

# Interim Highlights

## Agriculture & Agri-business

Providing an update on the status of Chronic Wasting Disease (CWD) in West Virginia, a representative of the Division of Natural Resources (DNR) reviewed the response plan that was initiated immediately after the first case was confirmed in Hampshire County in September 2005.

First, the DNR held public meetings in the area and continues to send current information to the public through the media and the DNR's Web site. The plan also included deer collection by collection teams and mostly through hunter-harvested deer. According to the speaker, between September 2005 and April 2006, 1,317 deer were tested. He said there currently have been nine confirmed cases and the disease appears to be confined to a relatively small geographic area.

The representative stated that the DNR has identified three management options: lowering deer population densities in the area; establishing reasonable and responsible deer carcass transport restrictions in the area; and, establishing regulations regarding the feeding and baiting of deer in this containment zone.

## Equal Pay Commission

Members of the Equal Pay Commission briefly met during the May interims to discuss the most recent pay equity adjustment authorized by the Legislature as requested by the Commission. According to committee staff, the Legislature approved \$250,000 in pay equity funding, and coupled with federal monies, a total allocation of \$675,000 was distributed among 1,968 state employees within 22 job classifications.

For 2006, the State Budget has another \$250,000 earmarked for pay equity adjustments, and the distribution of these funds will be the main focus and mission of the Commission during the 2006-07 Interim Session.

## Finance Subcommittee A

Members of the Subcommittee convened for an organizational meeting, during which staff counsel reviewed Senate Concurrent Resolution 77, which calls for lawmakers to

examine a possible vehicle privilege tax exemption for new residents.

Supporters of the exemption view the tax as an unwelcome fee for newcomers who have likely paid a similar tax in other states, while those against it question the impact it would have on the Department of Transportation's revenue. It was noted that the State Road Fund would lose approximately \$4.5 million with this exemption. As such, lawmakers will be working to determine alternative funding sources to offset potential losses as they consider the exemption.

The Subcommittee will likely hear from assessors representing border counties, as those areas are seeing more and more residents maintain licenses from border states to save money. The legislative panel also will be reviewing what other states have done in similar situations.

## Finance Subcommittee B

According to representatives from the Department of Revenue, beginning in 2009 West Virginia will see a budget deficit reaching more than \$85 million. This deficit is projected to continue to increase to more than \$300 million by Fiscal Year (FY) 2011.

With such high deficits looming, the representatives discussed several issues regarding West Virginia's tax structure. Many of the problems facing West Virginia's economy revolve around the state's low per capita economic output and limited property tax which greatly constrains the ability to fund government services, according to the representative. In addition, the demand for government services is higher than average in West Virginia due to demographics, economic conditions and tax structure. Also, the direct tax burden associated with various taxes imposed upon business activity is significantly above average in West Virginia while the direct tax burden on citizens through combined personal income tax, sales tax and property tax is below average, placing a major strain on businesses to remain in the state. And, finally, according to the representatives, the state's stretched finances contribute to unfunded liabilities, an uncompetitive tax structure and a weaker economy.

In terms of West Virginia's rank among other states in the nation with regard to tax capacity measures, it ranks 47th in per capita income, 50th in retail sales per household, 47th in average home price, 50th in employment as a percentage

of population and 50th in population under 18. According to the representatives, West Virginia has the highest median age (40 years old) of any state in the nation.

The general corporate tax, the public utility tax and other special taxes are higher in West Virginia than the average of all other states, making it more difficult for the state to encourage new businesses to relocate to the Mountain State. The representatives stated that West Virginia needs to modernize its economy and tax structure to lift some of the burden off of businesses or start rolling back and cutting government services to plan for the projected deficit.

### Finance Subcommittee C

With gasoline prices continuing to remain high and the public's reduction in gasoline usage, representatives from the West Virginia Division of Highways (DOH) told members of Finance Subcommittee B that revenues for state road projects could significantly drop, creating a problem for repairs and other construction costs.

The representatives stated that West Virginia's gasoline tax, which is 27 cents per gallon, produces more than \$300 million a year in funding. Projections offered by the DOH estimate a revenue reduction of nearly \$60 million by 2009. The representatives told committee members that as citizens purchase more fuel-efficient vehicles that produce high mileage per gallon of gas, their trips to the gas pump will be reduced yet the miles driven on West Virginia highways will remain the same. This creates a situation where the State Road Fund receives less revenue yet construction and maintenance of the state's highways remains at its current level.

Alternative funding options and policy issues were discussed by the representatives. Earlier this year an executive order froze a five-cent a gallon increase in the gasoline tax, which is automatically put into place when the wholesale price of oil reaches a certain level. The representatives stated that this freeze amounted to a loss in revenue of around \$55 million. Representatives noted that they would like to see this executive order expire and allow for the five-cent tax to be reinstated. In addition, the representatives would like to eliminate the DOH's transfer payments to the State Police, the Public Service Commission and Department of Environmental Protection, amounting to a total savings of more than \$13 million. Also, the representative added a cost savings could be found by reducing the amount of Department of Motor Vehicles regional offices.

### Forest Management Review Commission

A Representative of the Division of Forestry told members that his agency is finding it difficult to hire foresters to work in southern West Virginia. Glenville State and West Virginia University award only about 30 forestry degrees a year and private industry can't get enough workers to fill slots.

As a result, mills are getting as much as 40 percent of their wood from out-of-state, but also they attributed this to regulations and high taxes. Also, the representative stated that the state normally licenses some 1,500 loggers annually, but fell about 200 shy of that figure within the past year.

The representative stated that the timber industry traditionally loses workers to the coal and natural gas industries when they are on an upswing, because wages are much higher.

The Commission asked the representative to provide the panel with a breakdown on the impact of taxes, regulations and workers' compensation to guide the Commission in possibly drafting new legislation.

Also discussed was a recent court case in Raleigh County in which a jury returned a verdict in favor of plaintiffs who claimed extensive damage in the flooding, which their attorneys blamed on timber operations in southern counties.

A timber industry representative stated that unless reversed on appeal, the verdict could destroy timber, mining and farming in West Virginia. The representative stated it was his belief that the jury ignored the testimony of experts who found no evidence that logging contributes to flooding, but rather attributed it to too much rainfall coming down too rapidly.

### Government Organization Subcommittee C

Members of this Subcommittee are planned to move ahead in examining the grievance system and procedures for state employees. It was noted that this topic has been under review for nearly two years and the system has been found to be ineffective and costly. The primary charge of the Subcommittee will be to prepare legislation to address the existing problems.

A spokesperson of the Grievance Board told lawmakers that the Board is working on certain internal changes, but believes

that structural changes, which would require legislative action, are necessary. He said that draft legislation has been prepared for the Subcommittee to review. In an effort to address negative public perception, one provision of the draft bill would change the name of the Board to the West Virginia Employment Dispute Resolution Board.

A request was made for the Subcommittee to receive quantitative and cost information on Administrative Law Judges and on grievances that progress to circuit court.

### Joint Commission on Economic Development

Legislators met in May to recommend and discuss study topics for upcoming meetings. One suggestion was to review alternative fuel sources, particularly the possibility of building a coal liquefaction plant in West Virginia. Since this legislative panel's charge is to study the state's economy, members commented that they would like to become more involved in this process and determine what can be done to help jumpstart the initiative to produce fuel from coal in West Virginia.

Another recommendation was for the panel to evaluate the various projects of the Economic Development Grant Committee, which was established in 2002 to help revitalize the state's economy by bringing in new businesses and expanding existing ones. It was able to fund 48 projects, including Cabela's in Wheeling, that are now handled by the West Virginia Economic Development Authority.

There is unspent money, however, that is now in a fund awaiting appropriation by the Legislature. Throughout the meetings, lawmakers said they would like to receive updates on the status of completed projects, discuss those projects that didn't go through and determine what can be done with the leftover funds. It also was recommended that they receive monthly reports from the West Virginia Development Office on its successful economic development projects.

### Joint Standing Committee on Education

The Joint Education Committee met in May to lay out the focus for three subcommittees that will meet during the interim meetings. Public education, No Child Left Behind and the School Aid Formula will be the center of attention for the subcommittees, respectively, and they will be guided in their scope of investigations by several resolutions passed during the Regular Session.

In Education Subcommittee A, Senate Concurrent Resolution 6 requests a study regarding public school dress codes as well as school uniforms. Senate Concurrent Resolution 66 initiates a study on the employment process of public school athletic coaches. House Concurrent Resolution 70 requests a study on the need for and the appropriate methodology for providing salary improvements for counselors employed by the Division of Rehabilitation Services

In Education Subcommittee B, Senate Concurrent Resolution 75 requests a study regarding the costs and other issues associated with No Child Left Behind.

For Education Subcommittee C, the Subcommittee will continue its previous study of the School Aid Formula, which was initiated by Senate Concurrent Resolution 103 from the 2005 Regular Session.

### Joint Standing Committee on Government Organization

During the May interim meeting, the Committee met briefly and heard an overview by staff counsel of the resolution from which its studies work are drawn.

Senate Concurrent Resolution 71 requests a study be made regarding the need for background checks for professional licensees and determine whether uniform standards need to be developed.

Senate Concurrent Resolution 72 requests a study of the Sunrise and Sunset process in West Virginia. Senate Concurrent Resolution 76 requests a study on the titling and branding of vehicles that have sustained damage to an extent that the vehicles have significant costs in repairs or have sustained damages that result in significant reductions in value. Senate Concurrent Resolution 80 requests a study of the state all-terrain vehicle regulations, in light of another year of fatalities.

Finally, one subcommittee will examine the State Employees Grievance Procedure, an issue that was studied last year.

### Joint Standing Committee on the Judiciary

Existing rights of fathers regarding custody laws; appropriate advertising for the legal profession; agreements between ophthalmologists and optometrists and contact lens manufacturers; permissions and refusals to mine coal and drill

gas and oil wells; and, a revival of insurance coverage fund regarding underground storage tanks will be the initial studies assigned to the Judiciary interim committees.

House Concurrent Resolution 55 calls for a review of how the divorce and custody laws of West Virginia prevent or hinder fathers from being involved in raising their children. The study also will look at the impact on children being raised without a father in their lives.

Senate Concurrent Resolution 22 calls for a study of the feasibility and legal ramifications of drafting proposed legislation designed to stringently restrict the increasingly hawking manner in which some lawyers advertise their services.

Based on a recent court ruling regarding consent decrees in disposable contact lens antitrust litigation, Senate Concurrent Resolution 73 will be a study in incorporating the court's findings into the West Virginia Code.

House Concurrent Resolution 84 calls for a study on the process of granting and denying permits for the mining of coal and drilling of oil and natural gas wells near active coal mines.

### Joint Standing Committee on Pensions & Retirement

Legal counsel from the Consolidated Public Retirement Board provided lawmakers with a general update on the court case pending before the Kanawha Circuit Court regarding the Teachers' Retirement System (TRS) election. This special election, which was held in March 2006, allowed enrollees of the Teachers' Defined Contribution (TDC) plan to vote on merging TDC with TRS. A majority of votes cast were in favor of the merger.

Approximately 1,000 members of TDC were included in the original complaint, which alleged certain constitutional violations by the legislation that authorized the merger election. Counsel noted that the judge has issued a preliminary injunction that he can lift at any time; however, this currently means that the merger will not occur at the end of June, as was planned.

Counsel said she believes it is unlikely that the case will be resolved by December of this year.

During the second meeting of this committee during the May interims, members opened the discussion regarding a study requested by Senate Concurrent Resolution 43.

The resolution requests that a study be done regarding the actuarial conditions of municipal policemen and firemen's pension funds around the state.

The resolution reads that the Legislature realizes the important role that police and firefighter services play for the health and welfare of the citizens of the state's municipalities and that by providing attractive and adequately funded pension benefits, it helps municipalities recruit and retain police officers and firefighters. The Legislature also is aware that many municipal police and firefighter pension funds are inadequately funded.

The rising financial costs associated with municipal police and firefighter pension funds have increasingly become a burden on many of the state's municipalities. Also, existing unfunded liabilities of municipal pension funds threaten the financial stability of many of the state's municipalities. The Chairman stated that due to the important nature of this issue, this topic would be the focus of the second meeting of each month.

### LOCEA

A representative from the West Virginia Department of Education briefly addressed members of the Legislative Oversight Commission on Education Accountability (LOCEA) to discuss various projects and programs currently being administered by the agency.

The representative stated that the Department of Education would conduct a complete audit of the state's content standards and objectives, and would assess the results of the West Test in order to streamline and modernize curriculum. The representative added that although the federal No Child Left Behind program has provided equity among the state's schools, more must be done to build upon the successes of the program. More specifically, the representative noted that the state needed to utilize the 21st Century Skills initiative, which builds upon an entire new wave of student achievement.

Along with significant support from educational leaders within the agency, the 21st Century Skills initiative has received tremendous support from teachers across the state. According to the representative, nine forums were held across the state for teachers to discuss issues they deem important to the success of the state's school system. In addition to supporting the 21st Century Skills initiative, teachers also reported that professional development time must be allotted within the standard contracted period of employment.

### LOCHHRA

In a brief meeting of the Commission, members heard from counsel regarding the resolutions and issues they will be discussing for the next several months.

House Concurrent Resolution 61 initiates a study of the state of emergency medicine in West Virginia. House Concurrent Resolution 70 requests a study on the need for and the appropriate methodology for providing salary improvements for counselors employed by the Division of Rehabilitation Services. House Concurrent Resolution 75 requests the Legislature to study the prospect of reducing medical care costs for state employees. House Concurrent Resolution 79 initiates a study on the public health crisis created in West Virginia created by antibiotic resistance. House Concurrent Resolution 82 requests a study be made regarding the Medicaid Waiver Program for the elderly and people with disabilities in West Virginia. Senate Concurrent Resolution 88 begins a study on the concept in health care circles know as “money follows the person.”

The Commission also was given leeway as to other resolutions they may consider for study during the interim period, upon the approval from the Speaker of the House and the Senate President.

### Legislative Oversight Committee on Regional Jail and Correctional Facility Authority

During the May interim meetings, members of the Legislative Oversight Commission on Regional Jails and Correctional Facility Authority were presented with a report from the West Virginia Regional Jail and Correctional Facility Authority, summarizing the agency's most recent events and activities.

According to a representative from the Authority, the National Institute of Corrections has granted a request to provide technical assistance in the agency's general assessment of the operations at North Central Regional Jail (NCRJ) and its Use of Force training curriculum, policies and practice. This assessment is in response to the deaths of inmates at NCRJ who were in custody. The Federal Bureau of Investigation (FBI) is continuing its investigation into these death in custody cases, according to the representative.

The representative also noted that the agency has established seven project teams to assist in the advancement and progress of the state's correctional facilities. The issues these teams will be reviewing include: recruitment and retention; emergency preparedness; equipment

needs; medical co-pay; fiscal policies; billing clerks; and, inmate programming.

In addition to the report given by the West Virginia Regional Jail and Correctional Facility Authority, a representative from the 13th Judicial Circuit in West Virginia briefly discussed with members the issue of prison overcrowding in West Virginia. According to the representative, prison populations in West Virginia appear to be stabilizing, with 260 fewer prisoners incarcerated in the last two and a half months. As of February 28, 2006, the backlog in the state's regional system had reached an all-time high of 1,400 inmates. Earlier this month, according to the representative, the number dropped to 1,140.

With this reduction, the representative stated that the executive and judicial branches of West Virginia government should be encouraged to expand their use of the numerous means of reducing overcrowding that have been abandoned in recent years. These include: a return to realistic, moderate rate of granting parole; expanding the use of probation, home confinement, day reporting centers and other alternative sentencing programs; increasing awards of extra good time credits; and, expanding use of work release programs, furloughs or other early release programs for prisoners who have shown good conduct and stability in such programs.

Also addressing the Committee during the May interim meeting were representatives supporting pay increases for correctional officers, including several current and former correctional employees and their families. A representative from the Communication Workers of America stated that by providing a pay increase for correctional officers, the state is recognizing the service that these individuals provide West Virginia day in and day out. The representative added that recruitment and retention of correctional officers is a major problem in the state since the federal jail system and most surrounding states pay higher salaries for correctional officers. With significant shortages in staffing at many of the state's correctional facilities, current officers are working well beyond eight-hour shifts, which places extreme stress on the employees and their families, according to the representative. It was stated by the representative that the issue of pay increases for correctional officers warrants discussion during a special session because it is an immediate and impending crisis.

### Interim Committee Information

For information on all Interim Committees, please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Interim" link.

### Parks, Recreation & Natural Resources Subcommittee

Lawmakers heard from the West Virginia Division of Natural Resources (DNR) regarding the financial impact of the minimum wage legislation, which was passed in the 2006 Regular Session, on the state parks system. The new law raises the minimum wage in three steps to: \$5.85 per hour after June 30, 2006; \$6.55 per hour after June 30, 2007; and, \$7.25 per hour after June 30, 2008.

Prior to federal action on the national minimum wage rate, the legislation affects a couple thousand West Virginia workers, including more than 1,000 employees in the parks system, because it only applies to businesses that do not participate in interstate commerce. The Acting Chief of Parks told the committee that while he believes raising the pay is more than needed, conforming to the new rates would place definite strains on the system's operating fund.

To ensure the parks' hourly and seasonal workers receive this pay increase, committee members composed a letter to Governor Manchin requesting him to include \$235,000 in a supplemental appropriation during an upcoming special session to address this. The requested amount also should cover affected employees of Wildlife Resources, another section of the DNR.

Also during the meeting, lawmakers briefly discussed the Subcommittee's charge, prompted by House Concurrent Resolution 99, to study the possible development of Coalwood Way and other sites in the Big Creek District of McDowell County as historical, cultural and recreational destinations. Recognizing the significant historical events that have occurred in this area and have been documented in both literature and film, lawmakers will be working to determine the economic benefits of enhancing and promoting the region.

### Select Committee A - Children, Juveniles, Other Issues

Members of Select Committee A were provided with a brief overview of legislation they will be considering during the 2006-07 interims. The measure, which combines language of two measures drafted by the Committee and did not pass during the 2006 Regular Session (HB 4011 and HB 4012), would implement two programs designed to prevent child abuse and neglect.

More specifically, the bill would create a special unit within the State Police that would focus mainly on investigation

and prosecution of child abuse and neglect cases. In addition, the bill would require persons convicted of criminal child abuse or neglect to register with the state, allowing the state to monitor these individuals and any children exposed to them.

Along with the above task of discussing and drafting legislation relating to child abuse and neglect, members of the Committee also reviewed a resolution adopted during the most recent Regular Session. Senate Concurrent Resolution 81 requests the Joint Committee on Government and Finance to study child advocacy center criteria. According to counsel, Select Committee A has been assigned this study resolution and has been requested to look into the criteria necessary for an entity to be recognized as a child advocacy center and a member of the West Virginia Child Advocacy Network. Counsel reported that there are currently 16 child advocacy centers established in 21 West Virginia counties.

In addition to the assigned topics, members requested the Committee look into other issues during the interims, including the increased drug use among West Virginia youths and issues involving infants born with drug addictions.

### Select Committee C - Infrastructure

In an organizational meeting, staff counsel reviewed the three study resolutions assigned to the Committee for the 2006 Interims. The first of these, House Concurrent Resolution 57, calls for a review of hazardous dams in West Virginia. Through its review, the Committee will be working to identify funding sources and ways to restore inadequate dams, as there are no funding mechanisms for repair currently in State Code.

The other resolutions, House Concurrent Resolution 102 and Senate Concurrent Resolution 94, request lawmakers to study the expansion of technology and access to the Internet and high-speed broadband services. The Committee will be studying the feasibility of expanding digital capabilities to all communities, particularly the rural areas of West Virginia that are lacking access to these services.

Specifically, the study will entail identifying the barriers that are hindering the development of these technologies; the areas of the state that are under-served; and, initiatives that can provide technology infrastructure to those areas. The study also will include an inventory and review of existing infrastructure utilized by the state.



## Interim Highlights



April 9 - 11  
May 21 - 23  
June 11-13  
July 23-25  
August 6 - 8 (Chief Logan State Park)  
September 11 - 13  
October 15 - 17  
November 13 - 15  
December 10 - 12  
January 7 - 9, 2007

### 2006 - 2007 Interim Committee Meeting Dates

Note: All dates are subject to change.

### The West Virginia Legislature's Reference & Information Center

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### Bill Status

For bill history information and full bill text of all Legislation from the 2006 Regular Session, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.