magistrates) – Goes from 10 to 13 Magistrates
- Wood (+ 2 Magistrates) – Goes from 4 to 6 Magistrates
- Monongalia (+ 2 Magistrates) – Goes from 4 to 6 Magistrates
- Berkley (+ 1 Magistrate) – Goes from 6 to 7 Magistrates
- Logan (+ 1 Magistrate) – Goes from 3 to 4 Magistrates
- Raleigh (+ 1 Magistrate) – Goes from 5 to 6 Magistrates
- Jefferson (+ 1 Magistrate) – Goes from 3 to 4 Magistrates

Those magistrates would be elected in 2024 and begin their service January 1, 2025. Of note, one of the new magistrates in Monongalia County would be appointed by the Chief Circuit Court Judge and take office effective July 1, 2023.

With respect to family court, the pending strike and insert provides for the following changes:

- One change to the county composition of the circuits: Braxton County would be removed from the 17th Circuit currently consisting of Lewis, Upshur, and Braxton Counties. It would be placed in the 27th circuit with Webster and Pocahontas County.
- The counties of Berkley and Jefferson, which comprise the 24th Circuit would gain an additional family court judge and would go from three to four family court judges.
- The newly added judge would run in the 2024 election and begin serving on January 1, 2025.
- The strike and insert amendment would further permit the Supreme Court of Appeals to increase number of family case coordinators. It also authorizes the Supreme Court of Appeals to create staff classifications and to appoint additional support staff to family court judges based on workload. Of note, the language regarding pay increases was changed to reflect the flat $2,300 raise (previously 5% in SB 482).

Currently, there are 75 circuit court judges in the state serving in 31 judicial circuits. This changes the county composition in a number of circuits and re-numbers the majority of the judicial circuits. It also adds 6 judges and eliminates one judge for a net change of +5 judges. More specifically, the changes to county composition of the judicial circuits would be as follows (Current Circuits – Proposed Circuits)

- Wood & Wirt (4th Circuit/4 Judges) – Wood (sole county in 4th Circuit /4 Judges); Wirt, Doddridge, Pleasants, and Ritchie (3rd Circuit/2 Judges)
- McDowell (sole county in 8th Circuit/2 Judges); Wyoming (sole county in 27th Circuit/1 Judge) – McDowell and Wyoming (12th Circuit/2 Judges)
- Preston (sole county in 18th Circuit/1 Judge); Tucker, Grant, and Mineral (21st Circuit/2 Judges) – Preston and Tucker (22nd Circuit/2 Judges); Grant and Mineral (25th Circuit/2 Judges)
- Mingo (sole county in 30th Circuit/1 Judge); Logan (sole county in 7th Circuit/2 Judges) – Mingo and Logan (11th Circuit/3 Judges)
- Morgan, Berkley, and Jefferson (23rd Circuit/6 Judges) – Morgan and Berkley (27th Circuit/5 Judges); Jefferson (28th Circuit/2 Judges)

The proposed changes to number of circuit court judges would be as follows:

- Changes in Number of Circuit Court Judges (+ 6 Judges – 1 Judge = Net +5 Judges)
    - Kanawha (+ 1 Judge) – Goes from 7 to 8 Judges
    - Nicholas (+ 1 Judge) – Goes from 1 to 2 Judges
    - Preston and Tucker (+ 1 Judge) – Goes from 1 to 2 Judges (addition of Tucker County)
    - Wirt, Doddridge, Pleasants, and Ritchie (+ 1 Judge) – Goes from 1 to 2 Judges (addition of Wirt County)
    - Jefferson (+ 1 Judge New Circuit) – Newly created circuit (2 judges total)
    - Randolph County (+ 1 Judge) – Goes from 1 to 2 Judges
    - McDowell and Wyoming (- 1 Judges) – Goes from 3 to 2 Judges

The circuit court provisions of the previously considered SB 482 differ in a number of respects:

- The bill adds new language (differing from SB 482) regarding the divisions in McDowell and Wyoming County. Specifically providing that:
    - Division 1 in the twelfth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in McDowell County, and Division 2 in the twelfth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Wyoming County.
- There is also new language regarding the three, four-county circuits. With respect to the counties of Calhoun, Jackson, Mason, and Roane in the proposed fifth circuit:
    - That Division 1 in the fifth circuit shall be for a judge who resides in Jackson County at the time of his or her filing and for the duration of his or her service, Division 2 in the fifth circuit shall be for a judge who resides in Mason County at the time of his or her filing and for the duration of his or her service, and Division 3 in the fifth circuit shall be for a judge who resides in either Calhoun County or Roane County at the time of his or her filing and for the duration of his or her service;
    - With respect to the remaining two four county circuits (3rd and 17th circuits), both of which would have two judges, the new language provides:
        - No more than one judge shall be a resident of any county comprising the third circuit; Provided, however, That if the highest vote recipients in both divisions are also both residents of the same county, then the candidate with the highest overall number of votes shall be declared the winner of the division in which he or she ran; Provided, further, That the candidate who has the highest number of votes in the other division who is not a resident of the same county as the highest overall vote recipient shall be declared the winner of the division in which he or she ran.
- Raleigh County (as opposed to Kanawha County) would have concurrent jurisdiction with the lone single judge circuit (Summers & Monroe).

The fiscal note remains the same for the strike and insert (approximately $4 million annually).

CODE REFERENCE: West Virginia Code §50-1-2, §50-1-8, §50-1-9, §50-1-9a, §51-2-1, §51-2A-3, §51-2A-6 – amended; §50-1-9c – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3360

Creating an office of the Inspector General within the Department of Homeland Security

This bill creates an Office of Inspector General within the Department of Homeland Security. The bill sets out qualifications and duties of the office as well as to whom the Inspector General reports.

The Inspector General is to be appointed by the Governor with the advice and consent by the Senate. The salary is not set but is capped at $95,000. The Inspector General is classified exempt, but staff is civil service.

CODE REFERENCE: West Virginia Code §15A-13-1 et seq. – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3432

Relating to statutory construction

This bill updates and clarify provisions relating to statutory construction and the primacy of certain bills. It also codifies several areas of law as handed down by the West Virginia Supreme Court of Appeals. Specifically, the bill:

- Updates and alphabetizes definitions;
- Clarifies the meaning of plural words and the effect of assigning a power to multiple individuals;
- Declares that statutes are to be construed to avoid absurd results;
- Declares that statutes should be read as a whole, in context, and whenever possible a court is to give effect to every word of the statute; and
- Where two bills affecting the same section pass in the same session, whichever enrolled bill is passed later in time is controlling.

The bill also undertakes various amounts of purely technical cleanup.

CODE REFERENCE: West Virginia Code §2-2-10, §2-2-12, and §4-1-13 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3439

To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than $1 million per incident

This bill requires every child welfare agency to obtain an insurance policy in an amount of not less than $1 million per incident against liability for damages arising from any error or omission in providing child placement services. An act of sexual assault or sexual abuse constitutes an incident. The agency has no civil liability beyond that amount unless the damages or injuries are intentionally or maliciously inflicted. The agency must file proof of insurance with the Department of Health and Human Resources annually by January 1.

CODE REFERENCE: West Virginia Code §49-2-130 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3448

Relating generally to probation officer field training

This bill allows the Supreme Court Division of Probation Services to conduct field training for probation officers. It also grants a field training officer the same powers as a probation officer while performing his or her field duties.

CODE REFERENCE: West Virginia Code §62-15-5 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3479

Creating requirements for use of unmanned aerial vehicles

This bill amends two sections in Chapter 61, Article 16, which regulates the use of unmanned aerial vehicles, more commonly called "drones," in West Virginia. The bill refines this relatively new section of the Code and makes both substantive additions and technical cleanup.

Substantively, the bill imposes restrictions on the operation of drones over certain "targeted facilities"—defined via cross-reference to the "critical infrastructure" outlined in W. Va. Code §61-10-34—which includes industrial facilities (chemical plants, steel mills, railyards, oil or gas refineries & pipelines), military installations, critical facets of public infrastructure (dams, water treatment facilities, wireless/radio transmission towers, etc.), and commercial airports. The operation of drones over these facilities is prohibited when the purpose is to release a substance or other projectile, conduct surveillance with the intent to harm the facility or the public, obtain proprietary information or trade secrets, or to obtain protected governmental information.

The bill also clarifies that, in general, restrictions on drone use do not constrain law enforcement agencies so long as they comply generally with the provisions of this article and do not violate the protection against unreasonable search and seizure provided by the state and federal constitutions (the Fourth Amendment of the U. S. Constitution and West Virginia's state-level analog, Art. III, §6 of the West Virginia Constitution).

It contains a proviso establishing that landowners who wish to operate, or hire third parties to operate, drones in the airspace over their own land, can do so without violating the regulations set forth in this article.

Finally, the bill provides an exception from these regulations for newsgathering activity conducted by a drone flying at an altitude of greater than 400 feet, the ceiling for most commercially available drones (400 feet is also the floor for manned aviation). Practically speaking, this exception permits newsgathering activity conducted by drones that are analogous/equivalent to manned helicopters and thus are subject to Federal Aviation Administration regulation.

CODE REFERENCE: West Virginia Code §61-16-1 and §61-16-2 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3499

To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship

The bill makes several changes to West Virginia's codification of the Uniform Real Property Transfer on Death Act.

First, the bill provides clarification regarding what happens when the designated beneficiary of a transfer on death deed predeceases the transferor. Namely, when the sole beneficiary predeceases the transferor, the transfer on death deed lapses. that possessory interest.

The bill also permits transfer on death deeds to transfer an interest in real property with a right of survivorship. Prior to enactment, if multiple beneficiaries were named in a transfer on death deed, they could only receive "equal and undivided shares with no right of survivorship." The bill changes the law to permit (but does not require) the transferor to grant his or her interest to multiple beneficiaries with the right of survivorship.

The bill also clarifies that the interest conveyed by a transferor depends on his or her interest in the conveyed property. Thus, if the transferor is one of multiple owners and they share the right of survivorship, if the transferor predeceases the other owners with survivorship rights, the transfer on death deed is superseded by the survivorship rights of the other owners, and the deed conveys nothing. If the transferor is one of multiple owners as a tenant in common, the transfer on death deed is effective, but only conveys the portion of the tenancy that the transferor possessed to the beneficiaries named in the deed.

Finally, the bill provides that when real property that is the subject of a transfer on death deed is sold by the same transferor prior to the transferor's death, the inter vivos transfer operates to revoke the transfer on death deed even in the absence of specific revocation language.

CODE REFERENCE: West Virginia Code §36-12-11 and §36-12-13 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3559

Relating to defining a newborn safety device

This bill authorizes a person to anonymously place a child, within 30 days of the child's birth, in a newborn safety device with the intent to leave the child and for a licensed emergency medical services provider to remove the child from the device and take custody of the child. The bill also grants civil and criminal immunity to the emergency medical service provider unless the emergency medical service provider's actions were the result of gross negligence or willful misconduct. Additionally, the bill describes the location of the newborn safety device. The bill also defines the device, the newborn safety device's alarm system, and establishes a maintenance protocol for the alarm. It requires the transportation of the newborn to a medical facility immediately after the child is retrieved.

The bill grants that any person who relinquishes a child in a newborn safety device may remain anonymous and shall not be pursued, unless in cases where evidence of child abuse or neglect is present. Furthermore, the bill waives the rights of notification and standing to the person who relinquishes a child in a newborn safety device.

CODE REFERENCE: West Virginia Code §49-4-201 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Finance

Senate Bill 149

Exempting property used exclusively for divine worship and the certain operations from property taxation

The bill exempts the following property from ad valorem taxation:

"Property . . . used exclusively for divine worship and the operation of a pre-K school, primary school, middle school, secondary school, daycare center, or church camp for children, which school, daycare center, or church camp is operated by the church which owns the property or is operated by another not-for-profit organization or entity."

Note: Article X, § 1 of the West Virginia Constitution imposes ad valorem taxes on all property in the state, and simultaneously subjects that general rule to exceptions:

"*Subject to the exceptions in this section contained*, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value . . . ." (emphasis added). That section of constitutional law goes on to create an exception by providing that "property used for religious purposes may by law be exempted from taxation." The Legislature has already by law exempted from ad valorem taxation "[p]roperty used exclusively for divine worship" in §11-3-9. This bill would expand upon that exemption.

CODE REFERENCE: West Virginia Code §11-3-9 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 151

Levying tax on pass-through entity's income

Pass-through entities are such that the income "passes through" for tax purposes to the owners in relative shares of their ownership, so that the income is taxed on the individuals' personal income taxes. This bill would allow entities to make an irrevocable (for the taxable year) election that all income be taxed at the entity level. A nonrefundable credit would be allowed to the individual owners for the tax on the income taxed at the entity level to avoid double taxation on those individuals' personal income taxes. A similar credit is also available to individual owners based upon their proportion of tax paid to another state at the entity level.

This bill is largely in response to the recent cap on the deductibility of SALT taxes on income taxes at the federal level. Previously, there was no cap but now one is imposed at $10,000 for individuals. However, if the taxes are paid at the entity level and the individual credited, the cap is avoided.

The House amended the Committee Substitute to clarify the Commissioner's rulemaking authority.

CODE REFERENCE: West Virginia Code §11-21-3 and §11-21-20 – amended; §11-21-3a – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 423

Increasing salary for certain state employees

The bill increases the annual salaries of members of the West Virginia State Police, public school teachers and public-school service personnel beginning July 1, 2023, in the salary schedules set forth in in statutes, as follows:

- For public professional educators and professional student support personnel (collectively, "teachers"), $2,300 increase in annual pay (based on 200 days per year contract)
- For public school service personnel – $230/$115 (increase in monthly pay) *[Note: The $230/$115 difference is because some service personnel contract to work more than 3½ hours a day (raise is $230 per month) and others for 3 ½ hours a day or less (raise is $115 per month)]*.
- For members of the State Police and certain Civilian Forensic Lab Personnel – $2,300 increase in annual pay.

Unlike prior years, where the pay raise for education and state employees reflected that were effectively be given an across-the-board pay raise equal to approximately 5% of the average of their respective group's aggregate salaries, and likewise the State Police were given an across-the-board pay raise equal to approximately 5% of the average of all state employee aggregate salaries (except last year, when State Police were all raised $10,000 per year), this bill provides a flat $2,300 per year pay raise for all of them. All salary increases in this bill will become effective beginning July 1, 2023.

CODE REFERENCE: West Virginia Code §15-2-5, §18A-4-2, and §18A-4-8a – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 17, 2023

Senate Bill 443

Directing payment of estate administration fee to State Auditor

The bill amends provisions of the WV Code relating to estate administration. The bill directs payment of funds from fees charged at the time of qualification of a fiduciary to the State Auditor. These funds are being directed to the State Tax Commissioner under current law. Since the State Tax Commissioner is no longer responsible for estate administration, the funds should be directed to the State Auditor who is responsible. The bill does not increase any existing fee.

CODE REFERENCE: West Virginia Code §44-3A-42 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 444

Transferring moneys in WV Future Fund to General Revenue Fund

This is an agency bill introduced at the request of the Tax Commissioner. The purpose of the bill is to eliminate the West Virginia Future Fund. That fund was created to account for the revenue stream of Marcellus Shale. Since that time the Legislature has amended §11B-2-20 commonly known as the Rainy Day Fund. The change to that section in 2022 provided for caps on transfers into the Rainy Day fund when the combined totals of the states two (2) Rainy Day funds is 20% of the total appropriations from the State's General Revenue for the fiscal year just ended. The enactment of this provision renders funding the West Virginia Future fund impossible. This bill would eliminate that now defunct fund and require cessation of any funding into that fund effective July 1, 2023. Any existing funds housed in the fund would be transferred to General Revenue.

CODE REFERENCE: West Virginia Code §11-13A-5B – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 446

Removing methanol and methanol fuel from definition of special fuel.

This is an agency bill introduced at the request of the Tax Commissioner. The bill removes from the definition of special fuel within the Motor Fuel Excise Tax the term "methanol". Methanol is primarily used in manufacturing. Including it in the definition of special fuel and making it subject to sales tax precludes manufacturers from asserting an exemption for use in manufacturing. This bill would permit the use of that exemption.

CODE REFERENCE: West Virginia Code §11-14C-2 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 478

Relating to Jumpstart Savings Program

This bill would offer clarity to some provisions of the West Virginia Jumpstart Savings Program. That program was created during the 2021 Regular Session of the Legislature. The Jumpstart Savings Act ("Jumpstart") program allows West Virginians to save and invest money to help cover the costs of pursuing a trade or occupation. Jumpstart allows individuals, families, and employers to contribute state tax-free dollars to a Jumpstart Savings Account ("jumpstart account") to invest in the future career of a named beneficiary. The program has a number of tax provisions.

The authorizing legislation provided a modification reducing federal adjusted gross income in an amount equal to a taxpayer's contribution to a jumpstart account. That bill also provided a similar modification for distributions from the jumpstart account. This bill would clarify that the modification reducing federal adjusted gross income is for the entire amount of the distribution. This is not a change. The entire amount was always permitted to be a deduction, the language of the statute, however, provided to be confusing and this bill would clarify that.

The bill would also clarify that there is an increasing modification for amounts withdrawn from a jumpstart account not used for a qualifying expense. There are also new definitions for "distribute" and "qualified expense". These are also to alleviate confusion.

Employers are permitted to establish accounts for employees or contribute to an employee's account. If the employee is the account owner, the employer may claim a nonrefundable tax credit for his or she matching contribution to the employee's jumpstart account. If, however, an employer is the account owner the employer may not claim the credit. There is also a new provision to clarify that the employer is not permitted to tax more than a single credit or modification for a contribution to an employee's account.

In the education portion of the program there have been changes to definitions. The definition of "Jumpstart Savings Expense Fund" has been deleted. This fund no longer exists. Two new definitions have been added: "Qualified Expense" and "Qualifying Profession."

Qualifying expense has been defined to cross reference expenses that are allowable pursuant to federal law and business expenses, business start-up expenses, expenses expended for goods and services used to carry on a qualifying profession, and to purchase tools and equipment, costs to establish a business and fees for all for a qualifying profession. This definition was moved from another section of code.

A qualifying profession is defined as an occupation, profession, or trade, for which an apprenticeship is required, a license or certification from an Advanced Career Education center or a career and technical education or vocational training program or public secondary school is required, or an associate degree from a technical or community college of from a school or program is required.

There have been modifications to the process to open a jumpstart account. The minimum deposit amount has been eliminated. The fund from which the Treasurer is required to make an initial $100 deposit has been switched from the Jumpstart Savings Expense Fund" to the "College and Jumpstart Savings Administrative Account."

There is also a new requirement that the "board" is required to make a minimum deposit within 30 days of the opening of the account. There have also been modifications to the reporting requirements to allow a required report for the West Virginia College Prepaid Tuition and Savings Program Act satisfy the reporting requirements of the Jumpstart Savings Program.

There are various internal effective dates for newly enacted/amended provisions. Additionally, there are a number of sections rewritten but not substantively changed and minor technical edits for clarity.

CODE REFERENCE: West Virginia Code §11-21-12m, §11-21-25, §11-24-10a, §18-30-3, §18-30A-3, §18-30A-10, §18-30A-11, and §18-30A-13 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed by the Governor March 29, 2023

Senate Bill 487

Extending additional modification reducing federal adjusted gross income

Current law provides that a taxpayer who retires with benefits provided by an employer provided pension plan that terminates prior to or after his or her retirement and, the plan is governed by a guarantor whose maximum benefit is less than that which the taxpayer would have received had his or her plan not terminated may subtract from his or her federal adjusted gross income the difference. This adjustment terminated on January 1, 2023. This bill extends the modification to 2028.

CODE REFERENCE: West Virginia Code §11-21-12d – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 510

Supplementing and amending appropriations to BOE, Department of Education

This bill creates a new item of appropriation within the Department of Education, State Board of Education, State Department of Education known as Increased Enrollment – Surplus and appropriates $2,400,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

Senate Bill 523

Clarifying purpose and use of Economic Development Project Fund

The bill would modify the requirements for spending from the special revenue fund, designated the "Economic Development Project Fund," through which the Economic Development Authority (EDA) may to offer incentives for business formation or expansion and provide assistance with site development or other concerns to industrial development agencies or enterprises under existing EDA law, as long as at least $200 million is used to finance "high impact development projects. For these purposes, the Project Fund received at least $400 million last year when the fund was created.

The bill would remove the $200 floor for financing "high impact development projects" and establish a cap of $300 million, plus earnings or other returns on that principal and any additional legislative appropriations for that purpose. The bill would permit the EDA to "finance any high impact development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans, grants, or other offers of financial assistance or aid upon such terms as the Governor may request and the authority shall deem appropriate."

The bill would create two new purposes for otherwise spending the moneys of the Project Fund:

"Traditional loans" through which the EDA may finance any economic development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans that may not exceed $250 million dollars annually, on a rolling basis, plus earnings or other returns on that principal and any additional legislative appropriations for that purpose.

"Business retention projects" for which the EDA may finance any economic development project under this section by offering incentives for business development and expansion to industrial development agencies or enterprises already existing and operating in the State of West Virginia in the form of loans that may not exceed $50 million on a rolling basis, plus earnings or other returns on that principal and any additional legislative appropriations for that purpose.

Note: A "high impact development project" is defined in this section §31-15-23a as "a project meeting the following criteria, according to a resolution adopted by the authority:

- The Governor has requested, in writing, that the project* be approved for financing by the authority in an amount of $50 million or greater;
- The industrial development agency** or enterprise*** undertaking the project will privately invest an amount of $50 million or greater in the project; and
- The project meets or exceeds the loan per job ratio criteria for high-impact development projects that may be established, in consultation with the Secretary of the Department of Economic Development, by the board of directors."

§31-15-4 defines the following terms used in the above criteria:

- *"Project" means a commercial or industrial undertaking and all of the assets reasonably and necessarily required therefor, all as determined by the authority, which determination shall be conclusive, and shall include, without limiting the generality of the foregoing, industrial projects and commercial projects as presently defined in section three, article two-c, chapter thirteen. [The terms "commercial project" and "industrial project" are defined within the Industrial Development and Commercial Development Bond Act, through which the Economic Development Authority is

authorized to issue bonds and other means of financing industrial projects and commercial projects. See, e.g., §13-2C-3]

- **"Industrial development agency" means any incorporated organization, foundation, association or agency to whose members or shareholders no profit inures, which has as its primary function the promotion, encouragement and development of industrial, commercial, manufacturing and tourist enterprises or projects in this state.
- ***"Enterprise" means an entity which is or proposes to be engaged in this state in any business activity for profit. The entity may be owned, operated, controlled or under the management of a person, partnership, corporation, trust, community-based development organization or council, local commerce group, employee stock ownership plan, pension or profit-sharing plan, a group of participating employees who desire to own an entity which does not presently exist, or any similar entity or organization]

CODE REFERENCE: West Virginia Code §31-15-23a – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 561

Relating to administration of WV Drinking Water Treatment Revolving Fund Act

This bill transfers administration of the Drinking Water Treatment Revolving Fund (Water Treatment Fund) Act from the Department of Health and Human Resources (DHHR) to the Department of Environmental Protection (DEP).

The Fund is used to make loans or other financial assistance to projects for public water systems that collect, treat, and supply water for human consumption. It would continue to be managed by the Water Development Authority (Authority) (§22C-1-1 et seq.) but under the direction of the DEP instead of DHHR.

The bill also adds a provision to DEP's administration of the Water Treatment Fund that provides for reviewing each project funded by the Water Treatment Fund and to require projects receiving funds to prevent or mitigate adverse impacts to public health and the environment and also grants DEP rulemaking authority therefor.

The Committee Substitute to the Committee Substitute removed any changes to the makeup of the Water Development Authority. The House amended the bill to remove redundant language regarding the water construction grants program. The Senate concurred with the amendment.

CODE REFERENCE: West Virginia Code §16-13C-1 through §16-13C-6 – repealed; §22C-1-4, §22C-1-8, and §22C-2-2 – amended; §22-36-1 through §22-36-7 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 579

Providing payment to vendors who provided services to state

The bill directs payment of a claim made by an individual who has provided commodities and services to a state agency and who have not been paid because if the claim were paid, the agency would have unlawfully spent more than their authorized appropriations or for services not lawfully contracted. The Claims Commission has reviewed and approved the payment of this claim, subject to the approval and appropriation of the Legislature.

The claim is against the Racing Commission in the amount of $16,219.58.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 678

Adding appropriations to DHHR, Division of Human Services

This bill creates a new item of appropriation within the Department of Health and Human Resources, Division of Human Services known as Social Services – Surplus and appropriates $1,200,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

Senate Bill 737

Emergency Medical Services Act

The bill creates the Emergency Medical Services Salary Enhancement Fund, a new special revenue fund in the State Treasury to be funded by Legislative appropriations and administered by the Director of the West Virginia Office of Emergency Medical Services. The funds are to be expended:

"to support supplementing the salaries of and providing crisis response for county emergency medical service personnel as that term is defined in §16-4C-3(g) of this code or a county designated or contracted emergency medical service provider and all moneys must be spent to support increasing salaries of emergency medical service workers and providing crisis response to encourage retention."

The bill provides rulemaking authority to the Director of the Office of Emergency Medical Services.

CODE REFERENCE: West Virginia Code §16-4C-25 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2506

Creating a title clearinghouse for non-resident businesses

This bill would create within the Division of Motor Vehicles a clearinghouse to expedite titles of motor vehicles for nonresident businesses. It provides that a nonresident business may apply to clearinghouse to provide a title. A fee for participation is permitted and may be set by the Division.

Prior to participation a penalty bond in the amount of $250,000 is required by the Division conditioned on the participant not committing fraud. Per the legislation the clearinghouse is not intended to interfere with any reciprocal agreement with other states for title and registration. If a conflict exists, the reciprocal agreement will control. Finally, the Commissioner is permitted to develop a registration process for resident businesses maintaining a local, national, or international fleet of vehicles.

CODE REFERENCE: West Virginia Code §17A-4-11 – new

DATE OF PASSAGE: February 1, 2023

EFFECTIVE DATE: February 1, 2023

ACTION BY GOVERNOR: Signed February 13, 2023

House Bill 2526

Relating to reducing the personal income tax

This bill would reduce the personal income tax across all brackets by 21.25% effective retroactively to January 1, 2023. The reduction applies across all tax brackets.

There is also a provision that would trigger future personal income tax reductions. This would occur when the total general revenue collections of the immediately preceding fiscal year minus severance tax collection are in excess of the inflation adjusted base year revenues. The base year is the 2019 fiscal year. Collections were $4,293,884,754 when adjusted to remove severance tax collections. The reduction would be determined by dividing the excess of the fiscal year general revenue fund collections (commonly referred to as Surplus) by the preceding fiscal year's total personal income tax collections from all funds. There is proviso that in no instance may the reduction be greater than 10% at any one time. The Secretary of Revenue and the State Auditor are required to certify any rate change and notification is required to taxpayers. An annual report is also required to the Joint Committee on Government and Finance.

The bill also creates a 100% refundable tax credit for ad valorem personal property taxes paid for a motor vehicle. This credit may be claimed against personal income tax and corporation net tax. Disabled veterans may also receive a refundable tax credit against his or her personal income taxes for real property taxes on a homestead used for residential purposes.

A small business credit was added to allow a 50% refundable tax credit against personal income tax or corporation net income tax for ad valorem property tax due and owing and timely paid. A small business is defined as a business with personal property located in West Virginia with an aggregate appraised value of $1,000,000 or less. There is an exclusion that a small business does not include a person holding an interest in any oil, natural gas, or natural gas liquid

The Tax Commissioner is required to report annually to the Joint Committee on Government and Finance on the use of these tax credits.

The effective date of all of these tax credits is January 1, 2024.

CODE REFERENCE: West Virginia Code §11-13MM-1 through §11-13MM-10, §11-21-4g, §11-24h, and §11-21-4i – new

DATE OF PASSAGE: February 1, 2023

EFFECTIVE DATE: February 1, 2023

ACTION BY GOVERNOR: Signed March 7, 2023

House Bill 2776

Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act

This bill updates the West Virginia personal income tax to make it conform to federal tax code.

CODE REFERENCE: West Virginia Code §11-21-9 –amended

DATE OF PASSAGE: February 3, 2023

EFFECTIVE DATE: February 3, 2023

ACTION BY GOVERNOR: Signed February 14, 2023

House Bill 2777

Updating federal taxable income and other terms in the West Virginia Corporation Net Income Tax Act

This purpose of this bill would be to update the state's corporate net income tax law to bring terms in conformity to federal law.

CODE REFERENCE: West Virginia Code §11-24-3 – amended

DATE OF PASSAGE: February 3, 2023

EFFECTIVE DATE: February 3, 2023

ACTION BY GOVERNOR: Signed February 14, 2023

House Bill 2821

Relating to taxation of gambling and lottery winnings

This allows a new decreasing modification against a West Virginia taxpayer's federal adjusted gross income in the amount of West Virginia gaming and gambling losses allowable as an itemized deduction under the United States Internal Revenue Code, not to exceed the amount of West Virginia gaming and gambling winnings, for the taxable year. This decreasing modification may not include costs and expenses incurred in connection with the gaming or gambling activity, and the following gaming and gambling losses are not subject to this decreasing modification: 1) Gaming and gambling losses that have been applied as a deduction in determining the taxpayer's federal adjusted gross income; and, 2) Gaming and gambling losses incurred in any unlawful gambling activity. This change would be effective for taxable years beginning January 1, 2023, and thereafter.

CODE REFERENCE: West Virginia Code §11-21-12n – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2839

Making a technical correction regarding an incorrect fund name and clarifying applicability to mine lands governed by SMCRA and the Abandoned Mine Lands Act

This bill corrects an incorrect fund name and clarifies an ambiguity in code with respect to the benefits of removal of rare earth minerals for the waters of the state. The Acid Mine Drainage Set Aside Fund has been corrected to be the Acid Mine Drainage Abatement and Treatment Fund. A new section has been added to clarify the confusion regarding whether to which types of property the statute is applicable. It clarifies that the statue applies to both lands regulated by the Abandon Mines and Reclamation Act and the Surface Coal Mining and Reclamation Act.

CODE REFERENCE: West Virginia Code §22-2-10 – amended and §22-3-39 – NEW.

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2882

Making a supplemental appropriation to the Department of Economic Development

This bill creates a new item of appropriation known as Directed Transfer – Surplus within the Department of Economic Development, Office of the Secretary and appropriates $115,000,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

The bill then adds directive language for the new appropriation and directs these funds in the following manner:

- $105,000,000 to the Economic Development Project Fund; and
- $10,000,000 to the Broadband Development Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: February 15, 2023

EFFECTIVE DATE: February 15, 2023

ACTION BY GOVERNOR: Signed February 24, 2023

House Bill 2883

Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund

This bill adds a line of appropriation of Federal spending authority known as Directed Transfer within the Governor's Office, Coronavirus State Fiscal Recovery Fund in the amount of $685,000,000. The bill then adds directive language which transfers these funds in the following manner:

- $5,000,000 to the Department of Economic Development for site ready projects;
- $482,000,000 to the Economic Development Authority;
- $20,000,000 to the Reclamation of Abandoned and Dilapidated Property Program Fund;
- $177,000,000 to the Water Development Authority; and
- $1,000,000 to Marshall University

CODE REFERENCE: N/A

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2904

Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary

This bill creates a new line of appropriation known as Directed Transfer – Surplus within the Department of Commerce, Office of the Secretary, and appropriates $1,000,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

This bill then adds directive language and transfers these funds to the Marketing and Communications Operating Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2906

Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits

This bill expires $21,550,000 from the unappropriated surplus balance of the Lottery fund to the unappropriated surplus balance of the General Revenue fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2907

Supplementing and amending appropriations to the Department of Administration, Division of General Services

This bill adds a new item of appropriation known as Capital Outlay, Repairs and Equipment – Surplus within the Department of Administration, Division of General Services in the amount of $19,000,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2908

Supplementing and amending appropriations to the Department of Commerce, Division of Forestry

This bill adds two new items of appropriation known as Current Expenses – Surplus and Equipment – Surplus within the Department of Commerce, Division of Forestry. The bill then appropriates funds from the unappropriated balance of General Revenue in the following manner:

- $1,200,000 to Current Expenses – Surplus; and
- $800,000 to Equipment – Surplus

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2910

Making a supplementary appropriation to the Department of Administration, Public Defender Services

This bill adds two new items of appropriation known as Public Defender Corporations – Surplus and Appointed Counsel Fees – Surplus within the Department of Administration, Public Defender Services. The bill then appropriates funds from the unappropriated balance of General Revenue in the following manner:

- $1,400,000 to Public Defender Corporations – Surplus; and
- $18,600,000 to Appointed Counsel Fees – Surplus

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2911

Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services

This bill creates a new item of appropriation known as Victim of Crime Act– Surplus within the Department of Homeland Security, Division of Administrative Services and appropriates $9,500,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2913

Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund.

This bill creates a new item of appropriation known as Institutional Facilities Operations – Surplus within the Department of Health and Human Resources, Consolidated Medical Services Fund and appropriates $12,031,796 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2914

Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund

This bill creates a new item of appropriation known as Federal Funds/Grant Match - Surplus within the Governor's Office, Civil Contingent Fund and appropriates $85,000,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2915

Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund

This bill expires $30,500,000 from the unappropriated surplus balance of the Excess Lottery fund and transfers these funds to the unappropriated surplus balance of General Revenue.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 2928

Supplementing and amending appropriations to DHHR, Division of Health

This bill creates a new item of appropriation known as Pregnancy Centers - Surplus within the Department of Health and Human Resources, Division of Health and appropriates $1,000,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3013

Relating to authorizing the Jefferson County Commission to levy a special district excise tax

This bill would allow the development of an Economic Opportunity Development District in Jefferson County. The purpose would be to impose a special district excise tax. These taxes are only permitted to be levied by County Commission upon specific action of the Legislature. The tax would be levied upon the sale of tangible personal property and business locations within the economic opportunity development district. Currently, West Virginia has three (3) such districts in Ohio, Harrison, and Monongalia Countries. This bill would create a fourth.

The bill contains two (2) provisos. The first allows the creation of the district without the specific approval of the Executive Director of the Development Office. The second allows the County Commission to determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount, and the estimated net annual district tax revenue amount instead of these amounts be being set by the Development Office. The current code provides that the Executive Director of the Development Office provide these figures in the certification of the project based upon the application of the County Economic Opportunity District. The District is required to request a certification from the Tax Commissioner of the base tax revenue amount who is required to respond within 30 days.

The final provision of the bill extends the existing Economic Opportunity Development District in Monongalia County as authorized in §7-22-9(b)(3) until December 31, 2053.

CODE REFERENCE: West Virginia Code §7-22-9 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3039

Making a supplementary appropriation to Adjutant General - State Militia

This bill creates a new item of appropriation known as Armory Board Transfer - Surplus within the Adjutant General, State Militia and appropriates $1,000,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3040

Supplementing and amending appropriations to the Department of Administration, Office of the Secretary

This bill creates a new item of appropriation known as Consolidated Public Retirement - Surplus within the Department of Administration, Office of the Secretary and appropriates $26,000,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3044

Relating to the annual fee for limited video lottery terminal permits

The bill would change the annual $1,000 fee per video lottery terminal charged to licensees for the privilege of holding a permit that authorizes the licensee to own or lease video lottery terminals from a licensed manufacturer. The fee is due each May 1.

As reported, the annual $1,000 fee is charged only "per video lottery terminal for terminals that utilize the 10 percent lowest performing software versions, as measured by daily net terminal income of all terminals available for play." The remaining licensees would pay only an annual $500 fee.

The bill provides for the West Virginia Lottery's annual computation of the daily average net terminal income for each version of operating software used in all terminals in play. The availability of the reduced fee will begin May 1, 2023, and terminate after May 1, 2030.

CODE REFERENCE: West Virginia Code §29-22B-1103 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3065

Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission

This bill appropriates $200,000 from the unappropriated balance of General Revenue for Fiscal Year 2023 to the Current Expenses appropriation within the Department of Transportation, Division of Multimodal Transportation Facilities, Aeronautic Commission.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3066

Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools

This bill makes the following changes to the State Board of Education, State Aid to Schools:

- Other Current Expenses is reduced by $3,108;
- Professional Educators is reduced by $38,819;
- Service Personnel is reduced by $56,665;
- Fixed Charges is reduced by $10,307;
- Improved Instructional Programs is increased by $508,613;
- Professional Student Support Services is reduced by $28,858;
- 21st Century Strategic Technology Learning Growth is increased by $1,017,226;
- Teacher and Leader Induction is increased by $1,017,226;
- Local Share is increased by $6,967,361; and
- Public Employees' Insurance Matching is increased by $2,153.

The total change to State Aid to Schools is a net reduction of $4,559,900

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3067

Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit

This bill appropriates $1,000,000 from the unappropriated balance of General Revenue for Fiscal Year 2023 to the Current Expenses appropriation within the Department of Transportation, Division of Multimodal Transportation Facilities, Public Transit.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3073

Supplementing and amending appropriations to Adjutant General - State Militia

This bill appropriates $100,000 from the unappropriated balance of General Revenue for Fiscal Year 2023 to the Civil Air Patrol appropriation within the Adjutant General, State Militia.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3074

Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities

This bill creates a new budget item known as the Division of Multimodal Transportation Facilities within the Department of Transportation and appropriates $700,000 from the unappropriated balance of Fiscal Year 2023 in the following manner:

- Personal Services and Employee Benefits, $600,000;
- Current Expenses, $92,500; and
- BRIM Premium, $7,500.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3108

Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority

This bill appropriates $1,100,000 from the unappropriated balance of General Revenue for Fiscal Year 2023 to the Other Assets appropriation within the Department of Transportation, Division of Multimodal Transportation Facilities, State Rail Authority.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3109

Supplementing and amending appropriations to the State Board of Education - State Department of Education

This bill creates two new appropriations within the Department of Education, State Board of Education, State Department of Education and appropriates $1,581,766 from the unappropriated balance of General Revenue for Fiscal Year 2023 in the following manner:

- $1,300,000 to a new Equipment appropriation; and
- $281,766 to a new Allowance for Extraordinary Growth appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3110

Relating to funding the Office of Oil and Gas in the Department of Environmental Protection

The purpose of this bill is to ensure the DEP Office of Oil and Gas has sufficient funds to inspect oil and gas wells in the state. Currently there are only 10 inspectors ensuring the integrity of about 75,000 total oil and gas wells. This bill adds three new revenue streams to fund the DEP's Office of Oil and Gas. This should result in more revenue and over 20 inspectors.

First, effective July 1, 2023, the bill dedicates 3/4 of 1% of the severance tax for oil and gas to the Office of Oil and Gas.

Second, there are three tiers of annual fees paid to DEP by operators:

- $350 per well for an operator's first 400 unplugged wells which produce more than a daily average of 250,000 cubic feet of natural gas.
- $75 per well for an operator's first 400 unplugged wells which produce a daily average of between 250,000 cubic feet of gas and 60,000 cubic feet of gas.
- $25 per well for an operator's first 4,000 unplugged wells, which produce a daily average of 60,000 cubic feet or less of gas per day, but more than 10,000 cubic feet of gas per day. Those with 500 or fewer unplugged wells do not pay.

Third, the bill increases the expedited permit modification fees by $2,500 and removes the $1,000,000 cap on deposits to the operating permit fund.

The Senate Finance Committee amendment capped the severance tax revenue stream at $1.2 million.

CODE REFERENCE: West Virginia Code §11-13A-5a, §22-6-2, §22-6-29, and §22-6A-7 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3135

To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025

The purpose of this bill is to increase the salary of the state's six (6) constitutional officers. The present salary was set in code in 2009. The current salaries as follows:

- The salary of the Governor shall be $150,000 per year;
- The salary of the Attorney General shall be $95,000 per year;
- The salary of the Auditor shall be $95,000 per year;
- The salary of the Secretary of State shall be $95,000 per year;
- The salary of the Commissioner of Agriculture shall be $95,000 per year; and
- The salary of the state Treasurer shall be $95,000 per year.

The bill would remove the salaries in a table in code and tie them to the salary schedules of the federal government which are periodically updated by the Office of Personnel Management.

Currently the Governor's salary is set at $150,000. Under this amendment the Governor's salary would relate to the Salary Table for Locality Pay Area of Rest U.S. The salary would fall in Grade 15, Step 10. Currently the salary would be $177,978.

The other six officers all have a salary of $95,000. Their salaries would relate to Salary Table General Salary Increase and they would fall in Grade 15, Step 4. Currently the salary would be $129,269.

These salaries would be effective January 1, 2025, and could only be modified every fourth year thereafter at the beginning of a term of office.

CODE REFERENCE: West Virginia Code §6-7-2 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3286

Relating to an additional modification decreasing federal taxable income

This bill would modify the changes to the apportionment of business income earned in more than one state that is taxable under personal income tax law in West Virginia made in HB 2026 (Regular Session 2021) that shifted West Virginia tax law from a three-factor apportionment formula (property, payroll and sales) to a single sales factor apportionment formula (i.e., only sales are considered), and also shifted to a market-based sourcing of sales. Under that change, companies with significant payroll or property in WV relative to sales would generally see a net tax reduction under this new system, while others with a smaller workforce and property holdings, but a large amount of sales, would see an increase.

The bill would allow additional modification decreasing federal taxable income for Corporation Net Income tax purposes to publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statement, if the changes enacted in HB 2026 "results in an aggregate increase to the taxpayer's net deferred tax liability or an aggregate decrease to the taxpayer's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability." Essentially, if the company is going to pay more in taxes.

If that occurs, then this type of taxpayer would be allowed this new decreasing modification (referred to in the bill as a "subtraction").

This decreasing modification (referred to in the bill as a "subtraction") would be spread out over 10 years as follows:

This type of taxpayer would pay all taxes due under the provisions of HB 2026, but "[f]or the 10-year period beginning with the taxpayer's taxable year that begins on or after January 1, 2028, a taxpayer shall be entitled to a subtraction in computing West Virginia taxable income. The subtraction would be equal to one-tenth of the amount necessary to offset the increase in the net deferred tax liability or decrease in the net deferred tax asset, or the aggregate net change thereof, from a net deferred tax asset to a net deferred tax liability . . . as computed in accordance with generally accepted accounting principles, that resulted from the application of" the provisions of HB 2026. "If the subtraction under this section is greater than taxpayer's federal taxable income as adjusted by section six of this article, any excess subtraction shall be carried forward and applied as a subtraction to taxpayer's federal taxable income in determining taxpayer's West Virginia taxable income in future tax years until fully utilized." See, subsection (e).

Although the taxpayer may not claim this modification to its federal taxable income for state tax purposes before the tax year beginning in 2033, to claim it at that time, the taxpayer must first file a statement with the Tax Commissioner on or before July 1, 2024, specifying the total amount of the subtraction which the taxpayer claims.

An amendment was adopted by the Senate which pushed the beginning tax year in which the credit can be realized from 2028 to 2033.

CODE REFERENCE: West Virginia Code §11-24-6c – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3308

Authorizing PSC consider and issue financing orders to certain utilities to permit the recovery of certain costs through securitization via consumer rate relief bonds

The bill amends provisions of the WV Code relating to the authority of the Public Service Commission (PSC). The bill would add a new section that would authorize the PSC to approve the issuance of consumer rate relief bonds as an alternative to the general rate-making mechanisms available to finance electric utilities. The PSC would be authorized to approve the issuance of consumer rate relief bonds for eligible costs related to environmental control costs, expanded net energy costs, storm recovery costs, and undepreciated generation utility plant balances.

"Undepreciated generation utility plant balances" are defined in the bill as "unrecovered capitalized costs of or undepreciated investments in one or more fossil-fired electric generating plants having nameplate capacity more than 1000 megawatts each, and related supply, transmission, equipment, and fixtures. Specifically excluded from the definition are 1) the costs of removing retired generating plant assets; 2) all capitalized costs and investments in fossil-fired electric generating plants and related supply, transmission, equipment, and fixtures incurred or made by a utility on or after 12/31/22; and, 3) all non-cash asset retirement obligation assets and related accumulated depreciation.

An electric utility would make application to the PSC and if approved the PSC would issue a financing order. In order for the PSC to approve the issuance of consumer rate relief bonds, it must find and include in its financing order that the issuance of the consumer rate relief bonds and the consumer rate relief charges authorized by the order are just and reasonable and are reasonably expected to achieve the lowest reasonably attainable cost in order to produce cost savings to customers and to mitigate rate impacts on customers, as compared to traditional financing mechanisms or traditional cost-recovery methods available to the utility. The financing order shall also contain the maximum amount and description of eligible costs to be securitized by consumer rate relief bonds; a description of the financing costs that may be recovered through consumer rate relief chargers and the period over which those costs may be recovered; a description of the methodology and calculation for allocating consumer rate relief charges between and within tariff schedules and to special contract customers; and the maximum term of the bonds. The bill also provides that a utility may not retire, abandon, close or otherwise permanently render incapable of operating, any electric generating plant or unit without the prior consent and approval of the PSC.

Approval of consumer rate relief bonds by electric generating plants already exists in code (§24-2-4e and f). This bill expands the eligible costs to be securitized. Section 24-2-4e limits eligibility to issue consumer environmental control bonds only to the construction/installation of emission control equipment; Section 24-2-4f limits eligibility only to issue consumer rate relief bonds only to the (re)financing of expanded net energy costs. This new section again would expand eligible costs to environmental control costs, expanded net energy costs, storm recovery costs, and undepreciated generation utility plant balances.

CODE REFERENCE: West Virginia Code §24-2-4h and §24-2-21a – amended

DATE OF PASSAGE: February 28, 2023

EFFECTIVE DATE: February 28, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

House Bill 3315

Relating generally to readiness enhancement and commission bonuses

This bill creates readiness enhancement and enlistment bonuses, and updates commissioning bonuses which may be awarded by the Adjutant General in his or her discretion for individuals with expertise, qualifications, or potential for service of particular importance. The bill establishes criteria for receipt of a bonus which include:

- Joining the National Guard as an enlisted member.
- Serves satisfactorily and completes initial entry training.
- Has expertise, qualification, or potential for military service deemed by the Adjutant General as sufficiently as important to the National Guard.

Members awarded bonuses but who fail to complete a term of enlistment for which a bonus was paid, may have the bonus recouped by the Adjutant General a prorated amount of the bonus. The bonuses are to be in an amount to encourage enlistment.

The impetus of this bill is to provide readiness enhancement, enlistment and commissioning bonuses that will allow the West Virginia National Guard to remain competitive with similar bonus programs offered in adjacent states.

CODE REFERENCE: West Virginia Code §15-1B-25 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3340

To revise the West Virginia Tax Increment Financing Act

This bill would impact tax increment financing districts also known as TIFS. A TIF is a financial tool used by local governments to fund economic development. The bill makes changes to five sections of the code.

The bill first deletes language that following an extension beyond the scheduled termination of a TIF district, there is a restriction on the use of levies to finance projects to regular and excess property tax levies of county commissions and Class I, II, III, and IV, municipalities where a at least a portion of the municipality is situate within the boundaries of the district.

The second significant change removes restrictive language on a county or municipality from amending an order or ordinance which created the district to allow for a modification of the boundaries of the district or extend the district's existence without the approval of a Class I, II, III, and IV, municipalities where a at least a portion of the municipality is situate within the boundaries of the district. New language has been added that clearly indicates approval from other levying bodies is not necessary.

The section of current law requiring a project plan has been amended with respect to notice requirements. Current law provides a county commission or governing body is required to hold a public hearing on a proposed project plan. Notice of the hearing is by publication. At least 30 days prior to publication a copy of the notice and the proposed project plan are required to be sent to all other levying bodies within with the power to levy on property located with the proposed development or redevelopment district. This bill would eliminate the requirement to mail a copy of the proposed plan and make the thirty-day timeframe run from 30 days prior to the public hearing not the publication.

A similar amendment has been made to the portion of code related to amendments to the project plan. A timeframe for providing other levying bodies a copy of the notice of the amendment has been inserted. Current law provides that prior to publication of a notice of hearing should be sent to all other levying bodies. The amendments to this section would insert that at least 30 days prior to the public hearing, not publication, is required.

Finally, current law provides that no district may be existence for a period longer than 30 years. An amendment would allow two or more districts who have combined to exist longer than 30 years. Additionally, existing districts for which TIF obligations have been issued prior to December 31, 2020, may be extended for not more than five years or until December 31, 2050, whichever is earlier. This removes the December 31, 2050, day altogether but permits extensions for a period not more than 15 years. The section would also be amended to prohibit counties or municipalities from terminating a combined district before the date it was last scheduled for termination by order or ordinance if the district's tax increment financing obligations remain outstanding.

CODE REFERENCE: West Virginia Code §7-11B-3, §7-11B-7, §7-11B-8, §7-11B-9, and §7-11B-10 – amended

DATE OF PASSAGE: February 28, 2023

EFFECTIVE DATE: February 28, 2023

ACTION BY GOVERNOR: Became law without the Governor's signature March 8, 2023

House Bill 3344

To pay certain moral obligations of the state

The bill directs payment of moral obligations of state agencies, approved by the West Virginia Legislative Claims Commission, for claims against the State which, but for the constitutional immunity of the State from suit, or other legal restriction, could be maintained in the regular courts of this State and have been determined by the Legislative Claims Commission to be those that the State "should in equity and good conscience discharge and pay." W. Va. Code §§14-2-12 and 13

The total amount of the claims itemized in the bill is directed to be paid from various state funds as follows:

- General Revenue Fund: $693,376.13
- State Road Fund: $515,659.79
- Special Revenue Funds: $397,168.50
- Total: $1,606,204.42

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3371

Relating to federal funds for land-grant institutions

This bill pertains to the state's two land grant institutions. It requires through a separate line-item appropriation in the state budget that they two institutions "maximize the full federal matching requirements, including, but not limited to 7 USC 3222d(c)". That section provides that federal funds shall be available as grants for assisting eligible institutions in the purchase of equipment and land, the planning, construction, alteration, or renovation of buildings.

The bill also corrects the code to reflect that West Virginia State is now a university.

CODE REFERENCE: West Virginia Code §18-10-3 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3391

Establishing filing deadlines for appeals of property tax valuations and issues involving property tax classification and taxability to the West Virginia Office of Tax Appeals

This bill alters the manner in which a taxpayer may appeal his or her assessment of property or the tax classification provided him by the County Assessor. It replaces the Circuit Court as a court of review with the newly enacted Intermediate Court of Appeals. The bill would require appeal of final decisions or orders of the Office of Tax Appeals to the Intermediate Court of Appeals within 30 days of entry of the final decision or order.

Other changes to the process include a new filing deadline with the Office of Tax Appeals of March 31 of the property tax year. If an appeal is not received by that date, it is dismissed as untimely. For appeals related to taxability or classification of property by the Tax Commissioner the petition of appeal must be filed within 30 days of the written notice from the Tax Commissioner. A hearing is required within 90 days of the due date of an answer in any appeal to the Office of Tax Appeals. This is extended from the current timeframe which is 45 days. Hearing before the Office of Tax Appeals are to be de novo.

The newly enacted provisions would be effective January 1, 2023.

CODE REFERENCE: West Virginia Code §11-3-25B and §11-10A-19 – new

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3396

Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways

This bill increases spending authority for existing items of appropriation in the State Road Fund to the Department of Transportation (Division of Highways) as follows:

- Interstate Construction by $70,000,000
- Other Federal Aid Programs by $40,000,000
- Appalachian Programs by $80,000,000

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3509

Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund

This bill increases Special Revenue spending authority for the Public Service Commission – Consumer Advocate Fund in the following manner:

- $20,000 for Personal Services and Employee Benefits; and
- $150,000 for Current Expenses

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3510

Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund

This bill increases Special Revenue spending authority in the amount of $2,000,000 for the Current Expenses appropriation within the Department of Administration, Office of Technology, Chief Technology Officer Administration Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3511

Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program

This bill creates a new item of appropriation known as Federal Coronavirus Pandemic within the Department of Education, State Board of Education, School Lunch Program and increases Federal Revenue spending authority in the amount of $743,436 for the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3512

Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services

This bill increases Federal spending authority for two items of appropriation within the Department of Health and Human Resources, Division of Human Services in the following manner:

- $212,000,000 for Medical Services; and
- $57,142,618 for Medical Services Administrative Costs

For a total Federal spending authority increase of $269,142,618.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3513

Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority

This bill realigns Special Revenue spending authority within the Department of Homeland Security, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority by first decreasing the Debit Service appropriation by $7,100,000. The bill then adds three new items of appropriation in the following manner:

- $100,000 in spending authority for a new Unclassified appropriation;
- $5,000,000 in spending authority for a new Repairs and Alterations appropriation; and
- $2,000,000 in spending authority for a new Equipment appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3514

Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund

This bill increases Special Revenue spending authority for the Current Expenses appropriation by $3,238,284 within the Department of Health and Human Resources, Division of Health, West Virginia Birth-to-Three Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3515

Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund

This bill creates a new appropriation known as Veterans Nursing Home within the Department of Veterans' Assistance, Veteran's Facilities Support Fund and appropriates $1,500,000 in Special Revenue spending authority to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3516

Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment

This bill increases Federal spending authority for the West Virginia Drinking Water Treatment Revolving Fund – Transfer appropriation within the Department of Health and Human Resources, Division of Health, West Virginia Safe Drinking Water Treatment item by $64,753,300.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3517

Making a supplementary appropriation to the Division of Human Services – Child Care and Development

This bill increases Federal Block Grant spending authority for the Current Expenses appropriation within the Department of Health and Human Resources, Division of Human Services, Child Care and Development item by $7,566,541.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3518

Making a supplementary appropriation to the Department of Agriculture

This bill increases Federal spending authority for the Federal Coronavirus Pandemic appropriation within the Department of Agriculture item by $3,622,591.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3519

Making a supplementary appropriation to the Department of Transportation, Division of Motor Vehicles

This bill increases Federal spending authority for the Personal Services and Employee Benefits appropriation within the Department of Transportation, Division of Motor Vehicles item by $100,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3520

Making a supplementary appropriation to the Department of Education, State Board of Education – Vocational Division

This bill increases Federal spending authority for the Current Expenses appropriation within the Department of Education, State Board of Education, Vocational Division by $3,000,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3521

Making a supplementary appropriation to the Division of Health – Maternal and Child Health

This bill increases Federal Block Grant spending authority for the Current Expenses appropriation within the Division of Health, Maternal and Child Health item by $1,000,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3522

Making a supplementary appropriation to the Department of Commerce, Division of Natural Resources – License Fund – Wildlife Resources

This bill increases Special Revenue spending authority for the Wildlife Resources appropriation within the Department of Commerce, Division of Natural Resources, Licenses Fund, Wildlife Resources item by $200,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3523

Making a supplementary appropriation to Miscellaneous Boards and Commissions, Economic Development Authority

This bill creates a new budget item know as Economic Development Authority and appropriates $5,000,000 in Federal spending authority to a newly created Current Expenses appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3524

Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund

This bill increases Special Revenue spending authority for the Current Expenses appropriation within the Department of Agriculture, West Virginia Spay and Neuter Assistance Fund by $400,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3526

Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission

This bill increases Special Revenue spending authority within the Public Service Commission in the following manner:

- $248,780 for Repairs and Alterations; and
- $2,800,000 for Debit Payment/Capital Outlay

For a total increase in Special Revenue Spending authority of $3,048,780.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed by the Governor March 16, 2023

House Bill 3527

Supplementing and amending appropriations to Department of Education, School Building Authority

This bill adds a new budget item within the State Excess Lottery Fund known as the Department of Education and appropriates $15,000,000 from the unappropriated balance of the Excess Lottery fund to a newly created Equipment appropriation. The bill also appropriates $25,000,000 from the unappropriated balance of the Excess Lottery fund to the Directed Transfer appropriation within the Department of Education, School Building Authority.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3528

Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations

This bill increases Special Revenue spending authority for the Institutional Facilities Operations appropriation within the Department of Health and Human Resources, Division of Health, Hospital Services Revenue Account, Special Fund, Capital Improvement, Renovation and Operations item by $29,877,096.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3529

Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services

This bill increases Federal Revenue spending authority for the Current Expenses appropriation within the Department of Commerce, State Board of Rehabilitation, Division of Rehabilitation Services item by $34,000,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed by the Governor March 16, 2023

House Bill 3542

Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund

This bill transfers $50,000,000 from the Mine Subsidence Insurance Fund within the Department of Administration to the Board of Risk and Insurance Management, Public Insurance Trust Fund also within the Department of Administration.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3553

Supplementing and amending appropriations to Department of Health and Human Resources

This bill creates a new item of appropriation known as Chief Medical Examiner – Surplus within the Department of Health and Human Resources, Division of Health, Central Office and appropriates $250,000 from the unappropriated surplus balance of General Revenue to the new appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3557

Making a supplementary appropriation to the Department of Veterans' Assistance

This bill increases Federal spending authority for the Buildings appropriation within the Department of Veterans' Assistance item by $750,000.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3563

Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services

This bill increases Federal spending authority for two items of appropriation within the Department of Health and Human Resources, Division of Human Services in the following manner:

- $65,750,000 spending authority increases for Current Expenses; and
- $68,579,000 spending authority increase for Federal Coronavirus Pandemic.

Total Federal spending authority increase is $134,329,000

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

House Bill 3564

Making a supplementary appropriation to the Division of Human Services - Energy Assistance

This bill realigns Federal Block Grant spending authority within the Department of Health and Human Resources, Division of Human Services, Energy Assistance item in the following manner:

- $20,000,000 spending authority decrease for Federal Coronavirus Pandemic; and
- $20,000,000 spending authority increase for Current Expenses.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 16, 2023

Education

Senate Bill 47

Creating Charter Schools Stimulus Fund

This bill would create a special revenue account known as the "Charter Schools Stimulus Fund". The purpose of the fund is to provide financial support to charter schools for startup costs. The fund shall consist of legislative appropriation, grants, gifts, devises, and donations. The fund is administered by the West Virginia Professional Charter School Board. At the end of any fiscal year any remaining amounts in the fund to not revert to General Revenue.

The State Board of Education is granted mandatory rulemaking authority. The rules are required to include:

- An application
- Notification from the W.Va. Professional Charter School Board to potential applicants; and
- An applicant attestation that the applicant:
    - Would not otherwise have the financial capacity without money from the Charter Schools Stimulus Fund to:
        - Successfully apply to an authorizer.
        - Start a public charter school.
    - Is not working with or financed by any organization that has started or financed other charter schools to the degree that facilitating and starting charter schools is a significant portion of the organization's purpose.

The bill sets out the process for distribution of funds. Funds are to be distributed as follows:

Each qualifying charter school applicant or charter school is to be awarded an initial grant of up to $300,000 during or before the first two years of the charter school's operation. If an applicant for a charter school receives an initial grant and fails to begin operating a charter school within the next 30 months, the applicant must reimburse the West Virginia Professional Charter School Board for the initial grant plus interest calculated at a prorated rate of 10 percent a year. The bill also allows the West Virginia Professional Charter School Board to lengthen this 30-month time period in extenuating circumstances.

Applicants for charter schools and charter schools that received initial grants also can apply to the West Virginia Professional Charter School Board for an additional grant of up to $100,000. If an applicant for a charter school receives an additional grant and fails to begin operating a charter school within the next 30 months, the applicant is required to reimburse the West Virginia Professional Charter School Board for the additional grant plus interest calculated at a prorated rate of 10 percent a year. The bill also allows the West Virginia Professional Charter School Board to lengthen this 30-month time period too in extenuating circumstances.

CODE REFERENCE: West Virginia Code §11-3-25B and §11-10A-19 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 51

Requiring impact statement in certain instances of school closing or consolidation

This bill requires an impact statement on a school closing or consolidation before any final decision to close or consolidate a school except in cases in which a construction bond issue was passed by the voters; requires a State Board rule detailing information that must be included in the impact statement; and requires the rule to require at least the impact on:

- The students which must at least include the transportation time of the affected students.
- The financial health of the county which must at least include the anticipated cost or savings.
- The enrollment of schools designated by the county board to receive the students as it relates to the capacity of the school.
- The school personnel employed by the county board which must at least include the anticipated increase or decrease in the number employed and if a decrease in school employees is anticipated, the number of school employees that are anticipated to be decreased through attrition and the number anticipated to be decreased through a reduction in force.
- The community.

The bill also provides that in instances where the impact statement is required, the county board must give the impact statement substantial weight when making a decision on any proposal to close or consolidate a school.

CODE REFERENCE: West Virginia Code §18-5-13a – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 99

Relating to meetings among county boards of education

This bill provides that when two or more county boards of education, elect, by majority vote, to explore and discuss with each other 1) the idea of possibly consolidating their school districts, or 2) possibly sharing administrative, coordinating or other county level services and functions between or among them, the boards must agree on the call of a joint special meeting to be conducted wholly in public and in accordance with guidelines and topics of discussion specified in the call and in all public notices of the meeting. The topics must at least include the extent to which existing laws appear to enable or complicate the consolidation of the school districts or the sharing of services and functions.

The bill requires that the joint special meeting be facilitated by a party upon whom the participating boards agree. Within 21 days following the joint meeting, the facilitator is required to prepare and deliver to the participating boards a detailed written report of the meeting's discussions and identifying any areas for further discussion or consideration by the boards.

After reviewing the facilitator's report, each participating board is required to determine by majority vote whether to accept it and whether the participating boards should meet again to discuss or consider the areas identified by the facilitator. Whether or not a board accepts the report, each participating board is required to make the report available to the public.

The bill further provides that upon majority vote by any participating board to accept the facilitator's report and to hold another joint special meeting of the participating boards to discuss or consider areas for further discussion or consideration identified in the facilitator's report, the participating boards are required to attend another joint special meeting called for that purpose. The meeting is to be called, noticed, conducted, and facilitated as in the case of the initial joint special meeting. Topics of discussion must at least include the extent to which existing laws appear to enable or complicate the consolidation of the school districts or the sharing of services and functions.

Within 21 days following the joint meeting, the facilitator is required to prepare and deliver to the participating boards a detailed written report of the meeting's discussions and identifying any areas for further discussion or consideration by the boards.

After reviewing the facilitator's report, each participating board is required to determine by majority vote whether to accept it and whether the participating boards should meet again to discuss or consider the areas identified by the facilitator. Whether or not a board accepts the report, each participating board is required to make the report available to the public.

The meeting process is required to be repeated until 120 days have passed since the initial joint meeting or until the participating boards no longer wish to meet in joint session for those purposes, whichever first occurs.

At that point the facilitator or other individual or committee designated by the participating boards is required to promptly prepare and submit to the participating boards a full report of all meetings held. The report must identify the extent to which the participating boards think existing laws enable or complicate the consolidation of the school districts or the sharing of services and functions, together with any suggestions of legislation to be considered by the Legislature.

Upon approval by any of the participating boards by majority vote, the report is required to be forwarded to the President of the Senate and the Speaker of the House of Delegates. The bill provides that

if the Legislature elects to consolidate the participating county boards, it can consolidate the county boards as a pilot.

The bill also provides that the Legislature can incentivize county boards to explore and discuss the feasibility of consolidating school districts or sharing of services.

CODE REFERENCE: West Virginia Code §18-5-28 – new

EFFECTIVE DATE: June 6, 2023

DATE OF PASSAGE: March 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 121

Creating Student Journalist Press Freedom Protection Act

This bill creates the Student Journalist Press Freedom Protection Act to protect freedom of expression in school-sponsored media at public high schools and institutions of higher education and to protect the instructors and administrators who support that right.

"School sponsored media" means any material that is prepared, substantially written, published, or broadcast, in any media, by a student journalist at a public high school, college, or university under the supervision of a student media advisor and distributed or made available to members of the student body.

The bill does not authorize or protect expression by a student that: is libelous or slanderous; constitutes an actionable invasion of privacy; is obscene, vulgar, pornographic, or of sensual or illicit sexual content; violates federal or state law; or expressly incites students to engage in unlawful acts, violate school policy, or likely to cause disruption in the operation of the school.

Administrators are required to base a forecast of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior, and not on undifferentiated fear or apprehension.

The bill prohibits prior restraint of material prepared for official school publications except insofar as the material violates one of the above unprotected expressions. School officials have the burden of showing prior justification for their limitation of student journalists' expression and are required to afford students a timely opportunity for appeal.

The bill also provides that nothing is to be construed as authorizing the publication of an advertisement in school-sponsored media that promotes the purchase of a product or service that is unlawful for purchase or use by minors.

The bill also provides that a student journalist is not subject to discipline for acting in accordance with the student journalist freedom of expression section; and that a student media advisor cannon be retaliated against for acting in conformity with the Student Journalist Press Freedom Protection Act.

The bill also requires each county board of education, public college, and public university to adopt a written policy for the exercise of the right of student journalists to freedom of speech and the press in school-sponsored media; requires that the policy include a provision allowing for the timely appeal of school administration decisions made regarding behavior protected by the student journalist freedom of expression section; and requires a student journalist or student media advisor who believes a violation of the student journalist freed of expression section has occurred to exhaust school administrative review procedures prior to availing himself or herself of the injunctive or declaratory relief authorized below.

The bill also provides that a statement or position made or taken by students in the exercise of free speech or free press rights is not considered to be an expression of school policy; and school officials cannot be held responsible in any civil or criminal action for any expression made or published by students in conformity with the student journalist freedom of expression section.

The bill also allows any student or student media adviser to institute proceedings for injunctive or declaratory relief in any court of competent jurisdiction to enforce the rights provided in the student journalist freedom of expression section; prohibits anything in the student journalist freedom of expression section from being construed to create any private cause of action on behalf of a student other than for injunctive relief allowing the publication of the speech in question; and allows a court to award reasonable attorneys' fees to a plaintiff who substantially prevails.

Lastly, the bill provides that the Act does not apply to students attending private high schools, colleges, or universities.

CODE REFERENCE: West Virginia Code §18B-21-1 through §18B-21-4 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 187

Making it felony offense for school employee or volunteer to engage in sexual contact with students

The bill makes it a felony offense for any public or private school employee to engage in sexual intercourse, sexual intrusion, or sexual contact with any student enrolled in the school where the employee is employed regardless of the student's age. It further provides that consent for the act, occurrence off school property, or occurrence at a time other than during a school function is not a defense.

The bill also provides that the offense is separate from any other applicable offense and the penalties are in addition to any other penalties for any other applicable offense. The penalty for anyone convicted of this offense is not less than one nor more than five years in prison, and/or a fine of up to $5,000, and includes the permanent forfeiture of any teaching or other certificate.

CODE REFERENCE: West Virginia Code §61-8B-11b – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 275

Adding State Fire Marshals to statute included with law enforcement and first responders that receive information on school safety requirements

Preexisting law requires room numbers to be placed on exterior walls or windows of school buildings so rooms with exterior walls can be identified by law enforcement and first responders from the outside. This bill adds State Fire Marshalls being able to identify rooms with exterior walls as an additional reasoning for placing room numbers on exterior walls.

The bill also provides that in addition to providing updated floor plans of the school to first responders and local law enforcement by September 1 of each school year, the updated floor plans must be provided to State Fire Marshals too.

CODE REFERENCE: West Virginia Code §18-9F-10 – amended

DATE OF PASSAGE: February 17, 2023

EFFECTIVE DATE: May 18, 2023

ACTION BY GOVERNOR: Signed February 24, 2023

Senate Bill 422

Requiring public schools to publish curriculum online at beginning of each new school year

This bill requires that each public school ensure that the adopted, up-to-date, county-adopted class curriculum is posted on the school's internet website at the beginning of each school year or no later than 30 business days after new or revised curriculum is adopted; and provides that only students, parent, or guardians of the students can be provided with the login information to gain access to the online curriculum.

The bill also provides that these provisions apply to curriculum created pursuant to §18-5A-6 (the section of code requiring the creation of a school curriculum team at each school); that the county board can provide access, or authorize access, to the county-adopted class curriculum; and that if a public school has no accessible website, the information is to be posted on the website of the appropriate county board of education or website authorized by the West Virginia Board of Education.

CODE REFERENCE: West Virginia Code §18-5-27 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 21, 2023

Senate Bill 469

Providing funding for CPR instruction to high school students.

This bill would create a special revenue account to be known as the Cardiopulmonary Resuscitation Instruction Fund. Funding would be through Legislative appropriation. The bill requires the Department of Education to annually request funding based upon the amount of $5.00 multiplied by the number of projected regular public-school graduates.

CODE REFERENCE: West Virginia Code §18-5-50 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 488

Aligning state and federal accreditation rules

This bill requires the Community and Technical College Council, the Higher Education Policy Commission, and the governing boards of the exempted schools to regularly update their rules regarding accreditation to conform with changes by, and to take advantage of new flexibilities and data sources made available by the U.S. Department of Education and by the U.S. Congress. It also requires that by December 31, 2023, the council, commission, and governing boards promulgate rules that permit institutions to choose to pursue institutional accreditation with any accreditor recognized by the U.S. Department of Education.

The bill also requires that by December 31, 2023, the council, commission, and the governing boards of the exempted schools to amend their regulations regarding accreditation to ensure that every postsecondary institution in the state can freely choose to pursue accreditation by any accreditor recognized by the U.S. Department of Education for the kinds of programs offered by the institution. The bill also provides that to the extent that the regulations imply or state that institution default to, or normally would, should, or must be accredited by the Higher Learning Commission and/or the now-defunct North Central Association, the regulations are incorrect and are required to be amended.

CODE REFERENCE: West Virginia Code §18B-4-7 – amended; §18B-4-7a – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 543

Authorizing rule-making changes to terms, procedures and reporting duties in higher education

This bill makes changes to the manner in which higher education rules are processed by the Legislature. The changes would make the process more consistent with general rulemaking protocols.

The bill changes the definition of “Board” to "Agency." Additionally, it expands the term to include not only the Higher Education Policy Commission but would also not encompass the Council for Community and Technical College Education and the School Building authority. Amendments to conform to this terminology change are made throughout the bill.

The bill adds a new provision that requires that when an amendment to a rule is filed that all sections of the rule are required to be filed along with an explanation of the effect of the amendment. There are also provisions that require strikethroughs for any repeal and that a rule may not be repealed by reference in another rule.

The bill also provides that provisions related to procedural and interpretive rules also apply to legislative exempt rules. These types of rules may be repealed with a filing of a notice with the Secretary of State. The bill adds to the provisions for a public comment period a permissive public hearing. Public comments are now required to be responded to with an explanation of why the comment was not accounted for or why the comment was incorporated into the rule.

Proposed legislative rules require that a notice be filed either 90 following the close of the public comment period or the public hearing. Notice is filed in the State Register and with the Legislative Oversight Commission on Education Accountability (LOCEA). LOCEA has the authority to grant an extension with good cause. Any submission of an approved rule is required to be submitted electronically. Additional information is required to be included in the submission and requires LOCEA to make a determination of the rule overlaps, duplicates, or conflicts with any federal statute or regulation and whether the rule will impact federal funding. The bill adds to the powers of LOCEA the ability to reject a proposed rule and makes a similar amendment to the Legislature as a whole.

One of the powers of LOCEA is to provide for a continuing investigation and study into the practices of the agency as defined in the fill. Added to that is a continuing investigation of the State Board of Education.

The bill simplifies the date after which rules that are submitted to LOCEA can be withheld from its report to the clerk. Currently, LOCEA can withhold from its report any proposed legislative rule which was submitted to it fewer than 210 days before the end of the regular session. This bill would change the date to the last Friday in July of the previous calendar year or the last Friday in August of the previous year for every four years when sessions begin a month later.

Although any number of provisions may be included in the bill of authorization the single object of the bill shall be authorization of the rules. Should the Legislature disapprove all or part of any rule, this bill would allow the agency to resubmit the rule in a same or similar fashion to LOCEA. Now archaic language regarding calculating dates has been deleted.

Emergency rules would now be required to be filed in the State Register and include a listing of state institutions of higher education, agencies, professions, business, and other identifiable interest groups affected by the rule. The bill also provides that an emergency rule shall become effective upon the approval of the Secretary of State or upon the 42nd day post filing whichever comes first and reduces the number of days from 60 to 30 that the agency has to file a notice of public hearing on the emergency rule. The number of days the agency has to file a proposed emergency rule with LOCEA has been reduced in half from 180 to

90. Provisions for disapproval of any amendment to an emergency rule have been amended to mirror the provisions for disapproval of the emergency rule.

The remaining provisions of the rule all deal with sunset dates for the rule. Current law provides for a five (5) year sunset for rules. This bill would modify that to August 1st of the fifth year. The bill gives the agency 60 days after receipt of expiration notice from the Secretary of State to file the legislative rule with the Secretary of State and LOCEA seeking renewal of the rule. It provides that if the rule that is scheduled to sunset is not being amended, except for a new sunset date, the rule is not subject to the public comment period and allows, in cases where the sunset date is prior to May 1, the agency to file a technical amendment with the Secretary of State to change the sunset date to August 1. Finally, it requires the Secretary of State to file a notice of sunset in the State Register within 30 days following the expiration of a legislative rule.

CODE REFERENCE: West Virginia Code §29A-3A-1, §29A-3A-2, §29A-3A-3, §29A-3A-4, §29A-3A-5, §29A-3A-6, §29A-3A-7, §29A-3A-8, §29A-3A-9, §29A-3A-10, §29A-3A-11, §29A-3A-12, §29A-3A-11a, §29A-3A-12, §29A-3A-13, §29A-3A-14, §29A-3A-15, §29A-3A-16, §29A-3A-16a, §29A-3A-17, §29A-3A-18, and §29A-3A-20 – amended; §29A-3A-2A – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 625

Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs

This Act adds microschool programs to the list of programs whose transcripts or other credential must be accepted by a public school as a record of a student's previous academic performance.

CODE REFERENCE: West Virginia Code §18-8-1a – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 667

Requiring periodic performance audits of WV Secondary School Activities Commission

This bill allows the Legislative Auditor, at reasonable and prudent intervals, to conduct performance audits of the WV Secondary School Activities Commission. It gives the Legislative Auditor the power and authority to examine the revenues, expenditures, and performance of the commission, which allows the Legislative Auditor to inspect all records and accounts of the commission and to examine the personnel of the commission.

The bill also provides that for any legally protected information provided or disclosed to the Legislative Auditor, he or she is required to protect the confidentiality, privacy, or security of the protected information in like manner and with the same duty as is required of the commission.

The bill also requires the Legislative Auditor to complete an initial performance audit of the commission by December 1, 2023, and on that date deliver a report to the Joint Committee on Government and Finance and to LOCEA.

CODE REFERENCE: West Virginia Code §18-2-25e – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Vetoed by Governor March 29, 2023. In his veto message, the Governor wrote:

> *"While I most certainly believe fiscal responsibility is of the upmost importance, so is preventing government overreach. WVSSAC is a private, non-profit organization comprised of dedicated West Virginians who volunteer their time and resources to ensuring our interscholastic athletics and other extracurricular activities are accessible to all our students. To require WVSSAC to undergo audits by the Legislative Auditor would be to treat this private, non-profit corporation as if it were a state agency. To prevent such government overreach, I disapprove and return Enrolled Committee Substitute for Senate Bill 667."*

Senate Bill 688

Allowing BOE to hire retired teachers to assist with tutoring

This bill allows county boards to contract with an independent contractor who is a retired teacher to provide tutoring services to students who necessitate additional one-on-one instruction in the core subjects of reading and math.

Before entering into a contract with the tutor, the county board must require an applicant to provide proof that he or she:

- Is a citizen of the US.
- Has retired from his or her employment as a teacher.
- Meets any other requirements imposed by the county board that apply to current teachers, which may include, but isn't limited to, a background check or training.
- Has appropriate liability insurance at his or her expense (imposition of requirement optional to the county board).

The bill also sets forth the following as disqualifying criminal offenses which preclude a county board from engaging the services of a tutor:

- Any sex offense.
- Crimes against persons, which includes, but is not limited to, manslaughter, murder, child abuse, domestic violence, stalking, kidnapping, or aggravated assault or battery.
- Unlawful manufacture, delivery, or possession with intent to deliver any controlled substance.
- Any other misdemeanor or felony conviction considered exclusionary for contracting with the independent contractor by the county board.

The bill also provides that a county board cannot be held civilly liable or be criminally prosecuted for any action of an independent contractor tutor acting within the scope of the duties for which their services were contracted unless the county board can be shown to be grossly negligent or committed willful misconduct.

The bill also provides that:

- County boards are not subject to Purchasing Division requirements when contracting for the tutoring services.
- Nothing requires a county board to contract for the tutoring services.
- An independent contractor tutor is not eligible for participation in PEIA, workers' compensation, additional state retirement credited to employment as a West Virginia Tutor, or any other state sponsored or offered state benefit plan.
- Participation in the tutoring program does not affect the retired teacher's retirement benefits.

CODE REFERENCE: West Virginia Code §18-5-50 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2005

Establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education

The House committee substitute establishes a four-year dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education.

The program would require eligible institutions to offer dual enrollment courses that comprise individualized pathways for career and post-secondary educational opportunities for secondary school students. The program would provide the following designated career pathways:

- direct care health professions;
- information technology;
- science, technology, engineering, and math (STEM) fields;
- education;
- advanced manufacturing;
- welding and fabrication;
- construction;
- agriculture; and
- any other program that meets a workforce need in the state as determined by the Department of Commerce.

For the purposes of this program, the following definitions apply:

- "Dual credit course" means a credit-bearing college-level course offered by an eligible institution to secondary school students in which the students receive credit at both the secondary and post-secondary levels.
- "Dual enrollment" means the registration of an eligible secondary student in a post-secondary course creditable toward high school completion and a career technical certificate, associate degree, or baccalaureate degree. A student who is enrolled in post-secondary instruction that is not creditable toward a high school diploma may not be classified as a dual enrollment student.
- "Eligible course" means any class or program of instruction offered at an eligible institution for which the student receives credit toward both high school completion and a post-secondary certificate or degree. Applied academics for adult education instruction, developmental education, physical education courses, and recreation and leisure studies courses are not eligible courses for dual enrollment purposes.
- "Eligible institution" means a state institution of higher education as that term is defined in §18B-1-2 of this code.
- "Eligible student" means any secondary school student, including a homeschool, charter school, microschool, learning pod, or private school student, who meets minimum criteria established by the state school board and the commission or the council, as appropriate, for the purpose of enrolling in a dual credit course.

The program would be funded from appropriations to the commission and the council for the purposes of implementing and administering the dual enrollment pilot program. The commission or the council, as appropriate, shall then pay directly to the eligible institutions from such appropriations the cost of the

tuition and academic fees incurred by eligible students taking dual credit courses in accordance with the dual enrollment pilot program.

In consultation with the state board, the commission and council may propose legislative and emergency rules pursuant to §29A-3A-1 et seq. of this code to implement the provisions of this section.

Beginning December 1, 2024, and annually thereafter, for the duration of the pilot program, the chancellor is required to report to the Legislative Oversight Commission on Education Accountability (LOCEA) on:

- The number of students participating in the program;
- The number and type of credits and certifications or credentials earned by students who have participated in the program;
- The dollar amount expended associated with this program;
- Projected growth in the program and funding needs for the next year; • The job status of students who have participated in the program;
- Any issues with the program reported by students, parents, secondary schools, and institutions of higher education; how these issues are being addressed; and whether the issues require legislative action; and
- A recommendation from the chancellor and the state superintendent on whether the program should continue beyond its four-year pilot period.

CODE REFERENCE: West Virginia Code §18B-14-4 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 21, 2023

House Bill 2346

Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment

This bill creates a new section modeled after the provisions that currently exist allowing the employment of certain retired bus drivers as substitutes beyond the post-retirement limit set by the Consolidated Public Retirement Board ("CPRB"). It provides that a person receiving retirement benefits under the Teachers Retirement System, or who is entitled to retirement benefits during the fiscal year in which that person retired, can accept employment as a critical need substitute bus operator for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled under certain conditions.

After verification of compliance with this section and the eligibility of the critical need substitute bus operator for employment beyond the post-retirement limit, the state board is required to submit the affidavit to the Consolidated Public Retirement Board.

The bill also addresses persons who retire and begin working as a critical need substitute bus operator within the same fiscal year; the status of retired bus operators employed to perform expanded substitute service; requirements for continued posting of a position when filled by a retired bus operator as a critical need substitute; and the expiration of the section on June 30, 2028.

CODE REFERENCE: West Virginia Code §18A-4-15a – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2380

Relating to School Building Authority

The purpose of this bill is to repeal and revise outdated, antiquated, inoperative, surplus, or superseded provisions of code related to the School Building Authority (SBA).

§18-9A-10 strikes obsolete provisions requiring the Department of Education to pay not less than the amount required for debt service on bonds issued prior to January 1, 1994, into the SBA's School Building Capital Improvements Fund. All bonds have all matured and this Fund is closed.

The bill also strikes the language related to the Fund later in the bill in §18-9D-6. Also stricken is language requiring the State Board to deposit $24 million annually into the SBA's School Construction Fund, also in §18-9D-6, which replaced the Capital Improvements Fund. The amendments to §18-9D-6 require the SBA include the $24 million in its budget request annually for appropriation to the School Construction Fund.

Also, language is stricken which requires any project funded by the SBA to be in accordance with a comprehensive facilities plan approved by the authority and the state board. This same language is moved to §18-9D-15.

§18-9D-2 strikes a definition that includes RESAs and a reference to the School Building Capital Improvements Fund because RESAs no longer exist and the fund is closed.

§18-9D-3 strikes references to RESAs.

§18-9D-4 strikes language which authorizes the School Building Authority to issue general obligation bonds.

§18-9D-5 is repealed. It authorized the School Building Authority to offer individual higher education savings plans.

§18-9D-6 is modified to close the School Building Capital Improvements Fund and transfer that money, if any, to the School Construction Fund. Language prohibiting monies deposited into the School Building Debt Service Fund from being used for repayment of revenue bonds issued prior to 1994 is stricken. Language restricting excess lottery funds and certain appropriations, both of which only applied to the school year beginning July 1, 2004, is stricken. New language is added which requires the SBA to request the Governor to include an amount equal to $24,000,000 in each budget bill as an appropriation to the agency's General Revenue Fund which are to be transferred to the School Construction Fund.

§18-9D-7 strikes a reference to the School Building Capital Improvements Fund and replaces it with a reference to the School Construction Fund.

§18-9D-8 strikes language which required revenue bonds issued between January 1, 1994 and January 1, 2008 have a maturity date within 10 years of issuance. Language making revenues subject to liens for revenue bonds issued before July 20, 1993 is also stricken.

§18-9D-9 strikes a reference to section 5 of this article, which is being repealed by this bill.

§18-9D-13 strikes language which requires the SBA to make periodic payments from the school building capital improvements fund to meet requirements for bonds issued prior to January 1, 1994 and detailing how such payments shall be used.

§18-9D-15 strikes references to the School Building Capital Improvements Fund and adds language which requires projects funded by the SBA to be in accordance with a comprehensive educational facility plan which must be approved by the state board and the SBA.

§18-9D-19 strikes legislative findings related to declining enrollment and comprehensive high schools but does not make any substantive changes to this section.

The bill also makes non-substantive changes to reflect current bill drafting standards throughout.

CODE REFERENCE: West Virginia Code §18-9D-5 – repealed; §18-9A-10, §18-9D-2, §18-9D-3, §18-9D-4, §18-9D-6, §18-9D-7, §18-9D-8, §18-9D-9, §18-9D-13, §18-9D-15, and §18-9D-19 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2596

To modify when a nonresident student's transfer may be denied

This bill allows a county board to permit any eligible resident student to apply for enrollment in any school with grade level capacity and existing programs and services currently outside any established attendance zone in which the student resides. It allows, upon written request of any parent, guardian, or any person responsible for any student, the superintendent to grant a resident student's transfer request from one school or program to another within the county so long as grade level capacity and the program and services exist at the time of the request. Counties with a critical need shortage policy are authorized to further review the request to determine if appropriate staffing is available in the requested grade, program, service, or content area. The superintendent is prohibited from transferring a resident student from one school to another within the county for reasons affecting the best interests of the schools without the consent of the student's parent or legal guardian. The bill also prohibits the distinguishing between students on the basis of residential or potential disability status when making enrollment decisions. The bill also allows the county superintendent or board to determine if appropriate staff, resources, services, and programs are in place to meet the disability needs of the student at the requested school. The bill also allows the decision of the county board to be appealed to the state superintendent of schools, whose decision is final.

The bill also requires that the open enrollment policy county boards are required to create establish an open enrollment process and enrollment application period for nonresident students to enroll in any school within the district. The process for applying is to be clearly publicized to parents and the general public, including dates and timelines, and is required to be made available on the board's website. As part of the open enrollment policy, county boards are also required to establish a process for nonresident students to enroll in any school within the district on a case-by-case basis at any time during the academic year so long as all other requirements are met including that the student has not previously transferred within the same school year. The bill prohibits the policy from discriminating against nonresident students on the basis of their residential address or any potential disability status.

The bill also adds lack of programs or services due to areas identified in the county board critical need policy and the commission of a Level 3 or Level 4 inappropriate behavior as reasons for application denial; and removes failure to fill out or submit the application correctly as a basis for denial. Instead, the bill provides that if the application is filled out or submitted incorrectly, a county board is required to provide an explanation of ways in which the application can be corrected and submitted for necessary approval.

The bill also requires each county board to report annually to the State Department of Education the number of resident and nonresident student transfers approved by the county board for the preceding school calendar year, as well as the number of transfer applications denied and the reasons for those denials. The Department of Education is then required to compile the information and report it to LOCEA. The information is also required to be made available on each county board's website.

CODE REFERENCE: West Virginia Code §18-5-16 – amended

DATE OF PASSAGE: February 22, 2023

EFFECTIVE DATE: May 23, 2023

ACTION BY GOVERNOR: Signed March 4, 2023

House Bill 2597

Amending performance evaluations of professional personnel

This bill provides that if an employee evaluation of a school professional person indicates any area, quality, skill, or level of performance is less than accomplished, the evaluation also must provide an explanation and data to support the evaluation.

CODE REFERENCE: West Virginia Code §18A-3C-2 – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2602

Reestablishing certain specialized school service personnel classifications

During the 2021 regular session, the Legislature passed HB 2145 which amended §18A-4-8 to add definitions for four new classifications of service personnel. During the next regular session in 2022, the Legislature passed another bill, HB 4829, which amended the same code section to redefine certain school cafeteria personnel. Unfortunately, when HB 4829 was drafted an outdated version of the code section was used that didn't include the definitions added the previous session. This bill corrects that error by adding the four definitions back into §18A-4-8.

CODE REFERENCE: West Virginia Code §18A-4-8 – amended

DATE OF PASSAGE: February 10, 2023

EFFECTIVE DATE: February 10, 2023

ACTION BY GOVERNOR: Signed February 22, 2023

House Bill 2607

Clarify that vehicles with a capacity larger than 10 passengers may be used to transport students provided that no more than 10 passengers may be transported at one time

This bill provides that when certified county board employees drive students in county board-owned and insured vehicles to school sponsored activities or when students are transported to school-sponsored activities in a county board owned or leased vehicle that doesn't meet school bus or public transit ratings, vehicles with a capacity larger than 10 passengers can be used, but the number of passengers that can be transported is limited to no more than 10 at any one time.

CODE REFERENCE: West Virginia Code §18-5-13 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: March 29, 2023

House Bill 2757

Relating to expanding institutional eligibility for the WV Invests Grant Program

This bill expands eligibility for the WV Invests Grant Program by changing the definition of "eligible institution" to include a not-for-profit baccalaureate institution authorized by the Higher Education Policy Commission or a not-for-profit, hospital-based allied health program authorized by the Community and Technical College Council. The bill also provides for not-for-profit private baccalaureate institutions to enter into agreements with certain other entities to establish partnerships that provide for advanced career education programs which feature defined pathways that begin when a student is in secondary education and that ultimately lead to advanced certifications or associate degrees; and makes other changes to be consistent with including not-for-profit baccalaureate institutions authorized by the Higher Education Policy Commission in the definition of "eligible institution."

CODE REFERENCE: West Virginia Code §18-2E-11, §18C-9-3, and §18C-9-4 – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2800

All relating to authorizing legislative rules regarding higher education

This bill authorizes Higher Education Policy Commission (HEPC) and Community and Technical College Council (CTCC) legislative rules that have been reviewed and recommended by LOCEA.

The bill authorizes the following rules:

Series 2 – HEPC and CTCC – Performance-Based Funding Formula

Pursuant to the passage of HB4008 (2022), these rules define the parameters governing the establishment and administration of a performance-based funding formula to be used in the development of annual budget requests, beginning with the 2024 fiscal year budget cycle for the public institutions of higher education in WV. They require the Chancellor to develop the formula in consultation with a Funding Formula Advisory Committee and requires the formula, at a minimum to: Apply to 30% of each institution's base appropriation; exempt 70% of each institution's base appropriation from the outcomes-based funding calculations; hold institutions accountable for increasing educational attainment levels; acknowledge the unique mission of each institution; be based on a set of objective performance metrics that reflect and support the State's higher education goals and priorities; incorporate safeguards to ensure stability of the funding formula; and apply an annual inflation adjustment. The rules also specify the data metrics the funding calculations are to be based on; requirements for data collection; requirements for identification of state priority degree fields; and requirements for formula calculations.

Series 12 – HEPC and CTCC – Capital Project Management

The revisions to these rules extend the sunset date to five years from the effective date.

Series 32 – HEPC – Tuition and Fee Policy

This rule establishes the policy for the assessment of tuition and fees at West Virginia undergraduate public institutions of higher education. The revisions simplify the rule to align it more precisely with the statute and extend the sunset date to five years from the effective date.

Series 42 – HEPC – Higher Education Grant Program

The revisions to this rule extend the sunset date to five years from the effective date.

Series 52 – HEPC and CCTC – Annual Reauthorization of Degree-Granting Institutions

These rules establish the policy regarding annual reauthorization of degree-granting institutions. The rules revise the required documents for application and review process and add additional sanctions for institutions that do not comply with the provisions for reauthorization. The rules also remove the requirement for public institutions to apply for annual reauthorization and instead provides that they remain continuously authorized to operate unless the Legislature takes affirmative action to suspend an institution's operations. The CCTC version of the rule also clarifies that nothing in the rule limits any protections afforded to proprietary schools under §18B-2B-9 (requires permits for correspondence, business, occupational, and trade schools) or 135 C.S.R. 35 (the business, occupational, and trade school rule).

Series 55 – HEPC and CCTC – Human Resources Administration

The revisions to these rules extend the sunset date to five years from the effective date.

Series 27 – CCTC – Workforce Development Initiative Grant Program

This rule adopts procedures and guidelines for the administration of the Workforce Development Programs: The Learn and Earn grant program, Technical Program Development grant program, and WV Advance Rapid Response grant program. The revisions to this rule add a definition section; allow the Council to limit the amount of a grant in accordance with the grant funds available; updates dollar wage amounts for participants in the Technical Program Development and the Learn and Earn grant programs; replaces the appointment of a committee to make funding recommendations and instead provides for the Council's staff to make funding recommendations; and allows the Council to withdraw a grant upon determination of the grantee's unsatisfactory compliance with the rule or the specifications of the grant application.

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: February 15, 2023

EFFECTIVE DATE: February 15, 2023

ACTION BY GOVERNOR: Signed February 24, 2023

House Bill 2820

To provide HOPE Scholarship recipients with the ability to play sports

This Act adds participants in the Hope Scholarship Program, microschools and learning pods to the students who are eligible to participate in Secondary School Activities Commission (SSAC) events or activities. The requirement that students be enrolled in at least on virtual instructional course per semester is removed.

The Act provides that students enrolled in a private school shall be eligible to participate in extracurricular activities at the public secondary school serving the attendance zone in which the student lives if the extracurricular activity is not offered at the student's private school, provided that the student complies with SSAC rules.

The Act adds a new section of code that requires the SSAC to modify its rule to allow students in grades 9 through 12 to transfer one time without losing athletic eligibility. The SSAC may promulgate an emergency rule. This section does not limit or restrict a student transferring more than one time as permitted by SSAC rules.

CODE REFERENCE: West Virginia Code §18-2-25 – amended; §18-2-25 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Became law without Governor's signature on March 29, 2023

House Bill 2827

Make public charter schools eligible for Safe Schools Funds

This bill adds charter schools to the entities that are required to annually assess the safety and security of each of the school facilities for which they are responsible; required to upgrade safety and security measures of each facility to ensure safety of students; and required to report annually the safety and security measures it has put in place to the WV Department of Education.

The bill also adds multicounty vocational center administrative councils to the entities required to upgrade safety and security measures of each facility to ensure safety of students and required to report annually the safety and security measures it has put in place to the WV Department of Education.

The bill also explicitly includes public charter schools in with the other entities that are to receive funds from the Safe Schools Fund; and provides that moneys distributed from the fund cannot be used to make permanently affixed improvements, alterations, or additions to a physical facility that a county board of education, public charter school, or multicounty vocational center does not own. The bill also provides that after all public-school facilities have been provided sufficient funds to meet the special education video camera requirements, funds from the Safe Schools Fund are to be distributed by the WV Department of Education to meet the needs of school facilities to have safe school entry ways. After safe school entry way needs have been met, the funds are to be distributed based on a determination of need.

The bill also requires the WV Board of Education to promulgate rules to establish a process by which county boards of education, public charter school governing boards, and multicounty vocational center administrative councils can submit requests to obtain needs-based funding from the Safe Schools Fund; and sets forth specifics as to what the rules are to address.

CODE REFERENCE: West Virginia Code §18-5-48 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2835

Repeal outdated provisions of code relating to the West Virginia graduate college and Marshall University

This Act deletes obsolete statutory language regarding the merger of the former West Virginia Graduate College with Marshall University.

CODE REFERENCE: West Virginia Code §18B-1-8B – repeal

DATE OF PASSAGE: February 6, 2023

EFFECTIVE DATE: May 6, 2023

ACTION BY GOVERNOR: Signed February 17, 2023

House Bill 2890

Modifying student discipline

This bill adds behaving in a manner that obstructs the teaching or learning process of others in the classroom to the behaviors that allow the exclusion of a student from the classroom.

The bill also provides that when a student in grades 6 through 12, excluding an elementary school student, is excluded from the classroom for disorderly conduct, interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:

- The student cannot re-enter that teacher's classroom for at least the remainder of the instructional day.
- The principal is required to communicate with the teacher within 24 hours about the exclusion.
- The teacher has 24 hours to place the report on West Virginia Education Information System (WVEIS) without any repercussion to the teacher.
- If the student is removed three times in one month, the student is to receive as determined by the principal an in-school suspension, an out-of-school suspension, or can be considered for placement in an alternative learning center.

The bill also requires each county board to ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments; it requires the principal to support the teacher in discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy; and it provides that a teacher cannot be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment.

Lastly, the bill requires that the county board policies include an appeal procedure whereby a teacher can appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom.

CODE REFERENCE: West Virginia Code §18A-5-1 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3035

Relating generally to high-quality education programs and school operations

This bill creates the Third Grade Success Act. It replaces the transformative system of support for early literacy with a multi-tiered system of support for early literacy and numeracy in kindergarten through grade three.

The bill adds the following to the components that are required to be in a state board rule:

- The provision of assistance to county boards with the training and implementation of the science of reading training for all K-3 educators, early childhood classroom assistant teachers (ECCATs), aides, paraprofessionals, and certain interventionists.
- Establishing an approved list of screeners and/or benchmark assessments in English language arts and mathematics for students in grades K-3 for the purpose of identifying students with a significant reading and/or mathematics deficiency. The screener and/or benchmark assessments are required to be given in the first 30 days of the school year and repeated at mid-year, and at the end of the school year.
- Establishing an approved list of dyslexia screeners to be administered to students no less than twice per year in grades K-3 and any time students with identified deficiencies are not responding to interventions.
- A requirement that a kindergarten, first, second, or third grade student who exhibits a deficiency in reading at any time, based on the screeners and/or benchmark assessments, and/or the comprehensive statewide student assessment, and any fourth-grade student promoted for good cause receive an individual reading improvement plan within 30 days of identification of the deficiency. The reading improvement plan is required to be completed by the teacher, principal, other pertinent school personnel, and the parent(s) or guardian(s), and is required to describe the research-based reading intervention services the student is to receive to remedy the reading deficit. Each student is to receive intensive reading intervention until the student no longer has a deficiency in reading.
- Certain specified details about what the required maximized family engagement is to include.
- The provision of professional development for administrators and K-3 teachers on the following:
    - The approved benchmark assessment and/or screener tools.
    - The science of reading and numeracy instruction.
    - The characteristics of dyslexia and dyscalculia in students, components of benchmarks and screeners that can indicate dyslexia or dyscalculia, and strategies for instruction.
    - Job-embedded, on-site teacher training on evidence-based reading and mathematics instruction and data-driven decision making that provides grades K-3 teachers with immediate feedback for improving instruction.
- Ensuring that educator preparation programs prepare candidates seeking licensure for elementary education with training and instruction to:
    - Include instruction in state adopted grade-level content standards, foundational reading and mathematics skills, and how to implement reading instruction using high-quality instructional materials.
    - Provide effective instruction and intervention for students with reading and math deficiencies, including students with characteristics of dyslexia or dyscalculia.
    - Understand and use student data to make instructional decisions.

The bill also requires county boards to adopt high-quality instructional materials grounded in scientifically-based reading research and aligned to state standards to be use as the core curriculum; and prohibits the instructional materials from including practices that are aligned with the Three-Cueing Systems Model of teaching reading.

The bill also requires county boards to provide in-service training:

- For ECCATs, aides, paraprofessionals, and certain interventionists specifically related to literacy, numeracy, and their responsibilities and appropriate measures for exercising authority and control over students.
- For classroom teachers in grades K-3 to help the classroom teachers gain a strong understanding of how to best use the ECCATs, aides, paraprofessionals, or in certain instances, interventionists.

The bill also provides that effective 7/1/26, a public school student who generally demonstrates a minimal understanding of, and ability to apply, grade level English language arts or mathematics knowledge, skills, and abilities, or both, as indicated on the WV General Summative Assessment relative to the WV College and Career Readiness Standards at the end of third grade, and upon the recommendation of the teacher and the student assistance team, be retained in the 3rd grade for the ensuing school year. The bill also sets forth numerous exceptions to this 3rd grade retention requirement.

This bill also requires that each first, second, and third grade classroom with more than 12 students have an ECCAT, aide, or paraprofessional and provides that the requirement becomes effective for the first grade for the school year beginning 7/1/23; effective for the second grade for the school year beginning 7/1/24; and effective for the third grade for the school year beginning 7/1/25. If all grade level classrooms are already being served by an ECCAT/aide/paraprofessional by the school year required, the county board can add the ECCATs/aides/paraprofessionals in first, second, and third grade classrooms of the greatest need beginning 7/1/23 and completing full implementation by 7/1/26. The bill also phases in increases in the service personnel ratios during each of those three years to ensure sufficient funding for county boards to hire the increased number of ECCATs, aides, and/or paraprofessionals necessary to comply with the requirement.

The bill also allows county boards to satisfy the ECCAT/aide/paraprofessional requirement by employing a full-time interventionist instead of an ECCAT, aide, or paraprofessional, but also provides that county boards are not required to employ an interventionist even if there are an insufficient number of ECCATs, aides, and paraprofessionals available to fill all the required positions. The bill also provides that if no full-time interventionist is available, a county board can satisfy the ECCAT/aide/paraprofessional requirement by employing a part-time interventionist.

The bill also removes a requirement for the Department of Education to survey the districts to determine where class overcrowding is impeding student achievement and report to the Legislature a plan for reducing the overcrowding.

The bill also modifies provisions pertaining primarily to dyslexia and dyscalculia. It replaced language specifying what the State Board is responsible for with language that requires the State Board to:

- Develop a list of appropriate screeners, early assessments, and professional development that address and ensure that all students receive the necessary and appropriate screenings, evaluations, and early assessments for specific learning disabilities, including dyslexia and dyscalculia. The bill also includes more specific information that the list is to include.

- Explore options to assist any local education agency (LEA) with acquiring approved literacy and/or numeracy screening tools if the LEA is unable to acquire its own literacy and/or screening tools that are consistent with state education agency recommendations.
- Adopt and make publicly available guidelines for including dyslexia diagnostic evaluation components in comprehensive assessments for special education and related services. The bill also sets forth more details about what the guidelines are to include.
- Adopt and make publicly available a list of approved diagnostic assessment components that can be used to help identify and diagnose dyslexia during comprehensive multidisciplinary evaluations.
- Adopt and make publicly available guidelines and a list of resources for dyslexia intervention practices that are evidence-based, including practices consistent with the Science of Reading and Structured Literacy, that are explicit, direct, sequential, systematic, and multisensory.
- Adopt and make publicly available a list of recommended accommodations and instructional practices to be used with students who exhibit signs of dyslexia or have been diagnosed with dyslexia.
- Adopt and make publicly available a list of available professional development resources that support evidence-based intervention for struggling readers, including the Science of Reading and Structured Literacy.
- Develop and make publicly available informational materials related to dyslexia for parents and guardians that include information about the multidisciplinary evaluation process, updated regularly.

The bill also imposes the following as requirements for LEAs:

- Develop a system for parents and guardians to annually receive digital and print informational materials related to dyslexia.
- Ensure at least one educator at each school is trained to administer, score, and interpret the data from the literacy screening instrument, and to recognize signs of dyslexia.
- Notify parents of the results of these literacy screeners while emphasizing that not all students who perform poorly on these screening instruments have dyslexia and that not all students with dyslexia will perform poorly on the screeners.
- Provide evidence-based reading intervention to students who exhibit academic risk in future reading performance, including indicators of dyslexia.
- Conduct comprehensive assessments to determine eligibility for special education services when a child does not respond or only minimally responds to intervention strategies and/or when there is a suspected disability of dyslexia, and if a determination is made through the evaluation process that a student needs assessed for dyslexia, provide assessment and diagnosis as necessary per WV Department of Education guidelines.
- Employ appropriate accommodations and instructional practices recommended by the WV Department of Education based on the students' needs.
- Require all elementary educators, special educators, reading interventionists or specialists, and other personnel determined appropriate by the LEA to receive professional development on the possible signs of dyslexia and the related classroom accommodations and instructional practices approved by the WV Department of Education.
- Administer a literacy screening instrument to students in grades 3-5 who transfer from a LEA where literacy screening instruments were not administered.

- Require appropriate personnel, as determined by the LEA, to annually receive professional development relating to the possible indicators for dyslexia and dyscalculia, accommodations and modifications in the classroom environment, proper instructional practices for educating students who exhibit possible indicators of risk for, or who have been, diagnosed with dyslexia, dyscalculia, and/or other specific learning disabilities.

The bill also requires the WV Board of Education to promulgate a rule to implement the provisions pertaining primarily to dyslexia and dyscalculia and requires that the rule at least include the following:

- If a student is reading substantially below grade level according to formal and/or informal assessments, including benchmark assessments, and has never been evaluated for special education, a request can be made by a school, parent, or teacher for the administration of an age- or grade-appropriate WV Department of Education-approved literacy screening instrument and these points of data can be used to either start intervention and progress monitoring per WV Department of Education guidance, or make a referral for a special education evaluation.
- Acknowledgement that each LEA can have one certified Literacy and Numeracy Specialist in each LEA, or another appropriate professional designated by relevant LEA leadership, to be appropriately trained, or be seeking appropriate training, in intervention, accommodations, and instructional strategies for students with dyslexia or a related disorder. The trained individuals are to serve as an advisor and trainer for dyslexia and related disorders for the LEA. The bill also sets forth in more detail what the reading specialist or other designated professional is to have a working knowledge of.

The bill also includes requirements for reporting to LOCEA relating to the provisions pertaining primarily to dyslexia and dyscalculia.

CODE REFERENCE: West Virginia Code §18-2E-10, §18-5-18a, §18-9A-5, and §18-20-10 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 21, 2023

House Bill 3055

To create a vocational math class for students interested in careers in the trades

This bill establishes for all public-school curriculum a technical transition math class geared towards students interested in careers in the trades. This class will pertain to math curriculum in the fields of fractions, conversion from fractions to decimals, application of measurement, reading blueprints, geometry pertaining to workforce math, and other math skills needed to succeed in the trades.

The bill also requires that an instructor of the math class meet the same qualifications as needed to teach current trade classes and specific content in the public schools; provides that students are eligible for the class once entering high school; and allows the class to be taken as a personalized math credit to meet graduation requirements.

CODE REFERENCE: West Virginia Code §18-2E-13 – new

DATE OF PASSAGE: February 22, 2023

EFFECTIVE DATE: May 23, 2023

ACTION BY GOVERNOR: Signed March 4, 2023

House Bill 3084

Relating to revising provisions related to public charter schools

The purpose of this bill is to make changes to the education statutes of the state to primarily include charter schools where they have heretofore not been mentioned. There is language included that indicates it is the intent of the Legislature that public charter schools be considered as important as other schools.

Currently, there is special revenue account called the Safe Schools Fund. The fund is to be used for safety and security of school facilities. Presently, the fund apportions the money in equal amounts to county boards and multicounty vocational centers. In addition to adding charter schools to the list of recipients, the funds would now be distributed on a need basis. There is also a provision that prohibits modifications for a structure that is not owned by the county board of education. If any modifications are made, they must be done in such a way they may be removed with minimal effort. A preference is also listed in code for placement of video cameras in special education classrooms which have not yet met the requirements in code for video equipment. After the video equipment needs are met, funs may be expended on safe school entry ways. There is also rulemaking language for the West Virginia Department of Education.

There is new language added indicating that a state institution of higher education may organize a charter school. Additionally, there is a newly added prohibition against institutions of higher education from requiring more stringent of charter school students than non-charter school students.

The article regarding charter schools has been substantially amended. It would be amended to:

- Permit charter schools to add pre- and post-school activities as part of their education program without having to be regulated as a childcare facility.
- Permit students in a public charter school that does not offer extracurricular athletic or academic activities to participate on the same level as other public-school students in the attendance area where the student resides.
- Establish certification or licensure as a condition of employed by the public charter school.
- Allow students in a virtual charter school to be administered any required state assessment in a virtual setting if available in a virtual manner.
- Add the West Virginia Public Charter School Board to the requirements that the State Board of Education consult with nationally recognized charter school organizations to establish and maintain a catalogue of best practices for public charter schools.
- Provide that public charter and public non-charter schools cooperate for shared services, training and information and to facilitate prompt transfer of students between charter and non-charter schools.
- Modify the percentage of per pupil total basic foundation allowance from the current 90% to 99%.
- Provide a means to calculate the amount of money to be paid to the public charter school and require payment within 30 days of receipt of an invoice.
- Allow that when a public charter is operated by an institution of higher education the governing board of the public charter school may be an administrative arm of the institution of higher education.
- Permit the Professional Charter School Board to receive and expend gifts, grants, and donations from any public or private entity to carry out the purpose of the Charter School Act.

The bill would amend the school aid formula provisions to include public charter schools. The State Board of Education is granted rulemaking authority to establish an “objective method for calculating the

increase in net enrollment for each public charger school based on the school's net enrollment". Payment to the public charter school by the Department of Education is required to occur no later than December 31 of each year.

CODE REFERENCE: West Virginia Code §18-5-48, §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-7, §18-5G-12, §18-5G-15, and §18-9A-15 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3113

Requiring high school students to complete course of study in personal finance

This bill requires each high school student, beginning with the class of students entering 9th grade in the 2024-2025 school year and thereafter, to complete a one-half credit course of study in personal finance during their 11th or 12th grade year as a requirement for high school graduation; and requires the WV Board of Education to develop and issue implementation guidance to local school boards and other education agencies as to curriculum, content matter standards, eligible teacher certification(s), and graduation requirements the course fulfills before July 1, 2024.

CODE REFERENCE: West Virginia Code §18-2-7c – amended

DATE OF PASSAGE: March 3, 2003

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3218

Relating to requiring suicide prevention resources be printed on student identification cards

This bill requires that all public schools serving students in grades 6 through 12, inclusive, and public or private institutions of higher education that issue student identification cards have printed on either side of the student identification cards the information for the Suicide & Crisis Lifeline and the Crisis Text Line.

CODE REFERENCE: West Virginia Code §18B-1B-7 – amended; §18-2-40b – new

DATE OF PASSAGE: March 1, 2023

EFFECTIVE DATE: May 30, 2023

ACTION BY GOVERNOR: Signed March 15, 2023

House Bill 3224

Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients

This bill adds the West Virginia Junior College to the definition of "eligible institution" for the purpose of allowing students enrolled in the West Virginia Junior College to receive the PROMISE Scholarship.

CODE REFERENCE: West Virginia Code §18C-7-3 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3271

Relating to increasing monitoring of special education classrooms

The purpose of this bill is to expand the presence to audio and video equipment in certain classrooms. The bill would require that in a self-contained classroom that audio recording devices be placed in restrooms. Notice of the audio recording device is required to be posted on the door of each restroom facility that has such a device.

There is a provision that provides a parent may opt out of monitoring of their child. The audio file is required to be maintained for a period of three months – exactly as with other video recordings. Additionally, the school principal, other school administration designee, or county designee is required to review no less than 15 minutes of the recording every 90 days.

The provisions of this bill are effective August 1, 2023. A school is able to request an extension of this date from the Board of Education.

CODE REFERENCE: West Virginia Code §18-20-11 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3369

Creating a School Safety Unit within the Division of Protective Services

This bill requires the Division of Protective Services Director to establish a school safety unit, used primarily to make school safety inspections and recommendations to the appropriate county school personnel or other school administrators. Officers will have authority to respond to and investigate all school safety matters, and they will have statewide law-enforcement authority.

The bill amends the authority of the director to enter interagency agreements with the Secretaries of Department of Homeland Security and Administration with respect to security personnel from mandatory to discretionary.

The bill mandates the director to provide services to all public primary and secondary schools and authorizes the director to provide services to private primary and secondary schools upon request.

The bill revises certain language related to the Department of Military Affairs and Public Safety and revises certain language relating to security at the Capitol.

CODE REFERENCE: West Virginia Code §15-2D-1; §15-2D-2; and §15-2D-3 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 21, 2023

House Bill 3441

Revising the training requirements for members of the Higher Education Policy Commission, Council for Community and Technical College Education and the institutional governing boards

This bill revises the training requirements for members of the Higher Education Policy Commission (Commission), the Council for Community and Technical College Education (Council), and the institutional governing boards. The Chancellors for the Commission and Council, or their designees, are required to develop a comprehensive orientation and training program for new members of the Commission, the Council, and the institutional governing boards (governing bodies) and continuing education opportunities for all ongoing members of those governing bodies.

The bill requires that orientation and training offered to new members of the governing bodies comprise 6 hours of instruction time which can be broken up over the member's first year of service. The orientation and training is required to include, but not be limited to: Information concerning the roles of the governing bodies and their members; the state statutory goals for higher education; the higher education accountability system; the fiduciary duties and responsibilities of the governing bodies; legal considerations including statutory duties, authorities, and responsibilities of the governing bodies and open records and open meetings requirements; ethical considerations arising from membership on a governing body, including the provisions of the West Virginia Governmental Ethics Act; the removal and replacement provisions of members of governing bodies; the circumstances under which the Commission or the Council can withdraw specific powers from the institutional governing boards.

Beginning the second year of the member's service on a governing body, each member is required to complete at least 4 hours of training and development related to his or her duties each full fiscal year following his or her appointment. The bill also allows the chancellors to grant credit for training, professional development, or continuing education developed or delivered by an institution of higher education or a third-party training provider, and removes a requirement for an annual report to LOCEA on the training and development received by the governing body members.

CODE REFERENCE: West Virginia Code §18B-1D-9 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3547

Increasing the number of personal leave days that county board of education employees may use

This bill increases the number of days a school employee can use annually without cause from four to five days. It also allows personal leave without cause to be used on consecutive workdays if the employee provides 14 days of notice. Under prior law, personal leave without cause could be used on consecutive workdays only if approved by the employee's principal or immediate supervisor, as appropriate.

CODE REFERENCE: West Virginia Code §18A-4-10 – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3555

Relating to student purchase and refunds of course material

This bill allows institutions to work with booksellers, publishers, or other third parties to offer a courseware and book fee at a lump sum or per credit hour amount if an opt out option is offered to students in advance of the start of each academic term.

The bill also removes applicability of certain provisions pertaining to new or increased charges when the new or increased charges are due to a change to the course materials or digital courseware; and requires compliance with those provisions pertaining to new or increased charges no later than 30 days prior to the start of the course or course section. Also, instead of allowing a new or increased charge to a student if that student affirmatively opts in to accepting the charge as currently required, this bill allows the new or increased charge if the institution has a policy under which the student can opt out of the way the institution provides for the student to obtain or purchase the course materials and receive a full refund for any charges already incurred for course materials.

This bill also makes changes to the requirement that an agreement between an institution and an entity under which the institution assesses a charge on the entity's behalf include prohibiting the sale, disclosure, licensing, use, retention, or other the exploitation of any data collected under the agreement. First, it provides an exception in cases when permitted by the Family Education Rights and Privacy Act or any other applicable law. It also adds the following as exclusions to the prohibition:

- The use of student data for research and development of course materials or the entity's educational sites, services, or applications, and to demonstrate the effectiveness of the entity's services.
- The use of de-identified student data for adaptive learning purposes and customized student learning.
- Disclosures made to a service provider if the entity prohibits the service provider from using any student data for any purpose other than providing the contracted service to, or on behalf of, the entity; prohibits the service provider from disclosing any student data provided by the entity with subsequent third parties without explicit permission from the entity; or requires the service provider to implement and maintain reasonable security procedures and practices to protect the student data.
- Use, disclosure, or retention of student data to ensure legal and regulatory compliance or to respond or to or participate in judicial process or to protect the safety of users or others or security of the entity's sites, services, or applications.
- When the student or guardian, as applicable, has granted prior written consent for the sale disclosure, licensing, use, or retention of student data.

The bill also removes language that prohibits an institution from denying, or entering into an agreement with another entity that would permit the entity to deny, a student access to educational materials for which the students has been, or would otherwise be, automatically charged based on the student's refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of any student data that would be obtained through the student's use of the educational materials.

CODE REFERENCE: West Virginia Code §18B-10-14 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Health and Human Resources

Senate Bill 83

Authorizing tactical medical professionals to carry firearms

The bill permits EMS personnel, a nurse, a physician assistant, or a physician who is trained and certified in a nationally recognized tactical medical training program that is equivalent to tactical casualty and who functions in the tactical environment while attached to a law enforcement agency to carry a gun. The bill required the Law enforcement professional standards subcommittee to propose a legislative rule to promulgate standards governing the training. The bill provides liability protection.

CODE REFERENCE: West Virginia Code §30-29-3 – amended; §30-43-1 through §30-43-3 – new

DATE OF PASSAGE: February 2, 2023

EFFECTIVE DATE: May 3, 2023

ACTION BY GOVERNOR: Signed February 9, 2023

Senate Bill 89

Requiring hospitals to staff qualified personnel to perform sexual assault forensic exams

This bill requires hospitals in the State of West Virginia with an emergency department, excluding state facilities, to have an on-call or available healthcare provider that is a trained sexual assault forensic examination expert. It provides that the expert may utilize telehealth as a means of examination.

CODE REFERENCE: West Virginia Code §15-9B-1a and §15-9B-4 – amended

DATE OF PASSAGE: February 21, 2023

EFFECTIVE DATE: May 22, 2023

ACTION BY GOVERNOR: Signed March 1, 2023

Senate Bill 239

Requiring Commissioner of Bureau for Behavioral Health to engage certain providers and leaders to study homeless demographic

The bill requires the Commissioner of the Bureau for Behavioral Health to engage stakeholder to study a breakdown of homeless demographic information throughout the state. The stakeholders listed are behavioral health and substance use disorder providers and municipal leaders and county government leaders. The bill sets forth the data to be included in the study and includes but is not limited to the following: presenting a breakdown of the homeless demographic throughout WV; quantifying and inventorying the homeless resources by region; conducting an epidemiological analysis of the homeless population; and identifying key metrics across the state. The report shall be completed July 1, 2024.

CODE REFERENCE: West Virginia Code §9-5-31 – new

DATE OF PASSAGE: February 15, 2023

EFFECTIVE DATE: May 16, 2023

ACTION BY GOVERNOR: Signed February 24, 2023

Senate Bill 241

Patient Brokering Act

This bill provides the Office of Health Facility Licensure and Certification (OHFLAC) shall have enforcement authority over the act. The Patient Brokering Act prohibits a person, including a health care provider or health care facility from offering, paying, soliciting, or receiving any incentive to encourage the referral, acceptance, or acknowledgement of treatment of a patient to or from a health care provider or health care facility. It requires OHFLAC to develop a tool that facilitates public complaints about all activity relating to the Patient Brokering Act.

CODE REFERENCE: West Virginia Code §16-62-2 – amended

DATE OF PASSAGE: February 9, 2023

EFFECTIVE DATE: February 9, 2023

ACTION BY GOVERNOR: Signed February 17, 2023

Senate Bill 267

Updating law regarding prior authorizations

The bill requires all prior authorization forms to be submitted via an electronic portal. This applies to the Public Employees Insurance Agency and the Bureau for Medical Services (Medicaid).

The bill provides that the portal shall provide electronic notification to the health care provider and the insured and deletes a requirement that the portal contain a list of items which are bundles together as part of the episode of care. The bill contains a requirement of conspicuous language for step therapy protocols. The committee substitute adds a requirement that the portal web address be included on the insured's insurance card. The bill deletes a requirement that PEIA, Medicaid, and the insurance companies accept prior authorizations electronically by 2020. Since this date is in the past, this language is deleted. An effective date of January 1, 2024, is inserted.

The bill inserts a requirement that PEIA, Medicaid and the insurance companies communicate electronically via the portal regarding the current status of the prior authorization request to the health care provider and the insured. Timeframes for responding to prior authorization requests has been reduced from 7 days to 5 days. The timeframe for emergency claims is moved from 2 days to 2 business days. The introduced bill places a time frame of within 2 business days after receipt for PEIA, Medicaid and the health insurers to render a decision when additional information has been submitted on a claim. The bill submits additional timeframe of within 5 business days for PEIA, Medicaid and the health insurers to transfer a claim to peer review. The bill strikes language stating that the timeframes in the section do not apply to prior authorization requests submitted through telephone, mail, and fax since all claims are required to be submitted via an electronic portal. The bill inserts a requirement that the peer-to-peer appeal of 5 days from the date of the request for the peer-to-peer. Time frames regarding the appeal of a decision on a prior authorization shall take no longer than 10 business days from the date of the adverse decision.

With respect to gold carding, the threshold is moved from 100 procedures to 90 procedures in a six-month timeframe. If the health care practitioner attains this threshold, then for at least 6 months or longer if allowed, the Public Employees Insurance Agency, BMS, and the insurers shall not require the health care practitioner to submit a prior authorization.

There is a provision in the health insurance sections of code requiring the Insurance Commissioner to oversee the article and to collect data quarterly or more often as needed to oversee compliance. The bill directs the variables that shall be collected. The bill states that the Insurance Commissioner shall assess a civil penalty. With respect to DHHR, the Inspector General has enforcement powers and shall collect data quarterly to verify compliance.

The completion date of the portal is July 1, 2024.

CODE REFERENCE: West Virginia Code §5-16-7f, §33-15-4s, §33-16-3dd, §33-24-7s, §33-25-8p, and §33-25A-8s – amended; §9-5-31 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 268

Relating to PEIA

The bill would revise provisions of the West Virginia Public Employees Insurance (PEIA) Act. It makes technical corrections and improvements, such as moving definitions in to the definition section of Chapter 5, Article 16 known as the West Virginia Public Employees Insurance Act. The bill also deletes obsolete language and redundant reporting requirements.

The bill adds language requiring that all members of the PEIA Finance Board "shall have a fiduciary responsibility to protect plan assets for the benefit of plan participants" and "shall complete fiduciary training and timely complete any conflict-of-interest forms required to serve as a fiduciary." Additionally, requirements are removed that the Finance Board's actuary's opinion on the financial plan for each fiscal year "shall allow for no more than thirty days of accounts payable to be carried over into the next fiscal year" and shall not include a requirement for establishment of a reserve fund."

The bill also updates language relating to levels of reimbursements that PEIA makes to health care providers. As amended, each PEIA Board's financial plan must establish a new provision:

"The minimum level of reimbursement at 110 percent of the Medicare amount for all providers: Provided, That the plan shall reimburse a West Virginia hospital that provides inpatient medical care to a beneficiary, covered by the state and non-state plans, at a minimum rate of 110 percent of the Medicare diagnosis-related group rate for the admission, or the Medicare per diem, per day rate applicable to a critical access hospital, as appropriate: Provided, however, That the rates established pursuant to this subdivision do not apply to any Medicare primary retiree health plan."

The minimum number of public hearings required by the Finance Board to provide throughout the state on each year's actuary opinion on the financial plan for the next plan year is increased from 3 to 4.

The bill provides that when the Governor provides the annual estimate of revenues available for each year of the plans to the Finance Board, the Director of PEIA and the Finance Board "may only use revenue estimates from the Governor as necessary to maintain an actuarially recommended reserve fund and to maintain premium cost-sharing percentages as required in this article" and "may not incorporate revenue sources into the finance board plan beyond the premium cost-sharing percentages as required in this article. The director shall provide the number of covered lives for the current fiscal year and a five-year analysis of the costs for covering paid claims to the finance board no later than October 15 for the preceding year."

The is inserted a requirement that the Finance Board's annual actuary opinion on each year's financial plan must "include, but not be limited to, the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, at a level of 80 percent for the employer and 20 percent for employees." This 80/20 ratio is required for FY 2024 elsewhere in the bill, so outdated language requiring PEIA to make "incremental adjustments" to get to that 80/20 ratio would be deleted.

Finally, there is new language that "[i]n the event the revenues in a given year exceed the expenses, the amount of revenues in excess of the expenses shall be retained by the Public Employees Insurance Agency to offset future premium increases."

Section §5-16-5b is repealed, effectively terminating the "Post-July 1, 2010, Employee Trust Fund" which was created in 2012 "for the purposes set forth by the Legislature in furtherance of an incentive

contingent on future legislative directives for retirees who were hired on or after July 1, 2010, to be received upon their retirement."

Limitations on benefits for certain services provided for autism spectrum disorder in those 18 months to 18 years and certain reporting requirements about those services have been removed.

Coverage requirements relating prescription insulin drugs was updated to limit cost sharing for insulin drugs to $35.00 for a thirty-day supply and for covered devices not to exceed $100.

The language relating to PEIA plan provisions of wellness programs has been modified to include health programs and allowing PEIA to explore, review, evaluate, and offer a variety of programs to meet the needs of plan members.

The powers and duties of the PEIA director have been modified to clarify that he or she has exclusive authority to execute any contract necessary to carry out the provisions of the Act. The requirement that quarterly reports be made to the Joint Committee on Government and Finance about pharmacy claims would be removed but the Joint Committee on Health would continue to receive those reports. PEIA is also required to use networks to provide care to its members out of state.

Significant changes relating to coverage of non-employee spouses of employees were made to provide that:

"If an employee's spouse has health insurance available through an employer not defined in §5-16-2 of this code, then the employer may not cover any portion of premiums for the employee's spouse coverage, unless the employee adds his or her spouse to his or her coverage by paying the cost of the actuarial value of the plan: Provided, That this does not apply to spouses of retired employees or voluntary employers as defined in §5-16-22 of this code."

A new provision requires that PEIA "shall return to a level of 80 percent for the employer and 20 percent for employees during fiscal year 2024." Additionally, PEIA is required to conduct an independent actuarial study of the financial solvency of the plan.

Finally, new language would provide that "[t]he amendments made to this article during the 2023 Regular Session of the Legislature shall be incorporated into the plan beginning with plan year 2024."

CODE REFERENCE: West Virginia Code §5-16-5b, and §5-16-28. – repealed; §5-16-2, §5-16-3, §5-16-4, §5-16-5, §5-16-7, §5-16-7b, §5-16-7c, §5-16-7g, §5-16-8, §5-16-9, §5-16-10, §5-16-11, §5-16-13, §5-16-14, §5-16-15, §5-16-16-16, §5-16-18, §5-16-23, §5-16-25, and §5-16-26 – amended; §5-16-30, §5-16-31, and §5-16-32 – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 17, 2023

Senate Bill 273

Relating to allocation of child protective workers in counties based upon population of county

The bill continues the Bureau of Social Services and charges it with providing care, support, and protective services to children including infant children of unmarried mother's committed to the custody of the current Department of Health and Human Recourses.

The crux of the bill is to reallocate existing child protective service workers throughout the state. This reallocation would be based upon the population of counties as listed in the United States Census, number of referrals, and size of the caseload. The relocation is required to be reported to the Legislative Oversight Commission on Health and Human Resources Accountability.

The bill also requires the Department to have a redundant system in the event of an outage for centralized intake to receive reports. The bill provides the system shall be transparent meaning that it shall allow for reporting in the same means as if the outage had not occurred and no time delay shall occur. The bill provides an operational date. It also requires that if the Department contends they currently have such a system they must demonstrate such to the Joint Committee on Government and Finance by July 1, 2023.

The bill exempts from the Division of Personnel child protective services, youth service workers, adult protective services workers, necessary casework support personnel, and managers at the county level. It requires the Commissioner of the Bureau of Social Services to create a merit-based system that would include compensation, retention incentives, and hiring procedures. It requires the new pay scale to be operational by January 1, 2024. New employees will be subject to the newly created system and existing employees may elect to enter. There is a provision that there is no requirement for uniform pay across the same pay grade to account for market rates and demand. Additionally, there is language that the difference in pay is not grievable. The Commissioner is granted rulemaking authority to effectuate this change.

The final provision of the bill is to modify the existing child welfare dashboard to report on system-level performance indicators, intake hotline performance indicators, field investigation performance, open case performance indicators, out-of-home placement performance indicators, and federally mandated performance indicators.

CODE REFERENCE: West Virginia Code §49-2-101 and §49-2-102 – amended; §49-10-101 through §49-10-103, §49-11-101, and §49-2-102 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 476

Exempting managed care contracts from purchasing requirements

The bill provides the Bureau for Medical Services (BMS) is exempt from all requirements of the Purchasing Division with respect to managed care contracts. The bill provides that for purposes of continuity of care, BMS may not: disrupt existing WV Medicaid and WV Children's Health Insurance Plan enrollment with an existing managed care organization as part of any such purchasing exemption or redistribute or reassign membership of an existing managed care organization to any new, qualifying managed care entrant as part of any contract awarded pursuant to such exemption. The bill provides BMS shall integrate any and all new qualifying managed care entrants into the state's auto-assignment logic for new members and shall publicize any eligible manages care organization for purposes of self-selection by the member. The bill provides no plan shall have preferential assignment of new members and each plan will be assigned equally. The bill provides BMS is not exempt from the requirements of the Purchasing Division when soliciting a procurement for specialized populations, to include, but not be limited to foster care.

CODE REFERENCE: West Virginia Code §9-5-31 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 526

Including Alzheimer's disease in existing public health programs

The bill requires the Commissioner of the Bureau of Public Health, in partnership with the Bureau for Medical Services, and the Alzheimer's Association, in in public health programs and services to educate health care professionals on the importance of early detection and timely diagnosis of cognitive impairment and dementia, use of validated cognitive assessment tools in the delivery of Medicare annual wellness visit, provision of effective care planning and care management at all stages of dementia and delivery of counseling and referral. The Bureau for Public Health, in partnership with the Bureau for Senior Services shall in relevant existing programs incorporate information to increase understanding and awareness of Alzheimer's disease and other dementia, including information about early signs of Alzheimer's disease and other dementias that should be discussed with health care professionals. The bill provides that any public awareness should include nonclinical terms.

CODE REFERENCE: West Virginia Code §16-1-8 – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 22, 2023

Senate Bill 552

Relating to abortion

The bill revises the severability clauses.

CODE REFERENCE: West Virginia Code §16-2R-9 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 577

Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription

The bill limits cost sharing to $35 for a 30-day supply of a covered prescription insulin and $100 for devices. The bill includes the following instruments as "devices": blood glucose strips, continuous glucose monitor, lancets, lancing devices, and insulin syringes. It further provides that a prescription is not required to obtain a blood testing kit for ketones for private insurance.

CODE REFERENCE: West Virginia Code §5-16-2, §5-16-7g, and §33-59-1 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: January 1, 2024

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 605

Requiring state medical examiner to enter into contracts with procurement organization

The bill provides the Chief Medical Examiner shall authorize the presence of persons approved or assigned by the procurement organization to perform duties at the office of the Chief Medical Examiner necessary to the timely recovery of anatomical gifts including access to records or information necessary to identify a potential donor, evaluate donor eligibility, and obtain authorization for recovery but not including records or information that directly conflict with investigations pursuant to §61-12-8 of this code. The bill provides the procurement organization is liable for all costs related to the placements of person authorized by this subsection and the Chief Medical Examiner's liability for payment of services is zero.

CODE REFERENCE: West Virginia Code §61-12-3 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 613

Relating generally to certificates of need

This bill exempts hospitals providing defined hospital services from certificate of need requirements. The bill removes birth centers from health services required to obtain a certificate of need. It modifies the definition of campus to mean the physical area immediately adjacent to the hospital's main buildings, other areas, and structures that are not strictly contiguous to the main buildings but are located within 250 yards of the main buildings.

The bill modifies the definition of expenditure minimum by increasing the expenditure from $5 million to $100 million dollars. The bill defines hospital services as services provided primarily to an inpatient to include but not be limited to preventative, diagnostic, treatment, or rehabilitative services provides in various departments on a hospital campus.

The bill defines inpatient. It cleans up language regarding certificate of need exemptions, allowing a private office practice owned and operated by health professionals which has at least seven office practice locations may acquire and utilize one MRI scanner, regardless of the cost associated with the proposal. To qualify for the exemption, 75% of the MRI scans are to be for patients of the private office practice.

CODE REFERENCE: West Virginia Code §16-2D-2, §16-2D-8, §16-2D-10, and §16-2D-11 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 617

Relating to Intellectual and Development Disabilities Waiver Program Workforce Study

The bill requires the Office of the Inspector General to send to county prosecutors any findings that may be subject to criminal prosecution in cases of abuse and neglect with IDD patients. The bill requires the Inspector General to send the P&A the findings of substantiated abuse or neglect. The bill establishes, in statute, the Office of the Mental Health Ombudsman.

The bill sets forth the duties of the Ombudsman as advocating for the well-being, treatment, safety, and rights of consumers of mental health care facilities or psychiatric hospitals; participating in any procedure to investigate and resolve complaints filed on behalf of a consumer of a mental health care facility or psychiatric hospital relating to action, inaction or decisions of providers or mental and behavioral health, of public agencies, or social service agencies which may adversely affect the health, safety, welfare and rights of a consumer of a mental health care facility or psychiatric hospital. The duties also include monitoring regulations ad participating in ongoing training.

The bill requires the Legislative Oversight Commission on Health and Human Resources Accountability to conduct a workforce study pertaining to the Intellectual and Development Disabilities Waiver Program (IDDW). The bill states the study shall use statistics generally relied upon by reasonably prudent individuals and shall address: the categories of personnel offering services as part of the IDDW program; the mean hourly pay rate for each such category, broken down by county where the service is provided; the mean hourly pay rate for each such category of personnel offering services as part of programs to the IDDW in surrounding states. A comparison of the hourly pay rates identified in the study and any other factor the commission deems relevant.

The bill states the commission shall make recommendations as to the appropriateness of the current mean hourly pay rate for each category of IDDW program personnel. The report is due January 1, 2024. The bill also requires the Bureau of Medical Services to conduct an annual study reviewing the adequacy and appropriateness of the reimbursement rates to providers in the IDDW program.

The bill requires BMS to provide the Joint Committee on Government and Finance beginning July 1, 2024, and annually thereafter.

CODE REFERENCE: West Virginia Code §27-8-2b and §27-8-3 – repealed; §16-5W-1 through §16-5W-4 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 679

Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes

The bill requires the Office of the Inspector General to propose a legislative rule to amend the Behavioral Health Center Standards Licensure Rule to include that the forensic group home shall not be located within one mile of a residential area, a public or private licensed day care center, or a public or private K-12 school. The bill provides that the OIG may grant a variance to an existing group home referenced in the bill only if a facility demonstrates that it has adequate patient population controls and that it otherwise meets the requirements set forth in the amended rule.

CODE REFERENCE: West Virginia Code §27-9-2 – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 9, 2023

Senate Bill 730

Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability

The bill expands the authority of the Legislative Oversight Commission on Health and Human Resources (LOCHHRA). The bill defines the department as the DHHR and any successor agencies. The bill continues LOCHHRA. The bill requires LOCHHRA to conduct studies on health and human services. It deletes language that limits the areas to be studied. The bill deletes language requiring LOCHHRA to study rule health networks and replaces it with an evaluation of the adequacy and availability of care delivery networks throughout the health care continuum from primary care to postmortem settings. The bill requires LOCHHRA to make a continuing investigation and review of all matters related to any area of concern that exists within DHHR, including but not limited to financial, administrative, programmatic, and systemic issues. The bill permits LOCHHRA to require DHHR to submit reports on a routine or as needed basis. The bill provides the reports shall be submitted to the commission and the submission instructions and format for the report may be designated by the commission or the Joint Committee on Finance.

CODE REFERENCE: West Virginia Code §16-29E-3, §16-29E-4, §16-29E-5, and §16-29E-7 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2002

Relating to providing support for families

The bill increases the non-family tax credit from $4000 to $5000. The bill creates new code sections regarding early intervention for adopted children, support for mom and babies, and establishing the mothers and babies' pregnancy support program, and sets forth the actions of the management agency.

With respect to the early intervention services the section is effective July 1, 2023 and provides a child or children whose adoptive parents are residents of WV are eligible for any early intervention services provided for families which may be offered by the DHHR and shall include but not be limited to Right from the Start, Drug Free Moms and Babies, and Birth to Three. The bill states if there is a federally approved mandated eligibility requirement required for receipt of federal funds, then the child or children may be required to meet those federally mandated requirements. The bill directed DHHR to recruit additional sites for its programs. The bill states that nothing in the sections requires adoptive parents to use the services.

There is a section for definitions. It defines an abortion industry organization as any organization that performs, prescribes, refers for, encourages, or promotes abortion as an option for a pregnant woman or owns, operates, or manages a facility where abortions are performed and prescribed.

The bill defines a pregnancy help organization as an organization that seeks to provide a range of services to pregnant women. Pregnancy helps organizations do not perform, prescribe, refer for or encourage abortion, nor do they affiliate with any organizations that perform, prescribe refer or encourage abortion.

The bill defines management agency as an organization that contracts with the Bureau for Public Health or department to manages the WV Mothers and Babies Pregnancy Support Program.

The bill establishes the WV Mothers and Babies support program under the Bureau for Public Health. A pregnancy help organization is eligible to receive funding from the program subject to the standards of the managing agency.

The bureau shall contract with a management agency that exclusively supports childbirth and is knowledgeable and supportive or childbirth. There are other directives.

CODE REFERENCE: West Virginia Code §11-21-10a – amended; §16-5K-7, §16-66-1, §16-66-2, and §16-66-3 – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2006

Reorganizing the Department of Health and Human Resources

The bill amends, repeals and creates statutes to divide the existing Department of Health and Human Resources ("DHHR") into 3 new Departments of the executive branch on January 1, 2024, as follows:

- Department of Human Services
- Department of Health
- Department of Health Facilities

Those changes include:

Chapter 5F. Reorganization of the Executive Branch of State Government.

The new Department of Human Services (which will assume the powers and duties of DHHR's Human Services responsibilities), the new Department of Health (which will assume the powers and duties of DHHR's Health responsibilities), and the new Department of Health Facilities (which will assume the powers and duties of DHHR's Health Facilities responsibilities) will all be created effective January 1, 2024, at which time the DHHR will be terminated.

The bill expresses the intent of the Legislature to devolve the functions of the DHHR into 3 new and separate departments of the executive branch over a period of transition and that the provisions of this bill be construed to achieve the restructuring and reallocation of the powers, duties and functions of the DHHR to the 3 new departments in an orderly manner designed to maintain the delivery of services that have heretofore been provided by the departments during the transition and beyond without disruption, and to streamline and, where possible, to share administrative and operative expenses where common to each of the new departments.

To that end, the Secretaries of DHHR and the 3 new departments must enter into a memorandum of understanding (MOU) to effect the provisions of this Act that shall, at a minimum, create a new Office of Shared Administration mutually administered by the secretaries that shall coordinate efforts with the Department of Administration to maximize efficiencies and function of services in an effort to contain expenses within the 3 new departments.

The bill assigns existing agencies or entities to the three new Departments in the new §5F-2-1a as follows:

- Department of Human Services
    - Bureau for Social Services
    - Bureau for Medical Services
    - Bureau for Child Support Enforcement
    - Bureau for Family Assistance
    - Bureau for Behavioral Health
    - And any other agency or entity hereinafter established within the Department of Human Services by an act of the Legislature
- Department of Health
    - Bureau for Public Health
    - Office of Emergency Medical Services
    - Office of the Chief Medical Examiner
    - Center for Threat Preparedness
    - Health Care Authority

    - Office of the Inspector General, which shall include:
    - Office of Health Facility Licensure and Certification
    - Board of Review
    - Foster Care Ombudsman
    - Olmstead Office
    - Investigations and Fraud Management
    - Quality Control
    - Mental Health Ombudsman
    - WV Clearance for Access: Registry and Employment Screening
    - Human Rights Commission
    - And any other agency or entity hereinafter established within the Department of Health by an act of the Legislature
- Department of Health Facilities
    - Hopemont Hospital
    - Jackie Withrow Hospital
    - John Manchin, Sr. Health Care Center
    - Lakin Hospital
    - Mildred Mitchell-Bateman Hospital
    - Welch Community Hospital
    - William R. Sharpe Jr. Hospital
    - And any other agency or entity hereinafter established within the Department of Human Health Facilities by an act of the Legislature.

Before December 1, 2024, DHHR is required to create and present to the Legislative Oversight Commission on Health and Human Resources Accountability a long-term sustainability plan for each state health facility.

Provisions are included that preserve powers and existing programs, orders, rule, etc. that currently exist under DHHR upon creation of the 3 new departments.

Chapter 9. Human Service.

The new Secretary of the Department of Human Services (DHS) is the chief executive officer of that department and administers powers and duties under Chapter 9 of the Code. The Secretary is appointed by Governor with salary "not to exceed" $175,000. The Governor may appoint the Secretary before January 1, 2024, and if so, the Secretary must commence such duties as determined by the Secretary to be necessary to prepare for the administration of this chapter.

Powers and duties of Secretary of DHS are set forth, including provisions for shared expenses with other new secretaries through the MOU. Please note that effective January 1, 2024, current law provisions regarding DHHR's Inspector General and Board of Review are superseded by the new §16-1-22, described below. The Secretary must cooperate with the Inspector General.

The bill keeps current law: Any contract, agreement or memorandum of understanding between the secretary and West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for services is exempt from the provisions of §5A-3-1, but any contract entered into for the provision of certain Medicaid services by a risk-bearing entity is not exempt from those provisions.

Chapter 16. Public Health.

The new Secretary of the Department of Health (DOH) is the chief executive officer of that department and administers powers and duties under Chapter 16 of the Code. The Secretary is appointed by Governor with salary "not to exceed" $175,000. The Governor may appoint the Secretary before January 1, 2024, and if so, the Secretary must commence such duties as determined by the Secretary to be necessary to prepare for the administration of this chapter.

Powers and duties of Secretary of DOH are set forth, including provisions for shared expenses with other new secretaries through the MOU. The Secretary must cooperate with the Inspector General.

Any contract, agreement or memorandum of understanding between the secretary and West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for services is exempt from the provisions of §5A-3-1 (purchasing).

Commissioner of the Bureau of Public Health (office within DOH) "may" be state health officer. If so, must be licensed physician.

Beginning January 1, 2024, the Office of the Inspector General (OIG) is continued within the new Department of Health, but the Inspector General (IG) is appointed by the Governor instead of the Secretary for a 5-year term and may be removed only for specific reasons. The IG is given expanded powers and duties. (Again, please note the component agencies and offices that are moved into the OIG as described above). The OIG will also be assigned the duty of creating a new Board of Review in lieu of the existing Board of Review created by the Secretary of DHHR. Provisions for proceedings before the Board of Review and the Bureau for Medical Services, and judicial review of their decisions, are set forth. Authority of the Investigations and Fraud Management Division is retained.

Chapter 26. State Health Facilities.

The new Department of Health Facilities is not subject to the requirements of §5A-3-1 (Purchasing) and §5A-10-1 (Real Estate Division). Employees hired on or after January 1, 2024, are not eligible for civil service.

The new Secretary of the Department of Health Facilities (DHF) is the chief executive officer of that department and administers powers and duties under Chapter 26 of the Code. The Secretary is appointed by the Governor with salary "not to exceed" $175,000. The Governor may appoint the Secretary before January 1, 2024, and if so, the Secretary must commence such duties as determined by the Secretary to be necessary to prepare for the administration of this chapter.

Powers and duties of Secretary of DHF are set forth, including provisions for shared expenses with other new secretaries through the MOU, and authority to manage, direct, control and govern state owned health facilities. The Secretary must cooperate with the Inspector General.

Any contract, agreement or memorandum of understanding between the secretary and West Virginia University, West Virginia School of Osteopathic Medicine or Marshall University for services is exempt from the provisions of §5A-3-1.

The Secretary of DHF will be given the DHHR Secretary's power to sell any state hospital or facility.

Chapter 48. Domestic Relations.

Language is provided to transition from DHHR to the new Department of Human Services January 1, 2024, relating to the law of child support enforcement.

Chapter 49. Child Welfare.

Language is provided to transition from DHHR to the new Department of Human Services January 1, 2024, relating to the law of child welfare services in the context of juvenile court proceedings.

Note: The bill repeals a number of current sections of code, some of which were moved to other places in code, many of which were determined to be obsolete, outdated, antiquated, inoperative, surplus or superseded.

CODE REFERENCE: West Virginia Code §9-1-1, §9-2-1a, §9-2-9, §9-2-13, §9-5-8, §9-5-8a, and §9-5-8b, §26-3-1, §26-3-2, §26-3-3, §26-3-4, and §26-3-5, §26-5-1, §26-5A-5a, §26-8-1, §26-8-2, and §26-8-3, §26-9-1 and §26-9-2, §26-10-1, §26-11-1, §26-11-2, §26-11-3, and §26-11-4 – repealed; §5F-1-2, §5F-2-1 and §5F-2-2, §9-1-2, §9-2-1, §9-2-2, §9-2-5, and §9-2-6, §9-2-9a, §16-1-1, §16-1-2, §16-1-3, §16-1-4, §16-1-5, and §16-1-6, §16-29A-4, §26-1-1, §26-1-2, and §26-1-3, §48-14-401, §48-18-101, and §49-1-106 – amended; §5F-2-1a , §16-1-22, §16-1-22a, §16-1-22b, and §16-1-22c, and §26-1-4 – new

DATE OF PASSAGE: February 27, 2023

EFFECTIVE DATE: May 28, 2023

ACTION BY GOVERNOR: Signed March 4, 2023

House Bill 2007

Prohibiting certain medical practices

The bill applies the to both the medical practice act and to osteopathic physicians. The bill defines terms such as biological sex, gender, gender altering medication, gender transition, and irreversible gender reassignment surgery.

The purpose of the bill is to prevent a physician from providing irreversible gender reassignment surgery or gender altering medication to a person who is under 18 years of age. The bill provides a physician may provide any of the following a person who is under 18:

- Services provided to an individual born with a medically verifiable disorder of sex development, including but not limited to a person with external biological sex characteristics that are irresolvably ambiguous such as an induvial born with forty-six xx chromosomes or having both ovarian and testicular tissue;
- Services provided to an individual when a physician has otherwise diagnosed a disorder of sexual development and in which the physician has determined through genetic or biochemical testing that the individual does not have normal chromosome structure, sex steroid production or sex steroid action;
- The treatment of any infection, injury, disease, or disorder, that has been caused by or exacerbated by the performance of gender transition procedure, whether or not these procedures were performed in accordance with state and federal law;
- Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician place the person in imminent danger of death, or impairment of a major bodily function unless surgery is performed; and
- Limited use of gender-transforming medication for adolescents diagnosed with severe gender dysphoria.

CODE REFERENCE: West Virginia Code §30-3-20 and §30-14-17 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2016

Relating to confidential childcare records

The purpose of this bill is to permit a child placing agency or a residential childcare and treatment facility to exchange otherwise confidential information when they are making referrals or providing services on behalf of the child. The bill further requires that a child placing agency, when completing an adoption on behalf of DHHR, to have access to secure records from vital statistics and other pertinent record holders. The department must provide child placing agencies with electronic access to information required to perform an adoption whenever such information is needed. The bill also requires that court notices be sent to a child placing agency as an interested party in adoption cases.

CODE REFERENCE: West Virginia Code §16-5-28, §49-4-608, and §49-5-101 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2018

Permitting the managed care case coordinator to attend the multidisciplinary team meeting

The law designates the managed care case coordinator as a multidisciplinary team member in cases involving either (1) child abuse and neglect; or (2) status offenders or delinquents. The law also makes a few technical changes to the two affected code sections.

CODE REFERENCE: West Virginia Code §49-4-405 and §49-4-406 – amended

DATE OF PASSAGE: February 1, 2023

EFFECTIVE DATE: February 1, 2023

ACTION BY GOVERNOR: Signed February 13, 2023

House Bill 2029

Repealing the creation of an all-payer claims database

The bill repeals the all-payer claims database.

CODE REFERENCE: West Virginia Code §33-4A-1 through §33-4A-8

DATE OF PASSAGE: February 1, 2023

EFFECTIVE DATE: February 1, 2023

ACTION BY GOVERNOR: Signed February 13, 2023

House Bill 2436

Relating to the implementation of an acuity-based patient classification system

The bill requires certain healthcare facilities to develop an "acuity-based patient classification system" by July 1, 2024, to be used to establish the staffing plan for each unit. The term "acuity-based patient classification system" is defined as a set of criteria based on scientific data that acts as a measurement instrument which predicts registered nurse care requirements for individual patients based on severity of patient illness, need for specialized equipment and technology, intensity of nursing interventions required, and the complexity of clinical nursing judgment needed to design implement and evaluate the patient's nursing care plan.

The bill directs each unit nurse staffing committee to annually review the facility's current classification system and submit recommendations to the facility for changes based on current standards of practice; and to provide orientation, competency validation, education, and training programs in accordance with a nationally recognized accrediting body recognized by the Centers for Medicare and Medicaid Services or in accordance with the Office of Health Facility Licensure and Certification. The orientation must include providing for orientation of registered nursing staff to assigned clinical practice areas.

The bill includes legislative findings which specifically provides that the classification system and staffing plan are considered confidential records under W. Va. Code §30-3C-3 and are therefore not subject to discovery in any civil action or administrative proceeding.

The bill also provides for a new limitation on copayments, coinsurance, or office visit deductible amounts charged to an insured, subscriber, or member for services rendered for each date of service by certain licensed healthcare providers. Specifically, the amount charged for services by an occupational therapist, occupational therapist assistant, speech-language pathologist, speech-language pathologist assistant, physical therapist, or a physical therapist assistant may not exceed the amount charged for services of a primary care physician or osteopathic physician. The policy, provision, contract, plan, or agreement must clearly state the availability of occupational therapy, speech-language therapy, and physical therapy coverage and all related limitations, conditions, and exclusions.

CODE REFERENCE: West Virginia Code §16-5B-20, §33-15-23, §33-16-19, §33-24-7x, §33-25-8u, and §33-25A-8x – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2754

Relating to immunizations performed in a pharmacy

The proposed bill permits a pharmacy technician to administer immunizations. The bill adds "registered pharmacy technician" to the list of parties who may administer (1) influenza and pneumonia immunizations to adults over age 18 and (2) immunizations for which the Centers for Disease Control and Prevention (CDC) has recommended through its applicable recommended immunization schedule. The Board of Pharmacy (the "board"), the Board of Medicine, and the Board of Osteopathic Medicine shall propose legislative rules for their respective categories, but there must be complete legislative rules for CDC recommended schedule immunizations by July 1, 2023.A pharmacist may only delegate his or her authority to administer an immunization to such pharmacy technician when the pharmacist supervises the pharmacy technician, who must have successfully completed all board-required training. The bill also adds this administration ability, as provided by legislative rules, to a pharmacy technician's scope of practice in the applicable code section. The bill further removes the need for a physician's prescription for CDC recommended immunizations for children and lowers the age range to whom those immunizations may be administered from ages 11-17 to ages 3-17.

CODE REFERENCE: West Virginia Code §30-5-7 and §30-5-12 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2759

Relating to updating the health care provider tax

The purpose of this bill is to update the health care provider tax, changing it from 0.13% to 0.18%. Current law provides that providers of inpatient and outpatient hospital services pay an additional tax of .13% on gross receipts. This tax provides the state share of funding to enhance provider payments to the maximum amount allowed by the Center for Medicare and Medicaid Services. The bill would alter the means of calculating that percentage.

The bill provides that the Bureau for Medical Services (Medicaid) shall calculate the maximum payment rate using Center for Medicare and Medicaid Services. The figures shall be used by the Tax Commissioner who shall publish them by administrative notice to days prior to implementation. The bill also modifies the definition of "practitioner" to include a physician contracted with billing and collection responsibilities by an acute care hospital. The bill also makes technical corrections.

CODE REFERENCE: West Virginia Code §11-27-39 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2845

Relating to removing expired provisions from the code

The purpose of the bill being repealed was an uninsured and underinsured pilot program. It allowed the establishment of pilots in the state which would receive a grant under the community access program to coordinate health care provider reimbursements. The legislation that implemented this program expired on June 30, 2007, unless it was continued by the Insurance Commissioner.

CODE REFERENCE: West Virginia Code §16-29F-1 – repealed

DATE OF PASSAGE: February 20, 2023

EFFECTIVE DATE: May 21, 2023

ACTION BY GOVERNOR: Signed March 1, 2023

House Bill 2848

Water and Sewer Operator licensing reciprocity

The bill requires the commissioner of the Bureau of Public Health to grant a public water systems or wastewater operator certified by another jurisdiction if the applicant is actively seeking, has been offered or has accepted employment which requires a certified operator in WV, submits a completed application in a manner approved by the commissioner, meets the educational and work experience requirements prescribed by the commissioner and demonstrates he or she has successfully passed an examination which is substantially equivalent to the certification level sought in WV as determined by the commissioner. If the other jurisdiction's examination is not equivalent the wastewater system operator or wastewater operator is required, the water system operator or wastewater operator is required to successfully complete the WV certification examination applicable to the certification level sought. The bill states a certified public water system may apply for a limited waiver. The limited waiver shall permit a certified public water system or wastewater operator to perform the tasks of an operator certified one grade higher as a supplement to the certified public water system's staffing and availability of the primary operator.

CODE REFERENCE: West Virginia Code §16-1-9g – new

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2917

Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources

The proposed bill allows retirees of the WV Public Employees Retirement System (PERS) to re-enter post-retirement employment with the Department of Health & Human Resources (DHHR) as child protective services (CPS) workers and/or adult protective services (APS) workers, without suspending those retirees' retirement annuity and without reentering the retirement system as a contributing member. To be eligible for this exception, a CPS/APS worker must meet the position's minimum qualifications, must have been retired for at least 60 days, and must have been hired to fill a current vacancy. The employee would remain eligible for the exception as long as the position remains vacant, and DHHR must post the vacant position until it is filled by a regularly employed person. The bill's provision addressing this exception expires July 1, 2025. Additionally, the bill allows a retirant to receive up to $25,000 without suspending his or her retirement annuity when the retirant accepts legislative per diem, temporary full-time, or temporary part-time public employment. Current law caps that amount at $20,000.

CODE REFERENCE: West Virginia Code §5-10-48 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2993

Relating to rural emergency hospital licensure

The bill changes the definition of "Critical Access Hospital" ("CAH") and creates a new hospital designation called a "Rural Emergency Hospital" ("REH"). The bill changes the definition of a CAH to mean a hospital which the Centers for Medicare & Medicaid Services (CMS) has designated as a CAH. Under the bill, for a hospital to become an REH, it would need to be a CAH for at least one year and would still need to be a CAH when it applies for licensure. The law requires an REH to (1) provide rural emergency hospital services through a staffed emergency department; (2) not provide acute care inpatient services; (3) treat all patients regardless of insurance status; and (4) have a transfer agreement with a Level I or Level II trauma center. The bill also allows an REH to provide outpatient services as specified by the secretary in legislative rule and would require an REH to include a facility unit licensed as a skilled nursing facility to furnish post-hospital extended care services. The language allows a hospital located in an urban area to be considered rural for a CAH designation if it meets certain criteria.

CODE REFERENCE: West Virginia Code §16-5B-14 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3061

Relating to updating the authority of the Foster Care Ombudsman

The purpose of the bill is to expand the duties of the foster care ombudsman. Currently, the foster care ombudsman can investigate complaints involving a foster child, foster parent, or kinship parent. The bill would expand the ombudsman's authority to investigate reported allegations of abuse and neglect, a child who has sustained a critical incident, or a child in the juvenile justice system. The bill also allows the foster ombudsman to investigate complaints on his or her own initiative. The bill broadens the authority of the foster care ombudsman by removing a limitation about investigating incidents in the state. The bill requires the filing on an annual report and reports a requirement for quarterly data filings. The bill provides that the foster care ombudsman or his or her staff may not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to the identity of an individual providing information to the ombudsman as part official investigation. The proposed bill also protects memoranda, work product, notes or case files developed or maintained as part of an official investigation. The proposed bill provides the ombudsman may be compelled to provide testimony by a court or administrative body of competent jurisdiction to any action carried out by the office that tis unrelated to the substance of a specific investigation or reports submitted to LOCHHRA.

CODE REFERENCE: West Virginia Code §49-9-101, §49-9-102 and §49-9-107 – amended

DATE OF PASSAGE: February 15, 2023

EFFECTIVE DATE: February 15, 2023

ACTION BY GOVERNOR: Signed February 24, 2023

House Bill 3077

Relating to making the use of the multi-state real time tracking system permanent

The bill repeals the section of code that sets an expiration date for the multi-state real time tracking system. The multi-state real time tracking system is the real time electronic logging system provided by the national association of drug diversion investigators to states that have legislation requiring real-time electronic monitoring of precursor purchases. This is used by pharmacies and law enforcement to track over-the-counter cold and allergy medications containing precursors to the illegal drug, methamphetamine. The tracking system is set to expire on June 30, 2023. The repeal of this section eliminates this expiration date.

CODE REFERENCE: West Virginia Code §60A-10-16 – repealed

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3141

Relating to the practice of dentistry

The purpose of this bill is to update the practice of dentistry. The bill updates definitions and adds new specialties and lists their qualifications as recognized by the WV Board of Dentistry. The bill adds to the specialty list and defines three new specialties that are currently recognized by the American Dental Association: 1) dental anesthesiology; 2) oral medicine; and 3) orofacial pain. The proposed bill also permits dentists to perform certain practices during a public health emergency.

CODE REFERENCE: West Virginia Code §30-4-3 and §30-4-8a – amended; §30-4-25 – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3164

To extend the termination date of the West Virginia Advisory Council on Rare Diseases due to a delay in beginning its duties

The purpose of this bill is to extend the termination date of the West Virginia Advisory Council on Rare Diseases due to a delay in beginning its duties. The bill changes the termination date from January 1, 2023, to June 30, 2025. It is effective upon passage.

CODE REFERENCE: West Virginia Code §16-5CC-3 – amended

DATE OF PASSAGE: February 20, 2023

EFFECTIVE DATE: February 20, 2023

ACTION BY GOVERNOR: Signed by the Governor on March 1, 2023

House Bill 3166

To permit a hospital to hold a patient experiencing a psychiatric emergency for up to 72 hours

The bill clarifies that in the absence of a mental hygiene commissioner, magistrate, or circuit judge, an authorized staff physician may order the involuntary hospitalization of a person presenting at the emergency room or a person already admitted to the hospital for 72 hours for emergency psychiatric treatment.

CODE REFERENCE: West Virginia Code §27-5-2a – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3191

Relating to certain facilities operated by the state government to obtain a license

The purpose of this bill is to require certain state health facilities to obtain a license. The bill removes state government health care facilities from the exemption list and adds the state as an entity that requires a license. The bill's definition of "hospital" within the applicable licensing section includes state mental health facilities.

CODE REFERENCE: West Virginia Code §16-5B-1 and §27-1-6 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3199

Relating to removing the requirement that an ectopic pregnancy be reported

The purpose of this bill is to modify reporting requirements for ectopic pregnancies. The bill adds a provision at the end of abortion reporting requirements that states that the section does not apply to treating an ectopic pregnancy.

CODE REFERENCE: West Virginia Code §16-5-22 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Became law without the Governor's signature on March 29, 2023

House Bill 3306

Relating to the organizational structure of the Office of Drug Control Policy

The bill to creates a fund to pay for hospital services. This fund was deleted last session and the department has informed us that is it necessary to pay hospital expenses. The bill provides that the Director of the ODCP is administratively housed in the Division of Human Services. The Director will be appointed by the Governor and directly reports to the Governor. The bill expands on the role of the sober living taskforce and notes that it is also recovery residence taskforce. It names the members of the taskforce. The purpose of the taskforce is to review existing law regarding sober living homes/recovery residences in WV, other states, and existing case law regarding insurance fraud, human trafficking, and the success of programs, and make recommendations to LOCHHRA.

The bill changes existing reporting requirement time frames from 72 hours to 24 hours after the provider responds to the incident. New variables are added to be collected and they are whether the individual has a history of a prior overdose, if known and the type of drug used in the overdose. This bill continues the existing data dashboard. It changes the existing technology platform to mean a dashboard constructed for or by the state to allow input, collection, data analysis and display of the required data within 24 hours. The strike and insert requires the dashboard to be scalable and sets forth the variables to be collected in the dashboard and how frequently the dashboard is to be updated. The bill has a new section with enforcement for the reporting requirements including the ability for a civil penalty.

CODE REFERENCE: West Virginia Code §16-1-13, §16-5T-2 and §16-5T-4 – amended; §16-5T-7 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3317

Relating to removing specific continuing education requirements

The purpose of this bill is to eliminate specific continuing education requirements for professionals from the Board of Medicine, the WV Board of Dental Examiners, the WV Board of Optometry, the WV Board of Pharmacy, the WV Board of Examiners of Registered Nurses, and the WV Board of Osteopathy regarding controlled substances. The bill retains training regarding these substances for those professionals that receive an initial license and prescribe and dispense those substances. This training must take place within one year of receipt of the initial license. The bill also removes a training requirement for professionals regarding mental health conditions common to veterans and family members.

CODE REFERENCE: West Virginia Code §30-1-7a – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3337

Prohibiting additional drug and alcohol treatment facilities and services in a certain county

The purpose of the bill is to prohibits substance abuse treatment beds to be added in any county which already has greater than 250 licensed substance abuse treatment beds.

CODE REFERENCE: West Virginia Code §16-2D-9 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Government Organization

Senate Bill 128

Clarifying authority of Governor and Legislature to proclaim and declare state of emergency and preparedness

The bill clarifies the authority of the Governor and the Legislature to proclaim or declare states of emergency and preparedness; creates two classes of states of preparedness and establishing the criteria therefor; establishes the initial duration of gubernatorially proclaimed states of emergency and preparedness and the requirements for extending same; expands and clarifies the powers of the Governor as to what he or she may order under proclamations of states of emergency and preparedness; expressly limits the Governor's authority to order certain actions in an executive order issued pursuant to a proclamation or declaration of a state of emergency or preparedness; clarifies that the declaration of a state of preparedness has the same effect as a declaration of a state of emergency for the purposes of the Emergency Management Assistance Compact and the Statewide Mutual Aid System; and states that the powers granted as to orders issued under states of emergency do not include the authority to limit the lawful possession and use of firearms and ammunitions.

CODE REFERENCE: West Virginia Code §15-5-2 and §15-5-6 – amended

DATE OF PASSAGE: February 23, 2023

EFFECTIVE DATE: February 23, 2023

ACTION BY GOVERNOR: Became law without Governor's signature on March 4, 2023

Senate Bill 143

Relating to Adopt-A-Stream Program

This bill makes a number of minor changes to the Adopt-A-Stream statute, including adding a requirement that any participant 17 years of age or younger must be accompanied by an adult; eliminating the current law's requirement that only streams or rivers that are part of the West Virginia Stream Partners Program may be adopted; granting the DEP discretion to accept or reject requests to adopt streams and rivers; and expanding the program's sources of available funding.

CODE REFERENCE: West Virginia Code §22-15A-3a – amended

DATE OF PASSAGE: January 30, 2023

EFFECTIVE DATE: April 30, 2023

ACTION BY GOVERNOR: Signed February 6, 2023

Senate Bill 240

Requiring state board of examination or registration proceedings to be open to public inspection

Senate Bill 240 concerns chapter 30 boards. It modifies the requirements for making the register of applicants available to the public, requiring a written request for the register and giving the board to which the request is made discretion to deny the request.

The bill mandates that boards maintain a website and specifies certain information that is to be provided, including the names of board members and staff, contact information for staff, copies of minutes of board meetings, and notice of upcoming meetings. This information echoes the requirements for county commission and municipality websites in code now. See, e.g., §7-1-3rr.

Senate Bill 240 adds a new section to code generally prohibiting disclosure of sensitive PII. Current code in chapter 30 does not define PII nor does it prohibit its disclosure.

The bill also requires that the roster of practitioners be placed on the board website.

CODE REFERENCE: West Virginia Code §30-1-12, §30-1-13 – amended; §30-1-12a – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 244

Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public

Senate Bill 244 would require any state entity that licenses, certifies, or otherwise authorizes an individual to practice a profession, trade, or occupation to make a roster of those authorized individuals available to the public and electronically if the entity has a website.

CODE REFERENCE: West Virginia Code §5-30-1 and §5-30-2 – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 246

Revising membership of Broadband Enhancement Council

Senate Bill 246 revises the membership of the Broadband Enhancement Council to reflect the loss of a congressional district as a result of the 2020 Census.

Currently, total membership of the council includes six members representing West Virginia's congressional districts, two from each district. The bill retains total voting membership at 13 members and accounts for the loss of two members from a congressional district by adding two additional members to represent urban business and residential users statewide.

CODE REFERENCE: West Virginia Code §31G-1-3 – amended

DATE OF PASSAGE: March 4, 2023

EFFECTIVE DATE: June 2, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 270

Adding exemption to permit requirement for cremation

Senate Bill 270 provides an exemption from the requirement to secure a permit to have a body cremated for representatives of institutions who are arranging the cremation of the body of an individual who has donated his or her body to science.

The bill, however, requires that individuals arranging final disposition of decedent who has donated his or her body to science report any foul play that has been detected to the Office of the Chief Medical Examiner.

CODE REFERENCE: West Virginia Code §61-12-9 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 271

Modifying approval process requirements for First Responders Honor Board

Senate Bill 271 allows nominees for the First Responders Honor Board to be considered by the Legislature at other than its next regular session.

The intent of the bill is to expedite consideration of Honor Board nominees.

CODE REFERENCE: West Virginia Code §29-32-2 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 8, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 294

Clarifying amount of deputy sheriff annual salary increase

Senate Bill 294 clarifies the amount of an annual monetary payment made to deputy sheriffs. It contains language from a West Virginia Supreme Court decision indicating that the annual payment is a monetary supplement and not an increase in base salary.

The bill clarifies that deputy sheriffs receive an annual monetary payment in the amount of $5 per month of service (increasing at a rate of $60 per year) – with the payments and calculations starting after their first year of service.

CODE REFERENCE: West Virginia Code §7-14-7c – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 15, 2023

Senate Bill 300

Relating to law-enforcement training and certification

This bill modifies the definition of "law-enforcement officer" to clarify that a county litter officer who has not been trained/certified as a law-enforcement officer is not considered a "law-enforcement officer."

Litter control officers, as defined in §7-1-3ff of code, are persons who have completed a training course offered by the DEP. They have authority only to issue citations for open dumps, unlawful disposal of litter, and failure to provide proof of proper disposal of solid waste. Litter control officers who are trained and currently certified as law-enforcement officers have broader authority to enforce all litter laws in code.

CODE REFERENCE: West Virginia Code §30-29-1 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 302

Relating to Law Enforcement Safety Act

Senate Bill 302 requires West Virginia law enforcement agencies to index felony warrants with the National Crime Information Center (NCIC).

The NCIC stores data and statistics on crime and is part of the Federal Bureau of Investigation's Criminal Investigation Services Division in Clarksburg, WV. The West Virginia State Police voluntarily indexes felony warrants with the NCIC. Also, the WV DHHR requires applicants for the foster care program to complete an NCIC check.

CODE REFERENCE: West Virginia Code §15-15-1 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 457

Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises

Senate Bill 457 amends a single section of code relating to ABCC licensure of "private clubs". It removes "permitting of gambling on club premises" from the list of activities and actions that constitute a violation of the club's license. Regulation of gambling is within the purview of the Lottery Commission, not the ABCC.

CODE REFERENCE: West Virginia Code §60-7-12 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 465

Increasing limit on moneys placed in county's rainy day fund

Senate Bill 465 amends a single section of code. It increases the amount that a county commission may accumulate in a financial stabilization fund (aka Rainy Day Fund) from 30 percent of the most recent general fund budget to 50 percent of that budget.

CODE REFERENCE: West Virginia Code §7-21-3 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 522

Allocating percentage of county excise taxes for funding improvements to election administration

Under current law, counties will retain an additional 10 percent of the excise tax on the transfer of real property annually until they retain 100 percent of the tax. That process began July 1, 2021, and was scheduled to reach 100 percent July 1, 2030.

Senate Bill 522 allocates a portion of the excise taxes counties retain from transfers of title to real estate in the county to funding for election administration and physical and cyber security, and for infrastructure and cyber security for electronic recording of transfers of real property.

Beginning July 1, 2023 (FY2024), half the additional excise taxes (10%) retained by a county annually is to go into a fund for election security. The other half is to go into a separate account for implementing and securing electronic recording of transfer of title to real property and "for other county purposes". The direction of the funds is the same for FY2025, except that the amount of real property transfer taxes retained by the county is increased to 35%.

Once counties retain 100 percent of the excise taxes on transfers of real property (FY2026, since, once again, the amount retained is 35%), 90 percent of those taxes are to be deposited in the county general fund, and 10 percent are to go to the two funds for election security and electronic transfer of titles, half to each. When the Secretary of State determines that a county clerk has satisfied the threshold standards established for election and electronic recording in legislative rules promulgated by the Secretary of State, the moneys in excess of the threshold may be transferred to the county general fund. The House amended the bill to cap this amount at the statewide average cost for precincts to update their voting systems. The Senate concurred with the amendment.

The bill prohibits counties from using the additional funding to otherwise reduce their budget.

The committee substitute from the Committee on Government Organization accelerates the rate at which counties retain the excise tax. Beginning July 1, 2024, a county would retain an additional 35 percent of the excise tax instead of 10 percent. Consequently, counties will retain 100 percent of the excise taxes in FY2026, rather than FY2031 as originally planned.

The Committee Substitute for the Committee Substitute makes one technical change which clarifies that the counties will retain 35% of the real property transfer taxes in FY 2026, as well. This was always intended and contemplated in the first Committee Substitute but may not have been entirely clear to all county clerks.

The breakdown is as follows: FY2022 – 10%; FY2023 – 10%; FY2024 – 10%; FY2025 – 35%; FY2026 – 35% – Total: 100%

CODE REFERENCE: West Virginia Code §11-22-2 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 544

Increasing power purchase agreement cap

Current code (§24-1-1c) encourages retail customers of utilities to enter into Power Purchase Agreements (PPAs), under which customers have solar photovoltaic energy facilities installed on their premises to meet their electrical needs. Such facilities do not constitute a public utility and are therefore not subject to the jurisdiction of the PSC, within certain limitations. One of those limitations is an individual cap on the output of such a facility. Senate Bill 544 increases the PPA cap for individual on-site generator facilities for commercial customers from 500 kW to 1000 kW. The bill also increases the cap for individual residential customers from 25kW to 50kW.

CODE REFERENCE: West Virginia Code §24-2-1 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 553

Allowing for evaluation of prequalified bidders to be based on best value

Existing code allows for direct procurement by spending units from prequalified vendors through a delegated prequalification bidding process. This process is sometimes referred to as secondary bidding. A delegated prequalification procurement may, however, only be based on price under the current law, precluding its use in procurements where price is a component but not the sole deciding factor of the procurement, limiting its usefulness.

Senate Bill 553 is an agency bill for the Office of Technology, to allow the award of a delegated prequalification procurement to be based on overall scoring and not price alone. It would allow prequalified bidding to be used, for example, for procurement of consulting services or software packages, where price alone is not determinative of best value.

CODE REFERENCE: West Virginia Code §5A-3-10e – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 649

Authorizing Berkeley County Council to change its name to Berkeley County Commission

Senate Bill 649 is a local act that would amend a previous local act regarding the Berkeley County Council. In 2008, a local act was passed that allowed Berkeley County to reform its county commission to include five members and be renamed the Berkeley County Council. The new council became effective January 1, 2011.

This bill simply and only allows the Berkeley County Council to rename itself the Berkeley County Commission. No other changes are made to the county commission or its membership.

CODE REFERENCE: Acts of the Legislature, chapter 232, RS 2008

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 665

Amending licensure requirements for massage therapist

Senate Bill 665 modifies the requirements for licensure as a massage therapist, expanding the qualifications standards and increasing the hours of supervised academic instruction from 500 hours to 625.

The bill further requires massage establishments to be licensed and mandates that such establishments employ or contract only with licensed massage therapists to provide massage therapy or services. Those therapists would also have to document their authorization to work in the country. The bill provides exceptions to massage establishment licensure, primarily for solo practitioners.

Standards and prohibited practices are listed. The Massage Therapy board would be required to propose emergency rules for massage establishment licensure.

CODE REFERENCE: West Virginia Code §30-37-2, §30-37-7 – amended; §30-37-13 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 733

Relating to wildlife licenses and stamps

Senate Bill 733 authorizes the Division of Natural Resources (DNR) to issue lifetime nonresident statewide licenses for hunting and trapping, fishing, and bear hunting. The bill also authorizes DNR to issue lifetime nonresident stamps for trout fishing, archery deer hunting, muzzleloading deer hunting, turkey hunting, and national forest hunting, fishing, and trapping. The fee for the lifetime licenses and stamps is set at 23 times the equivalent annual licenses and stamps. The fee is reduced for individuals under the age of 15.

The bill clarifies the right to carry a firearm, making it consistent with current West Virginia law.

CODE REFERENCE: West Virginia Code §20-2-42l, §20-2B-7, §20-2B-8 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 734

Requiring adoption of cloud computing services by state agencies

Establishes the requirement for the Chief Information Officer (CIO) to develop and implement an information technology modernization strategy for the procurement, adoption, and utilization of cloud computing services by the state and its agencies; requires the CIO to annually report on the status of the strategy to the Governor and the Joint Committee on Government and Finance beginning December 2023; requires the CIO to aid state agencies to explore digitizing all paper forms and applications by July 1, 2025; requires state agencies to report to the CIO on their cybersecurity readiness annually beginning November 2023; and exempts the CIO from procurement requirements of the Purchasing Division where such procurement is related a cyber security incident creating an imminent need.

CODE REFERENCE: West Virginia Code §5A-6-4d, §5A-6-4e, and §5A-6B-6 – amended; §5A-3-3c and §5A-6B-4 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 735

Clarifying department responsible for administration of certain programs

This bill corrects eight sections of code to reflect the proper department responsible for the program in question, largely as a result of the elevation of the Economic Development Office and the Division of Tourism to departmental status. For example, it amends §5B-1A-3 of code to list the Division of Natural Resources as the entity responsible for the West Virginia Rails to Trails program, not the Division of Tourism.

CODE REFERENCE: West Virginia Code §5B-1A-3, §5B-2-15, §5B-2A-3, §5B-2A-4, §5B-8-1, §11-13X-9, §31G-1-5, and §31G-1-14 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2412

Declaring November 14 every year, a special Memorial Day in remembrance of the Marshall University airplane crash

Requires the Governor, by proclamation, to declare November 14th of every year as "Marshall University 75 Memorial Day" and to encourage all counties and municipalities in the state to do the same.

CODE REFERENCE: West Virginia Code §2-2-1a – amended

DATE OF PASSAGE: February 15, 2023

EFFECTIVE DATE: May 16, 2023

ACTION BY GOVERNOR: Signed February 22, 2023

House Bill 2515

Require agencies to develop and maintain an inventory of available services for single parents wanting to obtain degrees, secure training or reenter the workforce

House Bill 2515 would require three agencies—the Bureau for Family Assistance, the Higher Education Policy Commission, and WorkForce West Virginia—to coordinate with one another to compile and maintain a list of services available to assist and support individuals qualified to receive federal, federal-state, or state assistance who want to further their education, receive workforce training, or reenter the workforce. The bill would also require the agencies to maintain a copy of the document on their respective websites and provide a hard copy upon request by first-class mail.

The bill also includes language in §18B-1B-4 of the code that prohibits HEPC from restricting a person who holds a license to carry a concealed deadly weapon from carrying a concealed handgun on campus. This language was included to resolve a code conflict with Senate Bill 10, the Campus Self-Defense Act.

CODE REFERENCE: West Virginia Code §9-3-1, §9-3-2, and §18B-1B-4 – amended; §21A-10-24 – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2587

To reflect that County Sheriffs will be required to include a breakdown of the distribution of where a citizen's taxes will be paid

House Bill 2587 modifies the information provided on county property tax receipts. It requires that the receipt separately state the amount of the tax that is paid for various levies. Currently, the amount paid for levies is shown only in the aggregate.

CODE REFERENCE: West Virginia Code §11A-1-12 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2760

To allow CPR fire fighters to drive ambulances when both attendants are needed to administer patient care

House Bill 2760 amends a single section of code to allow a firefighter to drive an ambulance in a situation where the EMTs or paramedics on the scene cannot do so because they are needed to administer patient care. The firefighter must have completed an Emergency Vehicle Operations Course (EVOC) if one is required by code or legislative rule and must also be covered by an MOU or other agreement between the fire department and the emergency medical service provider.

CODE REFERENCE: West Virginia Code §17C-1-6 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2762

Allowing variance in state fire code for certain buildings used solely for emergency equipment storage

House Bill 2762 amends two sections of code relating to the state building code and the state fire code, respectively. The changes to both sections require the State Fire Commission to promulgate legislative rules requiring buildings commencing construction after July 1, 2023, that house emergency services have approved automatic sprinkler systems throughout, but includes an exception for emergency services buildings that house only equipment, are less than 5,000 square feet, and do not have designated sleeping quarters.

CODE REFERENCE: West Virginia Code §15A-11-3 and §15A-11-5 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2860

To dispose of old AFFF foam accumulated by fire departments

House Bill 2860 defines Aqueous Film Forming Foam (AFFF) and requires the State Fire Commission to develop a method to dispose of used or accumulated AFFF and other Class B fire-fighting foams. It may transport the AFFF to an accredited disposal company or contract, if necessary, with such a company for its disposal. It may coordinate with the DEP to ensure safe disposal.

CODE REFERENCE: West Virginia Code §29-3-5g – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2865

To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility

This bill requires the Public Service Commission to annually prepare, at least by November 1 of each year, a list of water and wastewater utilities that appear to be financially unstable; requires the Public Service Commission to provide the list of potentially unstable water and wastewater utilities to the West Virginia Rural Water Association, and to annually publish the list on the commission's website by no later than November 1; adds "the eligibility of the capable proximate utility to receive state grant funding and federal grant funding in a similar manner as the distressed utility" to the list of factors to be considered when determining whether a utility is a capable proximate utility; amends the process of filing a petition with the Public Service Commission to begin a proceeding; requires the petitioner to include all of the factual data supporting their justification that the utility should be considered a distressed or failing utility that the petitioner has available to them at the time of filing, provided that high water loss or unaccounted for water shall not be considered the sole evidence of a distressed or failing utility; and requires a distressed utility and another acquiring public utility to file a petition with the commission to approve the necessary operating agreement when the commission orders a distressed or failing utility to be operated by another public utility under a mutually agreed arms-length contract.

CODE REFERENCE: West Virginia Code §24-2H-4, §24-2H-5, §24-2H-6, and §24-2H-8 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 11, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2899

Repealing two sections of code relating to gas utility rates

This bill repeals two obsolete sections of code that restricted the Public Service Commission from raising gas rates for 12 months in 1983.

CODE REFERENCE: West Virginia Code §24-2B-1 and §24-2B-2 – repealed

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3092

Relating to in-state food service permit reciprocity

House Bill 3092 creates a new section of code that establishes intra-state reciprocity for mobile food establishments. A mobile food establishment vendor that has a mobile food establishment permit in his or her West Virginia county of residence may be issued a permit by reciprocity by the local or county health department. The reciprocal permit is valid for the same period as the initial permit. The health department issuing a permit by reciprocity may place conditions on the permit to ensure compliance with its own rules and standards for that type of permit but may not charge an additional fee for it. The vendor seeking the reciprocal permit must apply at least 14 days before operating in the reciprocal county and must post the permit visibly.

CODE REFERENCE: West Virginia Code §16-2-18 – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3114

Deny severance pay to employees of DOT for failure or refusal of drug testing

This bill provides that probationary DOT employees who are terminated for failing or refusing a drug or alcohol screen are not entitled to severance pay.

Under current law, §29-6-10, individuals in that circumstance have received severance pay.

CODE REFERENCE: West Virginia Code §5F-2-8 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3189

The PFAS Protection Act

The bill creates the PFAS (perfluoroalkyl and polyfluoroalkyl substances) Act (§22-11C-1 et seq.) which directs the Department of Environmental Protection (DEP) to identify sources of PFAS in raw water sources of public drinking water systems and to prepare an action plan to ensure that the cost of addressing PFAS found in public drinking water systems is borne by the sources of PFAS and not community water systems or their customers.

Perfluoroalkyl and polyfluoroalkyl substances are a class of synthetic chemicals used throughout industry to make a variety of products, including cleaning products, cell phones, food packaging, pharmaceuticals, agricultural pesticides, and various household products. They accumulate in the environment, are highly water soluble, easily transfer from soil to groundwater, and are known to cause adverse health effects.

The bill requires the DEP to write an action plan by July 1, 2024, for certain raw water sources where PFAS were detected above certain quantitative limits and EPA's (U.S. Environmental Protection Agency) applicable drinking water human health advisory. For other raw water sources, the bill requires the DEP to sample treated water from related public water systems by December 31, 2023, and for those with PFAS levels exceeding certain limits and human health advisory in the treated water, the DEP would be required to write 50 action plans by December 31, 2025, and the remainder by December 31, 2026.

The action plans would identify the sources of PFAS in the raw water supply of each public water system and propose regulatory and non-regulatory options to address the sources discharging PFAS and to minimize impacts to public water systems. The DEP would also be required to consult with other governmental agencies and public drinking water systems that have knowledge related to PFAS, to make recommendations regarding the regulation of PFAS, and to report annually to the Joint Legislative Oversight Commission of State Water Resources.

The bill also requires facilities that have an NPDES permit and have manufactured or used PFAS since January 1, 2017, to report on any PFAS found in any raw water source used by a public water system to the DEP by December 31, 2023. The report would include the amount of PFAS used each year from 2017 through 2022, and any other information required by the DEP. Those facilities would also have to perform quarterly monitoring for each reported PFAS chemical and the DEP would be required to modify any applicable NPDES permit to require quarterly monitoring for each chemical. After EPA adopts water quality criteria for any PFAS, DEP is required to incorporate appropriate water quality criteria into state law by proposing amendments to the state water quality standards rule. The DEP criteria in West Virginia cannot be more stringent than those adopted by the EPA.

CODE REFERENCE: West Virginia Code §22-11C-1, §22-11C-2, §22-11C-3, and §22-11C-4 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3203

Relating generally to West Virginia Real Estate License Act

House Bill 3203 updates and revises the West Virginia Real Estate License Act located in §30-40-1 et seq. of the code. In addition to making numerous clarifying and technical changes throughout, it clarifies that a West Virginia license is required to practice real estate brokerage in the state, even if licensed in another state. The bill revises and adds several definitions. It requires that moneys received by the commission be deposited daily and not once a month and eliminates the requirement that an applicant for a license submit two personal recommendations vouching for the applicant's competence and good reputation.

The bill amends the experience requirement for licensure as a broker, adopting a requirement of involvement in a specified number of closed transactions instead of a two-year apprenticeship. It also adds a provision that a salesperson's license may not be issued in the name of an entity unless each member or officer who engages in the real estate business obtains a license. The bill removes the requirement of the posting of a $2,000 bond for non-residents who wish to obtain a West Virginia license. It also modifies requirements relating to the curriculum that may be taken to satisfy the continuing education requirement. The bill requires complaints to be submitted on a form prescribed by the commission, and clarifies that criminal penalties are in addition to sanctions that the commission may otherwise impose. Finally, the bill repeals §30-40-27, which is an obsolete grandfather provision.

CODE REFERENCE: West Virginia Code §30-40-27 – repealed; §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 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3210

Relating to the performance of installation of propane gas systems

This bill defines "liquified petroleum gas" as propane or predominantly a mixture of propane and butane; restricts the use of, refilling of, or work upon a liquefied petroleum gas container without consent of the tank owner; restricts people from selling, installing, filling, refilling, delivering, permitting to be delivered, or using a liquefied petroleum gas container unless the container is owned by the person, or the use is authorized by the owner.

CODE REFERENCE: West Virginia Code §15A-10-15 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3215

Relating to land use

The purpose of the bill is to provide flexibility in timelines for planning commissions and boards of zoning to allow those bodies to promptly address applications. In addition, the bill allows planning commissions and county boards of zoning to delegate certain duties to qualified, authorized staff members.

The bill also modifies definitions, the required frequency of planning commission meetings, the content of subdivision and land development ordinances, the jurisdiction of planning commissions, the process for making minor land development proposals, the process for making major land development proposals, the qualifications for appeals to county boards of zoning, and the frequency of county board of zoning meetings.

CODE REFERENCE: West Virginia Code §8A-1-2, §8A-2-7, §8A-4-2, §8A-5-1, §8A-5-3, §8A-5-6, §8A-5-8, §8A-8-4, and §8A-8-5 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3261

Relating to Social Workers Qualifications

This bill expands the eligibility of provisionally licensed social workers to become fully licensed social workers by creating an exception to the "continuously employed and supervised for four years" requirement: if a provisionally licensed social worker loses employment due to a reduction in force or is unable to work for medical reasons, the individual may ask the Board of Social Work to allow for a reasonable interruption in the continuous employment requirement and provide the individual additional time to complete the requirements for licensure.

In addition, the bill creates a pilot program that allows the Bureau of Social Services to employ persons who do not hold a social worker's license in Hancock county, Clay county, and Braxton county provided that the person has an associate's degree or higher in social work, human services, sociology, psychology, or social services from an accredited university or is an honorably retired law enforcement officer, parole officer, or federal or state probation officer.

CODE REFERENCE: West Virginia Code §30-30-16 – amended; §49-2-110a – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3265

Remove statutory mandates that the sheriff of a county shall serve process or is responsible for cost of service or arrest by another law enforcement agency

Mandates that a county sheriff's office shall owe to another law enforcement agency that carries out service of an order, notice, summons, an attachment, or other process in the first office's stead the appropriate fee for carrying out said service.

CODE REFERENCE: West Virginia Code §59-1-14 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3311

Relating to wine alcohol by volume as compared to beer

Amends the definition of "Table wine" to include wine with an alcohol content by volume between 0.5% and 15.5% (previously 0.5% and 14%) and the definition of "nonfortified dessert wine" to include wine with an alcohol content by volume between 15.6% and 17% (previously 14.1% and 17%).

CODE REFERENCE: West Virginia Code §60-8-2 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3354

To authorize municipalities to combine operations with other municipalities and counties to provide governmental services

Allows municipalities to combine with other municipalities or county commissions to provide governmental services; Removes municipalities' ability to regulate the keeping of gunpowder and other combustibles and to enforce federal gun laws.

CODE REFERENCE: West Virginia Code §8-12-5 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3443

Relating to a development or improvement on land subject to review by the State Historic Preservation Office

Mandates that all development or improvements on land subject to review by the State Historical Preservation Office or by any other agency of the Department of Arts, Culture, and History must be conducted in the most expedient manner as possible; mandating that the Department of Arts, Culture, and History cannot place any impediments on the review process past those that are already required by federal law; mandating that the Department of Arts, Culture, and History cannot comment upon, regulate, or cause another agency to comment upon or regulate a construction project except in consideration for primacy or continued federal funding; and authorizing the curator of the Department of Arts, Culture, and History to promulgate rules in conformity with the new requirements.

CODE REFERENCE: West Virginia Code §29-1-15 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3444

Relating to the creation of the West Virginia Semiquincentennial Commission and Fund

Adds the Cabinet Secretary of Economic Development, or a designee, to the semiquincentennial commission as an ex-officio voting member.

CODE REFERENCE: West Virginia Code §4-13A-2 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3450

Relating generally to racetrack video lottery and the Licensed Racetrack Modernization Fund

Allows licensed racetracks having a useful life of three or more years that were placed in service after July 1, 2011 to receive $1 in recoupment from their facility modernization account for every $2 that they expend on facility modernization improvements or capital improvements at facilities located in the state that are on or contiguous to the premise of the licensed racetrack; defines “capital improvements”; and allows counties to receive one percent of net terminal income and for municipalities to receive an equal distribution of one percent of net terminal income from racetracks that have been located within a county since or before January 1, 1999, that are not located in a municipality.

CODE REFERENCE: West Virginia Code §29-22A-10 and §29-22A-10b – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3451

Updating the veteran preference ratings in state code for state employment

Amends the criteria for veteran preference in state employment by establishing two different categories: 5 Point Preference and 10 Point Preference; establishes criteria for veterans to qualify for the new preference categories; provides definitions.

CODE REFERENCE: West Virginia Code §6-13-1 and §6-13-2 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3552

Relating to per diem jail costs

This bill permits counties to seek reimbursement from municipalities for one day of per diem jail fees in certain, specific circumstances. Those circumstances are:

- The incarceration was made by municipal police;
- The incarceration was not for a municipal violation;
- The municipal police are employed by a Class I or II municipality, or by a Class III municipality with a population in excess of 4,000 according to the most recent census; and
- Reimbursement is sought pursuant to a memorandum of understanding.

Under existing law, municipalities are liable for per diem jail costs only when the incarceration is for a municipal violation. Further, there is no procedure in current law for counties to seek reimbursement for per diem jail costs from municipalities or others.

The bill also includes a formula for charging per diem fees to counties that gives a 20 percent discount to counties for incarcerating up to 80 percent of their pro rata share of total state incarcerations, charges them the full per diem rate for incarcerating 80 to 100 percent of their pro rata share of total state incarcerations, and increases the charges by 20 percent above the per diem rate when they incarcerate more than their pro rata share.

CODE REFERENCE: West Virginia Code §15A-3-16 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Economic Development

Senate Bill 188

Grid Stabilization and Security Act of 2023

This bill creates the "Grid Stabilization and Security Act" (§5B-2N-1 through §5B-2N-4) and directs the Department of Economic Development (DED) to identify economically viable sites for the development of natural gas electric generation projects that are located near convenient and sufficient supplies of natural gas and are likely to create projects that provide economic benefits to local and state government and citizens of the state.

The Act contains legislative findings which, among other things, recognize the opportunity for the efficient development of natural gas in the state, the production of electricity using natural gas, the need to encourage and simplify the development of natural gas electric generation projects, the need to streamline the regulatory process governing approval of projects, and the responsibility of the DED to implement the Act and provide assistance to sustain projects.

Criteria for identifying viable sites include locating sites:

- Near producing natural gas wells or pipelines that can provide a sufficient supply of gas for one or more natural gas electric general facilities for the economic life of the facilities;
- Near existing electric transmission infrastructure capable of transmitting generated electricity to wholesale markets;
- That satisfy air quality conditions imposed by the Department of Environmental Protection (DEP);
- And, that can demonstrate that emissions from the electric generation facilities will not cause or contribute to a violation of national or state ambient air quality standards or any allowable increase over baseline concentrations in any area.

After identifying a site, the Act directs the DED to notify the DEP and the Public Service Commission (PSC) that it has designated the site as a good location for the construction of an electric generation facility. Thereafter, if an application for a Siting Certificate for a facility is filed with the PSC, the Act directs the PSC to issue a final order within 270 days of the application. The bill also creates a new section (§22-5-11b) in the Air Pollution Control statute for permits for the construction and operation of natural gas electric generation facilities. It also directs the DEP secretary to expedite consideration of permit applications which would include a determination of whether the site is in compliance with applicable ambient air quality standards and an evaluation of whether there is sufficient data to model impacts from emissions and if the data are insufficient, to require DED to initiate measures to collect additional data at the site.

The section also directs the DEP to act on a permit application within 270 days for facilities classified as a major stationary source and within 90 days for those classified as a minor stationary source. The secretary is also required to determine whether an application is complete within 30 days of submission and to notify the permit applicant of the determination. Finally, administrative appeals of permitting decisions must be held within 60 days of the filing of an appeal, unless all parties to the appeal agree to a continuance, and a decision must be issued within 60 days of a final hearing. (§22B-1-7(f))

CODE REFERENCE: West Virginia Code §5B-2N-1 through §5B-2N-4 and §22-5-11b – new; §22B-1-7 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 207

Relating to state allocation of funding to regional councils

This bill, similar to HB 2750, eliminates the maximum allowable state allocation from the West Virginia Department of Economic Development to eligible regional councils for purposes of obtaining federal matching grants.

CODE REFERENCE: West Virginia Code §5B-2-4a – amended

DATE OF PASSAGE: February 1, 2023

EFFECTIVE DATE: April 29, 2023

ACTION BY GOVERNOR: Signed February 9, 2023

Senate Bill 231

Transferring administration of WV Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program to Department of Economic Development

This bill transfers 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 along with, among other things, the authority to propose legislative rules for promulgation.

CODE REFERENCE: West Virginia Code §5B-8-1 – amended

DATE OF PASSAGE: January 27, 2023

EFFECTIVE DATE: January 27, 2023

ACTION BY GOVERNOR: Signed February 6, 2023

Senate Bill 481

Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program

The bill extended the sunset provision of the Upper Kanawha Resiliency and Revitalization Program from June 30, 2024, to June 30, 2029.

CODE REFERENCE: West Virginia Code §5B-2-15 – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: May 31, 2023

ACTION BY GOVERNOR: Signed March 11, 2023

Senate Bill 591

Allowing counties and municipalities to jointly undertake development projects

This bill amends current law relating to joint undertakings by county development authorities to allow counties and municipalities to develop economic projects together and to share proportionally in project costs and revenues generated from the project.

CODE REFERENCE: West Virginia Code §7-12-9a – amended

DATE OF PASSAGE: March 4, 2023

EFFECTIVE DATE: June 2, 2023

ACTION BY GOVERNOR: Signed March 8, 2023

Senate Bill 677

Clarifying role and responsibilities of State Resiliency Officer

The bill amends current law Resiliency and Flood Protection Planning Act by (1) repealing, continuing, and moving provisions governing the West Virginia Disaster Recovery Trust Fund into the Act; (2) creating a new West Virginia Flood Resiliency Trust Fund within the Act; and (3) revising provisions governing the State Resiliency Office, the State Resiliency Officer (SRO) and the State Resiliency Board.

The bill expands upon the qualifications, powers and duties of the SRO and the deputy SRO, including but not limited to (1) requiring a vulnerability assessment of critical infrastructure at the state and municipal levels including hospitals, schools, fire stations, and comparable facilities; (2) requiring leadership in state planning efforts "in the event of" states of emergency; and (3) requiring the development of a new state Flood Resiliency Plan no later than June 30, 2024.

The bill continues the West Virginia Disaster Recovery Trust Fund in the new §29-31-7, and in the following sections the bill provides for receipt and disbursement of funds from this Recovery Fund and the duties of the SRO in administering the same.

The bill also creates a new West Virginia Flood Resiliency Trust Fund in the new §29-31-10, and in the following sections the bill provides for receipt and disbursement of funds from this Flood Fund and the duties of the SRO in administering the same.

CODE REFERENCE: West Virginia Code §15-5-4b, §15-5-4c, §15-5-24, §15-5-25 and §15-5-26 – repealed; §15-5-2, §29-31-1 through §29-31-3 – amended; §29-31-2a, §29-31-6 through §29-31-14 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3012

To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief

The purpose of this bill is to exempt rare earth elements and minerals from the severance tax for a period of nine (9) years. The bill defines rare earth elements to include: yttrium, lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, and scandium. There is also a definition of critical Minerals to include: aluminum, antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, germanium, graphite, hafnium, indium, iridium, lithium, magnesium, manganese, nickel, niobium, palladium, platinum, rhodium, rubidium, ruthenium, tantalum, tellurium, tin, titanium, tungsten, vanadium, zinc, zirconium, uranium, osmium, strontium, rhenium, potash, and bauxite.

The nine-year timeframe would begin July 1, 2023.

CODE REFERENCE: West Virginia Code §11-13A-3c – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Became law without the Governor's signature March 29, 2023

House Bill 3036

Increasing the number of districts and the limit on approved costs under the BUILD WV Act

This bill would modify provisions of the BUILD WV Act. That Act was passed during the 2022 Regular Session of the Legislature at the request of the Governor. The purpose of the act is to provide reasonably priced housing for graduate, post-graduate and professional job holders, technical workers and entrepreneurs for targeted businesses in key geographic areas.

Current law provides caps on BUILD WV districts which are capped at three (3). It also limited the annual amount of approved cost to $40,000,000. This bill eliminates any caps on the number of certified BUILD WV district and leaves this to the joint discretion of the Secretaries of Commerce, Economic Development, and Tourism. The aggregate sum of approved costs would be increased from $40,000,000 to $150,000,000.

CODE REFERENCE: West Virginia Code §5B-2L-14 and §5B-2L-16 – amended.

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3168

Ensuring investment in WV Tourism is competitive with other states and accessible long term

The bill cleans up code reflecting the Development Office's transition to the Department of Economic Development. The bill regards the Tourism Development Act. It makes changes to certain definitions therein and removes language regarding the proximity of projects. It gives greater discretion to approve or disapprove projects to the Secretary of Economic Development. Finally, it increases the amount of time over which an approved project's developer may realize its resulting tax credit. Previously, this was 10% spread out over 10 years, forfeited in 13. Now it would be 10 years, with an additional 15 years if needed. A provision is added disallowing any carryback.

CODE REFERENCE: West Virginia Code §5B-2E-3, §5B-2E-5, §5B-2E 6, §5B-2E-7, §5B-2E -7a – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3303

Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office

This bill involves the Office of Coalfield Community Development. It deletes language that required the Secretary of the Department of Commerce appoint a chief to administer the office, instead requiring the Governor to appoint a director. It also clarifies that the Office is under the Department of Economic Development, not Commerce. The director appointed by the Governor would be responsible for hiring staff for the office. The initial appointment will be July 1, 2026, per the Senate amendment.

The bill requires funding for the office to come from appropriations from the Legislature.

The director must report quarterly to Legislative Energy and Finance Committees regarding any project funded by the office, including the amount of funding, the recipient, and a description of the project.

Section 5 of the article is amended to supplement the office's powers and duties.

The Senate Amendment also sunsets the article and terminates the Office on June 30, 2032.

CODE REFERENCE: West Virginia Code §5B-2A-4 and §5B-2A-5 – amended; §5B-2A-14 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 22, 2023

House Bill 3307

Establishing the West Virginia-Ireland Trade Commission

This bill establishes the West Virginia-Ireland Trade Commission, consisting of 9 members: two from the Senate, two from the House. Each appointee is to have current or past involvement in or knowledge of organizations that promote Irish affairs or shall have interest in the well-being of trade relations between West Virginia and Ireland. The legislative members of the commission shall serve during the two-year legislative term in which the appointments are made.

Five will be appointed by the Governor and serve terms of four years. At least one representative of the Governor's appointments shall be from: a public institution of higher education; the West Virginia Chamber of Commerce (or its successor); and at least two public members shall represent Irish American communities or interest, neither of whom shall be members of the same political party.

All appointments are to be made no later than July 1, 2023. Any vacancies that may arise are filled in the same manner as original appointments.

CODE REFERENCE: West Virginia Code §29-36-1 through §29-36-7 – new

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: March 17, 2023

ACTION BY GOVERNOR: Signed March 17, 2023

House Bill 3370

Creating loan guarantee program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts

The bill would provide state loan guarantees to those who would build or develop on U.S. Army Corps of Engineers land and other properties when such developments relate to tourism and economic development at these existing sites.

The Board of Trustees of the West Virginia State Parks and Recreation Endowment Fund would be charged with creating and administering a new loan insurance program to guarantee the payment of loans for one or more private entities operating or intending to operate a new project, or any project at any existing development or attraction, under a partnership or agreement with the Division of Natural Resources to operate on U.S. Army Corps of Engineers property, State Parks and resorts property, any other property under the jurisdiction of the Division of Natural Resources, or on a "hybrid tourism destination," for the purpose of increasing recreational opportunities, tourism, and economic development.

The assets of the fund may be used by the board of trustees to facilitate or provide collateral for the new State Parks Enhancement Loan Insurance Program but no amount of the fund's income from investments may be used to provide loan insurance. The bill doesn't establish criteria for getting loan insurance, but does authorize the Board of Trustees to establish whatever criteria they determine appropriate. However, an applicant for loan insurance must receive approval in writing from the Secretary of the Department of Commerce, the Secretary of the Department of Economic Development, and the Secretary of the Department of Tourism before seeking the loan insurance.

The bill does provide that the Board of Trustees must cooperate with the state West Virginia Economic Development Authority (EDA) (the EDA has its own loan insurance program at §31-15-8, and its own broadband insurance program at §31-15-8a), and that the board of trustees may utilize the staff and resources of the EDA for guidance and assistance in administering the program. In turn, the EDA must cooperate with the Division of Natural Resources to "facilitate the administration of the State Parks Enhancement Loan Insurance Program."

The Board of Trustees may not authorize any amount of loan insurance through the program that exceeds $10 million in the aggregate of the assets existing in the Fund and no more than $5 million may be authorized for any project.

CODE REFERENCE: West Virginia Code §20-5A-3 and §31-15-8b – new; §20-5A-1 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3387

Extending the moratorium on the authorization of new convention and visitors bureaus for an additional two years

This bill amends §7-18-13a of the Code of West Virginia to extend the moratorium on the authorization of new convention and visitors bureaus for an additional two years (to June 30, 2026) and clarifies when and how a new convention and visitors bureau can qualify for a distribution of the hotel occupancy tax proceeds.

In order to qualify, the new convention and visitors bureau must meet the requirements of §7-18-13a(b). Those requirements are found on pages 1 - 2, lines 12 - 37 of the bill.

CODE REFERENCE: West Virginia Code §7-18-13a – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3428

Relating to the West Virginia Business Ready Sites Program

This bill amends a section, §24-2-1n of the Code of West Virginia, governing the powers and duties of the Public Service Commission (PSC), relating to the development of industrial sites in the state with adequate and fully developed utility infrastructure.

The bill makes the West Virginia Business Ready Sites Program permanent. It is a program which promotes economic development in the state by facilitating construction of utility infrastructure to make sites in the state attractive for industrial development.

It also eliminates the cap (10) on the number of sites that may be designated by the PSC as industrial development sites under the program, and eliminates provisions requiring industrial development sites to be apportioned geographically amongst West Virginia's congressional districts.

CODE REFERENCE: West Virginia Code §24-2-1n – amended

DATE OF PASSAGE: March 2, 2023

EFFECTIVE DATE: March 2, 2023

ACTION BY GOVERNOR: Approved March 23, 2023

House Bill 3482

To create the Coal Fired Grid Stabilization and Security Act of 2023

This bill creates the "Coal Fired Grid Stabilization and Security Act" (§5B-2O-1 through §5B-2O-4) and directs the Department of Economic Development (DED) to identify economically viable sites for the development of coal electric generation projects that are located near convenient and sufficient supplies of coal and are likely to create projects that provide economic benefits to local and state government and citizens of the state.

The Act contains legislative findings which, among other things, recognize the opportunity for the efficient development of coal in the state, the production of electricity using coal, the need to encourage and simplify the development of coal electric generation projects, the need to streamline the regulatory process governing approval of projects, and the responsibility of the DED to implement the Act and provide assistance to sustain projects.

§22B-1-7 is amended to require that administrative appeals of permitting decisions must be held within 60 days of the filing of an appeal, unless all parties to the appeal agree to a continuance, and a decision must be issued within 60 days of a final hearing.

CODE REFERENCE: West Virginia Code §22B-1-7 – amended; §5B-2O-1 through §5B-2O-4 and §22-5-11c – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 22, 2023

House Bill 3560

Relating to expanding the definitions of land and recreational purposes

This bill expands the definitions of "land" and "recreational purposes" as they relate to limiting landowner liability. This bill adds rock climbing, bouldering, caving, rappelling, and slacklining to the list of recreational activities. The definition of land was expanded to include rocks, boulders, and caves.

CODE REFERENCE: West Virginia Code §19-25-5 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Pensions

Senate Bill 237

Relating to Public Employees Retirement System and State Teachers Retirement System

The legislation creates four new code sections affecting certain retirants in both the Public Employee Retirement System (PERS) and the Teachers Retirement System (TRS).

The first two new sections in the respective chapters of each system allow for the issuance of a one-time bonus payment to all qualifying retirants of both systems, to be paid on or before December 31, 2023. To qualify for this "13th check," the retirant must, by July 1, 2023:

- Be 70 years old;
- Have at least 20 years of service; and
- Currently receive a monthly annuity of less than $1,000.

The one-time bonus payment is also payable pro rata to any beneficiary of a qualifying retirant who receives any annuity or other benefit payable by the retirant's respective system.

The second two new sections in the respective chapters of each system raises the minimum benefit for qualifying retirants of both systems and would first occur on the bill's effective date. To qualify for this "bump up" in annuity, the retirant must, by July 1, 2023:

- Be 70 years old;
- Have at least 25 years of service; and
- Currently receive a monthly annuity of less than $1,000.

From the effective date of this legislation, qualifying retirants would receive a monthly benefit of $1,000.

Specifically exempted from this raise in annuity is any year of service a retirant may have earned under PERS while an elected public official or a temporary legislative employee, or under TRS while an employee of an institution of higher education.

If the retirant with 25 or more years of service chose option B – 50% joint and survivor annuity and the beneficiary is at least 70 years old as of July 1, 2023 and currently receives less than $500 monthly, the monthly retirement benefit will increase to $500.

The raise in payment is explicitly stated to be in lieu of, and not in addition to, any other benefits provided by the retirant/beneficiary's respective system.

The bill also states that any minimum benefit increase is not retroactive to the time of retirement and applies only to members who have retired/are beneficiaries of members who have retired prior to the bill's effective date.

CODE REFERENCE: West Virginia Code §5-10-22m, §5-10-22n, §18-7A-26x, and §18-7A-26y – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 13, 2023

Senate Bill 449

Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools

The bill would amend provisions of the WV Code relating to government employee retirement plans. The bill would update provisions in current code to reflect the creation of the Natural Police Officer Retirement System and the authorization of teachers at public charter schools to participate in the Teachers Retirement System.

CODE REFERENCE: West Virginia Code §5-10C-3, §5-10C-4, and §5-10C-5 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 450

Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board

The bill amends provisions of the WV Code relating to medical examinations for disability determinations for the retirement plans administered by the Consolidated Public Retirement Board (CPRB). The bill defines the term "medical examination" to mean an in-person or virtual examination or, at the discretion of the CPRB, a medical record review of the member's physical and/or mental health by a physician selected or approved by the CPRB. In addition, the bill would make clear that the CPRB's determination of disability will be made based upon a medical examination.

CODE REFERENCE: West Virginia Code §5-10-2, §7-14D-2, §7-14D-14, §7-14D-15, §8-22A-2, §15-2A-2, §15-2A-9, §16-5V-2, §18-7A-3, §18-7A-25, §20-18-2, §20-18-21, and §20-18-22 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 451

Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System

This legislation updates the TRS system by including in the definition section of the system the term "electing charter schools." It also amends the definition of "employer" to include county boards of education and charter schools in that term (if they employ a member). "Medical examination" is also defined. The definition of "public schools" is updated to explicitly exclude charter schools which are not "electing charter schools," and the definition of "teacher member" is also updated to clarify that TRS members are employed by a public school, as defined. The TRS section regarding retired teachers returning to work is amended to include retirees returning to employment on a full-time, permanent basis in the reporting requirements to the CPRB.

Section 18-7A-15 deals with the state's collection of membership contributions from employers, and now subjects electing charter schools to the requirement. The CPRB's ability to act in the instance of failure to remit such is changed from an exclusive list to a broader array of options by reference to §5-10D-13.

A proviso is added to 7A-17 that states that when computing service years under TRS, newly hired (hired after July 1, 2023) PERS members can only transfer those years of service to TRS if they had first become a member of TRS on or after July 1, 2015 (Tier II members).

Article 7B regards the Teachers' Defined Contribution Retirement System. The definition section is first amended in a way substantially similar, where relevant, to the definitional changes to the TRS article. Next, it adds electing charter schools to the requirements regarding deposits of the percentage of compensation required by law.

CODE REFERENCE: West Virginia Code §18-7A-3, §18-7A-13a, §18-7A-15, §18-7A-17, §18-7B-2, §18-7B-17 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 452

Relating to Emergency Medical Services Retirement System

The proposed legislation amends the definitional section of the Emergency Medical Services Retirement System article of code to define new members recently includible by statute. Specifically, the bill:

- Adds the definition of "county firefighter" to §16-5V-2.
- Adds the definition of "911 personnel" to §16-5V-2.
- Adds the definition of "medical examination" to §16-5V-2.
- Amends definitions in §16-5V-2 of "covered employment", "member", "participating public employer", and "totally disabled."

Also included in the bill is a severability section to make the EMSRS article consistent with code describing other plans under the CPRB's oversight.

CODE REFERENCE: West Virginia Code §16-5V-2 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 453

Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor

This bill amends §18-5G-6 to state no civil liability shall attach to an authorizer or to any of its members or employees for any acts or omissions of the public charter school except to the extent the provisions of §5-10D-11 or §5-10D-13 of this code may be applicable relating to successor liability for, and the collection of, delinquent retirement contributions, neither the county board of education nor the State of WV shall be liable for the debts or financial obligations of a public charter school or any person or entity that operates a charter school.

The bill also makes the CPRB a primary creditor by providing that in the event of a public charter school closure for any reason, the authorizer shall distribute the assets of the public charter school first to satisfy outstanding payroll obligations for employees of the public charter school, including any required payments to retirement systems on behalf of such employees.

CODE REFERENCE: West Virginia Code §18-5G-6 and §18-5G-10 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 458

Setting rate of interest on delinquent retirement contribution submissions

This bill sets interest rate on delinquent retirement contributions. Previously, that interest rate was merely referred to as the "regular" interest rate. This bill defines the rate as "the actuarial interest rate assumption as approved by the Consolidated Public Retirement Board for completing the actuarial valuation for the plan year immediately preceding the first day of the plan year in which the delinquency payment is made, compounded daily, and the minimum interest charge is $50." This is consistent with other plans.

The bill also creates a new section of code which states that, once an employer begins participating in a plan overseen by the CPRB, either by election or operation of law, it cannot terminate that plan unless the Legislature acts to allow it to do so.

CODE REFERENCE: West Virginia Code §5-10D-13 – amended; §5-10D-14 – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 475

Modifying examinations for disability pensions

This bill is like Senate Bill 450 which provides essentially the same changes to existing law, but for the retirement system under the direction of the Municipal Pensions Oversight Board, rather than the CPRB.

The amended language regards the MPOB's determination of disability awards and benefits determined by a medical examination. Such medical examination is described and may be "an in-person or virtual examination of a member's physical or mental health, or both, or at the discretion of the oversight board, a medical record review of the member's physical or mental health, or both." The bill gives the MPOB discretion in deciding the method.

CODE REFERENCE: West Virginia Code §8-22-23a – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Approved March 29, 2023

House Bill 2026

Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time

The bill authorizes municipalities with police or firefighters in the Public Employees Retirement System (PERS) to elect to include police or firefighters hired by the municipality on or after July 1, 2015, to become members of the Municipal Police Officer and Firefighter Retirement System (MPOFRS). Municipalities have until July 1, 2025, to make this election. Municipalities had been given this option in 2016, but it was limited in time.

Police or firefighters currently in PERS who were hired on or after July 1, 2015, would have the opportunity once their employer elects to become a participating employer in MPOFRS, to elect to transfer their service credit in PERS to MPOFRS. This election would have to be done within 90 days of the municipality making its election to become a participating employer. Those so electing would be required to pay the difference between their contributions made to PERS and those that would have been required if they had been a member of MPOFRS plus interest at the rate of 7.5%.

CODE REFERENCE: West Virginia Code §8-22A-33a – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2283

Authorized expenditures of revenues from certain state funds for fire departments

The bill amends provisions of the WV Code relating to state funds dedicated to the use of volunteer or part-volunteer fire departments. The bill makes the following substantive changes:

- Authorizes use of moneys for accident and sickness insurance premiums to cover individual members of a volunteer or part-volunteer fire company.
- Authorizes use of moneys for umbrella insurance premiums, so long as life insurance and property/casualty insurance are part of any umbrella policy.
- Authorizes use of moneys for food, bottled water, and food-related items, such as disposable plates and utensils, to provide necessary meals and water to a fire company when responding to an emergency.
- Authorizes use of moneys for the purchase of land when such purchase increases effectiveness and efficiency of a volunteer or part-volunteer fire company.
- Restricts use of moneys for filing fees to be paid to the Legislative Auditor's Office for annual expenditure statements for state grants.
- Requires each volunteer or part-volunteer fire company to have a dedicated bank account for all state funds received. Any moneys received into the dedicated account which are not received from distributions from the Municipal Pensions and Protection Fund or the Fire Protection Fund must be transferred out of the dedicated account within 60 days of receipt. If such funds are not transferred out of the dedicated account, such funds may only be used in accordance with the provisions of §8-15-8b of the WV Code.

This bill was recommended for introduction in the 2022 Regular Legislative Session by the Joint Committee on Volunteer Fire Departments and Emergency Medical Services.

CODE REFERENCE: West Virginia Code §8-15-8b – amended

DATE OF PASSAGE: March 8, 2022

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2900

Relating to Deputy Sheriff Retirement System

The bill amends provisions of the WV Code relating to the Deputy Sheriff Retirement System (DRS). The bill authorizes a retirant of DRS to go back to work as a deputy sheriff without suspending his or her retirement benefit payments if the following conditions are met: 1) there is at least a 180 day break in service prior to reemployment as a deputy sheriff; 2) the retirant is not a disability retirant; 3) the retirant is a certified or certifiable law enforcement officer; 4) the county for which he or she will be working has fewer than 5 deputies and has been unable to recruit additional qualified deputy sheriffs despite the exercise of due diligence; and 5) the county for which he or she will be working remits employer contributions to DRS as if the retirant was an active contributing member. The retirant may not work as a deputy sheriff under the provisions of this bill for a period of more than 5 years or until such time as the sheriff of the county can recruit additional deputy sheriffs to provide for full staffing, whichever is sooner. The sheriff must post the deputy sheriff vacancies until the positions are filled by non-retirants. The bill provides a sunset date of July 1, 2026, for these new provisions; and requires a report from any sheriff hiring pursuant to these provisions to the Joint Standing Committee on Pensions and Retirement.

Any retirant hired pursuant to these new provisions is not subject to any age restrictions currently in law.

CODE REFERENCE: West Virginia Code §7-14D-24a – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: March 11, 2022

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3148

Financing municipal policemen's and firemen's pension and relief funds

The bill amends provisions of the WV Code relating to municipal firemen's and policemen's pension and relief funds.

Current law provides four methods of funding for municipal firemen's and policemen's pension and relief funds – Standard, Alternative, Optional and Conservation. The Alternative and Conservation methods of funding are not actuarially sound. The Standard and Optional methods of funding are actuarially sound. The Optional method of funding requires contributions sufficient to meet the normal cost of the pension and relief fund and amortize any actuarial deficiency over a period of not more than 40 years beginning January 1, 2010.

The bill provides a fifth method of funding - Optional II – which will require contributions sufficient to meet the normal cost of the fund and amortize any actuarial deficiency over a period of not more than 40 years beginning July 1, 2023.

The bill authorizes a municipality using either the Alternative or Conservation method of funding to convert to either the Optional or Optional II method of funding, beginning July 1, 2023. The municipality will have to close its current fund to new hires in order to be eligible to choose the Optional or Optional II method of funding.

The bill eliminates the authority of any municipality using the Alternative method of funding to choose to use the Conservation method of funding, as of July 1, 2023.

CODE REFERENCE: West Virginia Code §8-22-20 – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3211

Authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the Municipal Police Officer and Firefighter Retirement System

The bill amends provisions of the WV Code relating to the use of accrued annual or sick leave for retirement service credit in the Municipal Police Officers and Firefighters Retirement System (MPOFRS). The bill allows a member of MPOFRS to convert 1 accrued leave day into 1 day of service credit. The bill provides that 1 month of service credit is equal to 20 days; and any remainder of 10 or more days will provide 1 month of service credit, but any remainder of less than 10 days will not be used to credit any more service credit. The bill also provides that 8 hours of leave is equal to 1 day of leave. For purposes of this new benefit, accrual of leave by members may not be more than allowed by the WV Division of Personnel's allowance for accrual of leave by state employees.

CODE REFERENCE: West Virginia Code §8-22A-27a – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3244

Relating to Municipal Pensions Oversight Board proposing legislative rules

The bill requires the Municipal Pensions Oversight Board to promulgate rules to be reviewed by the Legislative Rulemaking and Review Committee to effectuate provisions of §8-33-4b of the code, which is an existing statute requiring certain municipalities which the MPOB oversees that wish to issue pension funding revenue bonds to submit reports to the MPOB and the Joint Committee on Government and Finance. This bill requires the MPOB to promulgate rules and also grants emergency rulemaking authority given the timing realities of rule promulgation and adoption.

CODE REFERENCE: West Virginia Code §8-33-4b – amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3299

Relating to Natural Resource Police Officer Retirement

The bill affects the Natural Resources Police Officer Retirement System.

First, the bill amends section 5 of the Article 18 to allow the board of that system to receive gifts and additional contributions to supplement the plan.

The rest of the bill affects membership in the system, reportedly to aid in recruitment and retention. Three groups are affected:

- DNR officers rehired between January 2, 2021, and June 30, 2026, may request in writing within two years of first becoming a member of NRPORS to transfer all their PERS service to NRPORS regardless of whether the service was earned as a DNR officer in PERS.
    - Per the CPRB, there are 2 active members to whom this applies. If they elect to transfer their service, the unfunded liability in the NRPORS increases by approximately $300,000, but this is amortized over 30 years, so about $48,000 this year split between member and employer contributions.
- Certified law enforcement officers (described in §30-29-1 et seq. of the code) in PERS that become employed as a DNR officer between January 2, 2021, and June 30, 2026, may request in writing within two years of first becoming a member of NRPORS to transfer up to three years of PERS service to NRPORS, provided the service is as a certified law enforcement officer in PERS.
    - Per the CPRB, based upon actuarial assumptions, this group is likely to increase unfunded liability in the plan by about $40,000. Amortized, the initial cost this year would be about $6,000, again split between member and employer contributions.
- A DNR officer employed prior to January 2, 2021 and rehired as a DNR officer on or after July 1, 2026 may request in writing within one year of first becoming a member of NRPORS to transfer all PERS service as a DNR officer to NRPORS.
    - This is something that is already functionally allowable under the existing statute and therefore, per the CPRB, this group would have no material effect on the unfunded liability of the plan.

CODE REFERENCE: West Virginia Code §20-18-5 and §20-18-6 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3364

Requiring the closure of certain municipal policemen's and firemen's pension and relief funds as condition of issuance of pension funding revenue bonds

The bill amends provisions of the WV Code relating to pension funding revenue bonds. Current law allows building commissions of Class I, II, or III municipalities to issue pension funding revenue bonds to raise funds to reduce the unfunded actuarial accrued liability of a policemen's or firemen's pension and relief fund. This bill requires a municipality currently funding its pension and relief funds using the alternative method of funding to close its fund to new hires as a condition of being authorized to issue pension funding revenue bonds.

CODE REFERENCE: West Virginia Code §8-33-4a – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Miscellaneous

Senate Bill 4

Creating Adopt-A-Trail volunteer programs for public land under DNR jurisdiction

The bill authorizes the Division of Natural Resources to establish an Adopt-A-Trail program allowing volunteer groups to assist the division in the maintenance and enhancement of trails on state-owned land. The program's purpose is like the Adopt-A-Highway and Adopt-A-Stream programs. The bill also provides for the adoption of trails and/or trail segments by volunteer groups and the activities those groups may choose. Volunteers may choose to perform or engage in any of the following activities:

- Spring cleanup;
- Litter collection
- Accessibility projects;
- Special events;
- Trail maintenance, enhancement, or realignment;
- Public information and assistance;
- Training.

Volunteer groups must apply to the DNR for approval to participate in the program and may not perform any activity until executing an agreement with the DNR. At a minimum, groups must agree to participate for at least two years, assist with trail maintenance, and comply with all reasonable requirements of the DNR.

The bill establishes minimum requirements for volunteer organizations and establishes certain limitations on the activities performed by volunteer groups. Groups must consist of people who are 18 years or older. However, minors 17 years of age or younger may participate but must be accompanied by an adult who is 18 years of age or older with a close relationship or connection to the minor. Participating groups may include, but not be limited to, communities, families, individuals, members of 4-H and Future Farm Farmers of America, scouting organizations, any religious faith or youth group, schools, college organizations, businesses, civic organizations, government agencies.

Volunteer groups may not perform work that reduces hours or compensation of DNR employees, that may be performed by a laid off employee, or is inconsistent with the terms of a collective bargaining agreement.

Additionally, adopted trails may be identified by a sign at a location along the adopted section bearing the Adopt-A-Trail logo and the name of the volunteer group after the group completes 50 hours of service.

Finally, the bill also provides for project coordination and for the removal and disposal of trash and other items. The DNR shall coordinate with the closest solid waste authority for disposal of tires, appliances, televisions, and trash with proper documentation. Collected litter will be placed at locations approved by the DNR and removed and disposed of in coordination with local authorities and state agencies. The DNR is also authorized to propose rules pursuant to §29A-3-1 et seq. to carry out and implement the Adopt-A-Trail program.

CODE REFERENCE: West Virginia Code §20-5-23 – new

DATE OF PASSAGE: February 7, 2023

EFFECTIVE DATE: May 5, 2023

ACTION BY GOVERNOR: Signed February 17, 2023

Senate Bill 131

Allowing municipal fire marshals to receive service weapon upon retirement

The purpose of this bill is to allow municipal fire departments to award service weapons to municipal fire marshals. Currently, state Code does not provide for this. This bill allows municipal fire departments to award service weapons to municipal fire marshals and deputy fire marshals upon retirement after 20 years, or under if leaving on disability. The authority is discretionary and prohibits awarding a weapon to prohibited persons; mentally incapacitated or dangerous retirees. The departments are also authorized to offer out of service weapons to active or retired fire marshals. The bill seeks to allow additional persons to receive service weapons.

CODE REFERENCE: West Virginia Code §8-15-28 – new

DATE OF PASSAGE: March 4, 2023

EFFECTIVE DATE: June 2, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 200

Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting

The purpose of this bill is to allow leashed dogs to track wounded deer, elk, turkey, bear and wild boar when hunting. The existing law allows hunters or dog handlers to use a leashed dog to track and locate mortally wounded deer or bear.

The bill would amend the statute to allow using leashed dogs to track and locate mortally wounded deer, elk, turkey, wild boar, and deer; allow Class Q permit holders or certain physically disabled hunters to designate another hunter who holds a valid hunting license to accompany the dog handler to kill mortally wounded animal; and providing that mortally wounded animal shall count toward bag limit of hunter who fired initial shot.

CODE REFERENCE: West Virginia Code §20-2-5j – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 205

Relating to registration plates

This Division of Motor Vehicles (DMV) agency bill rewrites the section of DMV code on registration or license plates, W.Va. Code §17A-3-14, a very lengthy section of code that covers all registration plates. The bill creates new sections, separating the license plates by type, such as regular, government officials, and military.

Existing §14 retains general provisions concerning the issuance of registration plates and general requirements. It also provides the DMV Commissioner some discretion, such as to assign additional features to plates to facilitate reciprocal agreements, allows him to suspend the registration (such as when a plate is illegible), and provides that plates paid for with a worthless check are void.

The section adds that the Uniform Electronic Transaction Act [W.Va. Code 39A- 1-1 et seq.] applies.

New §14a covers plates for government officials. The $15 per plate annual fee is retained, which is in addition to all other fees, and an $10 initial application fee applies. The section also authorizes one new plate, a special registration plate for the judges of the Intermediate Court of Appeals. New §14b covers plates for military personnel. All such prior plates are continued.

The initial application fee is $10, which is in addition to all other fees. New §14c covers all specially arranged plates, including those numbered 2 through 2,000. It retains a rulemaking requirement by the DMV regarding the distribution of the plates. The initial application fee is $15, which is in addition to all other fees.

New §14d covers honorary military plates (disabled veterans, recipients of the distinguished Purple Heart Medal, recipients of the Congressional Medal of Honor, recipients of the Distinguished Service Cross, Navy Cross, and Air Force Cross, or veteran survivors of the attack on Pearl Harbor on December 7, 1941) that are exempt from all registration fees.

The bill retains the ability to transfer the registration fee exemption to a special registration plate for military personnel for which the applicant also qualifies.

New §14e continues plates for organizations that were previously authorized by the Legislature. As to new plates for organizations, an organization may make application for such a plate, which the DMV may approve if there are at least 100 applicants. The initial application fee is $25 with an annual fee of $15, which is in addition to all other fees. By concurrent resolution of the Legislature, the requirement to collectively deposit with the DMV all fees necessary to cover the first year's basic registration, one-time design, and manufacturing costs may be waived for any organization. The DMV may discontinue such plates if the minimum number is less than 100 or the organization no longer exists or no longer meets legal requirements.

New §14f continues 10-year plates for restricted use antique motor vehicles [old §17A-3- 14(f)]. New §14g continues special plates for first responders. It provides for an initial application fee of $10, which is in addition to all other fees.

As to applicants supporting law-enforcement officers, there is also an additional annual fee of $15. Survivors of wounds received in the line of duty as a WV law-enforcement officer are exempt from registration fees.

New §14h covers special themed registration plates. The DMV may issue new plates at the discretion of the commissioner and may continue to issue any special themed registration plate authorized by the

Legislature. The commissioner may discontinue such plates at any time. The initial application fee is $10, and the annual fee is $15 (except for racing-themed plates, which are $25), which are fees that are in addition to all other fees. New §14i allows for rulemaking.

CODE REFERENCE: West Virginia Code §17A-3-14 – amended; §17A-3-14a through §17A-3-14h – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 13, 2023

Senate Bill 430

Relating to State Treasurer's authority to contract with financial institutions for banking goods and services

The stated purpose of this agency bill from the Treasurer's office is to ensure that all spending units utilize the State Treasurer's contracts and agreements with financial institutions for banking goods and services. The bill creates a new section in code with definitions for chapter 12, which covers public moneys and securities. It creates definitions for the terms "banking goods or services," "financial institution," "spending unit," and "state funds."

The bill also amends a section of code concerning moneys accepted on behalf of the state. Under current law, the State Treasurer may review the procedures and methods used by officials and employees authorized to accept moneys due the state and change such procedures and methods, except that the State Treasurer may not review or amend the procedures by which the Department of Revenue accepts moneys due the state. The bill would modify this provision and state that absent an exemption granted by the State Treasurer, the Department of Revenue must utilize the State Treasurer's contracts or agreements for any banking goods and services required for said procedures.

CODE REFERENCE: West Virginia Code §12-2-2 – amended; §12-1-1A – new

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

Senate Bill 439

Establishing design-build program for DEP

This bill creates the "Design-Build Pilot Program" (Program) which would be administered by the West Virginia Department of Environmental Protection (DEP). It would allow the DEP to expedite infrastructure projects utilizing federal funds by combining the design and construction elements of a proposed project into a single contract. The language in this bill is consistent with the authorization granted to other agencies that currently use design-build for their projects. Additionally, this Program would not replace the existing procedure for designing and constructing DEP infrastructure projects where time is not a critical factor. It gives the DEP an additional procedure for approving projects.

The federal government has disbursed millions of dollars to West Virginia for infrastructure-related projects. One condition attached to these funds is that they must be used within strict timelines established by the federal government. Timelines in current state law make it very difficult for the DEP to complete projects within federal timelines and, consequently, could result in losing federal funds disbursed to the DEP for infrastructure projects. This Program would ensure that West Virginia would not lose the funds.

The bill directs the DEP to promulgate a procedural rule setting forth minimum requirements to implement the Design-Build Program. It includes:

- An application process;
- Criteria for selecting the most qualified design-builder;
- A procedure for preparation and content of invitations for proposals;
- A process for preparing and submitting proposals;
- A negotiation process between the DEP and those submitting proposals;
- A procedure for awarding design-build contracts;
- A process responding to formal protests relating to solicitation or award; and
- Requirement that solicitation and award of contract must conform to procedural rule.

The bill also establishes a process setting forth minimum requirements for the DEP to solicit bids from prequalified design-builders and to award a contract. It includes:

- A procedure for submitting and awarding bids;
- General terms and conditions for the design-build contract;
- A description of drawings, specifications, or other information to be submitted with the bid;
- A proposed schedule for starting and completing a contract;
- Budget limits, if any;
- Requirements or restrictions governing subletting parts of a contract, if any; and
- Requirements for performance and payment bonds, liability insurance, and workers' compensation coverage.

After receiving bids, the DEP would have the option to either award a design-build contract to the lowest qualified bidder or reject all bids and repeat the solicitation process.

The bill provides that only contracts awarded directly by the Department of Environmental Protection may utilize the design-build delivery method authorized pursuant to the provisions of this article, and design-build delivery projects awarded pursuant to the provisions of this bill may not exceed a total aggregate value of $50 million.

The DEP would also be required to submit an annual report to the Joint Committee on Government and Finance beginning January 2024 evaluating the effectiveness of the pilot program, which would sunset after December 31, 2025.

CODE REFERENCE: West Virginia Code §22-34-1 through §22-34-4 – new

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: March 7, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 455

Modifying certain used car restrictions

The bill modifies one section in code that covers definitions in chapter 17A, entitled "Motor Vehicle Administration, Registration, Certificate of Title, and Antitheft Provisions," in article 6, entitled "Licensing of Dealers and Wreckers or Dismantlers; Special Plates; Temporary Plates or Markers." The bill modifies the definition of "established place of business" (19) in the case of a used motor vehicle dealer. Through the modification of the definition, the bill removes the requirement that used motor vehicle dealers exclusively sell used motor vehicles.

The bill also removes requirements related to minimum display areas for vehicles, minimum office space size and telephone requirements, and minimum opening hours. The bill also modifies the definition of "used motor vehicle dealer" to provide that it includes persons selling 10 (not five) or more used motor vehicles, who project to sell 10 or more used motor vehicles, in any fiscal year.

CODE REFERENCE: West Virginia Code §17A-6-1– amended

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: June 4, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 463

Increasing validity of CDL instruction permit

This Division of Motor Vehicle (DMV) agency bill modifies one section in code concerning commercial driver's license permits to allow commercial instruction permits to be issued for a period up to one year (instead of the current six months).

The bill also allows more 18-year-olds to obtain a CDL instruction permit, by dispensing with the requirement that they held a Class E or Class D license for at least one year before receiving a commercial driver's instruction permit.

CODE REFERENCE: West Virginia Code §17-E-1 through §17-E-9 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

Senate Bill 468

Continuing Cabwaylingo State Forest Trail System

The introduced version of the bill amended §20-3-3a to eliminate the pilot program status and continue the Cabwaylingo State Forest Trail system.

The Senate committee substitute amended the title, expanded the types of vehicles which may be permitted on roads and trails in Cabwaylingo State Forest to include the use of utility-terrain vehicles (UTVs), and permitted the Director of the Department of Natural Resources to authorize the development and use of certain connector trails from existing private systems, specifically the Hatfield-McCoy system, to further provide access to state park and state forest recreational facilities.

The House Floor Amendment (Nestor), which was concurred in by the Senate, prohibited DNR from establishing any additional ATV, ORV, or UTV trail systems within state parks and state forests besides the Hatfield-McCoy systems.

CODE REFERENCE: West Virginia Code §20-3-3a – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 527

Allowing family members of military personnel access to discharge records

This bill expands the list of persons who may access military records on file with the county clerks to include the member's spouse, child, grandchild, parent, or sibling. The bill further authorizes the public disclosure of such records 62 years after the retirement, discharge, or death in service of the member.

CODE REFERENCE: West Virginia Code §7-1-3ll – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 533

Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations

The bill allows recycling cooperatives to own more than one vehicle to collect and transport recyclable material in the same area the recycling cooperative is located and provides a motor carrier with the ability to receive a certificate of need.

CODE REFERENCE: West Virginia Code §19-4-1 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 594

Specifying fairness in cost sharing calculations for certain high deductible health plans

This bill modifies sections in the insurance code, in articles on individual and group accident and sickness insurance; hospital medical and dental corporations; health care corporations, and health maintenance organizations, in sections on cost-sharing that were enacted in 2019 through HB 2770. Those sections currently require insurers and pharmacy benefits managers to include any cost sharing amounts paid by the insured, or on behalf of the insured by another person, when calculating an insured's contribution to a deductible. In simple terms, those sections require that savings are passed along to the insured.

The bill adds a provision to these sections that states that if application of these savings provisions would result in Health Savings Account (HSA) ineligibility under Section 223 of the Internal Revenue Code, then these savings provisions apply only for HSA-qualified High Deductible Health Plans with respect to the deductible of such a plan after the enrollee has satisfied the federal minimum deductible. The savings provisions would still apply to items or services that are preventive care pursuant to Section 223(c)(2)(C) of the Internal Revenue Code (items or services that would not cause HSA ineligibility).

The purpose of this bill is to ensure that West Virginians can pair high deductible health plans with Health Savings Accounts. HSA-qualified plans must follow specific federal rules regarding application of deductibles and other cost-sharing. The new provisions in the bill apply only to insureds with an HSA, to the extent the savings provisions in existing law violate HSA eligibility rules. The new provisions in this bill are meant to prevent HSA owners in West Virginia from inadvertently becoming ineligible for their HSA and be forced to withdraw contributions already made to their HSA and re-file both federal and state tax returns.

CODE REFERENCE: West Virginia Code §33-15-4t, §33-16-3ee, §33-24-7t, §33-25-8q, and §33-25A-8t – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: March 3, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 597

Allowing Workforce WV to hire classified service exempt employees

The bill increases the number of non-classified-service employees that the Commissioner of Workforce West Virginia is authorized to hire, raising the limit to 200 employees.

CODE REFERENCE: West Virginia Code §21A-2-6 – amended

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 609

Obtaining approval for decommissioning or deconstructing of existing power plant

This bill creates new law to provide that no existing coal, oil, or natural gas fueled power plant may be decommissioned without prior approval of the Public Energy Authority, but such approval may not be unreasonably withheld.

Under the bill, the authority may approve the decommissioning or deconstructing of an existing power plant upon the submission of a petition containing:

- An analysis by an approved third party that evaluates the social, environmental, and economic impact at a local and statewide level of such decommissioning and deconstruction; and
- Potential alternatives to the decommissioning and deconstruction, including the reconstruction making use of other technologies, including novel technologies and green technologies as alternative fuel sources.

The authority shall propose rules for legislative approval and promulgate emergency rules including an exemption for power plants that have been non-producing for at least five years prior to the effective date.

CODE REFERENCE: West Virginia Code §5D-1-5c – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: March 6, 2023

ACTION BY GOVERNOR: Signed March 7, 2023

Senate Bill 661

Clarifying preferential recall rights for employees sustaining compensable injury

The purpose of Senate Bill 661 is to modify the preferential-recall rights of an employee who is off work due to a compensable injury. The bill provides that an employee's demand for reinstatement must be made in writing and transmitted to the employer's principal office. This change is applicable to all employers.

The bill makes additional changes that only apply to contractors that employ individuals to perform construction work. Employees of such contractors must exercise their right to preferential recall within 120 days from the date the employee is released by a duly licensed physician to return to his or her regular employment. The bill further provides that it is the employee's obligation to continually seek employment during that preferential-recall period and that the right terminates once the employee has been offered his or her former position or a comparable position.

CODE REFERENCE: West Virginia Code §23-5A-3 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Senate Bill 674

Providing statutory recognition and appointment of board members for WV First Foundation

This bill statutorily recognizes the memorandum of understanding known as the West Virginia First Memorandum of Understanding filed in the Circuit Court of Kanawha County. The bill provides legislative findings and definitions.

The bill statutorily recognizes the creation of the West Virginia First Foundation created by the MOU as a non-profit entity responsible for receiving and distributing opioid settlement funds. The bill authorizes the Governor to appoint 5 members of the Foundation Board, with advice and consent of the Senate.

The bill authorizes the 6 regions established in the state to appoint the remaining members of the Foundation Board. The bill provides for staggered 3-year terms of the Board members and allows for reappointment. The bill provides for the fiduciary responsibility of Board members. The bill sets forth qualifications of Board members to include expertise in substance use treatment, mental health, law-enforcement, pharmacology, finance, and health care policy and management.

The bill authorizes the Attorney General to appoint an executive director of the Board but authorizes the Board to reject any such appointee. The bill sets forth requirements for the experience of an executive director as at least 6 years of experience in health care, finance, and management and authorizes removal of the executive director upon a three-fourths vote of the Board.

The bill requires audits of the Board by the Attorney General and annual financial reports by local governments to the Foundation specifying the amounts spent on approved purposes in the regions.

CODE REFERENCE: West Virginia Code §5-30-1 through §5-30-5 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: March 10, 2023

ACTION BY GOVERNOR: Signed March 22, 2023

Senate Bill 740

Compensation and expense reimbursement for members of Legislature

The bill changes compensation and expense reimbursements for members of the Legislature as follows:

§4-2A-2 is amended to change the basic compensation currently paid to legislators. Current law providing basis compensation of $20,000 annually is replaced with basic compensation that is "the amount equal to 75% of the per capita income in West Virginia as reported by the US Census Bureau on June 30 of the prior year, rounded down to the nearest $1,000," effective beginning in calendar year 2025 and each calendar year after that.

§4-2A-3 is amended to change from $150 to $200 per day additional compensation for each member of the Legislature "for each day of attendance in person upon any business of the Senate or House of Delegates, as the case may be, on each day upon which the Senate or House of Delegates is actually called to order during each extension of regular session or during extraordinary session of the Legislature." This increase in additional compensation during extensions of regular sessions and extraordinary sessions is effective June 9, 2023.

§4-2A-4 is amended to change from $150 to $200 per day additional compensation for each presiding officer for attending to legislative business when the Legislature is not in regular session and the officer is not receiving additional compensation for being in regular, extended or extraordinary sessions or for interims.

The section is also amended to increase from $150 to $200 per day additional compensation for the Judiciary and Finance chairs and up to six additional persons from each house, to be named by the presiding officer, up to a maximum of 30 days per year, for attending to legislative business when the Legislature is not in regular session and these persons are not receiving additional compensation for being in regular, extended or extraordinary sessions or for interims.

These increases in additional compensation during extensions of regular sessions and extraordinary sessions are effective June 9, 2023.

Language is also added to the section that the $50 compensation paid to the majority and minority leaders of the two houses of the Legislature for each day actually served during any regular, extension of regular or during extraordinary session is in addition to basic compensation and additional compensation for extended and extraordinary sessions.

§4-2A-5 is amended to change from $150 to $200 per day additional interim compensation for each day actually engaged in the performance of interim duties, and increases the maximum annual amount of compensation paid to a member "on a committee or commission" under this section from $4,500 to $6,000. The amendments remove the requirement that the legislator be performing his or interim duties "as a member of any interim committee."

The section is also amended to change from $150 to $200 per day additional interim compensation for each day actually engaged in the performance of legislative duties at a meeting of any legislative committee which meets between regular sessions of the Legislature and outside of regular interim meetings. The amendments remove the requirement that the legislator be performing his or legislative duties as a member of any "statutorily created" legislative committee.

These increases in additional compensation for performance of duties at interims and other times between regular sessions are effective June 9, 2023.

§4-2A-6 is amended to allow the presiding officers to be reimbursed for expenses incurred incident to travel that is related to their duties as presiding officers, but which takes place when the Legislature is not in regular session. The amendments remove language prohibiting this reimbursement of presiding officers for travel during extension of regular session or extraordinary session or when interim committees are meeting. These provisions are effective June 9, 2023.

§4-2A-7 is amended to change from $131 to $175 per day the per diem allowance for members who do not commute daily, and $55 to $75 the per diem allowance for those who do commute daily. The amendments remove language prohibiting the presiding officers, the Judiciary and Finance chairs and up to six additional persons from each house, to be designated by the presiding officer, from receiving mileage reimbursement and the per diem allowance for travel and "in connection with business which is related to their duties" during extension of regular session or extraordinary session or when interim committees are meeting. These provisions are effective June 9, 2023.

Note: The bill's changes to legislative compensation and expenses were enacted following the January 23, 2023, resolution setting forth recommendations of the Citizens Legislative Compensation Commission made pursuant to Article VI, §33 of the West Virginia Constitution.

CODE REFERENCE: West Virginia Code §4-2A-2, §4-2A-3, §4-2A-4, §4-2A-5, §4-2A-6, and §4-2A-7 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2062

Establish rules and regulations for e-bikes in West Virginia that more closely comport to federal law

This bill amends §17C-1-70 relating to definitions of the three (3) classes of e-bikes that currently exist on the market.

"Class 1" electric bicycle is defined as a bicycle that has a motor that only provides assistance when the rider is pedaling. The motor ceases to assist once 20 mph is reached.

"Class 2" electric bicycle is defined as a bicycle that has a throttle and a motor that can exclusively propel the e-bike and will provide no further assistance once the e-bike reaches 20 mph.

"Class 3" electric bicycle is defined as a bicycle that has a motor that provides assistance only when the rider is pedaling and ceases to provide that assistance once the e-bike reaches 28 mph.

The bill provides a definition for "throttle" and means a device that controls the flow of power to the electronic motor that propels the e-bike.

The bill also amends §17C-11-8 relating to e-bikes and the operation of bicycles and play vehicles within the state.

§17C-11-8(g) amends the code to provide that Class 2 electric bicycles are permitted to use a throttle to propel the bicycle.

The new §17C-11-8(h) is amended to allow e-bikes to operate generally on public roadways, public paths, and public rights-of-way. The bill then provides for updated restrictions relating to these uses.

Specifically, the bill allows Class 1 and Class 2 electric bicycles to be used on all roads and trails where traditional, non-motorized bikes are permitted to be used with all the same rights and duties for traditional bikes imposed upon e-bikes. The bill specifically states that it does not give any special access to e-bikes beyond that which exists for traditional bikes and this provision applies to all three classes of e-bike.

The new §17C-11-8(i) strikes the current law that states that persons under age 15 may only be a passenger on a Class 3 e-bike, including any attachments to the e-bike and that a person under the age of 16 may not operate a Class 3 e-bike.

Lastly, the new §17C-11-8(j) is amended by the bill to provide that a person may not operate any of the three classes of e-bikes while under the influence of alcohol or controlled substances.

CODE REFERENCE: West Virginia Code §17C-1-70 and §17C-11-8 – amended

DATE OF PASSAGE: February 27, 2023

EFFECTIVE DATE: May 28, 2023

ACTION BY GOVERNOR: Signed March 8, 2023

House Bill 2218

Distracted Driving Act

This bill creates the Electronically Distracted Driving Act ("Act"), also known as the Robin W. Ames Memorial Act, which updates existing legislation prohibiting the use of electronic communications devices without handheld features while driving.

The bill requires drivers to exercise due care in operating a motor vehicle on the highways and prohibits actions that distract such driver from the safe operation of the vehicle. The bill prohibits drivers, while operating a motor vehicle on a highway, from holding a stand-alone electronic device or wireless telecommunications device; writing, sending, or reading any text-based communication; making any communication involving a wireless telecommunications device, such as by telephone call, except if using a voice operated or hands-free communication feature or function; retrieving any form of electronic data or entering any data on a wireless telecommunications device or stand-alone electronic device; watching a video or movie, but not including a navigation device; broadcasting video, except for devices like dashboard cameras; or gaming on a device.

The bill specifically prohibits school bus drivers from using a wireless telecommunications device or two-way radio while loading or unloading passengers and further prohibits the use of a wireless telecommunications devise while the bus is in motion or stationary unless communicating with school officials/safety officials like a two-way radio.

The bill also prohibits commercial motor vehicle drivers reaching for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to no longer be in a seated driving position or no longer be properly restrained by a safety belt.

Under existing law, violations of the statute are punishable under W. Va. Code §17C-14-15. The bill retains these punishments but also imposes to a $100 fine for a first conviction within 24 months; up to a $200 fine for a second conviction within 24 months; and up to a $350 fine for a third or subsequent conviction within 24 months. The bill also provides that for a third or subsequent conviction within 24 months, three points are added to the driver's record maintained by the Division of Motor Vehicles (DMV) (in existing code); and adds that the driver's license may be suspended for 90 days.

The bill further provides that any driver who causes physical harm to property as the proximate result of committing a violation of this section is guilty of a misdemeanor punishable up to 30 days in jail or a fine of $100 to $500.

Any driver who causes serious physical harm to another person as the proximate result of committing a violation of this section is guilty of a misdemeanor and, upon conviction, subject to a fine of $500 to $1,000 and/or confinement in jail up to 120 days. The driver would also have his or her license to operate a motor vehicle revoked by the DMV for a period of one year. Finally, a driver who causes the death of another as the proximate result of committing a violation of this section is guilty of negligent homicide, as defined by W. Va. Code §17C-5-1.

The Act incorporates existing provisions in the statute requiring the Department of Transportation to erect signage about texting while driving; making clear that the Act does not authorize a law-enforcement agency to seize cells phones or electronic devices; and prohibiting certain provisions in personal liability insurance policies regarding recovery for injuries proximately caused by violations of the Act.

The bill provides that the Act does not apply to drivers reporting to authorities any accident, emergency, criminal or delinquent act, or hazard; an employee or contractor of a utility services provider

acting within the scope of his or her employment while responding to a utility emergency; a driver operating a commercial vehicle while using a mobile data terminal that transmits and receives data; a law-enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or drivers while in a motor vehicle that is lawfully parked.

CODE REFERENCE: West Virginia Code §17C-14-15 – amended

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed April 29, 2023

House Bill 2309

Requiring the Division of Forestry to create an online renewal process no later than October 1, 2023

The bill provides for landowners who participate in the Managed Timberland Program to renew online. If none of the information has changed they can check a box which will submit the form. If information has changed there is space on the online form to complete changes. Submitting the form online completes the renewal application and does not affect the costs associated with the initial application. The bill provides that the Division of Forestry create an online renewal process no later than October 1, 2023.

CODE REFERENCE: West Virginia Code §11-1C-11 – amended

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2310

Provide the Division of Motor Vehicles authority to develop an "Antique Fleet" program so that multiple antique motor vehicles may utilize a single registration plate

The bill amends a section in code that covers vehicle registration, §17A-10-3a. It allows an owner of five or more antique motor vehicles to use a single registration plate on multiple antique motor vehicles. It requires the owner to register every antique vehicle on which the plate will be displayed. The annual registration fee for an antique fleet plate is $2 a year per registered antique motor vehicle. The antique fleet plate may be used on a newly acquired antique motor vehicle prior to titling if the owner completes an application for a 30-day temporary digital registration card in the format established by the commissioner and displays such card upon request when operating the vehicle prior to titling and regular registration. The fee for a 30-day temporary digital registration card is $10, and the commissioner is authorized to charge a convenience fee for electronic submission of the application.

The bill also amends §17A-10-3a to remove any weight restriction on antique motor vehicles. The bill removes the restriction that antique motor vehicles be used for recreational purposes only over weekends, beginning on Friday at 12:00 p.m., and ending on the following Monday at 12:00 p.m., and on holidays. As such, it allows antique motor vehicles to be driven for recreational purposes at any time.

The bill includes provisions of SB254, which change the annual safety inspection requirement for vehicles and motorcycles from an annual inspection to an inspection every two years. The amendment adjusts the inspection sticker fee from $3 to $6 to reflect the doubling of the validity time of the sticker. It also increases the maximum fee that an inspection station may charge for a safety inspection from $14 to $19, which represents an inflation adjustment. This new language concerning inspections has an internal effective date of January 1, 2024.

The bill enacts a new section, §17A-3-2a, and provides an exemption from registration for nonresident vehicles, to go along with the Title Clearinghouse legislation (HB2506) that the Legislature passed earlier in 2023. The section includes a definition for "nonresident vehicle," which means a vehicle titled in this state under the provisions of §17A-4-11 [Title Clearinghouse], which is not intended to spend a majority of service time on West Virginia roads, owned by a business whose principal place of business is not in this state, that is not a common carrier, and that maintains a local, national, or international fleet of vehicles. Nonresident vehicles are exempt from registration requirements, but the bill allows for optional registration upon the payment of all applicable fees. The bill clarifies that because these vehicle are not domiciled in any part of the state, this section does not subject owners to WV personal property taxes, and it does not subject nonresident vehicles to the vehicle inspection requirement. The section allows for the DMV to promulgate emergency rules and propose rules for legislative approval to accomplish the provisions of this new section.

CODE REFERENCE: West Virginia Code §17A-10-3a, §17A-3-2, §17A-6-10d, §17A-10-3A, §17C-16-4, §17C-16-5, and §17C-16-6 – amended; §17A-3-2a – new

DATE OF PASSAGE: March 3, 2023

EFFECTIVE DATE: June 1, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2530

Relating to the extension of the expiration of temporary registration plates from sixty days to ninety days

This Division of Motor Vehicles agency bill extends the expiration of temporary registration plates from 60 days to 90 days.

CODE REFERENCE: West Virginia Code §17A-6-15, §17A-6B-10, and §17A-6C-11 – amended

DATE OF PASSAGE: February 6, 2023

EFFECTIVE DATE: May 7, 2023

ACTION BY GOVERNOR: Signed February 15, 2023

House Bill 2533

Relating to a permanent windshield placard to be valid for the duration of the applicant's life

This is a DMV agency bill that modifies traffic code related to windshield placards issued to persons with mobility impairment. The bill provides that permanent removable windshield placards, which are issued to applicants with a disability that is expected to last during the duration of the applicant's life, are valid for the duration of the applicant's life. Under current law, such permanent placards are not valid for longer than five years.

CODE REFERENCE: West Virginia Code §17C-13-6 – amended

DATE OF PASSAGE: February 6, 2023

EFFECTIVE DATE: May 7, 2023

ACTION BY GOVERNOR: Signed February 15, 2023

House Bill 2540

Travel Insurance Model Act

This bill repeals West Virginia's existing law governing travel insurance, an earlier version of a model act, and replaces it with an updated version that is a synthesis of the virtually identical model acts produced by the National Conference of Insurance Legislators (NCOIL) and the National Association of Insurance Commissioners (NAIC).

The new model act defines terms, creates a licensing regime, imposes a $200 licensing fee (the same fee imposed under the now-repealed, earlier version of the model act), establishes a tax on travel insurance premiums, creates forms and specifies rates, allows for comprehensive travel protection plans (which combine travel insurance, travel assistance service, and cancellation fee waivers) to be sold for a single price if certain disclosures and other conditions are met, makes agents or entities offering travel insurance subject to West Virginia's Unfair Trade Practices Act, specifically deems certain activities, such as selling "illusory" travel insurance, to be an unfair trade practice, requires cancellation with a full refund be available for 10 days after purchase, permits travel insurance to be offered to individuals, groups, or via blanket policies, authorizes the Insurance Commissioner to enforce these new sections, and grants the Insurance Commissioner rulemaking authority.

CODE REFERENCE: West Virginia Code §33-12-32b – repealed; §33-62-1 through §33-62-12 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2569

Establishing the Motorsport Responsibility Act

This bill provides clear protections for motorsports operators and participants who are not in violation of the provisions or duties of the Motorsport Responsibility Act. The bill is analogous to portions of the West Virginia Code for similar industries such as the Skiing Responsibility Act – §20-3A-5, the Whitewater Responsibility Act (§20-3B-2), the Equestrian Activities Responsibility Act (§20-4-1), and the ATV Responsibility Act (§20-15-1).

The bill identifies the purpose of the act and legislative findings, recognizing that motorsports services contribute significantly to the West Virginia economy but pose inherent risks for participants. The bill defines terms, and areas of responsibility, liabilities, and duties of motorsports and for participants.

It also sets forth the duties of operators of motorsports events, and the duties of persons participating in those events; further addressing the liability of motorsports operators and holding that a motorsport operator is liable for injury, loss, or damage if the operator fails to follow the duties set forth in this article and where the violation of duty proximately caused the injury, loss, or damage suffered. The operator is not liable for any injury, loss, or damage caused by the negligence of any person who is not an agent or employee of the motorsport operator, or any injury, loss, or damage caused by a participant's violation of any duty described in this article.

The bill also establishes that a participant is liable for injury, loss, or damage resulting from violations of the duties established in this article if those violations proximately caused the injury, loss, or damage suffered. It also makes clear in the participants' liability provision that motorsports is typically a "no-fault" activity when it comes to incidents between participants and a participant is liable for negligent and/or intentional violations of the duties in this article.

And finally, it provides that the Department of Economic Development shall promulgate rules setting forth (a) safety requirements for equipment; (b) safety requirements for the design of racing surfaces; (c) safety requirements for the provision of run-off areas; (d) requirements for fire and emergency services; and (e) requirements for signage.

CODE REFERENCE: West Virginia Code §20-19-1 through §20-19-8 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 27, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 2611

To remove certain territorial limitations on a banking institution's ability to offer messenger services or mobile banking facilities

This agency bill from the Division of Financial Institutions repeals the requirement that all mobile facilities and messenger services by financial institutions be confined to the territorial boundaries of the county in which an office of such financial institution is located or within 30 (for mobile facilities) or 50 miles (for messenger services) of an office of such financial institution. Mobile facilities are facilities that provide banking services, such as accepting deposits or issuing cashier's checks. Messenger services include courier or delivery services for deposit or armored car services. The bill retains the existing prohibition that no mobile facility may be operated within 2,000 feet [approx. 0.38 miles] of another bank's main office or branch office. The bill was sent to the Governor on 3/7/2023. The bill is effective 90 days from passage.

CODE REFERENCE: West Virginia Code §5-10-22m, §5-10-22n, §18-7A-26x, and §18-7A-26y – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 13, 2023

House Bill 2814

To create a Hydrogen power task force

This bill creates a Hydrogen Power Task Force. The task force will study the potential for hydrogen energy in the state's economy and report to the Legislature and Executive.

The study will include: 1) A review of legislation and rules including state tax incentives and funding; 2) An examination of incentives in federal law; 3) An examination of the sources of hydrogen; and 4) recommendations for workforce development; infrastructure; and uses of hydrogen fuel.

The task force will consist of the 9 members including 4 from private organizations, the Chairperson of the Public Service Commission, three Cabinet Secretaries, and one representative from higher education.

The task force is to report its findings and recommendations not later than the sunset date of July 1, 2024.

CODE REFERENCE: West Virginia Code §24-2I-1 and §24-2I-2 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2817

Relating to Public Service Commission jurisdiction over alternative fuel for motor vehicles

This state removed jurisdiction of the PSC over the retail sale of alternative fuel for alternative fuel vehicles in the year 1991. This was done to encourage research and development for natural gas, methanol, and electric vehicles.

This bill clarifies and expands the definition of "alternative fuel" and "alternative fuel vehicles." Alternative fuel will mean natural gas, methanol, propane, and electricity. Alternative fuel vehicles will be vehicles using these four sources of energy.

The bill also expressly removes PSC jurisdiction over entities generating electricity for retail sale at temporary charging locations with movable generators under three circumstances:

- At fairs, festivals, and special events;
- At locations where the electric grid has been adversely affected by emergencies or disasters; and
- At locations which facilitate evacuations from emergencies and disasters.

CODE REFERENCE: West Virginia Code §24-2D-2 and §24-2D-3 – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2870

Correcting a reference relating to siting certificates for certain electric generating facilities

This bill was suggested by the Public Service Commission. Prior statutory changes renumbered code subsections leading to incorrect cross references. This bill strikes an obsolete phrase and fixes the incorrect cross references.

CODE REFERENCE: West Virginia Code §24-2-11c – amended

DATE OF PASSAGE: March 7, 2023

EFFECTIVE DATE: June 5, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 2955

Relating to the establishment and operation of regional water, wastewater and stormwater authorities

The bill amends various sections and adds a new section in Chapter 16 on public health, Article 13D, the Regional Water and Wastewater Authority Act. Article 13D currently enables municipalities, public service districts (PSDs), and others to cooperate with one another to establish various quasi-governmental public corporations, such as a regional water authority, a regional wastewater authority, or a regional water and wastewater authority. The code currently does not enable such collaboration with regard to the management of stormwater.

This bill enables municipalities and PSDs to collaborate and establish a regional stormwater authority. A regional stormwater authority may operate in combination with water and wastewater authorities. The majority of changes to existing law involve the insertion of language ensuring that all provisions applying to regional water and wastewater also apply to stormwater, including as to revenue bonds, sinking funds, collection of revenues, and liens. The bill defines stormwater-related terms. It sets forth requirements for the organizational document of an authority, which must be submitted to the Public Service Commission (PSC) and filed with the county commission. It provides timetables for the PSC's review of documents, approval of contracts, and rate increases.

The bill sets forth some membership requirements for the governing body of an authority. It provides the authority with the right to acquire stormwater-related infrastructure. The bill also requires that the authority maintain a working capital reserve, which is in addition to any repair and replacement fund and any other funds, of no less than 1/8th of all expenses incurred by the authority on an annual basis. The bill provides that rates, fees, and charges are subject to review and approval by the PSC. However, the bill provides that the PSC has no jurisdiction to regulate the rates charged for storm, flood, and surface water drainage management services. The bill renames the article the "Regional Water and Wastewater, and Stormwater Authority Act".

The bill creates §16-13D-22, which states that authorities created pursuant to this article have the power of eminent domain. [Article 16D authorities already possess the power of eminent domain via §16-13D-8(5)]. New §22 clarifies that the power of eminent domain does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned, or operated by the West Virginia Division of Highways without the express agreement of the Commissioner of Highways.

CODE REFERENCE: West Virginia Code §16-13D-1 through §16-13D-6, §16-13D-8 through §16-13D-17, and §16-13D-21 – amended; §16-13D-22 – new

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 2967

Expediting License Applications for active military members and veterans, and their spouses

House Bill 2967 addresses the licensure of military-trained individuals and their spouses who have acquired academic, professional, and occupational training comparable to or exceeding that which is required in West Virginia.

The bill provides for faster licensure, certification, and/or registration for individuals with military experience upon their arrival or return to West Virginia, if the individuals satisfy certain conditions.

Those conditions are:

- An MOS in the occupation or trade for which licensure is sought;
- Completion of a military program of training in the MOS;
- Completion of testing or equivalent training and experience;
- Performance of the occupational specialty;
- Active practice of the occupation or trade for two of the five years preceding application in West Virginia; and
- Not having committed an act in another jurisdiction that would constitute grounds for discipline in West Virginia and not having any pending complaints in any other jurisdiction.

Similar requirements are set out for spouses of current military members.

The bill directs the board to issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the applicant or spouse is satisfying the requirements for licensure no later than 15 days following receipt of an application, if the jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of a board in West Virginia.

No fee for initial licensure may be charged a veteran or a spouse of a current member of the armed forces.

CODE REFERENCE: West Virginia Code §30-1B-5 and §30-1B-7 – repealed; §30-1B-1 through §30-1B-4 – amended

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3042

Relating to forbidding excessive government limitations on exercise of religion

The purpose of this bill is to establish the strict scrutiny legal test in court actions where a person believes his or her exercise of religion is or will be infringed upon by governmental action. Specifically, the bill authorizes injunctive action or declaratory relief when a person believes a government action substantially burdens his or her exercise of religion or is likely to do so.

A reviewing court's standard of review is strict scrutiny which means if the court finds that the government action does substantially burden the petitioner's exercise of his or her religion, before the governmental action may be approved, the court must find that the government action serves a compelling governmental purpose and as to the petitioner it is the least restrictive means of achieving the compelling state interest and does not treat the petitioner's religious conduct more restrictively than other reasonably comparable conduct as to risk and alleged economic need or benefit.

A successful petitioner is entitled to reimbursement of costs and reasonable attorney fees.

The bill states that the legislation does not create a cause of action by an employee against a non-governmental employer nor does it create a defense to an action for failure to provide medical treatment as required by the Emergency Medical Treatment and Active Labor Act (42 U.S.C. §1395dd).

The bill also expressly states that nothing in the new section may be construed to create a defense to protect actions to end the life of born or unborn persons in cases under:

- §16-2F-1 Parental Notification of Abortion Act
- §16-2I-1 Woman's Right to Know Act
- §16-2M-1 Pain Capable Unborn Child Protection Act
- §16-2O-1 Unborn Child Protection from Dismemberment Act
- §16-2P-1 Pain Capable Unborn Child Protection Act
- §16-2Q-1 Unborn Child With Disability Protection Act
- §16-2R-1 Unborn Child Protection Act
- §16-5-22 Abortion Reporting Requirements
- §30-1-26 Telehealth Abortifacient Prohibition
- §33-42-8 Partial Birth Abortion Prohibition
- §61-62-8 Abortion Criminal Prohibition

In substance and form this bill mirrors the South Dakota RFRA law which went into effect in 2021 and no successful challenges to it have been found.

CODE REFERENCE: West Virginia Code §35-1A-1 – new

DATE OF PASSAGE: February 28, 2023

EFFECTIVE DATE: May 29, 2023

ACTION BY GOVERNOR: Signed March 9, 2023

House Bill 3122

Permitting certain types of rifles using an encapsulated propellant charge that loads from the breech

This bill amends a section of Code to provide that any person lawfully entitled to hunt with a rifle may use an encapsulated propellant charge that loads from the breech, with the projectile loaded from the muzzle, during any muzzleloader season except during the Mountaineer Heritage season.

CODE REFERENCE: West Virginia Code §20-2-5l – new

DATE OF PASSAGE: February 23, 2023

EFFECTIVE DATE: May 24, 2023

ACTION BY GOVERNOR: Signed March 4, 2023

House Bill 3147

To create the Upper Ohio Valley Trail Network

This bill authorizes the Mountaineer Trail Network Recreation Authority to work with adjacent neighboring states and counties to facilitate the implementation of trail oriented recreation facilities. The Authority may also set goals of connecting to the Upper Ohio Valley Trail Network Recreation Authority, the Elk River Trail, the Chesapeake and Ohio Canal Tow Path and any other trails in adjacent neighboring states that can be feasibly connected.

This bill creates the Upper Ohio Valley Trail Network Recreation Authority consisting of representatives from all the counties in the northern panhandle and the Ohio River valley counties. The Authority may establish an Upper Ohio Valley Trail Network Recreation Authority Area within the jurisdiction of those counties. Monongalia County of the Mountaineer Trail Network Recreation Authority is to serve as an ex officio member for the purposes of establishing the trail network and coordinating the two networks.

Recreational purposes for the Area are specified but are not exclusive. The governing body is to be constituted and costs and expenses paid in accordance with W. Va. Code §20-17-1 et seq. Finally, owners of lands used by the Authority have the full benefit of limited liability in that article.

CODE REFERENCE: West Virginia Code §20-17A-1 and §20-17A-2 – amended; §20-17B-1 et seq. – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: June 9, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3214

To create the Road Optimization & Assessment Data (ROAD) Pilot Project

The bill creates a new section in chapter 17, on roads and highways, in Article 2A, on the Commissioner of Highways. It sets forth findings and purpose. The bill creates the Road Optimization and Assessment Data (ROAD) Pilot Program, which is to be implemented by the Commissioner of Highways.

The bill sets forth advanced methods of assessing the condition and maintenance needs of West Virginia roads, using Monongalia County and Preston County as test areas. Data capturing and processing must occur at least twice during the five-year pilot project. The data must compare the changes in road conditions, such as deterioration of roads from previous condition, average daily traffic, and heavy truck traffic if such information is available.

At the conclusion of year two, year four, and the termination of the pilot program, the Division of Highways has to report to the Joint Legislative Oversight Commission on Department of Transportation Accountability.

CODE REFERENCE: West Virginia Code §17-2A-25 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3233

Relating generally to uniform and equipment allowances for the National Guard

This bill would increase the officer uniform allowance and create a maternity and specialty uniform allowance. The officer uniform allowance is raised from the current set amount of $100 to between $100 but not to exceed $750 as determined at the discretion of the Adjutant General.

A new subsection (b) is added to allow service members requiring a maternity or other specialty uniform to request a sum or reimbursement for same, not to exceed the same amount provided in subsection (a) and in an amount also at the discretion of the Adjutant General. Maternity uniform allowances may be requested once in a 36-month period.

CODE REFERENCE: West Virginia Code §15-18-11 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3272

Relating to the operation of private trust companies in West Virginia

The bill creates a new chapter in code with a new article, the Private Trust Company Act. It declares findings and purposes. It finds that a private trust company would not have to be licensed, in which case the oversight role by the State Auditor's would be limited to ensuring that fiduciary services are restricted to family members and not to the general public. If a private trust company chooses to be licensed, the State Auditor would be responsible for regulating, supervising, and examining the company as provided in the new Act. The bill defines various terms in detail, including terms for investments and family relationships.

Private trust companies are limited to corporations or limited liability companies organized in WV. A minimum of $250,000 capital account balance would be required. Before engaging in business, private trust companies would have to provide the State Auditor with notice of certain information, including its designated relative, location of principal office, operating plan, and other information the State Auditor may require. Private trust companies would have to certify legal compliance, that they are formed for no other reason than to engage in the private trust business, that family members have subscribed for capital stock, surplus, and a reserve for operation in an amount equal to or in excess of $250,000 at all times, and that the private trust company or licensed private trust company is serving or will serve as trustee for one or more trusts having an aggregate of at least $50,000,000 in trust assets. All of the capital stock, membership interests, or other equity interests of a private trust company or licensed private trust company would have to remain owned by, and under the voting control of, family members (including any spouses, trusts, stock corporations, limited partnerships, limited liability companies, or estates qualifying as defined under the definition of "family member").

Applicants for a license to operate as a licensed private trust company would apply to the State Auditor. A nonrefundable $10,000 application fee would apply. The fee would have to be deposited into a special account in the State Treasury, which this bill creates, for the purpose of administering the Act. The bill also sets forth application content. The applicant would have to affirm certain statements under penalty of perjury, such as that the company is not currently transacting business with the general public and that none of the directors, officers, managers, or members has been convicted or pled guilty to a crime involving fraud.

The companies would have to operate in accordance with generally accepted fiduciary standards. The companies, when engaging in a private trust business, would have the same rights, powers, and privileges as a banking or trust institution (pursuant to §31A-4-14), including the power to act as executor under the last will and testament or administrator of the estate of any deceased family member. An office would have to be maintained in this state. Companies would have to be directed by a board of directors, if a corporation, or by managers of 5 to 25 persons if a limited liability company. At least one director or manager would be required to be a resident of this state.

The company would have a duty not to exercise any power in such a way as to deprive the estate, trust, or other entity for which it acts as a fiduciary of an otherwise available tax exemption, deduction, or credit for tax purposes or deprive a donor of trust assets of a tax exemption, deduction, or credit or operate to impose a tax upon a donor or other person as owner of any portion of the estate, trust, or otherwise. The bill also limits the authority to distribute income or principal of any trust in order to discharge a legal obligation of a family member or for a family member's pecuniary benefit.

Private trust companies would be prohibited from advertising their services to the public. Directors and managers of licensed companies would be required to procure and maintain fidelity bonds, as well as errors and omissions insurance coverage, on all active officers, directors, managers, members acting in a managerial capacity, and employees of the company, in order to indemnify the company against loss because of a dishonest, fraudulent, or criminal act or omission on their part, whether acting alone or in combination with other persons. In lieu of fidelity bonds, the licensed company could increase its capital account by $1 million.

As to the statutory rule against perpetuities, the bill amends current code to provide that any trust administered by a private trust company on or after July 1, 2023, any nonvested property interest or power of appointment contained in a trust is allowed to vest or terminate within 1,000 years (instead of 90 years) after its creation.

CODE REFERENCE: West Virginia Code §36-1A-1 – amended; §31I-1-1 et seq. – new

DATE OF PASSAGE: March 6, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 7, 2023

House Bill 3328

Authorizing the Hatfield-McCoy Regional Recreation Authority to contract to build and maintain trails on privately owned property

This bill creates a new §20-14-13 in the Code of West Virginia. This new section authorizes the Hatfield-McCoy Regional Recreation Authority to contract their trail building and trail maintenance capabilities for the construction and maintenance of trails on private property, with the consent of private property owner. The authorization allows the authority to build and/or maintain both motorized and/or non-motorized trails.

The impetus of the bill is to help facilitate development of private property adjacent to, or otherwise connectible with, the Hatfield-McCoy trail system for tourism purposes. By allowing the expertise of the Hatfield-McCoy Regional Recreation Authority to contract for provision of its trail construction and maintenance services it is intended that feeder and spur trails to and from recreational lodging will be achieved and also new development will be incentivized.

CODE REFERENCE: West Virginia Code §20-14-13 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2023

ACTION BY GOVERNOR: Signed March 23, 2023

House Bill 3398

Relating to the establishment of the West Virginia Memorial to Fallen Heroes of the Global War on Terrorism

This bill creates a new article in Chapter 10 of the code (Monuments and Memorials) for the purpose of constructing a monument to honor soldiers killed in the War on Terror.

It states legislative intent and purposes. It creates a commission to oversee the construction of the monument. The bill sets forth guidelines for the commission to follow in construction of the monument.

The commission is bound by state purchasing and payment laws when soliciting and accepting bids. There is a target date of December 31, 2024.

Funding comes from the Division of Labor in the amount of $750,000. The commission can also solicit grants, donations, etc.

There is direction that a memorial plaque be affixed which reads all the names of West Virginia servicemembers killed in the War on Terror and any other text the commission deems appropriate. The House version had specific language, but the Committee on Military's strike-and-insert leaves it to the discretion of the commission.

Once the project is complete, the commission will disband and ownership of the monument falls to the Department of Arts, Culture, and History, who also receives any remaining funds for maintenance.

CODE REFERENCE: West Virginia Code §10-3B-1 through §10-3B-6 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: March 9, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

House Bill 3473

Creating a workgroup relating to Dig Once Policy

The bill creates a taskforce to review and report to the Legislature on how best to create a clearinghouse that can make available information needed for the deployment of underground infrastructure in public rights-of-way in this state ("infrastructure deployment").

The taskforce will be led by the Commissioner of Highways, or his or her designee. Other members include representatives of the Division of Environmental Protection (DEP), the historic preservation section of the Department of Arts, Culture, and History, and any designees as may be selected by the Legislative Oversight Commission on Department of Transportation Accountability (DOTA). Miss Utility of West Virginia is also invited to send a representative.

The taskforce will report to the DOTA on issues such as regulatory hurdles affecting infrastructure deployment, the availability of information that may reduce regulatory hurdles, and recommendations on the creation of a clearinghouse. The clearinghouse would make information available that may be used to accelerate infrastructure deployment, such as on rights-of-way that are available and without environmental or historic value.

The taskforce reports to the DOTA, with written recommendations being due by the end of 2023. The bill includes a March 31, 2024, sunset date for the section.

CODE REFERENCE: West Virginia Code §17-2E-10 – new

DATE OF PASSAGE: March 11, 2023

EFFECTIVE DATE: July 1, 2023

ACTION BY GOVERNOR: Signed March 28, 2023

House Bill 3500

Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office

This bill creates one new section in Chapter 46A, the WV Consumer Credit and Protection Act, in Article 4, covering regulated consumer lenders. A regulated consumer lender is a West Virginia company licensed and authorized to make consumer loans in West Virginia from offices located in the state and may charge higher rates of interest based on a loan amount sliding scale found in West Virginia law. The companies and their lending activities are examined periodically by the Division of Financial Institutions for compliance with the enabling statute found at W. Va. Code §46A-4-101 et seq.

The new section allows the employees of a licensee to conduct the business of the regulated consumer lender licensee at any location other than the one designated by the licensee as the place of business. The bill also requires the licensee to ensure:

- No in-person customer interactions will be conducted at the other location;
- The licensee will not designate any other location as its business location;
- Safeguards for licensee and consumer data, information, and records;
- Risk-based monitoring and oversight processes of work performed at the other location;
- No consumer information and records are maintained at a location other than the principal place of business;
- Consumer and licensee information and records remain accessible and available for regulatory oversight and examinations; and
- Employees are trained to keep confidential all conversations about, and with, consumers.

The bill further includes certain consumer safeguards, to-wit:

- It allows employees to work at their residence, provided it is within 100 miles from the licensed location, and it clarifies that at-home activities would be considered, reported, and regulated as taking place at the location of the licensee. This language helps ensure ease of regulatory oversight and enforcement.
- It adds data security and privacy safeguards.
- It adds a requirement for risk-based monitoring and oversight processes of work performed by the employees of a licensee at the other location.
- It not only requires training, but that conversations involving consumers are kept confidential.
- It requires that the other location is a safe and secure workplace for employees.
- It requires the licensee to have written policies and procedures to ensure compliance with the requirements for remote work.
- It requires licensees to review and document compliance and certify such compliance annually to the commissioner.

CODE REFERENCE: West Virginia Code §46A-4-114 – new

DATE OF PASSAGE: March 10, 2023

EFFECTIVE DATE: June 8, 2023

ACTION BY GOVERNOR: Signed March 29, 2023

Resolutions

All Resolutions Adopted by the Legislature: 2023 Regular Session

- **SCR 1**: Adopting Joint Rules of Senate and House of Delegates
- **SCR 2**: Authorizing payment of expenses for 86th Legislature
- **SCR 3**: Dr. Roland P Sharp Memorial Road
- **SCR 4**: US Navy S1 Ira "Noon" Copley and Marie Copley Memorial Bridge
- **SCR 6**: US Army SGT Vincent DiBacco Memorial Bridge
- **SCR 7**: Amending Joint Rules of Senate and House of Delegates
- **SCR 8**: US Army PV 2 Harold Richard Plumley Memorial Bridge
- **SCR 10**: US Army Air Corps PVT Albert J Sutphin Memorial Highway
- **SCR 11**: US Army SGT Brian Christopher Karim Memorial Road
- **SCR 13**: Wyant Brothers WWII Veterans Memorial Road
- **SCR 14**: Supporting Medal of Valor nominees recommended by First Responders Honor BoarD
- **SCR 16**: US Army 1SG James Arnold Browning Memorial Bridge
- **SCR 17**: US Navy PO2 Phillip Joseph "PJ" Hainer Memorial Bridge
- **SCR 24**: Renaming Mount Olive Correctional Complex and Jail as Mike V. Coleman Maximum Security Complex
- **SR 1**: Adopting Rules of Senate
- **SR 2**: Authorizing mailing of bills and journals
- **SR 3**: Authorizing appointment of Senate employees
- **SR 4**: WV Academy of Nutrition and Dietetics
- **SR 5**: Honoring public service of Dr. Richard Lechliter for Mineral County Day
- **SR 6**: Congratulating Bob Huggins on his induction into Naismith Memorial Basketball Hall of Fame
- **SR 7**: Designating January 17, 2023, as Girl Scouts Day
- **SR 8**: Designating January 17, 2023, as Tucker County Day
- **SR 9**: Designating January 18, 2023, as Jan Lilly-Stewart Disability Advocacy Day
- **SR 10**: Recognizing WV Sheriffs at Legislature on January 20, 2023
- **SR 11**: Designating January 23, 2023, as WV Tourism Day at Legislature
- **SR 12**: Commemorating 77th Southern Legislative Conference of Council of State Governments Southern Office
- **SR 13**: Observing 90th Anniversary of Holodomor Ukrainian Genocide of 1932-1933
- **SR 14**: Designating January 25, 2023, as Aviation Day at Legislature
- **SR 15**: Designating January 26, 2023, as Hunger-Free WV Day at Legislature
- **SR 16**: Designating January 30, 2023, as Future Farmers of America Day at Legislature
- **SR 17**: Congratulating Kevin Gregory as WV Outstanding Tree Farmer of 2022
- **SR 18**: Designating January 31, 2023, as WVU Day at Legislature

- **SR 19**: Designating January 31, 2023, as WV Academy of Family Physicians' Day at Legislature
- **SR 20**: Recognizing Leadership Jefferson for its service, dedication, and commitment to Jefferson County
- **SR 21**: Designating February 1, 2023, as National Unclaimed Property Day at Legislature
- **SR 22**: Designating February 1, 2023, as Marshall University Day at Legislature
- **SR 23**: Designating February 3, 2023, as WV Homeschool Day at Legislature
- **SR 24**: Designating February 6, 2023, as Domestic Violence Awareness Day in WV
- **SR 25**: Designating February 7, 2023, as Sexual Assault Awareness Day at Legislature
- **SR 27**: Designating February 8, 2023, as Crime Victims Day at Legislature
- **SR 28**: Recognizing essential role court appointed special advocates provide to WV children
- **SR 29**: Strongly encouraging Monongahela Power Company to purchase Pleasants Power Station
- **SR 30**: Recognizing February 14, 2023, as National Donor Day at Legislature
- **SR 31**: Designating February 14, 2023, as Child Care Day at Legislature
- **SR 32**: Designating February 16, 2023, as WVSU Day at Legislature
- **SR 34**: Recognizing February 17, 2023, as Adventure Travel Day at Legislature
- **SR 35**: Recognizing Society of Honor Guard, Tomb of Unknown Soldier
- **SR 36**: Designating February 20, 2023, as Pancreatic Cancer Awareness Day at Legislature
- **SR 37**: Recognizing sister-state relationship between WV and Taiwan
- **SR 38**: Designating February 24, 2023, as Corrections Day at Legislature
- **SR 39**: Recognizing February 24, 2023, as WV Motorsports Day at Legislature
- **SR 40**: Designating February 27, 2023, as Human Resources Day at Legislature
- **SR 41**: Recognizing Leadership Berkeley for its services, dedication, and commitment to Berkeley County, WV
- **SR 42**: Recognizing contributions of AARP WV
- **SR 43**: Designating February 27, 2023, as Rare Disease Awareness Day at Legislature
- **SR 44**: Recognizing 151st anniversary of Glenville State University
- **SR 45**: Recognizing 50th anniversary of National Wild Turkey Federation
- **SR 46**: Designating March 7, 2023, as Deaf Awareness Day at Legislature
- **SR 47**: Recognizing March as American Red Cross month
- **SR 48**: Designating March 9, 2023, as Recovery Community Day
- **SR 49**: Memorializing life of John Edward Eckhart, Jr, husband, father, grandfather, Fiscal Officer for WV Senate and dedicated public servant
- **SR 50**: Urging WV congressional delegation support railroad safety improvement
- **HCR 1**: Raising a Joint Assembly to hear remarks of the Governor
- **HCR 2**: U. S. Army Cpl. Billy F. Mann Memorial Bridge
- **HCR 4**: U. S. Army MSG Jon D. Wayt Memorial Bridge

- **HCR 9**: U. S. Army PFC Walter C. Horner Memorial Bridge
- **HCR 10**: Shelby "Cubby" Foster and Robert "Robbie" Collins Memorial Road
- **HCR 11**: Relating to Higher Education Consortium for Emerging Energy Technologies
- **HCR 13**: Make 2nd week of February of every year a week of recognition of the Boy Scouts of America
- **HCR 15**: Requesting That the Joint Committee on Government and Finance send official correspondence to West Virginia's federal delegations stating West Virginia veterans' concerns and objections to the two TRICARE for Life ("TFL") proposals
- **HCR 21**: Michael Lee "Rube" Ruben Memorial Bridge
- **HCR 22**: U.S. Army T/5 Doyle Bedell Taylor Memorial Bridge
- **HCR 23**: U.S. Army SGT Theron Turner Memorial Bridge
- **HCR 24**: U. S. Army PFC Herman H. Lucas Memorial Bridge
- **HCR 25**: U. S. Marine Corps, PFC John Louis "Johnny" Brumbaugh, Jr. Memorial Bridge
- **HCR 26**: U.S. Army SGT Samuel D. Roberts Sr. Memorial Bridge
- **HCR 29**: Amending Joint Rule 13 of the Joint Rules of the Senate and House that clarifies that when two or more bills amending the same statute are passed in the same session, the last passed controls
- **HCR 33**: Lt. Col. Mitchell M. Mickel Memorial Bridge
- **HCR 34**: William N. "Shug" Kisner Memorial Bridge
- **HCR 40**: USMC Corporal Larry Allen "Crocky" Holstein, Jr. Memorial Bridge
- **HCR 42**: U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge
- **HCR 47**: U. S. Army SGT Walter Hedrick Memorial Bridge
- **HCR 49**: U. S. Army 1SG Elmer C. Lofton Memorial Bridge
- **HCR 51**: U. S. Army SFC Samuel Evans Miller Memorial Bridge
- **HCR 52**: Study the financial effects of raising the threshold from $25,000 to $50,000 for the requirement of bids for municipal, public service district, county and state public works project
- **HCR 54**: U.S. Army PFC Russell Richard Ferguson Memorial Bridge
- **HCR 58**: U. S. Army SSG Steven "Todd" Shay Memorial Bridge
- **HCR 61**: U.S. Army Sgt. John Edsel Edens Memorial Road
- **HCR 62**: U.S. Army PFC Clayton Collins Memorial Bridge
- **HCR 78**: Proclaiming the extension of a state of emergency in our correctional institutions
- **HCR 80**: To study pediatric cancer in Appalachia and to provide directive language asking for a report on this issue in the Appalachian region
- **HCR 82**: February to be designated annually as West Virginia Cancer Prevention Month
- **HR 1**: Adoption of the House Rules
- **HR 2**: Publication of the Acts of the Legislature, Journals of the House, Manual of the House and Senate, and payment of travel expenses
- **HR 3**: Authorizing the appointment of employees for this, the First Regular Session of the Eighty-sixth Legislature, 2023

- **HR 5**: To honor the life of Nicholas County Deputy Sheriff Thomas "Tom" Baker
- **HR 11**: Reaffirming the longstanding sisterhood partnership between West Virginia and Taiwan
- **HR 12**: Encouraging Monongahela Power to purchase Pleasants Power Station
- **HR 17**: Urging the West Virginia Geologic and Economic Survey to work with groups to evaluate policy options to encourage the capture and beneficial use of coal mine methane
- **HR 19**: Medal of Valor nominee Firefighter John Dean Forbush
- **HR 20**: Medal of Valor nomination of Deputy Thomas E. Baker, III
- **HR 21**: Medal of Valor nominee, WV State Police Trooper Eric Michael Workman
- **HR 22**: Medal of Valor nomination of WV State Police Corporal Marshall Lee Bailey
- **HR 23**: Medal of Valor nomination of retired Roane County Sheriff's Deputy John Westfall
- **HR 24**: Medal of Valor nominee, James W. Spencer of the Charleston Fire Department
- **HR 25**: Medal of Valor nomination of Patrolman Cassie Marie Johnson

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