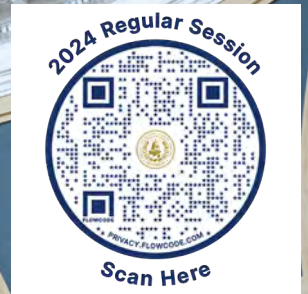


2024 Regular Session



Summary of Bills
2nd Session - 86th Legislature

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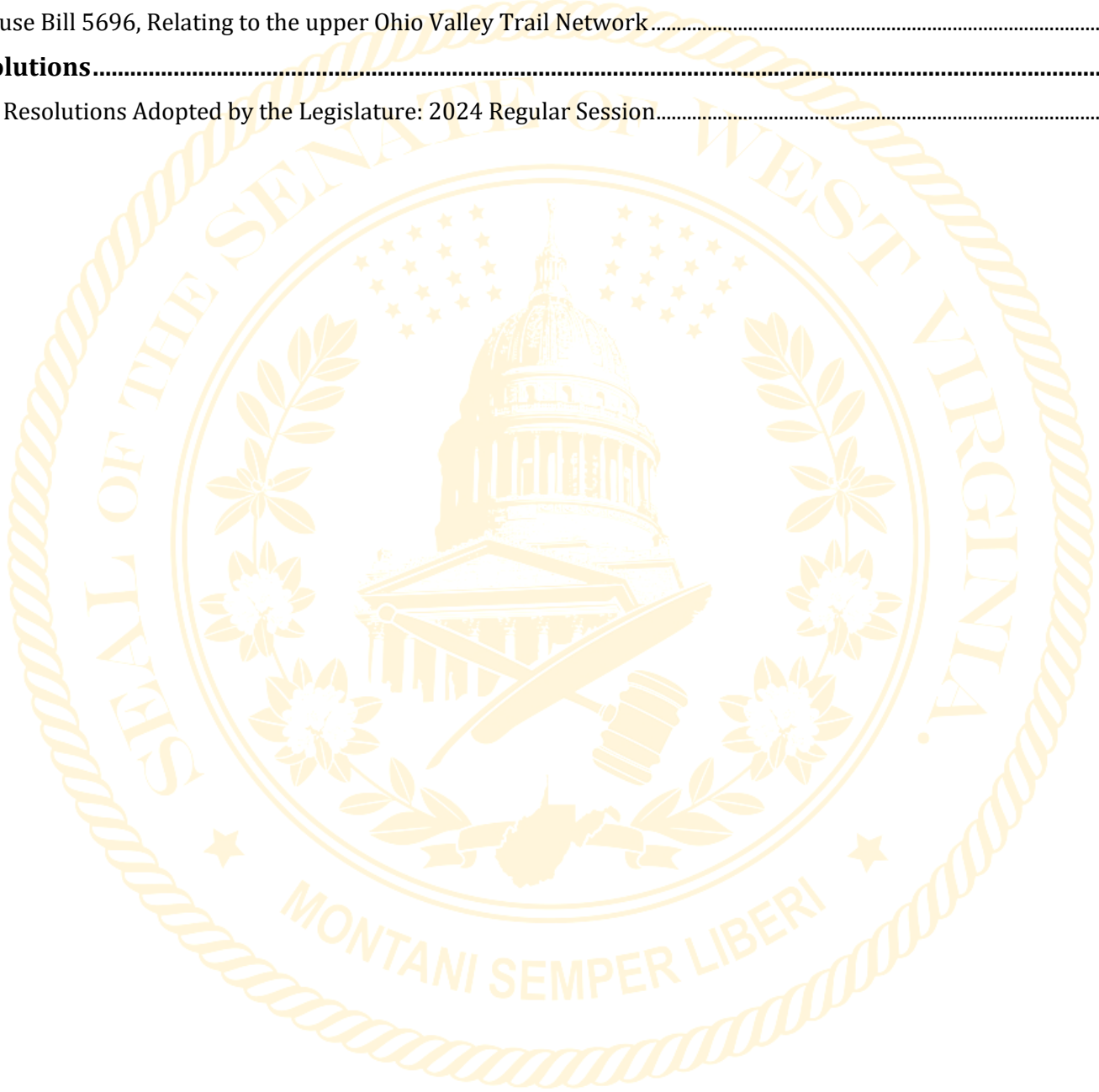
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Notes About This Publication

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 2

Authorizing DEP to promulgate rules

This Committee Substitute is the Department of Environmental Protection Bundle, known as Bundle 3. It contains 15 rules from the Division of Air Quality, the Secretary's Office, and the Division of Water and Waste Management.

The U.S. EPA made a finding of failure to submit action to address deficiencies which may result in sanctions. All but two of the proposed rules from the Division of Air Quality all have similar amendments with the goal of the State retaining primacy. The amendments include adding or revising the definitions for the terms: alternative emission limitation; malfunction; shutdown; and startup. A requirement is added that any owner or operator that cannot comply with established emission standards during periods of startup and shutdown request an alternative emission limitation. Language has been added to several of the proposed rules providing that any inconsistency between rules is to be decided by the Secretary in favor of the more stringent provision, term, condition, method, or rule.

The amendments to the rules are necessary to maintain consistency with the federal counterpart and allow West Virginia to continue as the primary enforcement authority of the counterpart standards in this State. Upon authorization and promulgation, the rules will be submitted to the EPA.

A severability section has been added to each of the Division of Air Quality proposed rules. The Division of Air Quality is moving forward with the proposed removal of the startup, shutdown, or maintenance (SSM) exemption provisions to ensure the state complies with the federal requirements. However, in response to comments, a severability clause was added to address disposition of the rule in the event the federal regulations are withdrawn by a subsequent administration's U.S. EPA, are overturned by a court of competent jurisdiction, and/or are invalidated by an act of the West Virginia Legislature or United States Congress. It allows the Secretary to terminate any permit or section of an existing permit issued under an affected rule.

References to "Director" have been changed to "Secretary" throughout these rules. The rules have also been amended to clarify that they are not subject to the Sunset Law.

WV Department of Environmental Protection (DEP), Division of Air Quality, Alternative Emission Limitations During Startup, Shutdown, And Maintenance Operations, 45 CSR 01; Alternative Emission Limitations During Startup and Shutdown Operations 45 CSR 01 (New Title)

This rule amends a current legislative rule. The rule sets forth the criteria for establishing an alternative emission limitation during periods of startup, shutdown, or maintenance (SSM). The rule adopts the alternative emission limitation provisions already contained in a series of state implementation plans (SIP). The rule applies to a set of sources that have excess emissions during these specified periods and could not therefore always meet the allowable emissions limits. The rule provides criteria for establishing these alternative emissions limitations and includes the reporting requirements in accordance with federal regulations.

The revisions to this rule are related to the disapproval of the SSM provisions (88 FR 23356). It is designed to be a mechanism to have in place for WV sources in case they cannot meet emissions limits once the exceptions allowed in the current rule are removed and to protect WV industries from being instantly in violation. The inclusion of maintenance events was specifically identified as one of the reasons the U.S. EPA disapproved the state's request to add this rule to the WV SIP.

WV Department of Environmental Protection (DEP), Division of Air Quality, To Prevent and Control Particulate Air Pollution from Combustion of Fuel in Indirect Heat Exchangers, 45 CSR 02

This rule amends a current legislative rule which establishes emission limitations for smoke and particulate matter which are discharged from fuel burning units and sets forth the permitting, testing, monitoring, recordkeeping, reporting, and exemption requirements. The purpose of the rule is to control particulate matter.

The rule is being amended in response to the U.S. EPA finding of failure to submit action [88 Fed. Reg, 23353, April 17, 2023] to address deficiencies identified in the U.S. EPA 2015 findings of substantial inadequacy and State Implementation Plan Call for provisions related to excess emissions during periods of startup, shutdown, and malfunction (SSM SIP Call). The provisions identified in this rule were the automatic exemptions at §45-2-9.1, the discretionary exemptions at §§45-2-10.1 and 10.2, and the affirmative defense at §45-2-9.4. The finding of failure to submit action triggers certain Clean Air Act deadlines for U.S. EPA to impose sanctions if a state does not submit a complete State Implementation Plan revision addressing the outstanding requirements. Upon authorization and promulgation, this rule will be submitted to the U.S. EPA.

The amendments adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection (DEP), Division of Air Quality, Control of Air Pollution from the Operation of Hot Mix Asphalt Plants, 45 CSR 03

This rule amends a current legislative rule which establishes emission limitations for hot mix asphalt plants and the plant property and sets forth the permitting, recordkeeping, reporting, and exemption requirements. The purpose of the rule is to control particulate matter.

The rule is being amended in response to the U.S. EPA finding of failure to submit action [88 Fed. Reg, 23353, April 17, 2023] to address deficiencies identified in the U.S. EPA 2015 findings of substantial inadequacy and State Implementation Plan Call for provisions related to excess emissions during periods of startup, shutdown, and malfunction (SSM SIP Call). The provisions identified in the rule were an exemption for smoke and or particulate matter during certain start-up or shutdowns at §45-3-3.2 and the discretionary exemption at §45-3-7.1. These provisions have been deleted in the proposed rule. The finding of failure to submit action triggers certain Clean Air Act deadlines for U.S. EPA to impose sanctions if a state does not submit a complete State Implementation Plan revision addressing the outstanding requirements. Upon authorization and promulgation, the rule will be submitted to the U.S. EPA.

The amendments adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection (DEP), Division of Air Quality, Control of Air Pollution from the Operation of Coal Preparation Plants, Coal Handling Operations and Coal Refuse Disposal Areas, 45 CSR 05

This rule amends a current legislative rule which establishes emission limitations for coal preparation plants, coal handling operations, and coal refuse disposal areas and sets forth the permitting, recordkeeping, reporting, and exemption requirements. The purpose of the rule is to control particulate matter.

The rule is being amended in response to the U.S. EPA finding of failure to submit action [88 Fed. Reg, 23353, April 17, 2023] to address deficiencies identified in the U.S. EPA 2015 findings of substantial

inadequacy and State Implementation Plan Call for provisions related to excess emissions during periods of startup, shutdown, and malfunction (SSM SIP Call). The provisions identified in the rule was a discretionary exemption at §45-5-13.1, which has been deleted in the proposed rule. The finding of failure to submit action triggers certain Clean Air Act deadlines for U.S. EPA to impose sanctions if a state does not submit a complete State Implementation Plan revision addressing the outstanding requirements. Upon authorization and promulgation, this rule will be submitted to the U.S. EPA.

The amendments adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection (DEP), Division of Air Quality, Control of Air Pollution from Combustion of Refuse, 45 CSR 06

This rule amends a current legislative rule which establishes emission limitations for combustion of refuse. The purpose of the rule is to control particulate matter.

The rule is being amended in response to the U.S. EPA finding of failure to submit action [88 Fed. Reg, 23353, April 17, 2023] to address deficiencies identified in the U.S. EPA 2015 findings of substantial inadequacy and State Implementation Plan Call for provisions related to excess emissions during periods of startup, shutdown, and malfunction (SSM SIP Call). The provisions identified in this rule was the automatic exemptions at §45-6-8.2, which has been deleted in the proposed rule. The finding of failure to submit action triggers certain Clean Air Act deadlines for U.S. EPA to impose sanctions if a state does not submit a complete State Implementation Plan revision addressing the outstanding requirements. Upon authorization and promulgation, 45 CSR 06 will be submitted to the U.S. EPA

The modifications adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection (DEP), Division of Air Quality, To Prevent and Control Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations (current); Control of Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations, 45 CSR 07 (New)

This rule amends a current legislative rule which establishes emission limitations for combustion of refuse. The purpose of the rule is to control particulate matter.

The rule is being amended in response to the U.S. EPA finding of failure to submit action [88 Fed. Reg, 23353, April 17, 2023] to address deficiencies identified in the U.S. EPA 2015 findings of substantial inadequacy and State Implementation Plan Call for provisions related to excess emissions during periods of startup, shutdown, and malfunction (SSM SIP Call). The provisions identified in the rule were the discretionary exemptions at §45-7-9.1, the automatic exemptions at §45-7-10.3 and §45-7-10.4, which are all deleted in the proposed rule. The finding of failure to submit action triggers certain Clean Air Act deadlines for U.S. EPA to impose sanctions if a state does not submit a complete State Implementation Plan revision addressing the outstanding requirements. Upon authorization and promulgation, the rule will be submitted to the U.S. EPA

The amendments adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection (DEP), Division of Air Quality, Ambient Air Quality Standards, 45 CSR 08

This rule amends a current legislative rule which establishes and adopts standards of ambient air quality in West Virginia, specifically relating to sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead, incorporating by reference the national primary and secondary ambient air quality standards, as promulgated by the United States Environmental Protection Agency (EPA).

The amendments adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection Division of Air Quality, Control of Air Pollution from the Emission of Sulfur Oxides, 45 CSR 10

The rule amends a current legislative rule and is promulgated under the Air Pollution Control Act which governs a statewide program of air pollution prevention, abatement, and control and ensures timely processing of permit applications for the good of the public, business, and the environment. This rule establishes emission standards for sulfur oxides from fuel burning units and sets forth the permitting, reporting, testing, record keeping, and exemption requirements.

The rule is required to maintain state primacy under the United States Environmental Protection Agency. The rule is being amended in response to the U.S. EPA finding of failure to address deficiencies and inadequacies for provisions related to excess emissions during startup, shutdown, and malfunctions for fuel burning units. There are currently deadlines which must be met for these amendments, or the U.S. EPA will impose sanctions.

WV Department of Environmental Protection, Division of Air Quality, 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 amendments adopt and incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection, Division of Air Quality, Control of Air Pollution from the Emission of Volatile Organic Compounds, 45 CSR 21

The rule amends a current legislative rule and is promulgated under the Air Pollution Control Act which governs a program of air pollution prevention, abatement, and control and to ensure timely processing of permit applications for the good of the public, business, and the environment. This rule establishes reasonably available control technology to control emissions of volatile organic compounds from sources that manufacture, mix, store, use, or apply materials containing volatile organic compounds and are in Cabell, Kanawha, Putnam, Wayne, and Wood Counties.

This promulgation is required to maintain state primacy under the United States Environmental Protection Agency. The rule is being amended in response to the U.S. EPA finding of failure to address deficiencies and inadequacies for provisions related to excess emissions during startup, shutdown, and malfunctions, specifically Subsection 9.3. There are currently deadlines which must be met for these changes of the U.S. EPA will impose sanctions.

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

This 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 amendments incorporate by reference annual updates to the federal counterpart promulgated by U.S. EPA as of June 1, 2023.

WV Department of Environmental Protection, Division of Air Quality, Control of Greenhouse Gas Emissions from Existing Coal-Fired Electric Utility Generating Units, 45 CSR 44

The rule repeals a current legislative rule which regulates greenhouse gas emissions in the form of carbon dioxide from existing coal-fired electric generating units because its federal counterpart regulation was vacated by the D. C. Circuit Court on January 19, 2021.

WV Department of Environmental Protection, Secretary's Office, Drinking Water Treatment Revolving Fund, 60 CSR 12

The rule is new. It transfers the administration of the Safe Drinking Water Treatment Fund from the Department of Health and Human Resources to the Department of Environmental Protection as a result of Committee Substitute for Committee Substitute for Senate Bill 561, passed by the Legislature during the 2023 Regular Session.

The Fund is used for financial assistance to projects for public water systems that collect, treat, and supply water for human consumption. It continues to be managed by the Water Development Authority, but under the direction of the Department instead of the Department of Health and Human Resources.

Department of Environmental Protection, Waste Management Division of Water and Waste Management, Hazardous Waste Management System, 33 CSR 20

The rule amends a current legislative rule and is the result of the Hazardous Waste Management Act under W.Va. Code §22-18-1, et seq. The Act protects the public health and the environment from the effects of inadequate management of hazardous waste. This rule regulates the generation, treatment, storage, and disposal of hazardous waste to the extent necessary for the protection of public health and safety and the environment.

The rule adopts and incorporates by reference the federal regulations set forth in 40 CFR Parts 260 through 279 that are in effect as of October 31, 2021.

Department of Environmental Protection, Water Resources Division of Water and Waste Management, Underground Injection Control, 47 CSR 13.

The rule amends a current legislative rule and is promulgated under the Water Pollution Control Act which governs the discharge and disposal of pollutants into the waters of the state to maintain reasonable standards of quality to ensure public health and enjoyment. Specifically, this rule governs the Underground Injection Control Program (UIC). The UIC program regulates underground injections of waste into six classes of wells. This rule set forth criteria and standards which apply to the UIC program. The proposed rule updates the 6 classes of wells to maintain state primacy under the U.S. Environmental Protection Agency.

The rule updates the definition of a Class 3 well which is a well which injects for the extraction of minerals to exclude in situ combustion of fossil fuel; specifies that the amount and chemical make-up of

injection fluids are to be considered among the factors for casing and cementing requirements to prevent potential leaks from a Class 1 well; requires caliper logs for intermediate and long strings of casings for Class 1 wells; require each Class 1 well plug to be tested for seal and stability; additional specifications are added for alarms and shut off systems.

Also, §47-13-8.4.2.j is added to the rule providing requirements for testing and monitoring for hazardous waste injection wells and requiring a plan be developed and followed; requires additional data in quarterly reports to the Director; the requirements for the contents of permitting maps are changed; allows the Director to consider well materials specifications and their life expectancy before issuing a permit and adds post-closure care to the list of items needed to be covered by the performance bond; provides that the requirement to maintain an approved post-closure care plan is enforceable even if the plan is not a condition of a permit, must be submitted with a permit application, and becomes a condition if approved by the Director; requires that after closure of a well, records be kept for 3 years and that the operator turn the records over to the Director; adds new sections to the rule adopting federal regulations concerning financial responsibility for hazardous waste injection wells, modifications, exceptions, and omissions to the incorporated regulations, and restrictions and prohibitions on injections with exceptions; and updates permitting requirements for class 3 wells for mineral dissolution and extraction to include the submission of mapping indicating public water systems and water well.

The rule also adds language regarding Class 1 hazardous waste injection wells stating that the obligation to implement the closure plan survives the termination of a permit or the cessation of injection activities and that the requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. It also requires the owner or operator of a well that has ceased operations for more than two years notify the Director 30 days prior to resuming operation of the well.

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

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 17

Authorizing Department of Health to promulgate legislative rules

This Committee Substitute is the Department of Health Bundle, known as Bundle 5. It contains 16 rules from the Department of Health.

Department of Health, Public Water Systems Operators, 64 CSR 04

This rule amends a current legislative rule. The purpose of the rule is to govern the examination and certification of operators of a public water system (PWS), to establish a system for the classification of a PWS, and to specify the responsibilities of a PWS. The amendments were made to the rule as a result of the passage of Enrolled Committee Substitute for House Bill 2848 that passed during the 2023 Regular Session of the Legislature.

The rule adds a limited waiver to the requirement that a Class II PWS always have an operator with a certification equal to or greater than the system classification present in the primary treatment facility when the plan is operational. If the limited waiver is granted, an operator may perform the tasks of an operator certified one grade higher. The rule provides a limited exception for Class I operators at Class II PWSs if the Class II operator has passed the Class II exam before being considered for an exception. The rule also adds a limited waiver to the requirement that Class II, III, and IV PWS have at least one certified operator (except, 1D, Class R, and WDS level) in addition to the chief operator. If the limited exception is granted an operator may perform the tasks of an operator certified one grade higher.

The rule deletes the requirement regarding a PWS operator from another jurisdiction passing a WV certification examination equivalent to the certification level of the other jurisdiction as determined by the Commissioner and instead requires an applicant to demonstrate he or she has successfully passed an examination in another jurisdiction substantially equivalent to the certification level sought by the applicant. The Commissioner may condition and limit renewal of the license on a requirement for additional education classes. If the Commissioner determines the other jurisdiction has substantially different regulations, he or she may require an applicant to take a WV- specific operator course within 24 months of licensure. If the Commissioner determines the other jurisdiction's examination is not substantially equivalent, the applicant must pass the WV certification examination equivalent to the certification level of the other jurisdiction.

Department of Health, Wastewater Systems and Operations, 64 CSR 05

The rule amends a current legislative rule. The purpose of the rule is to govern the examination and certification of wastewater operators, to establish a system for the classification of wastewater systems, and to specify the responsibilities of wastewater systems. The amendments were made to the rule due to the passage of Enrolled Committee Substitute for House Bill 2848 that passed during the 2023 Regular Session of the Legislature. The rule has basically the same provisions as the previous rule regarding waivers and reciprocity.

Department of Health, Behavioral Health Centers Licensure, 64 CSR 11

The rule amends a current legislative rule. It establishes the general standards and procedures for licensure of behavioral health services and supports. Passage of Senate Bill 679 during the 2023 Regular Session required amendments to the rule relating to the location of forensic group homes. The rule prohibits location of a forensic group within 1 mile of a residential area, a public or private day care center, or a public or private K-12 school, learning pod, or micro-school. The Inspector General may grant a

variance for homes in existence prior to March 6, 2023.

Enforcement of the rule is moved from the Secretary to the Inspector General housed within the Department of Health. The rule updates the provider notification section, adding to the 60-day notice requirement for a change in location of a behavioral health center service location. Language has been added stating consumers who are being treated at a behavioral health center pursuant to a civil or criminal court order may not choose to be discharged from the center against medical advice. In the section pertaining to Administrative Appeals and Judicial Review, the West Virginia Intermediate Court of Appeals replaces any reference to a circuit court.

Department of Health, Hospital Licensure, 64 CSR 12

The rule amends a current legislative rule. It establishes standards and procedures for the licensing of hospitals and extended care facilities operated in connection with a hospital and is being amended due to passage of Enrolled Committee Substitute for House Bill 2993 which passed during the 2023 Regular Session. The rule sets forth the statutory requirements to be licensed as a rural emergency hospital.

Department of Health, Assisted Living Facilities, 64 CSR 14

The rule amends a current legislative rule by amending the sunset date to August 1, 2029.

Department of Health, Cross-Connection Control and Backflow Prevention, 64 CSR 15

The rule amends a current legislative rule. The purpose of the rule is to govern cross-connection control and backflow prevention for public water systems. The amendments were made to the rule due to the passage of House Bill 2961 that passed during the 2020 Regular Session of the Legislature.

The rule transfers the following determinations from the public water system to the Commissioner or his or her designee: the determination of the type of protection required under the rule depending on the degree of hazard that exists or may exist; the determination of when an approved air gap separation is needed; and the determination of when an approved double-check valve assembly, approved reduced pressure principal backflow prevention assembly or an approved air gap separation is needed.

Under the rule, when the Commissioner or his or her does not approve any point of connection between a public water system and an auxiliary water supply, the water customer shall install an approved air gap separation or an approved interchangeable connection with a reduced backflow prevention assembly. The Commissioner is also required to approve installation of an approved backflow prevention assembly at a location in a manner that best facilitates testing and servicing. These duties are currently under the purview of the public water system.

Department of Health, Fees for Permits, 64 CSR 30

The rule repeals a current legislative rule. The statutory authority for the proposed rule was repealed.

Department of Health, Fees for Services, 64 CSR 51

The rule amends a current legislative rule. It establishes the reasonable fees for services provided by the Bureau for Public Health (BPH) and local boards of health. Section 9 relating to fees for services provided by local boards of health has been deleted. It updates fees that have not been raised since 2016, including certain Fees for Environmental Chemistry Lab Services, some Fees for Environmental Microbiology Lab Services, certain Fees for Diagnostic Immunology, and certain Environmental Health Services Fees.

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

The rule amends a current legislative rule. The purpose of the rule is to regulate the conduct of medico-legal investigation into the cause of death; to set procedures for postmortem examination of deceased persons and the examination of the substances collected as part of that process; to determine the cause of death; to set forth requirements for the training and certification of county medical examiners; and to allow fees to be collected for services provided to certain parties by the Office of the Chief Medical Examiner. The amendments were made to the rule due to the passage of Enrolled Senate Bill 605 that passed during the 2023 Regular Session.

The rule adds a definition for the term “procurement organization” which is defined as an eye bank, organ procurement organization or tissue bank; clarifies the definition of the term “unclaimed decedent” as to when the 30 days begins to run; This section sets forth training, certification, and standards of practice of county medical examiners and coroners; requires the County Medical Examiner, Assistant County Medical Examiner, and County Coroner to “provide findings so that the Chief Medical Examiner or the Deputy Chief Medical Examiner may determine the cause and manner of death; provides that a request to cremate is not necessary when the decedent has donated his or her body to science; requires the Office of Chief Medical Examiner to allow representatives of a procurement organization approved by the Office to be present in the facility and to provide the organization the with information necessary to facilitate timely recovery and donation of anatomical gifts; and deletes the section of the rule relating to the temporary disposition or internment of unclaimed decedents in the custody of the Office of Chief Medical Examiner.

Department of Health, Newborn Screening System, 64 CSR 91

This rule amends a current legislative rule by amending the sunset date to August 1, 2029.

Department of Health, Distribution of Funds from Emergency Medical Services Salary Enhancement Fund, 64 CSR 116

This rule is new and was filed as an emergency rule. It establishes a formula for the Director of the Office of Emergency Medical Services to use in distributing funds from the Emergency Medical Services Salary Enhancement Fund, which was created with the passage of Enrolled Senate Bill 737 which passed during the 2023 Regular Session. The rule requires counties to fill out a questionnaire to be used in determining the allocation of funds under the formula established in the proposed rule. The Director is required to calculate the amount of funds for salary supplementation and crisis response and distribute 10% equally among the regions used to enhance training of crisis response teams. The money is to be distributed to the counties within the region according to the number of members each county supports on a crisis response team.

The remainder of the funds are to be distributed according to a formula with coefficients assigned based on based on rural/border county status, the current levy rate, maximum allowable rate on regular levies, and additional qualifying factors. Based on those numbers 50% is divided equally among 1st tier counties; 35% is divided equally among 2nd tier counties; and 15% is divided equally among 3rd tier counties.

The rule requires a receiving county to submit a post fund distribution assessment to the Office of Emergency Medical Services.

Appendices A and B contain forms. Generally, forms are not included in a rule allowing them to be amended as needed without going through the rule-making process.

Department of Health, West Virginia Clearance for Access: Registry and Employment Screening, 64 CSR 123

The rule repeals and replaces a current legislative rule, 69 CSR 10. The purpose of the rule is to require prescreening and state and federal criminal background checks for all direct access personal of the bureaus, covered providers, and covered contractors. The proposed rule adds definitions for “covered contractor”, “disqualifying offense for persons responsible for the care of children”, and prescreening. and amends other terms including “disqualifying offense” to include human trafficking and felony money laundering.

The rule adds language stating if a variance is requested relating to a rap back (Record of Arrest and Prosecution BACK) notification of ineligibility, the affected employee’s status of employment may continue until the variance is resolved at the discretion of the bureau, covered provider, or covered contractor and the requirements related to provisional employees in the Code and in the rule apply.

The rule adds new language relating to handling fitness determinations when a pending charge is a disqualifying misdemeanor offense and the applicant has not had a conviction of a disqualifying offense in the last seven years, that allows a waiver may be requested; provides an applicant with a pending felony offense is ineligible for work and states that a variance may be requested regarding the pending disqualifying felony offense; provides that the provisions relating to provisional employees do not apply to persons who are responsible for the care of children; clarifies that an applicant may not be employed “or engaged” during the appeal process unless a variance has been requested; and provides that the criminal history and related information in the possession of the Secretary is not subject to subpoena, other than one for a criminal action.

Department of Health, Cooperative Agreement Approval and Compliance, 65 CSR 06

The rule amends a current legislative rule by amending the sunset date to August 1, 2029.

Department of Health, Certificate of Need, 65 CSR 32

The rule amends a current legislative rule. This rule implements the provisions of the Certificate of Need program. Amendments to the exemption section of the rule were necessitated with the passage of Enrolled Committee Substitute for Senate Bill 613 which passed during the 2023 Regular Session. Specifically, it eliminates birthing centers from those health services requiring a certificate of need.

Department of Health, Chronic Pain Management Clinic, 69 CSR 08

The rule amends a current legislative rule by amending the sunset date to August 1, 2029.

Department of Health, Medication-Assisted Treatment – Office Based Medication – Assisted Treatment, 69 CSR 12

The rule amends a current legislative rule by amending the sunset date to August 1, 2029.

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

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 31

Authorizing Department of Human Services to promulgate legislative rules

This bill is the Department of Human Services Bundle, known as Bundle 5A. It contains two rules from Human Services and one from the Family Protection Services Board.

Department of Human Services, Collection and Exchange of Data Related to Overdoses, 67 CSR 01

The rule repeals and replaces a current legislative rule, 69 CSR 14. It establishes requirements to facilitate the exchange of data and information with the Office of Drug Control Policy, Department of Human Services, the Department of Military Affairs and Public Safety, the Department of Administration, the Administrator of Courts, the Poison Control Center, the Office of National Drug Control Policy, the Board of Pharmacy, law enforcement, local health departments, and emergency medical service agencies in each county. The rule is necessary due to the passage of Enrolled Committee Substitute for House Bill 3306 which passed during the 2023 Regular Session.

It also covers the reporting of overdoses by law enforcement agencies, health care providers, emergency response providers, medical examiners, and hospital emergency rooms and adds to reportable information whether the individual has a history of a prior overdose.

The rule provides for enforcement for failure to report overdose events by mandatory reporters and provides civil penalties.

Department of Human Services, Procedure to Contest the Substantiation of Child Abuse or Neglect, 78 CSR 27

The rule amends a current legislative rule. The purpose of the rule is to establish the procedure to contest the West Virginia Department of Human Services' Bureau of Social Services substantiation of abuse and neglect. The amendments were made to the rule due to the passage of Enrolled Committee Substitute for Senate Bill 647 that passed during the 2023 Regular Session of the Legislature. Section 8.1 adds new language stating that when any allegation of abuse or neglect is substantiated and a petition for abuse or neglect could be filed and the bureau does not file a petition, all bureau records related to the allegation shall be sealed on year after the substantiation is made. Provided that the person who is the subject of the allegation does not have another substantiation of abuse or neglect against them during the one-year period following the initial substantiation.

The rule adds a third circumstance under which the Bureau may consider an allegation against a person of abuse or neglect of a child substantiated for its records and sets forth a procedure for sealing records of maltreatment substantiation.

Family Protection Services Board, Domestic Violence Program Licensure Standards, 191 CSR 02

The rule amends a current legislative rule governing the general standards and procedures for the licensure of domestic violence programs. It amends definitions for the terms "crisis intervention" and "shelter"; adds a definition for "extension space services"; and deletes the definition for "Family Protection Fund".

The rule adds additional program requirements related to audit standards for a domestic violence program; adds language that allows information to be shared to assist a Fatality and Mortality Review Team upon request and under certain conditions; adds standards for extension space services; requires

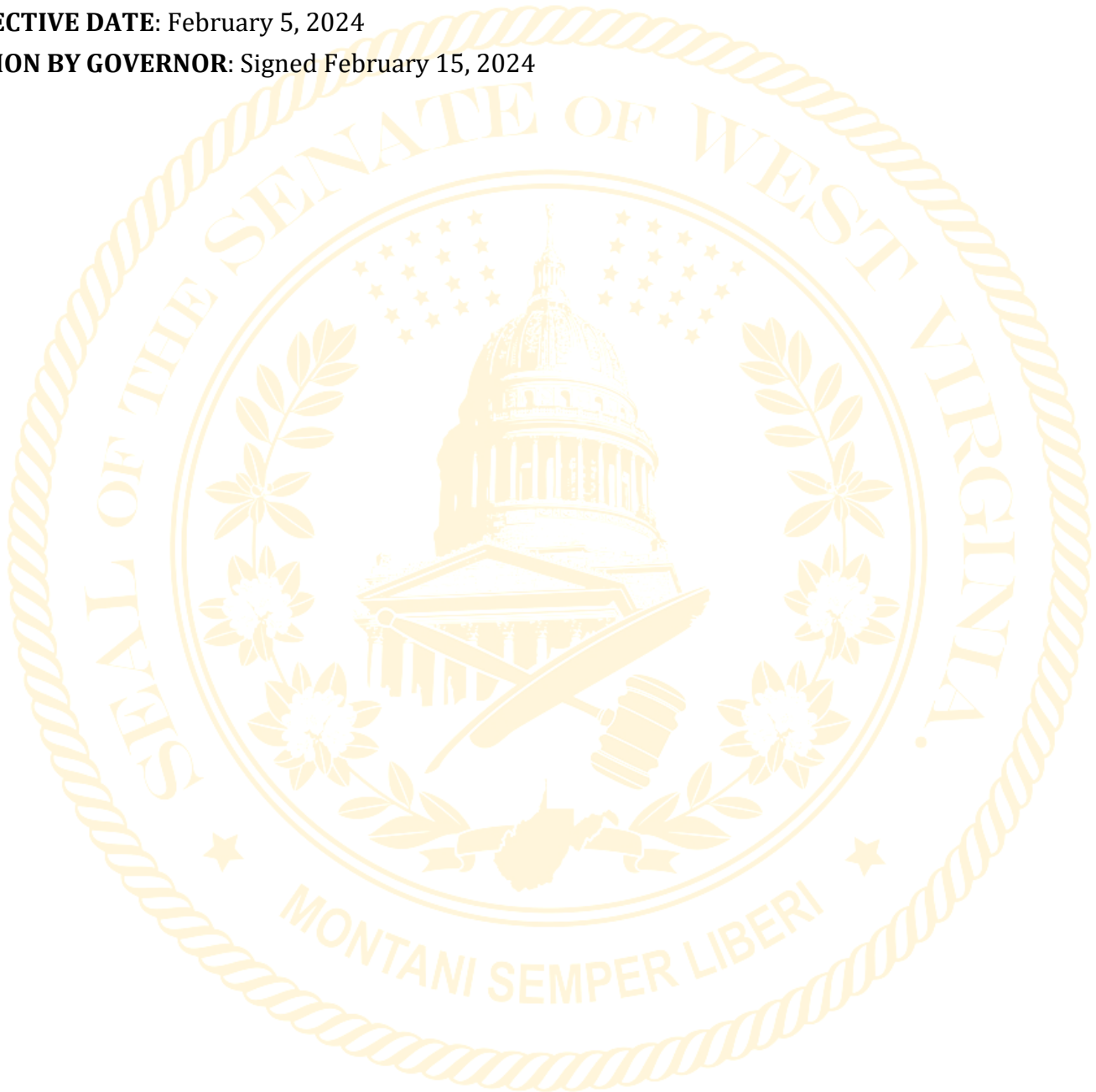
criminal background checks for employees and volunteers; provides that domestic violence programs are not required to have a shelter component if they meet federal regulations for enhanced services; clarifies that residence in a shelter does not create a landlord/tenant relationship; and deleted the section relating to licensing standards for Domestic Violence Outreach Extension Offices.

CODE REFERENCE: West Virginia Code §64-5A-1 et seq. – new

DATE OF PASSAGE: February 5, 2024

EFFECTIVE DATE: February 5, 2024

ACTION BY GOVERNOR: Signed February 15, 2024



Senate Bill 36

Authorizing Department of Homeland Security to promulgate legislative rules

This Committee Substitute is Department of Homeland Security Bundle, known as Bundle 6. It contains 14 rules from the Governor's Committee on Crime, Delinquency and Correction, Emergency Management, the Fire Commission, the Fire Marshal, and the State Police.

Crime Delinquency and Correction, Law Enforcement Training and Certification Standards, 149 CSR 02

This rule amends a current legislative rule relating to law enforcement training and certification standards. It amends the provisions relating to instructor certification by reducing the time frame to receive 16 hours of verified training from five years to two years. It requires certified law enforcement level 1 instructors to instruct a basic training program or Subcommittee certified in service program every 12 rather than 24 months from the date of their original certifications and attend additional training in areas they are certified to instruct every 12 rather than 24 months of the original level 1 instructor certification.

The rule also provides that a trainee resigning for voluntary reasons, other than hardship, may not appeal to the subcommittee; increases the on-line or web-based training program for annual in-service training to a maximum of 50% from 25%); and increases the online or web-based training program for supervisory level in-service training to a maximum of 100% from 25%.

Crime Delinquency and Correction, Protocol for Law Enforcement Response to Domestic Violence, 149 CSR 03

This rule amends a current legislative rule, which provides guidelines and establishes standards for responding to domestic violence incidents. The rule adds definitions for the terms "Domestic Violence Protective Order Registry", "asphyxiate", "strangle", "suffocate", and "trauma informed"; amends the definition for the term "firearm" to reflect amendments in code regarding antique firearms; and deletes persons employed as rangers for the Hatfield and McCoy Regional Recreation Authority from the definition of "law enforcement officer".

The rule also clarifies that when a protection order is not presented, the law enforcement officer may consider other credible information including, but not limited to, the domestic violence registry. It adds a new section creating Domestic Violence Protective Order Registry which contains information about the victim and the respondent, the condition of the victim, whether firearms were used and are in possession of the respondent, whether a protective order was served, and a temporary or final order. This registry is a tool for the court to communicate domestic violence data to law enforcement and can be used to confirm the status of a protective order or to serve a protective order. It provides that court staff and any law enforcement agency with access to a WEAPONS terminal can enter information into the registry and clarifies when the registry should be used.

The protocols in instances where children are present have been rewritten and contain provisions regarding speaking with children, assessing harm to children, determining when a child should be referred to a Handle with Care Program, and requiring certain action in instances of abuse and neglect.

The rule requires an arresting officer to inform the court of any circumstances surrounding the arrest of the accused which would affect conditions of bond, if bond amount and conditions are a decision solely with the court. It also requires officers to convey information regarding highly dangerous/potentially lethal behaviors of the offender to the magistrate.

Finally, the rule requires a law enforcement officer to conduct an interview with the victim using the “Dangerousness Lethality Information Form for Use by Law Enforcement Officers.”

Crime, Delinquency and Correction, Sexual Assault Forensic Examinations, 149 CSR 11

This is a new rule. It provides procedures for hospitals and health care facilities in treating sexual assault victims. This rule is required because of the passage of Enrolled Committee Substitute for Senate Bill 89, which passed during the 2023 Regular Session, and which required every hospital to have health care providers trained and properly qualified by the Sexual Assault Forensic Examination Commission to conduct examinations and have qualified health care providers available for emergencies at all hours of operation. Additionally, the rule provides how photo documentation is to be stored and used; establishes the procedures for submitting and storing sexual assault evidence for testing; establishes the procedures for a laboratory upon receipt of sexual assault evidence; and sets forth the procedures for the maintenance of nonreported sexual assault evidence collection kits.

Division of Emergency Management, Industrial Accident Rapid Response Rule, 170 CSR 02

This rule amends a current legislative rule. It updates reporting of emergency incidents at industrial facilities by changing “emergency telephone system” to “911 center” in several places and by correcting the title of the agency to “Division of Emergency Management” where appropriate throughout the rule. It adds a requirement that an industrial facility reporting an incident provide a designated contact for state and local emergency responders via the Industrial Accident Call Center reporting line; makes imposition of a civil penalty for failing to comply with the reporting and access requirements permissive rather than mandatory; and mandates that appeal of any fines or penalties imposed under the rule be taken to the Intermediate Court of Appeals, in compliance with recent revisions to code.

Fire Commission, Fire Code, 87 CSR 01

This rule amends a current legislative rule which establishes the State Fire Code for the safeguarding of life and property from the hazards of fire and explosion. The rule exempts all permits and processes to boilers, including inspections from the Fire Code because they are under the jurisdiction of the Division of Labor and clarifies precedence when there are certain conflicts.

The rule adopts Appendix A of the NFPA 1 in its entirety and strikes the references to other NFPA editions. It clarifies the requirements for Plan Reviews; clarifies the requirements for certain renovations and reconstructions; clarifies certain architectural requirements and licensing board approval prior to construction; creates an exception to sprinkler requirements for certain industrial occupancies; removes certain sprinkler standards regarding nursing or similar care homes; requires newly constructed emergency fire, rescue, or ambulance buildings to have automatic sprinklers with certain exemptions; deletes certain restrictions relating to carpeting; revises the requirements for hotels and motels; deletes provisions relating to group day care centers; clarifies the construction date of certain modular classroom structures; deletes requirements for assembly occupancy; adds language regarding carbon monoxide detectors to be consistent with WV code; and clarifies the requirements for NICET Certification for Fire Protection and Fire Alarm Systems.

The rule requires a person responsible for doing maintenance, testing, or drills with fire protection equipment to contact 911 before and after the activity. Lastly, it clarifies that appeals from a hearing examiner’s decision is under the jurisdiction of the Intermediate Court of Appeals.

The Committee Substitute contains an amendment to the rule that provides for an electronic filing system, sets forth timelines for plan review, and contains technical clean-up.

Fire Commission, Certification and Evaluation of Local Fire Departments, 87 CSR 06

This rule amends a current legislative rule which establishes the requirements and procedures for certification and evaluation of local fire departments.

The rule updates the sunset date to August 1, 2029.

Fire Commission, Certification of Fire Chiefs, 87 CSR 13

This rule amends a current legislative rule which establishes the procedures for certifying Fire Chiefs and acting Fire Chiefs. It clarifies that all appeals from a final order of the Commission are within the jurisdiction of the Intermediate Court of Appeals.

Fire Marshal, Electrical Inspectors, 103 CSR 01

This rule amends a current legislative rule which establishes the procedures to be followed to protect the health, safety, and welfare of the public by assuring the competence of those who perform electrical inspection through certification by the State Fire Marshal. It clarifies that all appeals from a final order of the Commission are within the jurisdiction of the Intermediate Court of Appeals.

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

This rule amends a current legislative rule which governs certification, fees, examinations, training, powers, and duties of the Fire Marshal and penalties for violations. It clarifies that all appeals from a final order of the Commission are within the jurisdiction of the Intermediate Court of Appeals.

Fire Marshal, Electrician Licensing Rules, 103 CSR 05

This rule amends a current legislative rule which establishes the procedures to protect the health, safety, and welfare of the public by assuring the competence of those who perform electrical work through licensure by the State Fire Marshal or State Fire Commission. It clarifies that all appeals from a final order of the Commission are within the jurisdiction of the Intermediate Court of Appeals.

Fire Marshal, Standards for the Certification and Continuing Education of Municipal, County, and other Public Sector Building Code Officials, Building Code Inspectors, and Plans Examiners, 103 CSR 06

This rule amends a current legislative rule which establishes the requirements for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners. It clarifies that all appeals from a final order of the Commission are within the jurisdiction of the Intermediate Court of Appeals.

Fire Marshal, Certification of Home Inspectors, 103 CSR 07

This rule amends a current legislative rule which establishes the procedures to be followed to assure that consumers of home inspection services can rely on the competence of home inspectors, defines home inspection, outlines what must be included in a home inspection, defines unethical conduct by home inspectors, and creates penalties for prohibited acts. The rule provides that when a party appeals the hearing examiner's decision when a license is denied, limited, suspended, or revoked or when a party appeals the hearing examiner's decision on a complaint against a certified home inspector charged with violating this rule, the appeal is under the jurisdiction of the Intermediate Court of Appeals.

West Virginia State Police, West Virginia State Police Member Grievance Procedure 81 CSR 08

This rule amends a current legislative rule. It has been amended to clarify that the court of next jurisdiction after a decision from a hearing examiner is the West Virginia Intermediate Court of Appeals.

The Intermediate Court of Appeals has jurisdiction to enforce rulings from a hearing examiner, hear appeals from a ruling by a hearing examiner, and grant stays from the ruling of a hearing examiner.

West Virginia State Police, Motor Vehicle Inspection, 81 CSR 19

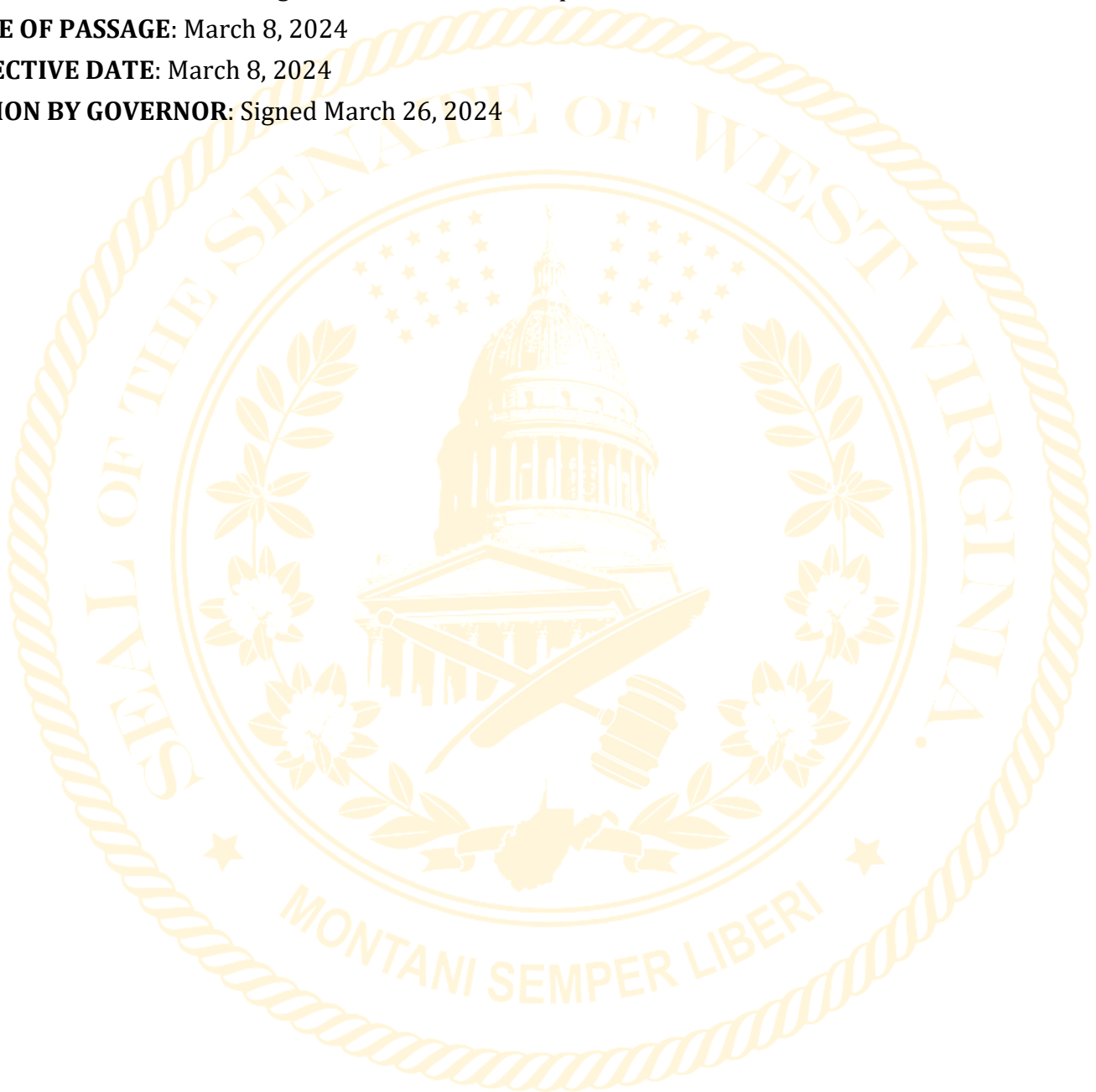
The rule is new rule that adopts an Official Motor Vehicle Inspection Manual. It incorporates by reference the West Virginia Official Motor Vehicle Inspection Manual which was filed with this rule.

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

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



Senate Bill 50

Authorizing Department of Revenue to promulgate legislative rules

Alcohol Beverage Control Commissioner Rules

*NOTE: Both ABCA rules are amended by direction of this Legislature during this current session. These rules were not promulgated by the agency and therefore were never reviewed or voted on by the Legislative Rule Making Review Committee.

Private Club Licensing, 175 CSR 02

This amendment strikes two subsections of the rule dealing with hours of operation. The current rule requires all persons, including employees, to clear the building no more than 30 minutes after the sale of alcohol has expired except in limited circumstances which would require the bar/restaurant area at least be cleared. Similarly, “persons,” presumably also including employees, cannot enter a premises more than 30 minutes before alcohol hours of sale. The amendment would limit that 30-minute requirement to only members and guests and give employees one hour to clear the premises after hours of sale and would limit their entrance to the serving areas only (not offices and the like) to an hour before hours of sale.

Subsection 4.9, which requires all entertainment, both live and mechanical (i.e. jukeboxes), cease no more than 30 minutes prior to the expiration of the hours for sale of alcohol, is struck and not replaced.

Nonintoxicating Beer Licensing and Operations Procedure, 176 CSR 01

The first change to this rule adds a new definition. “Delivery day means any day that the distributor is open for business.”

The second change strikes 6.3.d.3 of the rule, which currently reads:

“A distributor or a resident brewer acting in a limited capacity as a distributor, may rotate, stock, merchandise, and price nonintoxicating beer in a licensed nonintoxicating beer retail establishment only on nonintoxicating beer or nonintoxicating craft beer delivery day; Provided, that products purchased from other distributors are not altered or disturbed. No distributor may pull, move, or place on a display shelf or cooler shelf any nonintoxicating beer from a retailer’s existing or purchased nonintoxicating beer inventory currently resting at the retailer’s licensed premises.”

and replaces it with:

“A distributor or a resident brewer acting in a limited capacity as a distributor may rotate, stock, merchandise, price, and presell nonintoxicating beer in a licensed nonintoxicating beer retail establishment only on nonintoxicating beer or nonintoxicating craft beer delivery day.”

Insurance Commissioner Rules

AIDS Regulation, 114 CSR 27

Sunset extension only.

Health Benefit Plan Network Access and Adequacy, 114 CSR 100

This rule was originally promulgated in 2021 to govern the administration of the Health Benefit Plan Network Access and Adequacy Act (§33-55-1, et seq.), enacted in 2020. It requires those who offer a network plan in the state that provides health benefits (“a health carrier”) to “maintain a network that is sufficient in numbers and appropriate types of providers, including those that serve predominantly low-income, medically underserved individuals, to assure that all covered services to covered persons, including children and adults, will be accessible without unreasonable travel or delay.”

The Insurance Commissioner's amendments adopt standards for his or her review of these networks that are as stringent as the standards for review of the United States Centers for Medicare & Medicaid Services (CMS). The expressed goal is to adopt standards that mirror the CMS standards to ensure the state's primacy in the review of the adequacy of these networks and preclude possible federal preemption of those responsibilities.

The proposed rule includes the following substantive changes to existing law:

Section 2 is definitional:

2.2. would be amended to define the new term "county designation" to determine how each of the state's counties will be classified for purposes of establishing adequate times and distances for insureds to reach their medical providers according to the new Appendix A at the end of the rule.

2.18. and 2.26. are deleted, removing the definitions of "person" and "transfer," which are duplicative of those terms as defined by code in §33-55-1.

Section 3 regards the Network Adequacy Standards and makes changes to match the Federal CMS standards:

3.1. provisions are deleted that require certain "provider-to-covered person ratios" to be met by a health carrier. 3.1.1 requiring that at least 70% of a health carrier's providers "must be accepting new patients" are deleted.

3.2. is renumbered 3.1 and amended to remove existing geographic accessibility standards that will now be set forth in the new Appendix A.

3.1.1. (as renumbered) is new language requiring the Commissioner to "publish a notice with the county designation of each West Virginia county by July 1st of each year or as soon as that information becomes available from CMS" which would be applicable to the geographic accessibility standards in the new Appendix A.

3.1.2. is new language requiring geographic accessibility standards for dental to be "met by limited scope dental plans and by health benefit plans with embedded dental benefits."

3.1.3. is new language requiring that at "least 90 percent of a health carrier's members must live within the maximum distance to at least one provider of each type to satisfy geographic accessibility network adequacy standards." This language revises the language deleted in 3.2.2.

3.2. (as renumbered) is new language that sets wait times standards to see providers that must be met by a health carrier in order to comply with network adequacy requirements.

3.2.1. is new language requiring that at "least 90 percent of a health carrier's providers must meet" those wait time standards.

3.2.2. is deleted. See 3.1.3 above.

Section 4 regards Network Access Plans and amends subsection 4.1 to require that health carriers must file their access plans (see 4.8.) with the Commissioner for health benefit plans beginning January 1, 2025.

Senate Bill No. 52. Bail Bondsmen in Criminal Cases, 114 CSR 103

House Bill 2621 in Regular Session 2023 changed existing law regarding bail bondsmen. This existing rule is amended to reflect those changes.

Section 2 is definitional:

2.1. requires licensure for agents, clerks, or representatives of a bail bondsman.

2.4. clarifies that there are 2 types of bail bondsmen (a professional bondsman or a surety bondsman). The section also deletes the language of 2.4.1 and 2.4.2 to avoid unnecessary conflict with the definitions of “professional bondsman” and “surety bondsman” set forth in 2.9 and 2.11.

2.8. excludes all entities other than individuals from the definition of person so that only people, not organizations, may be licensed as bail bondsmen.

2.9. removes an “annuity” as a permissible “security” for bail bonds since the new statutory definition of “approved security” in House Bill 2621 does not include annuities as a type of approved security.

Section 3 regards licensing and makes the following substantive changes:

3.2.2.c.3. is new language that clarifies the new provisions in House Bill 2621 (2023 Regular Session) that a pledge of real estate by a professional bondsman as an approved security will no longer be permitted after July 1, 2024, unless he or she is licensed by the Commissioner as of July 1, 2024, and has pledged real estate as security to conduct bonding business; that person may continue to use real estate as collateral to operate as a bondsman after July 1, 2024 until his or her license is voluntarily surrendered or revoked by the Commissioner.

3.9. deletes the treatment of both a professional bondsman’s license and a surety bondsman’s license as one license in the context of the nonrenewal of licenses for the purpose of disciplinary actions.

3.10. thru 3.10.3. adds a competency testing requirement for new licensee applicants (or those whose license was suspended or revoked) beginning July 1, 2024, that tests “the knowledge of the person concerning the duties and responsibilities of a person engaged in the bonding business and the applicable laws and rules of this state,” to conform to the new provisions in House Bill 2621 (2023 Regular Session) that require the Commissioner to “formulate testing requirements for all initial license applicants;” and to establish a \$25 fee for each examination to be deposited into the General Revenue Fund of the State.

Section 5 regards responsibilities and prohibited activities of licensees and, in subsection 5.12, deletes authority for agents, clerks, or representatives directly employed by a bondsman to sign or countersign in blank bail bonds, or give a power of attorney to, or otherwise authorize, anyone to countersign his name to bonds.

Subsection 6.2. clarifies that the Commissioner is not liable for any of the incurred liabilities of any bondsman.

Section 15 regards reporting requirements:

15.1.4 requires that when reporting about his or her bonds to the Commissioner, the bondsman must identify the county in which each bond was issued.

15.2. authorizes the Commissioner to verify the information provided to him or her about a bond with the clerk of the county court in which the bond was issued.

15.6 and 15.7 adds new language requiring bondsmen to timely notify the Commissioner of any adverse administrative or criminal actions against the bondsman.

Finally, all referenced forms are removed from the rule’s appendix and replaced with a reference to the Commissioner’s website.

*Two amendments which were not agreed on by the agency were approved by the LRMRC. Both deny licenses to any person convicted of a felony and order the Commissioner to revoke or not renew any current license should a licensee be convicted of a felony.

Racing Commissioner Rule

Thoroughbred Racing, 178 CSR 01

The rule regulates all aspects of Thoroughbred Racing in West Virginia (this rule does not regulate greyhound racing).

A single amendment was approved by the LRMRC but not agreed to by the agency. In subdivision 41.2.g., the words "Entry of a" were replaced with the word "A". [41.2.g. Entry of a A horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted will be permitted to run until following the expiration of five (5) days after such horse was scratched or excused and the horse has been removed from the veterinarians' list by a Racing Commission veterinarian.]

The proposed rule includes the following substantive changes to existing law:

Section 5 relates to Racing commission personnel:

5.3 removes the minimum required (2) license clerks at each track.

Section 8 relates to the Stewards:

8.10.b. & d. allow a horse to be placed on or removed from the Stewards' List when there exists a question as to the exact identity of the actual trainer of the horse.

Section 9 deals with the racing secretary:

9.2.a. is new language requiring proof of health certificate and required vaccinations of all horses entering racetrack grounds.

9.2.b. is new language requiring all horses moving interstate to meet the entry requirements of the destination state, the Racing Commission in the destination state, and the individual Racetracks or Training Facilities to which the horse is being shipped in the destination state.

Section 22 relates to facilities and equipment:

22.1.b. requires that the ambulance provided by a track's racing association be properly equipped to transport.

22.1.b. is amended to require that each track's racing association employ least one person adequately trained in diagnosing and assessing concussions and must provide mandatory orientation of racing emergency procedures for all emergency response personnel employed by or assigned because of a contract to the association grounds.

22.4., 22.5., 22.12. and 22.13. are new and would add rules regulating racetrack rails, gaps, starting gates, and racing surface data collection and monitoring.

Section 23 deals with the operations of racing grounds:

23.1.e. is amended to allow those under the age of 18 years to be admitted in a restricted area without the written permission of the stewards or without a permit.

23.5 is new and would require racetracks to have an Emergency Warning System.

Section 24 are general provisions for all permit applications and permit holders:

24.1.i. is amended to allow 16- and 17-year-olds to receive an occupational permit from the Racing Commission.

24.3.d. is amended to allow drug testing to be accomplished by the taking of saliva specimens.

24.4.b. is amended to allow 16- and 17-year-olds to be employed by an occupational permit holder.

24.13.a. is amended to require all those mounted on a horse or pony to wear a properly secured safety helmet and require starting gate crew to adhere to this rule, and modify the minimum standards for safety helmets. (See similar modifications for jockeys at 45.3.c.)

24.13.b. is amended to modify the minimum standards for safety vests. (See similar modifications for jockeys at 45.3.b.)

24.13.c. is new and requires that a safety helmet or safety vest may not be altered in any manner nor shall the product marking be removed or defaced.

Section 28 deals with jockeys:

28.2.b. is amended to remove certain required documents when applying for an occupational permit to act as an apprentice jockey.

28.2.e., 28.2.f., 28.2.g., 28.2.h. and 28.2.i., providing certain requirements governing apprentice jockeys, would be deleted. A number of following paragraphs in 28.2 would also be deleted, added or modified governing weight allowances and other requirements related to apprentice jockeys.

28.5 is amended to allow jockey spouses to compete against one another in races.

Section 30 relates to blacksmiths:

30.2.c. is amended to give the stewards the discretion over the composition of the panel responsible for blacksmith permit testing.

Section 33 regards claiming racing:

33.1 is amended to remove certain provisions relating to warranty of title to a horse when entered in a claiming race.

Section 38 deals with the transfer of claimed horses:

38.5. is amended to provide for the suspension of a certain 60-day period governing activities of claimed horses.

Section 39 regards entries and nominations of horses:

39.1.h. is amended to limit the disqualification on spouses entering races when one spouse is disqualified to only when the spouse is a trainer.

Section 41 deals with declarations (withdrawal prior to closing of entries) and scratches (withdrawal after the closing of entries):

41.2.g. removes language that prohibits horses scratched or excused from starting a race because of physical disability from being entered in a race until after 5 days from the scratch or excuse. It also appears the amended language would permit horses scratched or excused from starting a race because of sickness to run, rather than only be entered, in a race following the expiration of five (5) days after such horse was scratched or excused and the horse has been removed from the veterinarians' list by a Racing Commission veterinarian.

Section 45 relates to the actual running of the race:

45.7.f.2. is amended to require all racetrack licensees to ensure that no electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards are being used during a race.

Section 46 deals with protests, objections, and inquiries:

46.2.d. is amended to address the manner in which a jockey may object after a race.

Section 49 regards medications and prohibited substances:

49.7. is amended by deleting, adding or modify language governing the administration of Lasix to a horse.

49.8. is amended by deleting, adding or modify language governing the Bleeder list of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout.

Section 52 deals with the physical inspection of the horses:

52.3. is amended by deleting, adding or modify language governing the Veterinarians' List of all horses which are determined to be unfit to compete in a race due to illness, physical distress, unsoundness, injury, infirmity, heat exhaustion, positive test or overage, administration of a medication invoking a mandatory stand down time, administration of shock wave therapy, positive out of competition test, or any other assessment or determination by a Racing Commission veterinarian that the horse is unfit to race.

Tax Department Rules

Aircraft Operated Under a Fractional Ownership, 110 CSR 15K

Sunset extension only.

Citizen Tax Credit for Property Taxes Paid, 110 CSR 21B

Sunset extension only. (*modified to correct error making rule inconsistent with code)

Income Tax Paid at the Entity Level by Electing Pass-Through Entities, 110 CSR 21G

(Fiscal Impact: \$15K in initial administrative costs) This is a new rule in response to Senate Bill 151 which passed in the 2023 Regular Session. That bill allowed for owners of pass-through entities to pay their share of income tax owing to that entity at the entity level as opposed to on their own individual return. The proposed rule provides guidance for Pass-through entities (LLCs, LLPs, Partnerships, etc.) that elect to be taxed at the entity level (as opposed to on the individual owners' income tax level) and their respective owners. Effective for taxable years beginning on and after January 1, 2022, a qualifying pass-through entity may elect to be subject to the personal income tax at the entity level for a taxable year.

Section 2 is definitional.

Section 3 explains the purpose and summary of the rule.

Section 4 regards the method by which owners of the business receive a tax credit for their share of the tax paid by the business. Owners of the pass-through entity get a tax credit equal to that owner's proportionate share of the tax remitted at the entity level. It is claimed for that taxpayer's taxable year including the last day of the electing pass-through entity's taxable year for the tax paid with a five-year carryforward.

Section 5 regards the election to pay individual owners' income tax at the entity level and the timing thereof. The election must be made on or before the due date for filing the return (including extensions) and is irrevocable for that taxable year.

Section 6 explains which entities are qualifying.

Section 7 explains what taxable income for this rule's purposes and specifically lays out computations for individual owners' share of the tax (including nonresidents).

Section 8 regards the actual breakdown of figuring the tax to be remitted.

Section 9 regards the actual filing process.

Section 10 explains that for taxable year 2022 only, electing pass-through entities will not have to make estimated payments, but the requirement resumes in taxable year 2023.

Section 11 regards nonresident withholding payments and Section 12 regards filing requirements for nonresidents.

Income Tax Credits for Property Taxes Paid, 110 CSR 21H

(Fiscal Impact: Estimated \$201.3 million reduction in annual collections beginning FY 2025) This is a new rule in response to legislation passed during the 2023 Regular Session (House Bill 2526) known as the West Virginia Property Tax Adjustment Act. It provides guidance to taxpayers relating to income tax credits for property taxes paid. House Bill 2526 created a refundable motor vehicle property tax credit, a refundable personal income tax credit based on real property taxes paid by an eligible disabled veteran, and a refundable tax credit based on certain property taxes paid by small businesses.

Section 2 is definitional.

Section 3 explains the Motor Vehicle Property Tax Adjustment Credit, which allows a refundable tax credit for West Virginia ad valorem property tax timely paid on the value of a motor vehicle owned by the taxpayer during the personal income taxable year or corporation net income taxable year, as applicable.

Section 4 explains the Disabled Veteran Real Property Tax Credit, which similarly allows a refundable tax credit against a qualifying disabled veteran's personal income tax for timely paid West Virginia ad valorem real property tax paid on their homestead during the personal income taxable year.

Section 5 regards the Small Business Property Tax Adjustment Credit, which allows a tax credit of 50% of the amount of West Virginia ad valorem personal property tax timely paid during the business's applicable income tax year, less any credit already taken from the Motor Vehicle Property Tax Adjustment Credit.

Administration of Tax on Purchases of Wine and Liquor, 110 CSR 49

Sunset extension only

Privilege Tax on Sales of Hemp-Derived Cannabinoid and Kratom Products, 110 CSR 99

(Fiscal Impact: None to General Revenue. Administrative costs to the Tax Department of \$45K in FY2023, \$75K per year thereafter.) This is a new rule in response to Senate Bill 220 passed during the 2023 Regular Session known as the Industrial Hemp Development Act and the Select Plant-Based Product Regulation Act. The rule is legislatively authorized and is intended to provide needed guidance regarding procedures and administration of the excise tax on retail sales of hemp derived cannabinoid products and kratom products.

The above cited acts established an 11% privilege tax on the retail sale of these taxes (in addition to all other applicable taxes), to be remitted quarterly on the 20th day of the month following the end of the calendar quarter, and to be deposited by the Tax Commissioner into the Agricultural Fees Fund.

Section 1 sets the sunset date as August 1, 2029.

Section 2 is definitional.

Section 3 regards the imposition of the 11% tax on retail sales of cannabinoid products and kratom products.

Section 4 explains the administration and process by which the tax and returns are to be remitted.

Section 5 lays out the various record-keeping requirements.

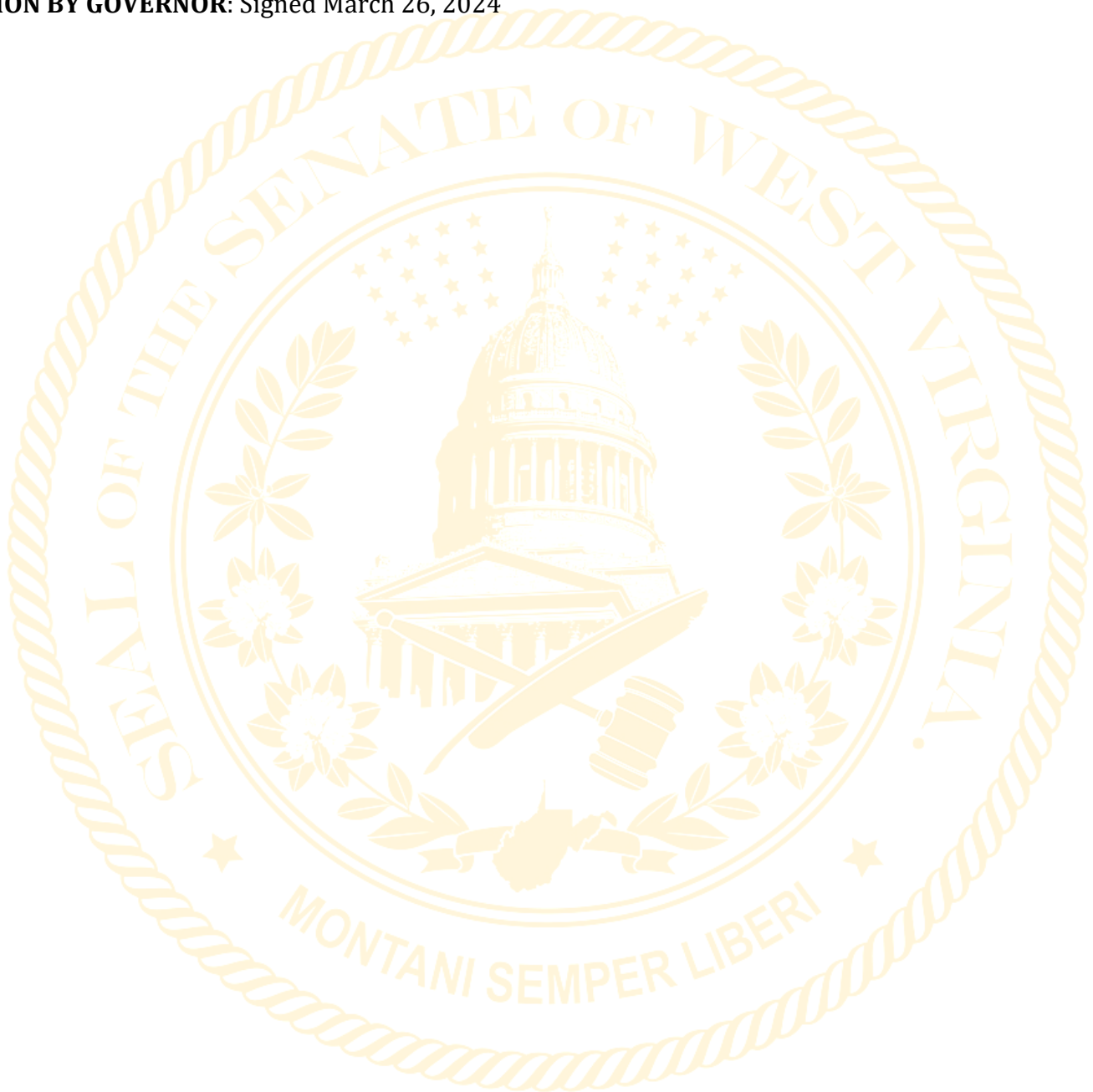
Section 6 explains violations and penalties, including fines and incarceration.

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

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



Senate Bill 60

Authorizing DOT to promulgate legislative rules

This Committee Substitute is Department of Transportation Bundle, known as Bundle 8. It contains six rules from the Division of Motor Vehicles, the Division of Highways, and the Division of Multimodal Transportation Facilities.

Division of Motor Vehicles, Motor Vehicle Titling, 91 CSR 03

The rule repeals and replaces a current legislative rule. It substantially revises the process for titling and registering a vehicle, and for registering a fleet of vehicles, whether current or antique.

The rule also implements the provisions of House Bill 2506 from the 2023 Regular Session, which authorized the Division to establish a national title clearinghouse using the Division's title system. The title clearinghouse is intended to expedite issuance of vehicle titles to non-resident businesses that participate in the clearinghouse program.

Non-resident businesses must apply and post a \$250,000 penalty bond to participate in the program. There is a minimum \$15 fee per title transaction through the clearinghouse, plus a pass-through of any technology fee applicable pursuant to a contract or agreement between the DMV and vendors associated with the program.

The full complement of administrative and criminal penalties is available to the DMV for misconduct in the titling and registration process.

The committee substitute contains an amendment requested by the Division regarding titling of a nonresident business's vehicles through the Title Clearinghouse.

Fiscal Impact: The fiscal year costs upon full implementation are estimated at \$1,809,800 against estimated total revenues of \$90,000,000.

Division of Motor Vehicles, Dealer Licensing, 91 CSR 06

The rule amends a current legislative rule regarding licensing of various entities involved in motor vehicle services.

The rule has been amended to require all licensees to participate in the Division's electronic lien and title program.

In addition, the amendments to the rule reflect passage of Enrolled Committee Substitute for Senate Bill 455 during the 2023 Regular Session. That bill amended the definition of "established place of business" for used motor vehicle dealers, eliminating the requirement that the dealer be open to the public any specific number of hours or any specific time periods. It also eliminated the requirement for maintaining display and office areas of a certain minimum square footage.

Division of Motor Vehicles, Handicapped Parking Permits, 91 CSR 10

The rule amends a current legislative rule to allow issuance of a permanent windshield placard for eligible disabled individuals that would be valid for the remainder of the applicant's life. Currently, the placards are renewed every five years. The rule reflects passage of House Bill 2533 during the 2023 Regular Session.

Division of Highways, Construction and Reconstruction of State Roads, 157 CSR 03

The rule amends a current legislative rule. In general, the rule updates the Division of Highways (“DOH”) contracting procedures and utilization of the DOH electronic system to reflect current practice. The rulemaking also revises and updates sections related to working with third parties on DOH projects.

The rule allows plans and proposals to be obtained by mail, phone or weblink with the Technical Support Division, DOH and removes the specified fees; deletes the requirement that a contractor file a “Prequalification Statement” and instead requires the filing of “an Application”; eliminates certain outdated provisions dealing with pre-qualification and proposal documents, plans and specifications submittals; removes outdated modes of proposal withdrawal and updates the proposal withdrawal procedure; deletes old bonding procedures and replaces them with updated bonding requirements based on the bidder’s published Performance Rating; and clarifies that all contractor insurance policies, except Worker’s Compensation are to name the DOH as an additional insured.

The rule also deletes \$50K in fire damage insurance coverage and replace it with \$300K in damages to rented property; increases the amount of Worker’s Compensation Insurance from \$500,000 to \$1,000,000; and adds a proviso requiring that railroads must act in good faith and in a meaningful and prompt fashion to review work within railroad rights-of-way.

The provisions on work on railroads rights-of-ways has been amended to prohibit unreasonable withholding of approval of protective insurance coverage; provide for the use of grade crossings; clarify that contractor performance may not impeded railroad operations or pose undue safety risks; eliminate the requirements that a contractor receive certain approvals from the railroad when authorized by court order; update Railroad Protective Services (Flagging) procedures.

Obsolete provisions relating to the disqualification, revocation, and suspension procedures for contractors have been replaced.

Division of Highways, Traffic Safety Rules, 157 CSR 05

The rule amends a current legislative rule. In general, it updates the Division of Highways (“DOH”) general rules for the control of traffic and the promotion of safety on public highways. It includes permits for oversize trucks and restrictions on where and when oversized loads may be transported. The rule adopts the Manual on Uniform Devices for Streets and Highways. It provides that speed zones are set by order of the Highway Commissioner and under what specifications. The rule also allows local authorities to request that the commissioner alter a speed zone and sets forth the process for the alteration requests.

The rule provides that the regulation of oversize trucks and restrictions on their movement is subject to the rule; adopts the Manual on Uniform Traffic Control Devices; clarifies the conditions and requirements for police escort of oversize loads; clarifies the conditions required for bridges to be strengthened for permitted excessive loads; establishes the requirements and procedures for temporary traffic control plans; clarifies that any type of house is covered for house moving applications; adds overweight to permit costs; clarifies covered width requirements of mobile home or house trailers on local service routes, interstates, US, and WV routes; adds modular homes as well as mobile homes to permit requirements; and allows permit acquisition via online portal.

The Division had requested that the Legislative Rule-Making Review Committee authorize two modifications to the proposed rule. The Committee agreed to the modifications, but when the Division filed its modified rule, it failed to add the two modifications. The following modifications have been included as amendments in the committee substitute.

Section 7.4.h. Vehicle Operator; Speed and Operating Prohibitions. Vehicles transporting explosives shall be driven only by authorized persons not addicted to the use of, or under the influence of, intoxicants or narcotics. Vehicle speed shall not exceed 35 miles per hour. Vehicle speed shall not exceed the posted or statutory speed limit in effect and shall not exceed the recommended speed on all warning signs when passing through the area of concern (curve, intersection, etc.). Motor vehicles shall not coast or freewheel at any time. Vehicles containing explosives shall not be taken inside a garage for repairs or other purposes. Insofar as possible, explosives shall be transported on streets or highways only during daylight hours.

Section 7.4.j. Railroad Crossings. Vehicles transporting explosives shall come to a full stop before crossing any railroad track or main highway, and then proceed with caution, and conform to all other traffic safety measures. When approaching an intersecting roadway, vehicles shall obey any traffic control devices in place such as stop signs, yield signs, and traffic lights.

West Virginia Division of Multimodal Transportation Facilities, Valuation of Used Rolling Stock and Equipment, 220 CSR 01

The rule is essentially the same as the rule promulgated under the State Rail Authority. The program was moved to the newly created Division of Multimodal Transportation Facilities in 2022.

The rule governs the purchase of used railroad rolling stock, which has been exempted from the procurement requirements of W.Va. Code §5A-3-1 et seq. due to the uniqueness of this commodity. Originally capped at \$500K, the legislature raised the cap to \$1,000,000 during the statutory creation of the Division in 2022. As originally drafted, the in-house agency staff (both during State Rail Authority and the Division) conducted all valuations and reports. The Division filed a public agency comment after the posting of the rule that it intended to revise the rule to allow qualified individuals outside the Division to conduct the threshold inquiry and report the condition and value to the Commissioner.

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

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 190

Modifying definition of sexual contact

Senate Bill 190 updates the definitions applicable to Chapter 61, Article 8B governing sexual offenses. The bill removes “married” as a defined term and modifies the definition of “sexual contact” to remove the requirement that the victim is not married to the actor. “Sexual contact” is defined as “any intentional touching, either directly or through clothing, of the breasts, buttocks, anus, or any part of the sex organs of another person, or intentional touching of any part of another person’s body by the actor’s sex organs and the touching is done for the purpose of gratifying the sexual desire of either party.”

Additionally, the bill eliminates the marriage defense to first-degree and third-degree sexual assault, i.e., the fact that the victim is the spouse of the defendant. The bill also makes other technical corrections.

CODE REFERENCE: West Virginia Code §61-8B-1, §61-8B-3, and §61-8B-5 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 269

Excluding test strips from definition of drug paraphernalia

Senate Bill 269 repeals §60A-4-403a, which was held to be unconstitutional in *Smith v. Roark*, 1980 U.S. Dist. LEXIS 17107 (S.D.W.Va. May 13, 1980).

The bill also clarifies that test strips are not considered drug paraphernalia for purposes of Chapter 47, Article 19. It expands this exception from being solely applicable to test strips for fentanyl to all test strips.

CODE REFERENCE: West Virginia Code §60A-4-403a – repealed; §47-19-3 – amended

DATE OF PASSAGE: January 26, 2024

EFFECTIVE DATE: January 26, 2024

ACTION BY GOVERNOR: Signed February 2, 2024

Senate Bill 318

Modifying process of when parental rights are terminated

The purpose of this bill is to ensure the following of proper procedural protocol for adoptions in abuse and neglect proceedings.

As background, many abuse and neglect cases end with the termination of parental rights. To achieve permanency for the child of parents whose rights have been terminated, often times there is an adoption by a foster family or a relative. West Virginia law currently provides that an adoption petition, which is a formal request by the individuals seeking to adopt the child, should not be filed with the circuit court until any parent's appeal of a circuit court's decision terminating the parental rights has been resolved by the West Virginia Supreme Court. Unfortunately, there are situations where adoption petitions are being filed prematurely and proceeding to the adoption hearing prior to the resolution of a parent's appeal.

This bill requires that where there is a termination of parental rights, the verified petition must state that either 1) the decision terminating the parental rights has been affirmed on appeal and the time for reconsideration of the appellate decision has expired, or 2) the termination decision has not been appealed and the time for filing an appeal has expired.

Additionally, where the adoption involves a termination of parental rights under our state's abuse and neglect law, the Department of Human Services is required to issue a certificate containing the information regarding the status of the parent's appeal. This certificate is then attached to the adoption petition.

CODE REFERENCE: West Virginia Code §48-22-502 – amended; §49-4-117 – new

DATE OF PASSAGE: February 9, 2024

EFFECTIVE DATE: May 9, 2024

ACTION BY GOVERNOR: Signed February 20, 2024

Senate Bill 370

Clarifying appeal and enforcement process for final orders issued by an administrative law judge in public employee grievance procedures

The bill provides that appeals of an administrative law judge's (ALJ's) final order in a public employee grievance proceeding shall be directly to the Intermediate Court of Appeals. Those appeals were formerly taken to the Circuit Court of Kanawha County.

Enforcement of an ALJ's Order—not the appeal itself—shall be pursued in the circuit court situated in the county in which the grievant is employed. This bill also clarifies that the confidentiality provisions and exceptions under the law apply in appellate proceedings in the same manner as they apply in circuit court.

CODE REFERENCE: West Virginia Code §6C-2-5 and §6C-2-8 – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: March 1, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 451

Directing Prosecuting Attorneys Institute to make training available to certain new prosecuting attorneys

Senate Bill 451 directs the West Virginia Prosecuting Attorneys Institute to establish a training program for all newly appointed or newly elected prosecuting attorneys. The bill makes other technical corrections.

CODE REFERENCE: West Virginia Code §7-4-6 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 477

Prohibiting public disclosure of personal information on internet

The purpose of this bill is to protect the privacy of healthcare workers, first responders, firefighters, and law enforcement personnel from an abusive practice known as doxing, which is the act of publishing personal information (such as a home address or cell phone number) on the internet with malicious intent.

The bill makes it a misdemeanor for a person to knowingly, willfully, and intentionally make the personal information of the worker, or the worker's immediate family, publicly available on the internet with either: 1) the intent to threaten, intimidate, or incite the commission of a crime of violence against a person; or 2) the intent and knowledge that the personal information will be used to threaten, intimidate, or facilitate the commission of a crime against a person. Upon conviction, the first offense is punishable by a fine of not more than \$500 and/or confinement of not more than six months. A subsequent offense is punishable by a fine of not more than \$1,000 and/or confinement of not more than one year.

Additionally, there is a mechanism for the worker to request the removal of his or her personal information from publicly available records on the internet that are in the control of a state or local government official. The person would 1) submit evidence that they are a protected worker (healthcare worker, first responder, firefighter, or law enforcement) and 2) a notarized statement that he or she believes the personal information being made publicly available poses an imminent and serious threat to the person or that person's immediate family. A person provides that evidence and statement under the potential penalty of false swearing.

CODE REFERENCE: West Virginia Code §5A-8-25 and §61-3C-14d – new

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: March 27, 2024

Senate Bill 504

Modifying felony offense of sexual misconduct of school employee or volunteer

This bill clarifies that a student who is the victim of sexual misconduct by a school employee or volunteer may be 1) a private or public school student 2) who attends any West Virginia school. It imposes criminal liability on the school employee or volunteer for the sexual misconduct.

Previous West Virginia law provided that it was a felony for "[a]ny teacher, principal, counselor, coach, other employee, or volunteer of any private or public elementary or secondary school who engages in [sexual misconduct] . . . with any student enrolled in the school." The term "the school" had been interpreted as requiring the student, who was the victim of the sexual misconduct, be enrolled in the same school as the perpetrator/employee who engaged in the sexual misconduct. The need for the bill, which broadens application of the criminal provision, arose out of the strict construction of this statutory language.

Additionally, there is an exception in the bill for a high school student who is teaching as part of the Grow Your Own Program. This program allows students to teach, earn money, and potentially become a teacher faster through an accelerated college program. The purpose of the bill's exception for the program is to ensure that high school students, who may be engaged in consensual sexual relations with other high school students, are not prosecuted under this code section.

CODE REFERENCE: West Virginia Code §61-8B-11b – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 539

Creating Cold Case Database

The bill creates the “cold case database” to assist in the resolution of unsolved cases. The database is to be maintained by the West Virginia Fusion Center and will contain information from all law enforcement agencies across the State for unsolved violent crimes, sex crimes, missing persons cases, and matters involving unidentified human remains. Each law enforcement agency may provide information relating to the unsolved case to the Fusion Center.

This bill defines "cold case" as any investigation into a qualifying crime, a missing person, or unidentified human remains where all investigative leads have been exhausted and the crime remains unsolved.

This bill defines “Qualifying crime” as felony offenses set forth in:

- §61-2-1 et seq. (Crimes against persons)
- §61-3-1 (First Degree Arson)
- §61-3-2 (Second degree arson)
- §61-3-7 (Causing injuries during an arson-related crime),
- §61-3C-14b (Soliciting, etc., a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity)
- §61-3E-1 et seq. (Offenses involving explosives)
- §61-8-1 et seq. (Crimes against chastity, morality, and decency)
- §61-8A-1 et seq. (Preparation, distribution or exhibition of obscene matter to minors)
- §61-8B-1 et seq. (Sexual Offenses)
- §61-8C-1 et seq. (Filming Explicit Conduct of Minors)
- §61-8D-1 et seq. (Child abuse and Child neglect)

CODE REFERENCE: West Virginia Code §15A-12-9 – new

DATE OF PASSAGE: March 4, 2023

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 548

Clarifying appellate jurisdiction of Intermediate Court of Appeals

This bill clarifies the jurisdiction of the West Virginia Intermediate Court of Appeals ("ICA"). Of note, the ICA only possesses appellate jurisdiction pursuant to the jurisdictional statute addressed by this proposed legislation. That statute permits the ICA to hear appeals in the following types of cases: civil; family law; worker's compensation; administrative law; and guardianship/conservatorship.

Prior to the passage of this bill, it was unclear as to whether the ICA had appellate jurisdiction in civil matters where equitable relief (including injunctive relief) is sought by a party. This bill provides that the ICA would have jurisdiction over any final judgment or order in a civil case, including any civil case that involves a request for legal or equitable relief.

Cases involving appeals of matters involving the extraordinary remedies set forth in Chapter 53 of the Code, with the exception of injunctive relief, would not be heard in the ICA and would continue to be heard by our state's Supreme Court. Those extraordinary remedies include matters involving: writs of prohibition, writs of mandamus, writs of quo warranto, writs of certiorari, writs of habeas corpus, special receivers, arrests in civil cases, and personal safety orders.

CODE REFERENCE: West Virginia Code §51-11-4 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 578

Creating offense of burglary

This bill clarifies that the dwelling house or its adjoining outbuilding referenced in the statute establishing the offense of breaking and entering or entering without breaking, is a dwelling house or outbuilding belonging to another person.

The bill also clarifies that a dwelling or outbuilding is considered to be that "of another" if the person knows that he or she is precluded from being on the property by a court order entered in a divorce, domestic violence, or bail matter.

CODE REFERENCE: West Virginia Code §61-3-11 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 623

Requiring DMV to provide images of certain individuals to Secretary of State for voter identification purposes

W. Va. Code §3-2-11 requires the Division of Motor Vehicles (DMV) to transmit specific biographical information that it obtains from each applicant for a driver's license or identification card to the Secretary of State for voter identification purposes. Senate Bill 623 adds a photograph of the applicant to the list of information transmitted.

The bill updates requirements for the DMV to create a regular process to ensure that any applicant to register to vote through the DMV is a U.S. citizen eligible to vote in West Virginia, and likewise to ensure that persons who are noncitizens of the United States have not and cannot register to vote. In furtherance of this purpose, it requires the DMV to transmit the information it obtains purporting to document an applicant's status as a U.S. citizen to the Secretary of State.

The bill specifies that these amendments go into effect January 1, 2025.

CODE REFERENCE: West Virginia Code §3-2-11 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Signed March 26, 2023

Senate Bill 624

Cancelling voter registration records for individuals no longer WV residents

This bill specifies the time at which voter registration closes for both online and in-person registration prior to an election.

The bill adds a new requirement that county clerks must cancel a person's voting record once the Secretary of State notifies the clerk that the person is no longer a West Virginia citizen and has obtained a driver's license in another state, based on information provided by the Division of Motor Vehicles.

The bill specifies that these amendments go into effect January 1, 2025.

CODE REFERENCE: West Virginia Code §3-2-6 and §3-2-27 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 632

Relating to Dangerousness Assessment Advisory Board multi-disciplinary study group

Senate Bill 632 continues the multi-disciplinary study group created by Senate Bill 232, which was passed during the 2023 Regular Session. The study group is charged with developing a strategic plan for a “sequential intercept model” to divert adults and juveniles with mental illness, development disabilities, cognitive disabilities, and substance use disorders away from the criminal justice system into treatment and to promote continuity of care and interventions. Pursuant to Senate Bill 232, the study group produced a report in November 2023 that was presented to the Joint Standing Committee on the Judiciary.

This bill continues the study group so that it can keep working. It specifies that individuals with brain injuries are to be included among the population of individuals with cognitive disabilities who are one of the subjects of the study. It adds four members to the study group: a designee of the Department of Veterans Assistance, a designee of the Department of Health Facilities, a senator appointed by the President of the Senate, and a delegate appointed by the Speaker of the House.

The bill updates the reporting provisions. It requires the study group to submit a supplemental report with findings and recommendations to the President of the Senate and Speaker of the House of Delegates on or before November 30, 2024. Thereafter, it requires the study group to submit an annual report to the President and the Speaker updating its findings and recommendations on topics specified by the Joint Standing Committee on the Judiciary, the Joint Standing Committee on Finance, the Joint Standing Committee on Health, or the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority.

The bill requires the study group to form a steering committee consisting of the Chairman of the Dangerousness Assessment Advisory Board, the Statewide Forensic Clinical Director, and the Statewide Forensic Coordinator. It provides the steering committee with the authority to enter into grant-funded contracts for administrative support services, to enter into MOUs with study group members, and to seek grant funding.

Finally, the bill makes several technical corrections to clarify the agencies that are included as members in the study group and update references to former DHHR agencies.

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

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 649

Clarifying per diem compensation for certain judges recalled to service

This bill updates provisions regarding retired justices of the Supreme Court of Appeals and retired judges of the Intermediate Court of Appeals, circuit courts, and family courts who are recalled and assigned to temporarily serve as senior judges or justices by the Supreme Court of Appeals.

The bill authorizes per diem compensation for senior family court judges of \$325 per day, plus reimbursement for actual and necessary expenses. The bill further provides that the combined total per diem compensation and retirement benefits paid to a senior family court judge during a single calendar year may not exceed the annual salary of a sitting family court judge, except under certain extraordinary circumstances as ordered by the Supreme Court of Appeals.

CODE REFERENCE: West Virginia Code §5-10-48 and §51-9-10 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 679

Regulating certain plant-based derivatives, hemp-derived cannabinoid products, and Kratom.

This bill updates provisions relating to the manufacturing, processing, distributing, or sale of hemp-derived cannabinoid products and kratom products.

The bill clarifies that all penalties imposed by the Alcohol Beverage Control Administration (ABCA) will be deposited into the existing Alcohol Beverage Control Enforcement Fund, to be used for the ABCA enforcement activities. It expands the purposes for which the fund may be used and increases the amount that may be retained at the end of each fiscal year from \$20,000 to \$200,000.

The bill updates legislative findings, definitions, and requirements for permitting, registration, taxation, labeling, enforcement, and rulemaking relating to hemp-derived cannabinoid products under the Industrial Hemp Development Act (§19-12E-1 et seq.) and kratom products under the Select Plant-Based Derivatives Regulation Act (§19-12F-1 et seq.), respectively. It requires coordination between ABCA, Department of Agriculture, and the Tax Department for enforcement purposes.

CODE REFERENCE: West Virginia Code §11-16-23, §19-12E-12, §19-12F-1, §19-12F-3, §19-12F-4, §19-12F-7, §19-12F-8, §19-12F-9, §19-12F-11, and §60-7-13 – amended; §19-12F-9a – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 732

Requiring cooperation between law-enforcement agencies and military authorities

This bill facilitates the sharing of information relating to military members who may be the victims or perpetrators of crimes. The legislation first permits the prosecuting attorney or assistant prosecuting attorney to provide relevant information to designated military staff upon a written request.

The bill next expands the information that may be provided after the written request from military staff. Existing law already provided information may be provided for 1) violations of military codes/directives, 2) state and federal criminal law violations, and 3) sexual assault/harassment investigations and reports. The information provided is expanded to include information and records about offenses that are generally confidential (such as sexual offenses, child abuse, human trafficking, etc.).

Finally, this legislation imposes a duty upon law enforcement, campus police, and prosecuting attorneys to respond to a written request for information pertaining to an alleged offender or victim who is a member of either 1) the National Guard or 2) an armed forces service component located in our state. That response is to be provided within a reasonable time after receiving the request.

CODE REFERENCE: West Virginia Code §15-10-7 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 751

Creating online charitable raffles

This bill adds a new Article 21A to Chapter 47. Article 21A is nearly identical to Article 21, which governs charitable raffles, except that Article 21A allows for charitable and public service organizations to hold online raffles. Article 21A does not include language that does not apply to online raffles, such as the definitions of “concession” and “joint raffle occasion” and the restriction on the use of raffle equipment.

The bill provides the legislative intent of this bill and defines terms, including, but not limited to, definitions of “platform provider”, “online raffle”, “online raffle occasion”, and “virtual present”.

The bill authorizes certain online raffles by charitable or public service organizations without a license; limits the value of prizes and cumulative gross proceeds; and imposes recordkeeping requirements.

The bill includes requirements for license applications and prohibits transfer of an online raffle license.

The bill provides requirements and restrictions for an annual license, including a requirement to utilize geo-location or geo-fencing technology to ensure that patrons are located within the state. It requires licensees to maintain its servers in West Virginia. It requires the Tax Commissioner to list active licensees on its website, and licensees to include a hyperlink to the Tax Commissioner’s website on tickets and to display their license at their physical location as provided on their application.

The bill provides requirements and restrictions for a limited occasion license for two or more charitable or public service organizations holding a joint online raffle occasion and provides requirements and restrictions. It similarly requires the Tax Commissioner to list active licensees on its website, and licensees to include a hyperlink to the Tax Commissioner’s website on tickets and to display their license at their physical location as provided on their application.

The bill imposes an annual license fee of \$500 and limited occasion licensee fee of \$50, with revenues being used to support investigatory activities. It provides that the gross proceeds of an online raffle are exempt from certain state and local taxes.

The bill specifies information that must be included in an application for a license.

The bill authorizes a process to seek approval to modify the terms and conditions of a license.

The bill authorizes licensees to adopt rules consistent with the provisions of the article and rules promulgated thereunder and requires that any rules so adopted be advertised on the licensee’s website and posted at the place of operation.

The bill includes provisions regarding prizes awarded and specifies the value of real or personal property or merchandise prizes.

The bill authorizes a licensee to pay a salary to operators of charitable online raffles and places restrictions on salary, who may be a paid operator, and number of paid operators.

The bill authorizes certain expenses to be paid out of gross proceeds of the online raffle and places restrictions on when and how net proceeds and interest must be spent. It authorizes the Tax Commissioner to disapprove certain contracts and leases in connection with an online raffle and makes the attempt to engage in transactions under a disapproved contract grounds for revocation or suspension of a license. It provides a process to seek approval to expend net proceeds after the specified one-year period.

The bill contains recordkeeping and bookkeeping requirements and authorizes audits.

The bill authorizes a licensee to advertise its online raffles.

The bill provides requirements and restrictions on an annual platform provider license. It provides for an annual license fee of \$500 and specifies information that must be included in the application for licensure. It contains recordkeeping and bookkeeping requirements specific to annual platform provider licensees.

The bill establishes the felony offense of knowingly conducting or participating in a fraudulently or deceptively conducted or administered online raffle with intent to defraud, which is punishable by fine of \$500 to \$10,000 and/or imprisonment for 1 to 5 years.

The bill establishes the misdemeanor offense of knowingly obtaining or assisting another person in obtaining an online raffle license or platform provider license under false, deceptive, or fraudulent pretenses, which is punishable by fine of \$500 to \$10,000.

The bill establishes the misdemeanor offense of knowingly violating any provision of the article other than §47-21A-20 or §47-21A-21, which is punishable by fine of \$100 to \$1,000, and for a second or subsequent violation, by fine of \$100 to \$100,000 and/or confinement up to one year.

The bill establishes a civil penalty of up to \$10,000 for violation of any provision of the article or for failure to perform any of the duties or obligations imposed under the article other than the §47-21A-20 or §47-21A-21.

The bill authorizes rulemaking by the Tax Commissioner. It provides grounds for denial of an application for licensure or modification of a license. It provides grounds and procedures for revocation, suspension, or non-renewal of a license. It authorizes and provides procedures for the Commissioner to issue an emergency order to suspend a license.

The bill requires licensees to file financial reports and specifies information to be included in the report.

The bill requires a copy of each license to be filed and recorded with the clerk of the county commission of the county of the licensee's physical operations. It requires an out-of-state platform provider licensee to provide a hyperlink on its website to the license. It requires copies of applications to be available in the Tax Commissioner's office.

The bill prohibits persons convicted of a felony, misdemeanor for gambling offense, or violation of §47-20-1 et seq. to obtain a license, conduct an online raffle, or lease or provide the premises for online raffles to a licensee within 10 years from conviction.

The bill declares net proceeds of online raffle games which accrue to the West Virginia State Fair are considered to be used for charitable or public service purposes, and any proceeds allowed by the State Fair Board to be paid to or retained by persons conducting or overseeing online raffles are considered to be expenses incurred by the State Fair Board.

The bill authorizes the West Virginia State Fair Board to annually apply for a State Fair online raffle license. It specifies who may conduct the online raffles. It imposes a license fee of \$500. It exempts the State Fair raffle license from certain provisions of the article. It requires the application to include a copy of any agreement between the board and persons or entities to conduct online raffle occasions. It authorizes the board to adopt rules for holding online raffles.

The bill provides additional remedies available to the Tax Commissioner, including revocation, suspension, or renewal of a license; placement of a licensee on probation and payment of a probation supervision fee of at least \$2,000; requiring licensees to replace officers who knew or should have known of a material violation; requiring licensees to prohibit members, supporters, volunteers involved in acts of

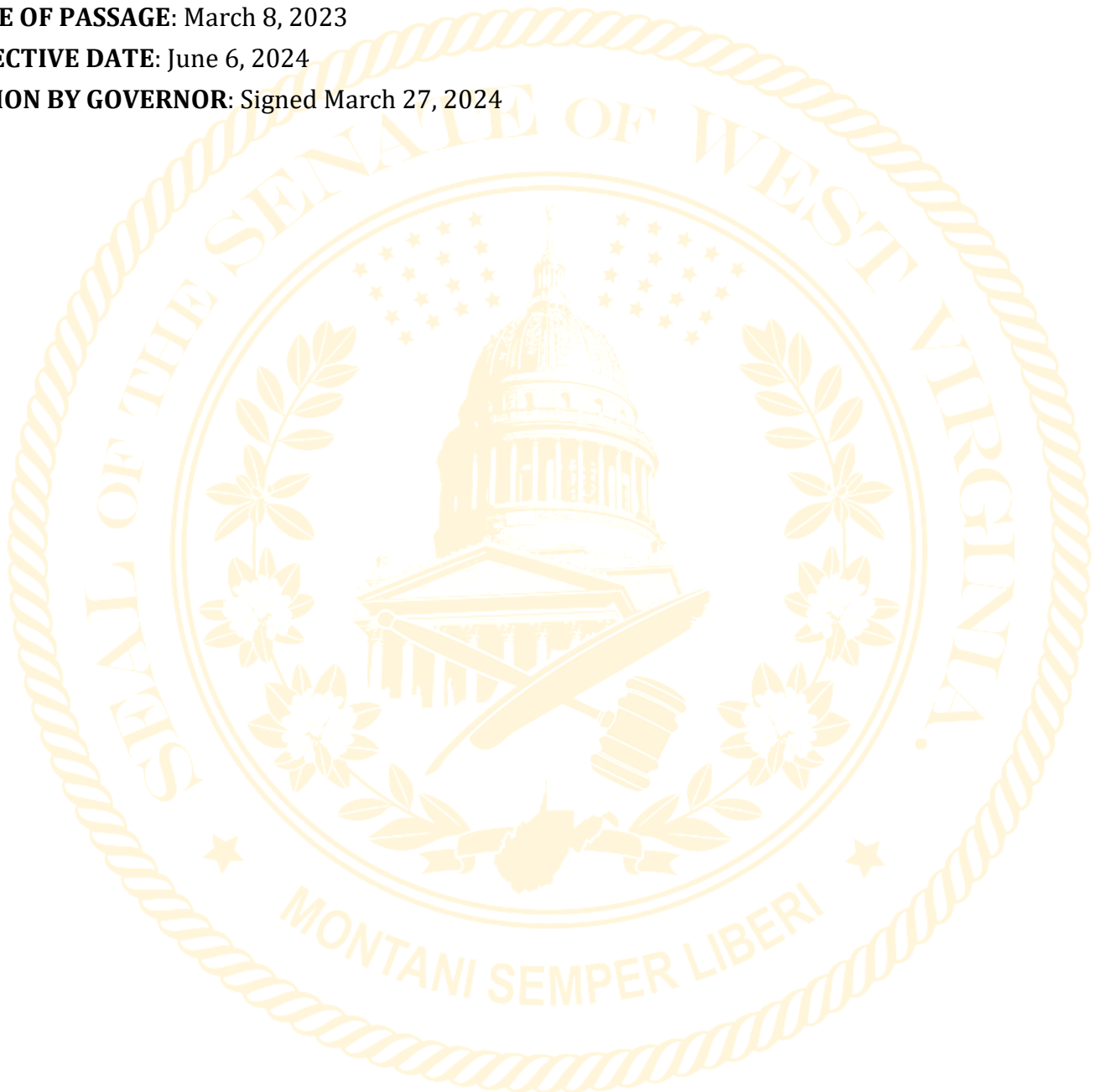
material violation from future online raffles; imposing a civil penalty of \$100 to two times the annual gross proceeds derived by the license for each material violation, an a civil penalty of \$500 to two times the annual gross proceeds for a subsequent offense; and any combination of these remedies. The bill provides administrative procedures for orders and appeals of orders. It requires fines, penalties, and fees other than the probation supervision fee to be deposited into the General Revenue Fund.

CODE REFERENCE: West Virginia Code §47-21A-1 through §47-21A-30 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



Senate Bill 755

Providing safeguards for online sales of tobacco products

This bill amends most sections within Article 9E of Chapter 16, which regulates delivery sales of cigarettes to consumers in West Virginia. The bill expands the reach of this article beyond solely cigarettes to other types of tobacco products, including electronic smoking devices; updates the scope of a delivery sale to include remote delivery sales (e.g., those made via internet or mobile app); and updates the requirements sellers must comply with respect to age verification, shipping and labeling, registration and reporting, and collection of taxes.

The bill amends the definition of “delivery sale”, “legal minimum purchase age”, and “mails” or “mailing”; adds two new defined terms (“electronic smoking device” and “tobacco product”); and eliminates other defined terms which no longer appear in the legislation (“adult”, “shipping container”, and “shipping documents”).

The bill prohibits delivery sales of any tobacco product to any individual under the legal minimum purchase age in West Virginia, and requires a person who accepts a purchase order, sells, mails, delivers, or causes to be delivered any tobacco product in connection with a delivery sale to comply with applicable requirements for age verification, shipping, registration and reporting, as well as tax collection and other state laws generally applicable to sales of tobacco requirement including excise and sales taxes, license and revenue-stamping requirements, and escrow or other payment obligations.

The bill prohibits a person from accepting a purchase order, selling, mailing, delivering, or causing to be delivered any tobacco product that is subject to 15 U.S.C. §375 et seq. (the Prevent All Cigarette Trafficking Act or “PACT Act”) unless it complies with all applicable requirements for age verification, shipping, labeling, registration, and reporting under the PACT Act, and it updates these requirements accordingly. The bill also updates requirements for collection of taxes.

With respect to age verification, the bill authorizes sellers to use a check box on a website or mobile application to confirm the full name, birth date, and registered address of a purchaser prior to accepting a delivery sale for a tobacco product if the purchaser provided this information when registering as a user of the website or application, and if the person verified the information through a database to ensure that the purchaser is at least 21 years of age. The bill provides that a person who obtains a consumer’s electronic signature upon delivery of a tobacco product is deemed to satisfy 15 U.S.C. §376a.

The committee substitute changes existing references to “cigarettes” throughout the article to the broader category of “tobacco products”.

CODE REFERENCE: West Virginia Code §16-9E-1 through §16-9E-7 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 768

Providing exception for sharing of confidential child welfare records

This bill permits the Department of Human Services ("DHS", which was formerly DHHR) to share confidential information regarding a child who either runs away or is determined missing when that child is not in the custody of the DHS.

The information may be shared with law enforcement agencies or the National Center for Missing and Exploited Children without the permission of the parent or guardian. Of note, this proposed legislation would bring the Department into federal foster care compliance.

CODE REFERENCE: West Virginia Code §49-6-110 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 778

Amending certain qualifying offenses to enhance sentences of repeat offenders

Senate Bill 778 adds to and modifies the list of offenses which upon conviction allow for an enhanced sentence if the person has one or more prior felony convictions. It corrects several citations and adds the following offenses:

- §61-3-12 (felony burglary);
- §61-2-9c (wanton endangerment with firearm);
- §61-3-18 (felony transfer and receiving stolen goods);
- §61-3-19 (felony bringing stolen goods into West Virginia);
- §61-3-20 (felony embezzlement);
- §61-3-20a (felony embezzlement by fiduciary);
- §61-3-21 (felony embezzlement by common carrier);
- §61-3-22 (falsifying accounts);
- §61-3-24 (obtaining money or property by false pretenses);
- §61-3-24a (fraudulent use of credit card);
- §61-3-54 (identity theft);
- §61-5-10 (escape from prison or jail under felony);
- §61-8A-2 (distributing/showing obscene materials to a minor);
- §61-8A-4 (use of obscene matter to seduce a minor);
- §61-8A-5 (use of a minor to make obscene matter); and
- §61-8B-11b (school personnel sex with student).

CODE REFERENCE: West Virginia Code §61-11-18 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 786

Relating to massage therapy establishments

This bill requires massage establishments to be licensed July 1, 2025. Current law specifies July 1, 2023. It also limits the biennial establishment license fee set by the Board to a maximum of \$100.

The bill adds a new section authorizing the Board's Executive Director to issue an emergency order suspending a massage establishment's operation where, upon inspection, violations of the statute and rules promulgated under it are observed. The massage establishment is required to post a notice of the emergency order and may not reopen or remove the notice until it complies with the statute and rules. The bill also contains a fine of \$1,000 per day of violation. It allows a court to triple the fines if the Board must take legal action against the massage establishment for continued violations. The Board may also be reimbursed for legal and administrative costs.

CODE REFERENCE: West Virginia Code §30-37-13 – amended; §30-37-14 – new

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 803

Updating definitions for assessment of real property

This bill amends provisions relating to the assessment of real property. The bill amends the definitions used by County Assessors to determine whether a property will qualify for a Class II or residential tax class designation.

The bill amends the definition of "owner" to include homeowners who have vacated their most recent primary residence and have listed that property for sale with a licensed real estate broker and has not leased said property since vacating. It further defines "owner" to mean a person who is using and occupying all or a portion of a parcel of real estate, the freehold of which is possessed by a family trust, as long as the parcel is used and occupied by the owner exclusively for residential purposes. The bill amends the definition of "used and occupied by the owner thereof exclusively for residential purpose" to include actual habitation by an immediate family member of the owner, and to include situations where real property is unoccupied at time of assessment and is retained by the property owner for noncommercial purposes and was most recently used or occupied by an immediate family member of the owner as a residence.

The bill defines a new term, "family trust", as a trust the trustees and beneficiaries of which include only the person who is possessed of the freehold and his or her immediate family members. The bill defines another new term, "immediate family member", as the spouse, child, sibling, parent, grandparent, grandchild, stepparent, stepchild, stepsibling, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law and adoptive relationships. The bill also contains an internal effective date of July 1, 2024.

CODE REFERENCE: West Virginia Code §11-4-3 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 837

Reorganizing offices of Public Defender Corporations to conform to circuit reconfiguration

Senate Bill 837 requires public defender corporations organized pursuant to the provisions of §29-21-1 to conform to the judicial circuits created during the 2023 Regular Session by July 1, 2025.

CODE REFERENCE: West Virginia Code §51-2-1 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 13, 2024

Senate Bill 850

Updating Consumer Credit and Protection Act

This bill updates provisions regulating consumer litigation financing to reflect the issuance of an ethics opinion, evolution of the market, and a desire for increased transparency of transactions. The bill amends the definition of “consumer” to mean any person who resides, is present, or is domiciled in this state who claims an entitlement to a judgement, award, settlement, or verdict with respect to a legal claim but does not include an attorney representing that person.

This bill amends the definition of “litigation financing” or “litigation financing transaction” to mean a transaction in which financing is provided to a consumer in return for a consumer's assigning to the litigation financier a right to receive payment contingent in any respect on the outcome of the legal claim. It removes from the list of transactions which are expressly excluded from the definition a commercial tort claim, as defined by §49-9-102. It also amends another exclusion as lending or financing arrangements between an attorney or law firm and a lender, provided such arrangements do not give the lender any particularized interest in the outcome of any legal claim or portfolio of legal claims. It adds a final exclusion for nonprofit organizations, provided any financing provided to or by the nonprofit organization does not afford the non-party agreeing to pay legal expenses profit from the legal claim beyond repayment of the amount it has contractually agreed to provide, along with reasonable interest not to exceed the Wall Street Journal prime rate at the time the agreement was executed, plus three percent per year.

The bill expands a general prohibition on third-party assignment of a contract between a natural person and litigation financier. It requires disclosure by a party or counsel of third-party financing agreements in litigation if under the agreement a litigation financier other than an attorney permitted to charge a contingent fee representing a party has a right to receive compensation in any respect on the outcome of the legal claim. This includes disclosure of agreements that provide financing to an attorney or law firm where the right to receive repayment is contingent in any respect on the outcome of the consumer's legal claim. It includes law firms among those who may refuse to enforce a litigation financing contract and clarifies that the 18% cap on annual fees applies only to a consumer who is a natural person.

CODE REFERENCE: West Virginia Code §46A-6N-1, §46A-6N-4, §46A-6N-6, §46A-6N-7, and §46A-6N-9 – amended

DATE OF PASSAGE: March 9, 2023

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4026

Authorizing the Department of Administration to promulgate a legislative rule relating to state owned vehicles

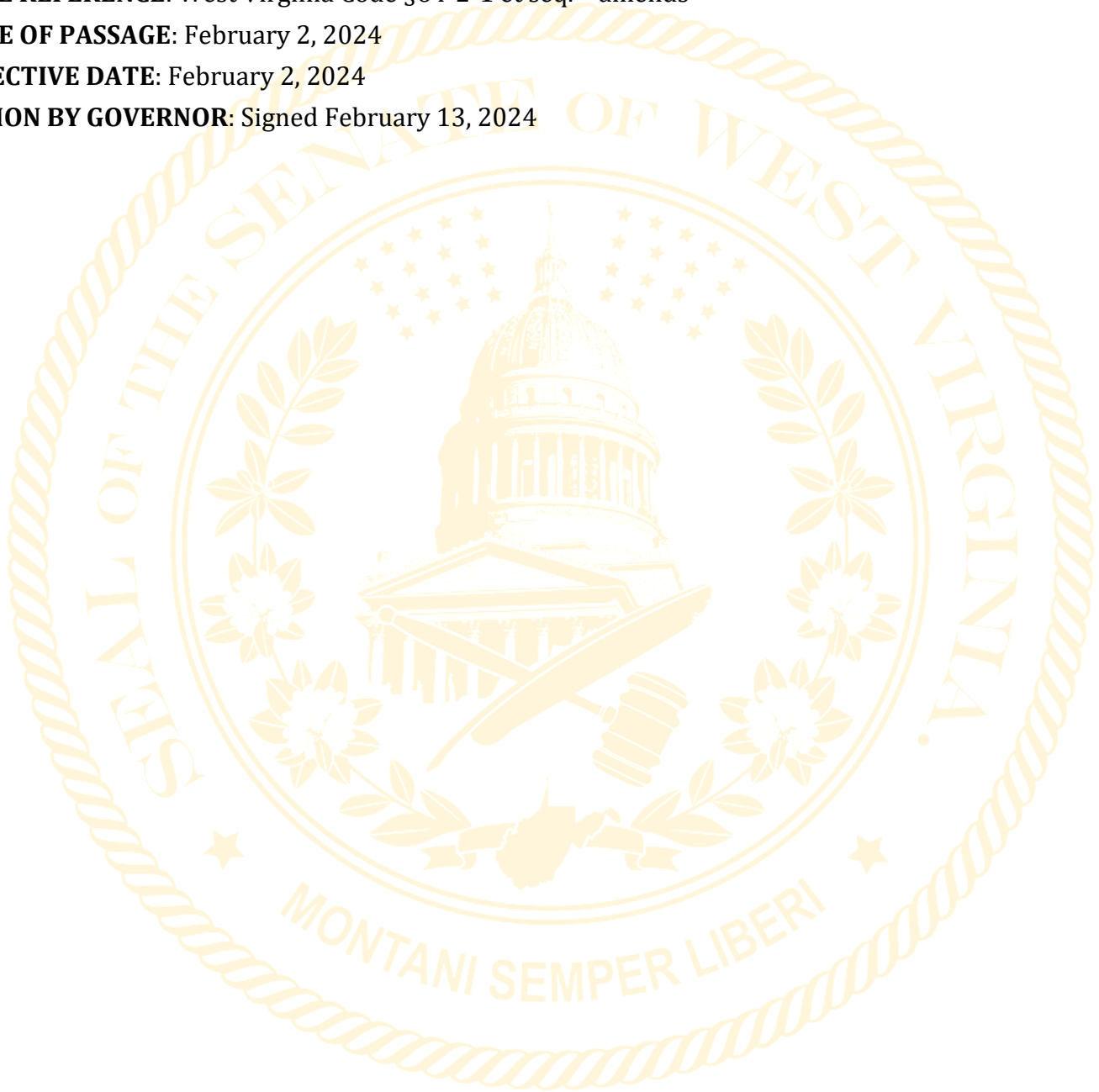
This is a current legislative rule and only amends the sunset date. The sunset date was extended to August 1, 2032.

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

DATE OF PASSAGE: February 2, 2024

EFFECTIVE DATE: February 2, 2024

ACTION BY GOVERNOR: Signed February 13, 2024



House Bill 4086

Authorizing certain agencies of the Department of Commerce to promulgate legislative rules

This bill is Department of Commerce Bundle, known as Bundle 10. It contains 18 rules from the Division of Forestry, Division of Labor, Office of Miners' Health, Safety and Training, Division of Natural Resources, and the Public Energy Authority.

Division of Forestry, Sediment Control During Commercial Timber Harvesting Operations – Licensing, 22 CSR 02

The rule amends a current legislative rule. This rule outlines the process for obtaining timber harvesting licenses under W.Va. Code §19-1B-4. It adds language relating to the Intermediate Court of Appeals.

Division of Forestry, Sediment Control During Commercial Timber Harvesting Operations – Certification, 22 CSR 03

The rule amends a current legislative rule. This rule outlines the certification of persons supervising timbering operations under W.Va. Code §19-1B-7. It adds language relating to the Intermediate Court of Appeals.

Division of Labor, Minimum Wage, Maximum Hours, and Overtime Compensation, 42 CSR 08

The rule amends a current legislative rule concerning the Minimum Wage and Maximum Hours Standards for Employees Act, W. Va. Code §21-5C-1 et seq. Substantively, the rule updates certain exemptions from the Fair Labor Standards Act (FLSA) for executive, administrative, and professional employees to reflect changes made to those standards by the US Department of Labor. An individual performing services for or who is employed by his or her parent, child, or spouse and an individual employed as a seasonal employee by an amusement park are exempt from coverage under the Act. The primary amendment is to the threshold earnings for exemption, raising it from \$455 per week to \$684 per week.

Division of Labor, Licensing of Elevator Mechanics and Technicians and Registration of Apprentices, 42 CSR 21A

The rule amends a current legislative rule. The rule reflects passage of amendments to the Elevator Safety Act (§21-3C-1 et seq.) included in Enrolled Committee Substitute for House Bill 2006 from the 2021 Regular Session and passage of the RECAP Act, Enrolled Committee Substitute for House Bill 4634 from the 2022 Regular Session.

The rule amends provisions relating to administrative hearings and appeal provisions to require taking appeals to the Intermediate Court of Appeals, requires elevator mechanics to obtain 16 hours of continuing education every two years, and allow the obtaining of a valid West Virginia license from another state even if that other state does not license or issue other authorization to perform elevator work.

Office of Miners' Health, Safety and Training, Safety Provisions for Clearing Crews, 56 CSR 02

The rule amends a current legislative rule. This rule details the safety provisions applicable to clearing crews while working on mining property in West Virginia. The changes to the rule are mostly technical in nature, updating non-substantive language and reformatting in accordance with the Secretary of State's recommendations for rules. The rule does require first aid kits to contain an automated external defibrillator (AED).

Office of Miners' Health, Safety and Training, Protective Clothing and Equipment, 56 CSR 04

The rule amends a current legislative rule. This rule regulates protective clothing and equipment to be used by miners while underground in West Virginia. The changes to the rule are technical in nature, updating non-substantive language and reformatting in accordance with the Secretary of State's recommendations for rules.

Office of Miners' Health, Safety and Training, Reporting Requirements for Independent Contractors, 56 CSR 10

The rule amends a current legislative rule. This rule governs the reporting requirements for independent contractors registered with the MHSTO. The only substantive change is to the timing of required reports, which is changed from monthly to quarterly. Other changes are also made incorporating suggested formatting from the Secretary of State's Office.

Office of Miners' Health, Safety and Training, Assessing Health and Safety Violation Penalties, 56 CSR 12

The rule amends a current legislative rule. This rule establishes the procedure by which the MHSTO assesses civil monetary penalties for violations of the state's mining laws. The amendments to the rule are technical in nature, updating non-substantive language and reformatting in accordance with the Secretary of State's recommendations for rules.

Office of Miners' Health, Safety and Training, Application Process for the West Virginia Innovative Mine Safety Technology Tax Credit Act, 56 CSR 14

The rule amends a current legislative rule. This rule details the application process for the West Virginia Innovative Mine Safety Technology Tax Credit. The changes to the rule are mostly technical in nature, updating non-substantive language and reformatting in accordance with the Secretary of State's recommendations for rules, and updating the address to which the completed application is to be submitted.

Office of Miners' Health, Safety and Training, Program for the Sharing of Information Between Employers, 56 CSR 18

The rule amends a current legislative rule. This rule establishes a program for sharing of information between the agency and employers of certified individuals working in the mining industry concerning said individuals' certification status. It adds language relating to the Intermediate Court of Appeals. The remaining amendments to the rule are technical in nature, updating non-substantive language and reformatting in accordance with the Secretary of State's recommendations for rules.

Office of Miners' Health, Safety and Training, Substance Abuse Screening, Standards and Procedures, 56 CSR 19

The rule amends a current legislative rule. This rule describes the practices and procedures to be used by the mining industry when conducting substance abuse screenings of certified individuals. The rule amends a current legislative rule by extending the sunset date.

Office of Miners' Health, Safety and Training, Operating Diesel Equipment in Underground Mines in WV, 56 CSR 23

The 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

The rule amends a current legislative rule by revising the references to specify the new appeal process under the Intermediate Court of Appeals.

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

The rule amends a current legislative rule by revising the references to specify the new appeal process under the Intermediate Court of Appeals.

Division of Natural Resources, Revocation of Hunting and Fishing Licenses, 58 CSR 23

The rule amends a current legislative rule by revising the references to specify the new appeal process under the Intermediate Court of Appeals.

Division of Natural Resources, Cabwaylingo State Forest Trail System Two Year Pilot Project Permitting ATVs and ORVs, 58 CSR 36

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

Division of Natural Resources, Lifetime Hunting, Trapping and Fishing Licenses, 58 CSR 67

This rule implements the provisions of Enrolled Senate Bill 733, enacted during the 2023 Regular Session authorizing the Department of Natural Resources (DNR) to issue lifetime nonresident statewide licenses for hunting and trapping, fishing, and bear hunting. The Act authorizes the 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 nonresident licenses and stamps but is reduced proportionally based on the age of non-resident children applying for a license.

Public Energy Authority, Rule to Petition the Public Energy Authority for Approval of Decommissioning or Deconstruction Activities Related to Any Coal, Oil, or Natural Gas Fueled Power Plant, 53 CSR 05

The rule is new. The rule was due to the passage of Enrolled Senate Bill 609 during the 2023 Regular Session. It governs private decisions regarding decommissioning or deconstruction of fossil fueled power plants.

All fossil fuel power generators are governed by the rule. Regulated utilities must first obtain approval from the PSC before petitioning the PEA. Likewise, if the facility is connected to the PJM Interconnection, petitioners must obtain a deactivation analysis from PJM. Also, the petitioner must have started the initial closure process with DEP.

Petitioners must file a notice with the PEA prior to petitioning for approval. The notice is to identify the facility, its operators, and certain statistics. If applicable, the notice is to include PSC's order and the analysis performed by PJM. A summary and explanation of need is required in the notice. The petitioner must also propose a third-party evaluator. The PEA will review the evaluator and approve or deny the petitioner's choice.

The rule includes a long list of required information to be included within the notice and the petition. Among the requirements, submittals are to include an objective analysis of the environmental, economic, and social impact of decommissioning or deconstruction on the state and localities; other potential uses of the facility; actions to be taken to prevent safety concerns; a list of entities responsible for environmental liabilities; anticipated job losses; estimated tax revenue losses; and a financial statement.

The filing must also include: the third-party evaluator’s analysis; all federal, state, or local permits; certificates issued by governmental agencies; and a physical survey. A timeline and detailed description of the planned activities must also be included. A public comment period is part of the process.

The PEA may approve a petition if based on the facts, circumstances, and public comments, it would be unreasonable to withhold approval. If the PEA denies the petition, the petitioner may address problems identified by the PEA and resubmit its petition.

Under the rule, all documents filed with the PEA are public documents and will be published on the Authority’s website. If a petitioner believes filings contain confidential or proprietary information, it is to include a letter describing the information. The PEA Chair determines what information is exempt from public disclosure.

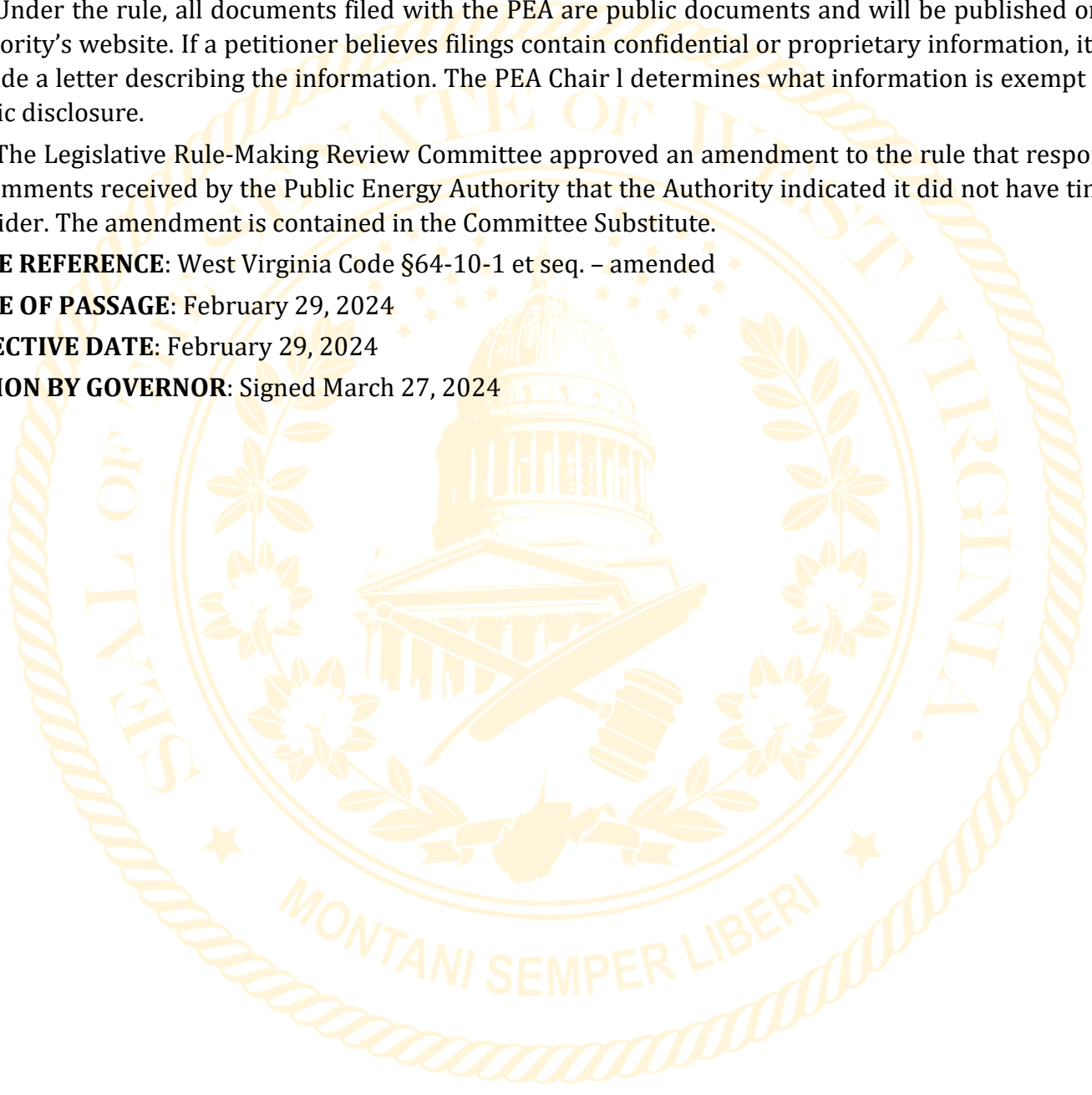
The Legislative Rule-Making Review Committee approved an amendment to the rule that responded to comments received by the Public Energy Authority that the Authority indicated it did not have time to consider. The amendment is contained in the Committee Substitute.

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

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: February 29, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 4110

Authorizing certain miscellaneous agencies and boards to promulgate legislative rules

This bill is the Miscellaneous Bundle, known as Bundle 9. It contains 58 rules from numerous agencies and boards. They are: Board of Accountancy; Board of Acupuncture; Department of Agriculture; Barbers and Cosmetologists; Counseling; Dentistry; Dieticians; Election Commission; Massage Therapy; Medical Imaging and Radiation Therapy Board of Examiners; Board of Medicine; Nursing Home Administrators Licensing Board; Board of Optometry; Board of Osteopathic Medicine; Board of Pharmacy; Board of Professional Surveyors; Board of Psychologists; Board of Registered Professional Nurses; Board of Respiratory Care; Secretary of State, and Treasurer.

Board of Accountancy, Board Rules and Rules of Professional Conduct, 1 CSR 01

The rule amends a current legislative rule relating to the licensing and examination of CPA candidates. The rule amends the examination process and the timeframe by which a candidate must complete each discrete portion of the exam to qualify as a CPA.

Under the current rule a candidate's credit for any test section passed is valid for 18 months and all four test sections must be passed within an 18-month rolling period. The change lengthens both timeframes to 30 months. This change reflects the National Association of State Boards of Accountancy's adoption of an identical amendment to its Model Rules.

Board of Acupuncture, Applications for Licensure to Practice Acupuncture, 32 CSR 03

The rule amends a current legislative rule relating to application for licensure to practice acupuncture. The rule: eliminates the requirement that applicants be of good moral character and provide three references and requires applicants be free of felony convictions to conform with §30-36-10; requires proficiency in English; Section 11: Updates the section title to Board Educational Documentation, modifies the application review prior to issuing a license to include the Executive Director, provides notification for oral examinations for apprenticeship applicants; clarifies oral exams are held in English, clarifies what an applicants' educational documents may consist of, and provides the Board the ability to require an applicant to complete additional exams in lieu of an oral exam; decreases the required continuing education (CE) hours for applicants restoring an inactive license from 48 to 30 hours or from 24 hours to 15 hours if inactive less than a year; and states that the Board will not issue a license for the practice of telehealth.

Department of Agriculture, Frozen Desserts and Imitation Frozen Desserts, 61 CSR 04B

The rule amends a current legislative rule. The rule: updates the federal standards that are incorporated by reference into the rule; defines "validation of cleaning process" (VCP) procedure, which allows the commissioner to assist a manufacturer in learning how better to clean its frozen dessert unit through an onsite visit for a fee of \$50 per hour; lowers registration and late fees; removes provisions on contamination; splits the enforcement policy into one for mix manufacturers or distributors and one for manufacturers of dairy or imitation dairy frozen dessert products; states that it is the responsibility of the manufacturer to clean, sanitize, and operate the machine or machines that produce product and adds an appendix setting forth a schedule of fees.

Fiscal Impact: The rule projects a fiscal impact of \$22,435 in the first year and \$28,175 for each full fiscal year thereafter. Projected increase is based on making registration costs dependent on the number of machines and on an increase in penalty provisions for third and fourth notices of violation.

Department of Agriculture, Certified Applicator Rules, 61 CSR 12A

The rule amends a current legislative rule. It adds a definition of “immediate family member”; adds a new section regarding the procedures for administering the written examination required for certification; and adds qualifications for certified commercial or private applicators and noncertified applicators.

The rule modifies the categories for commercial applicators, adding specific categories for Predator Control, Sewer Root Control, and Aerial Pest Control and adds a category for General Fumigation for private applicators.

The rule updates general certification standards for pesticide applicators; specifies the responsibilities of supervisors of noncertified applicators; amends the specific standards for various types of commercial applicators; adds certification standards for Predator Control, Aerial Pest Control, and Sewer Root Control applicators; specifies the elements of required training programs for applicators; and as to record-keeping requirements, mandates that additional information be collected and maintained about the products used and the circumstances of their application. It also adds provisions regarding records concerning the training and qualifications of noncertified applicators.

Department of Agriculture, Licensing to Pesticide Businesses, 61 CSR 12B

The rule amends a current legislative rule. It updates record-keeping requirements for pesticide businesses. The rule requires keeping a record of the brand name of any pesticides sold. For restricted-use pesticides and pesticides registered under emergency exemption, the business must keep a record of the residence or principal place of business of the purchaser or receiver of the pesticide, the entity which issued the certification and the applicator’s category and expiration date.

Department of Agriculture, West Virginia Shellfish Rule, 61 CSR 23B

The rule amends a current legislative rule. It updates the version of the Guide for the Control of Molluscan Shellfish that a laboratory may use to analyze samples taken by the commissioner under the rule from the 2007 version to the 2023 edition. It also adds that only labs certified by a laboratory certification officer in accordance with the National Shellfish Sanitation Program (NSSP) may perform NSSP testing.

Department of Agriculture, Select Plant-Based Derivative Products, 61 CSR 30

The rule amends a current legislative rule. It updates an existing rule regulating hemp products largely to add regulation of kratom and kratom products. These changes are in response to passage of Enrolled Committee Substitute for Senate Bill 220 which passed during the 2023 Regular Session.

Kratom regulation is accomplished through adding the Latin name for kratom *Mitragyna speciosa* to provisions concerning hemp, and by collectively referring to both hemp and kratom products as “select plant-based derivative” products.

The rule makes white labelers subject to all penalty and enforcement actions related to the white-labeled product, that registrants must maintain product documentation for a minimum of two years after manufacture, and that Kratom products are exempt from registration until January 1, 2025.

The rule adds a section specifically regulating the distribution and sale of kratom products. The section largely mirrors the provisions of the existing rule concerning the registration and sale of hemp products. It also adds a section intended to limit the advertising and marketing of hemp and kratom products to minors.

The rule revises the level of cannabinoid (for hemp products) and alkaloid (for kratom products) content that will trigger a label misbranding offense from 10 percent above or below the stated amount to 20 percent. Further, the wording of label warnings is revised in the rule, but the requirements are suspended until January 1, 2025, so long as a sign is prominently displayed with the warnings on it.

The rule adds a separate enforcement section for select plant-based products. Monetary penalties are increased and the knowing manufacture, processing, distribution, or sale of hemp or kratom products that are contaminated with a toxic or illegal substance is denominated a felony.

The Legislative Rule-Making Review Committee's recommendation was to not authorize this rule.

Fiscal Impact: \$5,105,840 in the first year, and \$1,195,840 each year thereafter.

Department of Agriculture, Agritourism, 61 CSR 37

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

Barbers and Cosmetologists, Procedures, Criteria and Curricula for Examination and Licensure of Barbers, Cosmetologists, Nail Technicians, Aestheticians, and Hair Stylists, 3 CSR 01

The rule amends a current legislative rule to bring the criteria for licensure into compliance with the Code.

Section 3 removes "good moral character" language from the requirements for licensure. Currently, the Board approves schools of barbering or cosmetology. The rule transfers school approval for these schools as well as schools of hairstyling to the WV Council for Community & Technical College Education (CCTCE), the Department of Education in conjunction with CCTCE or the Department of Education in conjunction with the Division of Corrections and Rehabilitation.

The rule adds language requiring the Board to recognize reciprocity for military barbers with a DD214. All other amended sections delete language referencing a table showing the clock-hour requirements that appeared at the end of the rule which was also deleted.

The House amended the rule by striking out the current subsection relating to reciprocity which allows an applicant from another state who attended school or graduated from a school of barbering or cosmetology in another state to get specified hours towards graduation in this state. The amendment requires the Board to issue a license to practice to an applicant who holds a comparable license in another state who meets specified criteria.

Barbers and Cosmetologists, Application for Waiver of Initial Licensing Fees for Certain Individuals, 3 CSR 15

The rule is new and largely mirrors recent legislation that waives initial licensure fees for low-income individuals and military families. It outlines the procedure for applying for a waiver and the required documentation. It also references the administrative process for any rejected candidate.

Barbers and Cosmetologists, Cosmetology Apprenticeship, 3 CSR 16

The rule is new and is modeled off the existing rule for Barber Apprenticeships. It defines terms, sets forth qualifications and requirements for the apprentice and the provider, sets forth requirements for the salon, sets forth the requirements where the apprentice is already a licensed barber, provides the Board authority to revoke an apprentice's permit, and describes the administrative due process procedure if the revocation is challenged.

Counseling, Licensing, 27 CSR 01

The rule amends a current legislative rule to reflect the Board of Examiners in Counseling's shift to an online portal for licensing and dues. It allows the supervision of an applicant requirement to be satisfied in-person or via any secured, encrypted telecommunication modality, removes the phrase "or its equivalent" when referencing either a master's degree or a doctoral degree in counseling, reduces the time a candidate may take the test three times in an effort to pass from 18 to 12 months, and requires all parties to agree to a patient's change from one counselor to another.

Counseling, Marriage and Family Therapist Licensing Rule, 27 CSR 08

The rule amends a current legislative rule to reflect the Board of Examiners in Counseling's shift to an online portal for licensing and dues. It allows the supervision of an applicant requirement to be satisfied in-person or via any secured, encrypted telecommunication modality, removes the phrase "or its equivalent" when referencing either a master's degree or a doctoral degree in counseling, reduces the time a candidate may take the test three times in an effort to pass from 18 to 12 months, and requires all parties to agree to a patient's change from one counselor to another.

Dentistry, Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database, 5 CSR 10

The rule amends a current legislative rule which establishes requirements for licensees of the Board regarding accessing the West Virginia Controlled Substance Monitoring Program (CSMP) database. The rule eliminates obsolete definitions and adds a definition for "Benzodiazepine". It adds a new section which requires practitioners dispensing Schedule II, III, IV, or V controlled substances to register with the CSMP and maintain online access within 30 days of obtaining a new license or within 30 days of reinstatement of licensure, requires licensees to certify compliance when renewing a license, and provides the Board the ability to conduct an audit to verify compliance.

The section relating to patients not suffering terminal illnesses: requires practitioners, before prescribing, Schedule II controlled substances, opioids, or benzodiazepines to patients to apply for access to the CSMP; requires a practitioner to document the initial CSMP data review in the patient's medical record after reviewing CSMP; provides if treatment continues the practitioner shall access the CSMP at least annually, but may review the CSMP data more frequently with each review being documented in the patient's medical record; and requires a practitioner to review the CSMP when they have a concern with abuse of a controlled substance and disallows the practitioner's ability to provide a controlled substance without reviewing the CSMP, even in situation where access to the CSMP is unavailable such as power outage, equipment failure, or other disaster.

Finally, the rule updates disciplinary proceeding to include administrative penalties with all fines collected being transferred to the Fight Substance Abuse Fund.

Board of Licensed Dietitians, Licensure and Renewal Requirements, 31 CSR 01

The rule amends a current legislative rule. It adds a new provision which prorates application fees for candidates applying in the second half of the fiscal year (\$35), moves the approval of the written examination from the Board to the Commission on Dietetic Registration (a member of the national commission for health certifying agencies), updates the provisional permit fee from \$46 to \$50 to match the Code, and amends the provision regarding renewal of licenses which have lapsed for a period exceeding three years to remove the requirement that the licensees retake the written examination. That requirement

is deleted and instead only the lapsed registration number is required to be provided to the Commission for the verification of credentials.

The House amended the rule to go back to the current reinstatement fee of \$46. The rule raised the fee to \$50.

Board of Licensed Dietitians, Continuing Educational Requirements, 31 CSR 05

The rule amends a current legislative rule. Many of the amendments are to align the rule with the requirements and practices of the Commission on Dietetic Registration (CDR). It deletes criteria for approval of CE providers as the Board prefers pre-approved providers. A catch-all is also provided that any provider approved by the CDR is approved by the board.

The rule allows for webinars and independent study to complete CE hours and requires all licensees to complete a one hour, West Virginia specific CE every two years. This session is includible in the licensee's 60-hour requirement, not in addition thereto. The requirement goes into effect July 1, 2024.

Board of Licensed Dietitians, Telehealth Practice: Requirements; Definitions, 31 CSR 07

The rule is new. It states specifically that medical nutritional therapy and nutrition therapy is considered to occur where the patient is located when telehealth is used.

The rule provides that only a licensed dietitian may practice telehealth under the same standard of care as in-person therapy. A dietitian may establish a new patient via telehealth or may treat existing patients who formerly were only treated in-person.

Economic Development, Operation of Motor Sports Complexes and Events, 145 CSR 19

The rule is new. This rule governs the operation of motorsports complexes and events and is in response to the passage of Enrolled Committee Substitute for House Bill 2569 which passed during the 2023 Regular Session. The rule: defines terms; sets forth requirements for safety equipment, which include the use of safety checks prior to the use of all equipment, and regulates the alteration or manipulation of equipment beyond manufacturers specifications; establishes safety requirements for the design of racing surfaces, including how racing surfaces are to be maintained and constructed, the design of entrance and exits, and the design of safety features; establishes safety requirements for the provision of run-off areas and their maintenance; and establishes requirements for fire and other emergency services.

The House amended the rule by striking out the specific requirements for helmets, eye protection, safety belts, shoulder harnesses, crotch belts, seat design, and clothing requirements and instead requires they be covered by the safety procedures and requirements of the sanctioning body hosting the event.

The House amendment also rewrites provisions relating to fences, infields, flag stations and flagmen, runoff areas and fire services.

Election Commission, Corporate and Membership Organization Political Activity, 146 CSR 01

The rule amends a current legislative rule which governs corporate and membership organization political activity.

The rule revises the definition of "corporate political action committee" by removing the requirement that the committee come into existence by specific written authorization of the Board of Directors, or equivalent governing body, of one or more corporations, the purpose of which is to solicit funds for, and make expenditures and contributions on behalf of political committees. It adds a requirement that the committee may only accept contributions from its restricted group.

The rule revises the definition of “membership organization political action committee” by specifying that the committee must be organized as a separate segregated fund of the membership organization and adds a definition for the term “unaffiliated political action committee”. It also revises the description of one of three specified types of political action committees by deleting language describing the committee as a political action committee established as a separate segregated fund by membership organization and substitutes language describing the committee as a membership organization political action committee.

Election Commission, Regulation of Campaign Finance, 146 CSR 03

The rule amends a current legislative rule. It is in response to Enrolled House Bill 4419 which passed during the 2022 Regular Session. The amendments update the maximum value of a coordinated expenditure between a state political party and caucus campaign committee with a candidate for statewide office (excepting the judiciary) consistent with the passage of that bill. The amount of the coordinated expenditure specifically coming from a party or caucus and specifically in relation to a general election was previously capped at \$5,000 while still not being considered a “contribution”. That cap is removed.

Election Commission, Application and Approval Process for Secretary of State Expenditures from the County Assistance Voting Equipment Fund, 146 CSR 07

This rule is new. It provides criteria governing the application and approval process for expenditures by the Secretary of State from the County Assistance Voting Equipment Fund, for the purchase of election equipment or security upgrades that further the administration of federal elections held in the state. Expenditures are limited to equipment, systems, infrastructure, physical and cyber security upgrades, or any other lawful purpose permitted by the pertinent appropriation from Congress.

The rule defines terms, authorizes the Secretary of State to apply to the State Election Commission for approval of a grant from the County Assistance Voting Equipment Fund to purchase election equipment or security upgrades, establishes requirements for information to be included on the application and requires the State Election Commission to refer the application to the Help America Vote Act Grant Board which must convene no later than 30 days after receipt of referral; and requires the Board to issue a written recommendation.

The rule also sets forth requirements for the State Election Commission’s consideration of the Board’s final recommendation. sets forth requirements for State Election Commission approval of grants and provides that the State Elections Commission’s decision is full and final.

Board of Funeral Service Examiners, Funeral Director, Embalmer, Apprentice, Courtesy Card Holders and Funeral Establishment Requirements, 06 CSR 01

The House added this rule to the committee substitute and directed the Board to remove the requirement that the licensee in charge of a funeral home have a crematory operator’s certificate.

An additional amendment contained in the strike and insert amendment to require direct rather than general supervision of a funeral director apprentice in conformity with the Code.

Massage Therapy, General Provisions, 194 CSR 01

The rule amends a current legislative rule which establishes licensing procedures. The rule: increases the hours of supervised academic training for licensure from 500 to 625 hours; revises licenses for renewal to include CE units which adhere to the Federation of State Massage Therapy Boards; expands the current standards for CE hours required by the Board to not just conform to the National Certification Board of Therapeutic Massage and Bodywork (NCTMB) and to conform with Enrolled Committee Substitute for

Senate Bill 665 which went into effect on June 8, 2023 (W. Va. Code §30-37-7); and prohibiting issuance of a license to practice telehealth.

Massage Therapy, Schedule of Fees, 194 CSR 03

The rule amends a current legislative rule which establishes the schedule of fees for the Board. The rule creates an initial application and renewal establishment license fee of \$100, to be paid biennially and clarifies how all fees and monies are to be paid to the Board. (Certified check, personal bank check, and money order are acceptable. No cash payments.)

Massage Therapy, Establishment Licensure, 194 CSR 07

This rule is new. It establishes the policies and procedures for obtaining and renewing an establishment license. The rule defines terms, requires massage establishments to be licensed on or before October 1, 2023, mandates that such establishments employ or contract only with licensed massage therapists to provide massage therapy or services, requires therapists to document their authorization to work in the country, provides exemptions to requiring a massage establishment license, primarily for solo practitioners, clarifies that an establishment's license may be suspended or revoked for violating the rule, any applicable state law, rule, policy, or local ordinance, and provides that establishment license holders who are not licensed massage therapists must obtain two hours of continuing education every two years beginning July 1, 2023, provide a certificate of completion to the Board by October 1, 2025, and submit the documentation for biennial renewal of the establishment license.

Medical Imaging and Radiation Therapy, Medical Imaging and Radiation Therapy Board of Examiners, 18 CSR 01

The rule amends a current legislative rule. The purpose of the rule is to establish the general requirements for licensure of Medical Imaging and Radiation Therapy Technologists in WV. The rule the fees for duplicate licenses, change of name, and for WV State only Examination fee. The rule also provides that telehealth practice is inapplicable to the performance of medical imaging and radiation therapy.

Board of Medicine, Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants, 11 CSR 01B

The rule amends a current legislative rule. The rule provides the regulatory framework for the licensure, regulation and discipline of physician assistants licensed by the WV Board of Medicine. The rule has been amended to align with the continuing education requirements with Enrolled Committee Substitute for House Bill 3317, which became effective March 2, 2023. It replaces the definition of drug diversion training and best practice prescribing of controlled substances training with the definition for Risk Assessment and Responsible Prescribing of Controlled Substances training, which includes some modernizations. The rule mandates initial licensees to take the required training within one year of licensure, unless they are eligible for a waiver.

Board of Medicine, Continuing Education for Physicians and Podiatric Physicians, 11 CSR 06

The rule amends a current legislative rule. The rule has been amended to align with the continuing education requirements with Enrolled Committee Substitute for House Bill 3317, which became effective March 2, 2023. It replaces the definition of drug diversion training and best practice prescribing of controlled substances training with the definition for Risk Assessment and Responsible Prescribing of Controlled Substances training, which includes some modernizations. The rule mandates initial licensees to take the required training within one year of licensure unless they are eligible for a waiver.

Board of Medicine, Permitting and Disciplinary Procedures: Educational Permits for Graduate Medical Interns, Residents and Fellows, 11 CSR 12

The rule amends a current legislative rule by amending the sunset date.

Nursing Home Administrators Licensing Board, Nursing Home Administrators, 21 CSR 01

The rule amends a current legislative rule. The amendments to the current rule increase certain fees paid to the Board on behalf of applicants and licensees. The amendments represent the first increase in fees in 20 years.

According to the Board, 80-90% of the fees represented in these changes are paid by employers on behalf of licensees.

5.2.d – Annual renewal fee increased from \$300 to \$400

5.2.g – Active not practicing annual fees increased from \$0 to \$100

5.6.c – Emergency permit fee increase from \$300 to \$400

5.7.b – Temporary permit fee increased from \$300 to \$400

Fiscal impact: Estimated revenue increase of \$122,000.00

The House amended the rule by adding language to the section relating to suspension or revocation, hearing and judicial review that states “Failure to cooperate with OHFLAC or the designated Medicare Beneficiary and Family Centered Care-Quality Improvement Organization is grounds for disciplinary action and further review by the Board.”

Board of Optometry, Rules of the Board, 14 CSR 01

The rule amends a current legislative rule. This rule is amended to bring the rule into compliance with §30-1B-1 et seq, which was revised during the 2023 Regular Session to allow military trained veterans to use their qualifications for state licensure and to authorize temporary practice permits for military veterans and their spouses while completing licensure requirements to practice in the state. The statute provides that any veteran trained by the military is eligible for licensure in the state if all requirements provided by statute are met. A temporary permit may also be issued to a military trained veteran or the spouse of currently serving member of the military if he or she is licensed in another jurisdiction that fulfills the minimum requirements for West Virginia.

Board of Optometry, Continuing Education, 14 CSR 10

The rule amends a current legislative rule. The rule has been amended to align with the continuing education requirements with Enrolled Committee Substitute for House Bill 3317, which became effective March 2, 2023. The rule requires a person who receives his or her initial license to complete training in drug diversion and best practice prescribing of controlled substance within one year of the optometrist receiving his or her license.

Board of Optometry, Injectable Pharmaceutical Agents Certificate, 14 CSR 11

The rule amends a current legislative rule. The rule currently authorizes licensed optometrists, upon successful completion of necessary qualifications, to receive a certificate to use injectable pharmaceutical agents. The rule requires that injection certification requirements include, but are not limited to, successful passage of all sections of the National Board of Examiners in Optometry, including all sections pertaining to injections. The rule also deletes the section containing reporting requirements associated with certificate holders, including reporting information relating to injections and the maintenance of a logbook on all injections.

The House amended the rule by adding a new subsection on reporting. The rule deleted a subsection on reporting. The new provisions are the same except for a few provisions, including requiring report comply with HIPAA.

Board of Optometry, Eyelid Procedures, 14 CSR 14

The rule is new. It establishes guidelines for eyelid procedures not currently authorized by the current rule. The rule expands the scope of practice to include the removal, biopsy, and treatment of non-malignant growths of the “ocular adnexa” which are the “protecting and supporting structures of the eye, including the eyebrow, eyelids, and lacrimal apparatus.

Board of Osteopathic Medicine, Licensing Procedures for Osteopathic Physicians, 24 CSR 01

The rule amends a current legislative rule. The rule sets forth the manner in which the Board of Osteopathic Medicine issues licenses for osteopathic physicians.

The amendments to the rule incorporate the provisions of Enrolled Committee Substitute for House Bill 3317, which became effective March 2, 2023. They revise the drug diversion training and best practices for prescribing controlled substances.

In the definition section the current definition of "drug diversion training" has been changed to "Risk Assessment and Responsible Prescribing of Controlled Substances training". The components of the training are primarily the same as the previous version of the rule. There has also been additional training added for managing patients with more than one controlled substance prescription.

In Section 4 the requirements for continuing education related to risk assessment and responsible prescribing of controlled substances are set out. Within one year of obtaining an initial license the licensee is required to complete three hours of training in a Board of Osteopathic Medicine approved course. There is an exclusion for persons who do not prescribe controlled substances. The course must be repeated prior to renewal of a license.

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

The rule amends a current legislative rule. The rule set forth the manner in which the Board of Osteopathic Medicine issues licenses for osteopathic physician assistants.

The amendments to the rule incorporate the provisions of Enrolled Committee Substitute for House Bill 3317, which became effective March 2, 2023. They revise the drug diversion training and best practices for prescribing controlled substances.

In the definition section the current definition of "drug diversion training" has been changed to "Risk Assessment and Responsible Prescribing of Controlled Substances training". The components of the training are primarily the same as the previous version of the rule. There has also been additional training added for managing patients with more than one controlled substance prescription.

In Section 14 the requirements for continuing education related to risk assessment and responsible prescribing of controlled substances are set out. Within one year of obtaining an initial license the licensee is required to complete three hours of training in a Board of Osteopathic Medicine approved course. There is an exclusion for persons who do not prescribe controlled substances. The course must be repeated prior to renewal of a license.

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

The rule amends a current legislative rule. The purpose of this rule is to provide for the licensure and regulation of the practice of pharmacy. The changes to the rule make two substantive modifications.

The first provides that the return of any drugs are required to be returned to a donor as prescribed in state code and in 15 CSR 19 a rule regarding donated drugs promulgated by the Board of Pharmacy.

The more complex amendments are to the section related to Sterile Pharmaceutical Compounding. The standards were specified in the rule have been updated to provide that West Virginia follow national guidance by adopting the following by reference the United State Pharmacopeia Chapter regarding compounding and sterilization and hazardous drugs and the Controlled Environment Testing Associations Certification Guide for Sterile Compounding Facilities.

Board of Pharmacy, Continuing Education for Licensure of Pharmacists, 15 CSR 03

The rule amends a current legislative rule. The purpose of this rule is to provide for the continuing education for persons licensed to practice of pharmacy. The changes to the rule were made necessary by the passage of Enrolled Committee Substitute for House Bill 3317, which became effective March 2, 2023. That bill required that any healthcare provider that prescribes, administers, or dispenses a controlled substance is required to have drug diversion training within one year of the issuance of an initial license. The rule requires pharmacists to have a minimum of two hours of drug diversion training within one year of initial licensure.

Board of Pharmacy, Registration of Pharmacy Technicians, 15 CSR 07

The rule amends a current legislative rule. The purpose of this rule is to provide for standards for training and registration of pharmacy technicians. The changes to the rule were made necessary by the passage of Enrolled Committee Substitute for House Bill 2754 during the 2023 Regular Session of the Legislature. That bill added pharmacy technicians to the list of persons who may administer immunization in accordance with treatment guidelines issued by the Center for Disease Control for adults and to persons aged three (3) to seventeen (17) with written consent of a parent. The rule makes changes consistent with the passage of this legislation.

The changes to the rule also update the section of the rule related to Identification requirements for Technicians and Technician trainees. The rule currently provides for approval of name tags by the Board and provided specific requirements for the identification. These specifics were eliminated.

Board of Pharmacy, Immunizations Administered by Pharmacists, Pharmacy Interns, and Pharmacy Technicians, 15 CSR 12

The rule amends a current legislative rule. The purpose of this rule is to provide for standards for the administration of immunizations by pharmacists, pharmacy interns, and pharmacy technicians. The changes to the rule were made necessary by the passage of Enrolled Committee Substitute for House Bill 2754 during the 2023 Regular Session of the Legislature. That bill added pharmacy technicians to the list of persons who may administer immunization in accordance with treatment guidelines issued by the Center for Disease Control for adults and to persons aged three (3) to seventeen (17) with written consent of a parent. The rule makes changes consistent with the passage of this legislation.

The current section relating to immunizations has been deleted and replaced by a new section, providing requirements for a pharmacy technician to administer immunizations. This section includes direct supervision by a pharmacist, appropriate training, registration with the Board of Pharmacy, and continuing education.

Record keeping requirements have been updated to provide for notification to the patient's primary care physician if the patient has a primary care physician. A new has been added which contains practical training requirements necessary prior to the administration of immunizations.

Board of Pharmacy, Centralized Prescription Processing, 15 CSR 14

The rule amends a current legislative rule. The purpose of this rule is to provide for the outsourcing of prescription drug order filling to a central fill pharmacy. A central fill pharmacy is a pharmacy under contract with the originating pharmacy to fill or refill a patient's prescription medication. Schedule II drugs are excluded from this practice.

The rule would extend this practice to allow a pharmacist or a pharmacy intern or technician working under direct supervision of a pharmacist to access the pharmacy's database remotely to process medication orders. The rule has controls to protect confidentiality and the integrity of protected health information, prohibits the duplication, downloading or removal of any part of the pharmacies database, and requires that the pharmacy's electronic data base may only be accessed outside the pharmacy via a virtual private network.

Board of Pharmacy, Pharmacy Permits, 15 CSR 15

The rule amends a current legislative rule. The purpose of this rule is to provide for a registration and permitting process for a pharmacy prior to operation. The rule contains a new section requiring notice upon a planned temporary, permanent, or emergency closure of the pharmacy.

For a temporary closure a facility is required to post notification at the pharmacy entrance, on a telephone greeting, and on the pharmacy's webpage. The notification must contain an estimated length of the closure and provide options for prescription pick-up. The Board is required to be notified if the closure will last for greater than two business days.

For a permanent closure the pharmacy must provide notification to all patients 15 calendar days prior to the closure. The notice must: provide the last day the pharmacy will be open; the name, address, and phone number of an alternative pharmacy that will take possession of the patient's medication needs; instruction on how to transfer the patient's prescription; and the last day a transfer may be initiated. The notice must be in writing, by publication, by the posting of a closing notice at the pharmacy entrance, on telephone greetings, and any webpage. Any newly filled prescriptions in the 15-day closure period requires the same information be provided to the patient. The DEA must also be placed on notice of the transfer of any controlled substances to another registered pharmacy.

The pharmacists-in-charge must: inventory all controlled substances; if the pharmacy dispenses prescription, transfer all prescriptions to another licensed pharmacy, update the pharmacy operating status with all electronic prescribing vendors, and remove all signage and other indications that there is a pharmacy including any electronic presence such as a webpage; within 30 days of closure inventory all non-controlled substances, remove all prescription and non-prescription drugs, devices, and related supplies by returning them, transferring them to another licensed healthcare provider, or destroying them and completing proper documentation; and provide written notice to the Board containing specified information. Once the Board receives notice of permanent closure of a pharmacy a registration may not be renewed.

Board of Pharmacy, The Substitution of Biological Pharmaceuticals, 15 CSR 17

The rule amends a current legislative rule by amending the sunset date.

Board of Professional Surveyors, Examination and Licensing of Professional Surveyors in West Virginia, 23 CSR 01

The rule amends a current legislative rule, which establishes procedures and requirements for the examination and licensing of professional surveyors. The rule revises the length of time (from six years to

10 years) that an applicant can continue to fail the test before sitting out for two years and provides clarification of the documents and fees an applicant must submit when reapplying after having sat out for two years.

Board of Psychologists, Disciplinary and Complaint Procedures for Psychologists, 17 CSR 04

The rule amends a current legislative rule, which sets forth procedures for the investigation and resolution of complaints against psychologists. The rule sets forth the jurisdiction of the Intermediate Court of Appeals to hear an appeal by any person adversely affected by an order of the Board.

The House amended the rule to require the Board to determine if the conduct alleged in the complaint, if true, would constitute a violation of the rules of the Board or falls within the jurisdiction of the Board before issuing an acknowledgement to the complainant.

Board of Psychologists, Contested Case Hearing Procedure, 17 CSR 05

The rule amends a current legislative rule, which sets forth procedures for the adjudication of contested case hearings before the Board of Examiners of Psychologists. The rule sets forth the jurisdiction of the Intermediate Court of Appeals to hear an appeal by any person adversely affected by an order of the Board.

Real Estate Commission, Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business, 174 CSR 01

The rule amends a current legislative rule in response to Enrolled House Bill 3203 which passed during the 2023 Regular Session, relating to the licenses that are permitted in other jurisdictions, continuing education requirements, and licensed brokers needing to have a place of business in West Virginia.

The rule sets forth verbatim, application, education and reciprocity requirements from the bill, requires an applicant for a broker's license to take an examination, amends the time frame relating to late fees and establishes that December 31 as the renewal date for cancelled licenses was defined as one that was not renewed by December 31 of the year in which the license expired, requires a person with a cancelled license to comply with all requirements for obtaining a new license, including the examination requirement, strikes out the language relating to multi-year licenses, and requires a licensee inform the Commission of any criminal action to which the licensee is a defendant, including misdemeanor traffic violations.

Real Estate Commission, Schedule of Fees, 174 CSR 02

The rule amends a current legislative rule. It amends the date wherein late fees attach to a licensee from "September 30" to "August 31", the date when enhanced late fees attach to a licensee from "December 31" to "October 31", and the date when further enhanced late fees attach to a licensee from "January 1 through June 15th" to "November 1 through December 31". Licenses not renewed on or before December 31 after the renewal fee was due cannot be renewed. The duplicate license fee is reduced from \$10.00 to \$5.00 and the \$10.00 fee for a change of name fee relating to a licensee is deleted.

Real Estate Commission, Real Estate Courses, Course Providers, and Instructors, 174 CSR 03

The rule amends a current legislative rule. It requires any reports or information to be submitted to the Real Estate Commission's "digital education tracking system or on a form prescribed by the Commission" prior to January 31 of the following year. This is an online vendor system that is utilized by the Real Estate Commission. The subsection on distance education has been amended to require that the design and delivery of each distance learning course be certified by the Association of Real Estate License

Law Officials (ARELLO) or by another institution whose certification standards are considered equivalent by the Commission. The certified distance learning courses are based upon the same number of hours that would be credited for an equivalent live course and must also include a commission approved comprehensive assessment.

Registered Nurses, Policies, Standards, and Criteria for the Evaluation, Approval and National Nursing Accreditation of Prelicensure Nursing Education Programs, 19 CSR 01

The rule amends a current legislative rule. The rule establishes the evaluation, approval, and accreditation of schools of nursing. It amends the number of hours nurse administrators may spend on their teaching responsibilities by allowing them to teach more hours if they request to do so. Currently the number of hours may not exceed six academic semester credits per year or no more than three academic credits per semester.

The rule that defines the term Online Program Manager and requires any programs that contract with online program managers (OPM) to submit contracts with OPM's to the Board for review prior to being implemented and to meet required standards.

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

The rule amends a current legislative rule. The rule allows nurses educated in English-speaking countries to be exempt from the English Proficiency Exam, as permitted by the Commission on Graduates of Foreign Nursing Schools. The rule changes the renewal date from October 31 to June 30 to coincide with the state fiscal year.

Registered Nurses, Advanced Practice Registered Nurse Licensure Requirements, 19 CSR 07

The rule amends a current legislative rule. The rule establishes the licensure for Advanced Practice Registered Nurses. The rule requires documentation of three graduate hours in pharmacokinetics for licensure; provides for the issuance of a temporary permit for an applicant for endorsement licensure to practice; and requires the submission of current certification or recertification for renewal or reinstatement to be submitted directly to the Board.

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

The rule amends a current legislative rule. The rule establishes the fees charged by the Board for services rendered. The rule adds an "APRN Initial License Fee" of \$35. This was apparently omitted when the Board submitted a change to the rule during the 2022 Legislative session.

Respiratory Care, Student Temporary Permit, 30 CSR 09

The rule amends a current legislative rule. It requires direct supervision of a student temporary permit holder, establishes a ratio of 1:1 per shift relating to licensed respiratory therapists to student temporary permit holders, allows a student temporary permit holder to perform procedures if that permit holder has demonstrated the completion of such tasks, with the school and the employer sending completed competency forms to the Board for review, and allows student temporary permit holders the ability to perform a specified list of more complicated/complex skills under specified circumstances.

The rule also allows a student temporary permit holder to perform procedures relating to mechanical ventilation, or procedures on patients in any critical care situation or environment with direct supervision, which is prohibited under the current rule. Finally, the rule deletes the prohibition against a student temporary permit holder performing positive pressure procedures and performing any procedure not specifically contained with the rule.

The House amended the rule to clarify that completed competency forms are submitted to the Board for approval as well as review.

Secretary of State, Guidelines for the Use of Nicknames and Other Designations on the Ballot, 153 CSR 14

The rule amends a current legislative rule. It clarifies guidelines to be used by the Secretary of State and the County Board of Ballot Commissioners in determining how a name is to be printed on the ballot, clarifies provisions relating to use of gender honorifics (e.g., Miss, Ms., Mrs., Mr.) and generational suffixes (e.g., Jr., Sr.) in candidate's name on the ballot, and removes the entire section limiting nicknames other than shortened forms of legal names to one word.

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

The rule repeals a current legislative rule which establishes guidelines for the administration of the remainder of the Combined Voter Registration and Driver Licensing Fund.

Engrossed House Bill 4450 which passed during the 2022 Regular Session repealed W. Va. Code §3-2-12, which created the Combined Voter Registration and Driver Licensing Fund. This rule is being repealed because the fund is now depleted.

Secretary of State, Election Administration, Infrastructure, and Minimum Security Standards and Reserve Funding, 153 CSR 55

The rule is new. It establishes minimum standards for election administration, infrastructure, and security, which includes standards regarding cyber and physical security, and a minimum reserve funding requirement for each county from funds transferred to the separate fund for election administration, infrastructure, and security.

The rule defines terms, requires county clerks to develop and maintain an Incident Response Plan (IRP) and sets forth required elements of an IRP, authorizes IRP to be included with or incorporated into a broader County Continuity of Operations Plan (COOP), and requires immediate notification of the SOS's Chief Information Officer upon discovery of a potential or actual cyber incident and submission of a Plan of Actions and Milestones.

The rule has requirements election devices and authorized users and requires county clerk offices to be members of the Center for Internet Security's Election Infrastructure Information Sharing and Analysis Center. County clerk offices must enroll in an external vulnerability scanning program and have an annual vulnerability scan. Establishes scope of vulnerability scanning program. Requires counties to remediate identified critical or high-risk vulnerabilities.

Additionally, the rule requires reporting of identified or suspected election security incidents, sets forth physical requirements for voting equipment, requires various logs, and requires notification of unauthorized access or attempts to gain access to voting equipment, its secure location, or county clerk facilities.

Finally, the rule has provisions regarding the amount of money which must be retained in a county election fund to meet minimum reserve funding, requires counties seeking to transfer funds to meet the minimum reserve fund amount based on the provided formula, and requires County Commission to apply to Secretary of State for permission to transfer any funds in excess of the minimum reserve funding from the county election fund.

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

The rule amends a current legislative rule. Currently, there is a separate rule (112 CSR 16) governing the Unknown and Unlocatable Interest Owner's (UUIO) Act found in W. Va. Code §37B-2-1 et seq. The Treasurer's Office is allowing that rule to sunset and incorporating the act into this rule, which governs the Uniform Unclaimed Property Act, generally.

UUIO provisions are added relating to reporting, payment, or delivery, and unknown and unlocatable interest owners reserved interests.

The House amended the rule by renaming the title of the series to Enforcement of the Uniform Unclaimed Property and the Unknown and Unlocatable Interest Owners Act.

Treasurer, Jumpstart Savings Program, 112 CSR 20

The rule amends a current legislative rule. This rule sets forth the requirements of the Jumpstart Savings Program. The rule amends sections relating to definitions, the process to open an account, refusal by the board to open an account, termination of an account, contribution and distribution processes, and qualified expenses.

The amendments to the rule include adding qualifying professions pursuant to code eliminating the minimum deposit to reflect the recent statutory change and updating language relating to qualified expenses.

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

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4190

Relating to the establishment of an alert system for missing cognitively impaired persons

This bill designates an alert system for missing cognitively impaired persons and directs the Secretary for the Department of Homeland Security to establish a statewide Purple Alert Plan for missing cognitively impaired persons.

The bill follows the statutory framework for the establishments of the Amber Alert, Silver Alert, Blue Alert, and Green Alert programs and removes obsolete language referring to submission of the plan to the Joint Committee on Government and Finance. It then adds the Purple Alert to the “Guardian Angel Video Monitoring” Program currently in effect for the Amber Alert and Silver Alert and further clarifies that a Silver Alert will only be issued in the event of a missing senior citizen.

This bill also provides a definition for “cognitive impairment” which is “a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgement, behavior, or the ability to live independently or provide self-care, and includes but is not limited to: Alzheimer’s disease or other related dementias, an intellectual or developmental disability, a brain injury, or another mental disability that is not related to substance abuse.”

The Secretary of the Department of Homeland Security is required to establish a “Purple Alert” program authorizing the broadcast media, upon notice from the State Police, to broadcast the alert and is directed to develop a plan for implementation no later than July 1, 2025.

The bill then sets forth in the criteria that would activate the Purple Alert:

- The person is believed to have a cognitive impairment;
- The person is believed to be missing, regardless of circumstance;
- An individual who has knowledge that the person is missing has submitted a missing person’s report to the State Police or other appropriate law-enforcement agency;
- The missing person may be in danger of death or serious bodily injury;
- The missing person is domiciled or believed to be located in the State of West Virginia;
- The missing person is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing person, and the missing person is incapable of returning to his or her residence without assistance;
- There is sufficient information available to indicate that a Purple Alert would assist in locating the missing person; and
- The missing cognitively impaired person does not qualify for a Silver Alert or a Missing Endangered Child Alert.

Under this legislation, the State Police shall:

- Update the broadcast media in a timely manner with new information when appropriately concerning the missing cognitively impaired person; and
- Notify the Department of Transportation, the Division of Highways, and the West Virginia Turnpike Commission of the “Purple Alert” so they may inform the motoring public. In turn, these authorities may provide information relating to the missing cognitively impaired person and information on how motorists may report any information they have to the State Police or other appropriate law-enforcement agency.

Finally, the bill provides immunity from civil and criminal liability to those who follow the provisions of this new article of code.

CODE REFERENCE: West Virginia Code §15-3A-7, §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-6, §15-3F-1 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



House Bill 4252

Uniform Recognition and Enforcement of Canadian Domestic Violence Protective Orders Act

The bill creates the Uniform Recognition and Enforcement of Canadian Domestic Violence Protective Orders Act, which provides for the West Virginia registration, recognition, and enforcement of Domestic Violence Protective Orders (DVP) issued by Canadian courts.

Under this legislation, if law enforcement determines there is probable cause to believe a valid Canadian DVP exists and has been violated, law enforcement is required to enforce the terms of the Canadian DVP. Presentation of a certified copy of the Canadian DVP is not necessary; however, a certified copy of such an order does, on its face, constitute probable cause to believe that a valid order exists.

If a record of a Canadian domestic violence protective order is not presented, a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic-violence protective order exists.

With respect to enforcement of the order by a West Virginia court, a petition is filed by a respondent, or a protected person authorized by law. The West Virginia Rules of Practice and Procedure for Domestic Violence shall govern the proceedings in West Virginia court. Enforcement is limited to the terms of the Canadian DVP.

If a law enforcement officer determines that an otherwise valid Canadian domestic violence protective order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual. The officer shall make reasonable efforts to contact the respondent. After notice to the protected individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order if available, and allow the respondent reasonable opportunity to comply with the order before enforcement.

This legislation further provides for a process of registering a Canadian DVP in West Virginia, which is the same as registering an out-of-state DVP in this state.

Finally, this bill provides that a fee may not be charged for the registration of a Canadian domestic violence protective order.

CODE REFERENCE: West Virginia Code §48-28B-1 §48-28B-5 – new

DATE OF PASSAGE: January 31, 2023

EFFECTIVE DATE: April 30, 2024

ACTION BY GOVERNOR: Signed February 8, 2024

House Bill 4297

Law Enforcement Officers Safety Act

House Bill 4297 recognizes that correctional officers with the power to arrest and who the Commissioner has authorized to carry firearms are deemed to be qualified law-enforcement officers as that term is used in 18 U.S.C. §926B (Carrying of concealed firearms by qualified law enforcement officers). It authorizes correctional officers to carry a concealed firearm for self-defense purposes if the Commissioner of Corrections has a written policy to that effect, if such officers annually qualify in use of a firearm pursuant to standards that dare at least equal to those required of sheriff's deputies by the Law-Enforcement Professional Standards Program, and if the Commissioner issues a photo ID and certification card.

It requires the policy to contain provisions to preclude or remove a person from the concealed firearm program, to preclude a person prohibited from possessing or receiving a firearm under federal or state law, and to prohibit a person from carrying a firearm while impaired. It clarifies that the officers must obtain and maintain a suitable firearm and ammunition, that the officers must meet the requirements of 18 U.S.C. §926B, and that the privilege to carry a concealed firearm under these provisions are at the discretion of the Commissioner.

CODE REFERENCE: West Virginia Code §15A-3-10 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4399

Creating the equitable right to expungement

This bill authorizes any person whose charges have been dismissed following a full and successful completion of a pretrial diversion or deferred adjudication to seek expungement of all records relating to the arrest, charges, or other matters arising out of the arrest or charges. The petition must be filed in the circuit court in which the dismissed charges were filed.

The bill prohibits expungement of charges for violation of §61-2-28(a) (domestic battery), §61-2-28(b) (domestic assault), §61-2-9(a) (malicious or unlawful assault), §61-2-9a (stalking, harassment, etc.), §61-2-9(b) (assault), or §61-2-9(c) (battery), where the alleged victim is a family or household member, if the charges are dismissed through completion of deferred adjudication.

CODE REFERENCE: West Virginia Code §61-11-25 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4552

To ensure party affiliation is consistent with candidate's voter registration

This bill amends a section of the State Elections Code that regulates the filing of certificates of announcements of candidacies. The certificate of announcement is a sworn statement that an aspiring candidate must file with the Secretary of State, county clerk, recorder, or city clerk, depending on the office sought. For partisan elections, the certificate must include the candidate's political party and a statement that the candidate:

- Is a member and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and
- Has not been registered as a voter affiliated with any other political party for a period of 60 days before the date of filing the announcement.

The current law authorizes the Secretary of State or board of ballot commissioners to refuse to certify the candidacy or to remove the certification upon receipt of a certified copy of the candidate's voter registration record showing that the candidate was registered in a party other than the one named in the certificate during the 60 days immediately preceding the filing of the certificate. It further provides that certification may not be refused on these grounds unless someone files a signed formal complaint and certified copy of the candidate's voter registration record with the officer receiving the certificate of announcement no later than 10 days following the close of the filing period.

The bill clarifies that the candidate's political party named in the certificate of announcement means his or her political party on the date that the certificate is submitted.

The amendment also adds a requirement that the Secretary of State, county clerk, recorder, or city clerk must electronically verify a candidate's current party affiliation prior to accepting a certificate of announcement for a partisan election. Additionally, it provides that the certificate of announcement must be refused if the candidate's actual current party affiliation does not match the party named in the certificate of announcement.

The bill specifies that these amendments go into effect January 1, 2025.

CODE REFERENCE: West Virginia Code §3-5-7 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: March 27, 2024

House Bill 4700

Banning certain persons from sport wagering activities

This bill requires the Lottery Commission to propose a rule for legislative approval, enumerating the reasons for which patrons of sports gaming may be banned from betting on sports. It sets forth a non-inclusive list of reasons to be included in the rule. The bill also requires the rule set forth a procedure for the filing of complaints against patrons with the Commission and investigation of the complaints with the Commission.

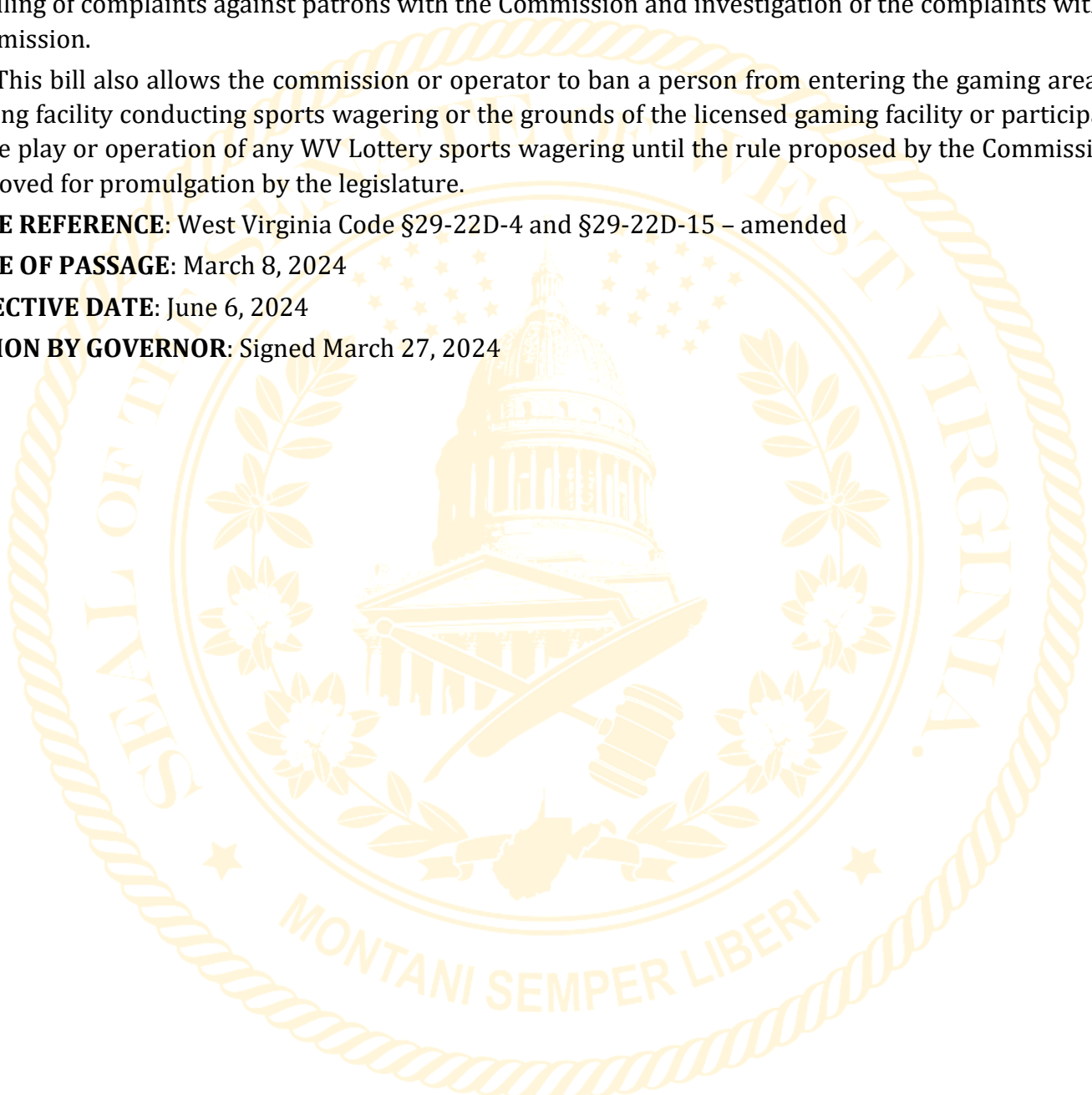
This bill also allows the commission or operator to ban a person from entering the gaming area of a gaming facility conducting sports wagering or the grounds of the licensed gaming facility or participating in the play or operation of any WV Lottery sports wagering until the rule proposed by the Commission is approved for promulgation by the legislature.

CODE REFERENCE: West Virginia Code §29-22D-4 and §29-22D-15 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 4845

To prohibit swatting

This bill adds new criminal penalties relating to “swatting”, or falsely reporting an emergency incident. The existing statute enumerates four forms of this misdemeanor offense:

1) Initiating or circulating a false report or warning of or impending occurrence of an emergency under circumstances in which it is likely that public alarm or inconvenience will result or that rescue vehicles or emergency apparatus might be summoned;

2) Reporting to an emergency agency or organization an alleged or impending occurrence of an emergency, in which it is likely that public alarm or inconvenience will result or that emergency apparatus or rescue vehicles might be summoned, which did not occur or does not in fact exist;

3) Reporting to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur, or an allegedly impending occurrence of an offense or accident which is not in fact about to occur, or false information relating to an actual offense or incident or to the alleged implication of some person; or

4) Calling or summoning emergency or rescue vehicles or apparatus without just cause.

As amended by this bill, a person who is convicted of an initial violation is guilty of a misdemeanor and subject to a \$500 fine and/or up to six months confinement.

The bill makes a second or subsequent violation, or a violation which results in bodily injury to another person, a felony offense punishable by a \$5,000 to \$10,000 fine and/or one to five years imprisonment.

The bill authorizes courts, prior to sentencing, to order any law enforcement agency or emergency service provider involved in the emergency response to file an itemized statement of costs it incurred during the emergency response within a specified time, and to order the offender to reimburse the agency for all or a portion of those costs.

Finally, the bill clarifies that this section does not apply to any person conducting an authorized emergency drill.

CODE REFERENCE: West Virginia Code §61-6-20 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4911

Relating to the sale of raw milk

This bill authorizes intrastate sales of raw milk if certain labeling requirements are met. It defines raw milk as milk that has not been pasteurized as specified in federal law. It requires any container of raw milk sold to be labeled as “unpasteurized raw milk” with the name and physical address of the seller, date of production, and a specific warning about foodborne illness. It authorizes rulemaking by the Commissioner of Agriculture in consultation with the Department of Health and in compliance with raw milk dairy industry standards.

CODE REFERENCE: West Virginia Code §19-1-7 – amends

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Became Law without Governor’s Signature March 28, 2024

House Bill 4940

A squatter cannot be considered a tenant in WV

This bill provides protections to landowners from the activities of squatters. It first defines squatter as “a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit.” It then provides that a property owner does not need to commence eviction proceedings in order to remove a squatter from his or her property. Instead, the remedy at law to remove a squatter is one of “trespass,” which is a criminal misdemeanor. Finally, this legislation clarifies that a landlord’s remedy to seek removal of a squatter is through the criminal code.

CODE REFERENCE: West Virginia Code §37-6-31, §55-3C-1 and §55-3C-2 – new

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4967

Relating to the administration of the Voluntary Remediation and Redevelopment Act to provide new liability protections for persons and companies who wish to purchase and redevelop former industrial properties

This bill facilitates economic development and productive use of environmentally contaminated properties or properties that are less desirable because of potential environmental liability.

As background, the Voluntary Remediation and Redevelopment Act ("Act") was created in 1996 to encourage voluntary clean up and redevelopment of contaminated properties by providing certain environmental liability protections. The program under that Act is administered by our state's DEP and provides financial incentives to (1) entice investment at brownfield sites (sites contaminated or perceived to be contaminated) and (2) limit liability under environmental laws for those who remediate sites.

Under this legislation, the DEP can now issue a letter that provides environmental liability protection at any point in the process (as opposed to much later in the process) to prospective innocent landowners and bona fide purchasers of contaminated property. This letter then assists qualified innocent landowners and buyers to plan and finance redevelopment projects on the property before the remediation process is officially finished.

The focus of the bill is found in the environmental liability protection section and a number of new subsections are added which provides five substantive changes to West Virginia environmental law:

- The Secretary of DEP may determine to limit the liability of lenders, innocent purchasers or landowners, de minimis contributors, or others who have grounds to claim limited responsibility for a containment or cleanup required under the applicable environmental acts.
- A bona fide prospective purchaser may not be held liable for a containment or cleanup that may be required at a brownfield site acts if the following conditions are met: (a) The person did not cause, contribute, or consent to the release of the pollution; (b) The person is not liable or potentially liable through any direct or indirect relationships; (c) The person exercises appropriate care with respect to hazardous substances found at the facility; and (d) The person does not impede any response action.
- An innocent landowner is not held liable for cleanup that may be required if certain conditions are met. In addition to the four conditions for bona fide purchaser to gain liability protection, there are additional criteria that must be met for the landowner: (a) The person made appropriate inquiries into the previous uses of the facility; and (b) either one of the following conditions apply: (i) at the time the property was acquired, the person didn't know that hazardous substances were disposed at the site; or (ii) the person is a government entity that acquired the property through involuntary transfer.
- A person that owns real property that is contiguous and is contaminated by a release of a hazardous substance from real property not owned by that same person may not be considered liable for a containment or cleanup if (a) the person did not cause, contribute, or consent to the release, (b) if the person is not liable through any contractual, corporate, or financial relationship, and (c) if they provide full cooperation and assistance to persons conducting response actions.

- There is new language that clarifies that the Secretary of DEP may still require those responsible for the contamination to contain or remediate sites where waste has been improperly managed.

CODE REFERENCE: West Virginia Code §22-22-1, et seq. – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



House Bill 4998

Modifying penalties for third offense shoplifting

This bill modifies penalties for a third or subsequent offense conviction of shoplifting. It eliminates provisions requiring that at least one year must be spent in confinement not subject to probation; authorizing home detention to be used as an alternative sentence to incarceration; and requiring courts to disregard shoplifting convictions more than seven years prior to the offense in question for purposes of imposing punishment.

The bill requires court, upon a finding that probable cause exists that a person convicted of a third or subsequent shoplifting offense was abusing drugs or alcohol at the time of arrest, to order evaluation of the defendant for a substance abuse disorder determination. Upon a finding of substance abuse disorder, the bill authorizes the court to order the defendant undergo treatment as part of his or her sentence.

The bill requires courts, for purposes of determining the number of prior shoplifting convictions, to count convictions in other jurisdictions that have the same essential elements of the offense, disregarding the value of property shoplifted. It prohibits courts from considering prior convictions more than seven years prior to the date of the third or subsequent offense, regardless of jurisdiction.

This bill also authorizes courts to count convictions from other incidents if the essential elements are the same as WV's and more recent than seven years.

CODE REFERENCE: West Virginia Code §61-3A-3 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4999

Creating exception to spousal privilege

This bill expands the exceptions to spousal privilege and allow for adverse testimony by a spouse when the defendant spouse has committed a crime against a "minor or any person deemed incompetent by mental disease, defect, or other disability." It also allows a spouse to offer adverse testimony when the defendant spouse has committed a crime against a grandchild of either spouse. It would permit a spouse to testify against another spouse where, for example, one of the spouses has committed an act of sexual abuse against a child.

CODE REFERENCE: West Virginia Code §57-3-3 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5084

Require retailers to verify identification and age upon purchase of vape products

This bill relates to prohibiting the sale or gifting of tobacco products to persons younger than the age of 21. The current age is 18. This amendment is made throughout the bill.

Several sections of the Code have been reorganized by separating definitions from the provisions on penalties. It defines the term “electronic smoking device”. These devices, as well as filters, rolling papers, blunt or hemp wraps, and pipes are all considered tobacco products. The all-inclusive term “tobacco products” is substituted throughout the bill for the various types of tobacco products.

Penalties for possession of a tobacco product by a person younger than the age of 18 have been deleted.

The bill requires any person selling tobacco products to verify that the purchaser is at least 21 years old through a valid driver’s license, state identification card, a valid federally issued identification card such as a passport, or a military identification card. It subjects an employee who sells tobacco products to a person younger than the age of 21 to non-criminal and non-monetary penalties. If the employer gave the employee prior written notice in the workplace that such act or acts may result in his or her termination from employment the employer may fire the employee.

The fines for violations have been increased.

Currently, the West Virginia Alcohol Beverage Control Administration (ABCA) is one of the agencies which may conduct inspections at locations where tobacco products are sold or distributed in order to enforce the law against underage use of tobacco products. This bill relieves the agency of that duty and instead authorizes the Bureau for Behavioral Health of the Department of Human Services to perform inspections. It also transfers the responsibility for an annual report on enforcement to the Governor from the ABCA to the Bureau.

CODE REFERENCE: West Virginia Code §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-4, §16-9A-7, and §16-9A-8 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5091

West Virginia Critical Infrastructure Protection Act

This bill broadens the protections for critical infrastructure facilities and increases penalties imposed on individuals for damaging critical infrastructure. Under existing law, an individual cannot trespass (misdemeanor) or damage critical infrastructure (felony). Fines and imprisonment, or both, are imposed as criminal penalties under current law.

With respect to changes to existing law, this legislation first removes the requirement for critical infrastructure to be completely enclosed or marked with signage indicating that entry is forbidden. This allows power lines, communication lines, and pipelines to fall within the ambit of the bill's protections. Additionally, new language clarifies that nuclear power infrastructure as well as hardware, software, and digital property of a facility is protected.

Next, the bill increases the fines for a first offense for damaging critical infrastructure equipment from the existing law range of \$1,000 to \$5,000 to the new range of \$3,000 to \$10,000. Additionally, it creates a second offense penalty with a fine range of \$10,000 to \$15,000 and an imprisonment range of two to 10 years. Of note, added language makes it clear that damage inflicted by cyber-attack or digital interference would be covered by this Act.

The bill also provides criminal penalties and compensatory and punitive damages for an individual who buys or receives property stolen from a critical infrastructure facility and provides for the forfeiture of personal property used in the theft.

CODE REFERENCE: West Virginia Code §61-10-34 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5232

The Business Liability Protection Act

This bill clarifies that an employer may not take any adverse action against an employee based upon statements of lawfully possessing a firearm in a motor vehicle except statements made pertaining to unlawful purposes or threats of unlawful actions.

CODE REFERENCE: West Virginia Code §61-7-14 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5294

Revising state law regulating farm wineries

House Bill 5294 removes the winery classification system.

The bill amends §11-16-6a by authorizing licensed brewers and resident brewers to offer both complimentary samples and for sale samples (flights); authorizing brewers to offer both on-premises and off-premises sale of their products; and authorizing “alternating proprietorship agreements”, which allow brewers and resident brewers to share facilities and equipment.

The bill amends §11-16-11a by authorizing both Class A and Class B retail licensees to hold sampling events; and by increasing beer samples to three per person and four ounces in total volume per brand, type, and flavor, for a total of 12 ounces.

The bill amends §60-3A-3a by modifying liquor sampling by Class A and Class B mixed retail liquor stores licensees and allows licensed liquor representatives to hold tastings; and capping volume at two ounces of liquor with as many as four one-half ounce sample deals with distilleries, mini-distilleries, and micro distilleries.

The bill amends §60-4-3a by authorizing selling as well as complimentary samples at distilleries; authorizing on-premises of samples spirits; limiting samples to three samples totaling no more than six ounces of liquor; authorizing sales by a manufactured distillery, mini-distillery or micro-distilleries at private fairs and festivals; limiting local government regulation when in compliance with state law; and authorizing use of pre-packaged food at private wine restaurants.

The bill amends §60-4-3b by authorizing wineries, farm wineries, and farm entities to sell for on-premises and off-premises consumption; limiting local government regulation when operating in compliance with state law; requiring storage, warehousing and wholesaling of wine to be consistent with federal law; authorizing free and for sale samples; authorizing wine by the glass to be sold with a multi-capacity license and a private wine restaurant license or private manufacturer; and authorizing an on-premises sale at fairs and festivals.

The bill amends §60-6-1 by making changes to be consistent with amendments to §60-4-3b.

The bill amends §60-7-2 by authorizing sampling at private manufacturer clubs consistent with other sampling changes; and removing the fresh on-premises food preparation requirement.

The bill amends §60-7-8a by authorizing private fair or festival licensees to distribute alcohol and beer by the drink; and allowing dual licenses at PODAs and fairs and festivals.

The bill amends §60-7-8d by redefining “close proximity” from 150 to 300 feet as the term relates to structures and serving areas.

The bill amends §60-8-2 by removing the food service requirement for wineries and farm wineries holding a private wine, restaurant license, or multi-capacity winery or farm winery license.

The bill amends §60-8-3 by expanding services wineries, farm wineries and other wine licensees can provide; authorizing samples and sales at fairs and festivals; and removing the background check requirement for out-of-state wineries.

The bill amends §60-8-6c by authorizing wineries and far wineries to offer both complimentary samples and for sale samples; authorizes on-premises sales; and on-premises sales when separately licensed as a private wine restaurant or private manufacturer club.

The bill creates a new §60-8-8 which authorizes sale and service of wineries at fairs and festivals.

The bill amends §60-8-32a by redefining “close proximity” from 150 to 300 feet as the term relates to structures and serving areas; clarifying that pre-packaged food meets on-premises food requirement; and authorizing farm wineries with class A license to serve and sell wine by glass or bottle.

The bill amends §60-8A-5 by authorizing customers at a winery or farm winery to consumer hard cider on-premises when the operator is licensed as a private wine restaurant or private manufacturer club; authorizing complimentary and for-sale samples of hard cider; clarifying that pre-packaged food meets on-premises food requirement; clarifying hours of operation applicable to wineries and farm wineries; authorizing wineries and farm wineries holding private wine restaurant license or private manufacturer club license to sell and serve hard cider by the drink or glass or cider by the bottle when consumed by the glass on the property; authorizing both on- and off-premises consumption sales of hard cider at private fairs and festivals; authorizing wineries and farm wineries to provide, sell, and serve hard cider samples, by the glass or drink, or by the bottle when consumed by the glass for on-premises consumption to patrons over 21 years of age and who are not intoxicated.

CODE REFERENCE: West Virginia Code §11-16-6a, §11-16-11a, §60-3A-3a, §60-4-3a, §60-4-3b, §60-6-1, §60-7-2, §60-7-8a, §60-7-8d, §60-8-2, 3,6c,32a, §60-8A-5 – amended; §60-8-8 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: May 1, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5295

Authorizing a private outdoor designated area to simultaneously host multiple qualified permit holders

This bill authorizes a private outdoor designated area (PODA) to simultaneously have multiple qualified permit holders, including, but not limited to, a special S2 licensed and properly insured private fair and festival.

The bill clarifies that the dual licensing permitted for private fairs and festivals includes, but is not limited to, dual licensing simultaneous to any other qualified permit holders.

The bill redefines “qualified permit holder”, for purposes of a PODA, as the holder of a Class A, Class B, or Class S2 license that elects to operate within a PODA, and a Class S4 special permit.

The bill creates a new Class S4 special permit for sales of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a PODA approved by a municipality. A Class S4 permittee is authorized to sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

The bill requires qualified permit holders to provide the days and hours of operation in the PODA and removes the limitation that they cannot exceed the stated private club hours of operation.

The bill eliminates the requirement that each qualified permit holder execute an agreement stating that it is jointly and severally liable for any improper acts or conduct committed in the operation of the PODA in conjunction with operation of their Class A license.

CODE REFERENCE: West Virginia Code §8-12-26, §60-7-2a, §60-7-8a, and §60-7-8g – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5298

Relating to prohibiting a candidate who failed to secure the nomination of a political party in a primary election from seeking the same elected office as an affiliate with a different political party in the subsequent general election

This bill amends a section of the State Election Code that regulates the nomination of candidates in primary elections. It adds a new subsection that would prohibit a candidate running for office with a recognized political party who loses the primary election from becoming another party's candidate for the same office in the general election.

This extends West Virginia's existing "sore loser" or "sour grapes" law set forth in §3-5-23(g), which similarly prohibits a candidate running for office with a recognized political party who loses the primary election from becoming a candidate for the same office in the general election through the nomination certificate process available to groups of citizens not affiliated with a recognized political party.

The bill specifies that these amendments go into effect January 1, 2025.

CODE REFERENCE: West Virginia Code §3-5-4 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5326

Relating to prohibition of unfair real estate service agreements

This bill prohibits unfair real estate services agreements between a property owner and a real estate broker and establishes the "Unfair Real Estate Services Agreements Act".

It applies to an unfair real estate services agreement that: 1) runs with the land/binds future owners; 2) creates a lien or security interest in the property; 3) allows the contract to be assigned without timely notice to the owner; and 4) lasts longer than one year (for residential properties). Even if an unfair real estate service agreement is recorded, it does not provide actual or constructive notice against an otherwise bona fide purchaser or creditor. The bill clarifies if an unfair real estate service agreement is recorded, any party with an interest in the real property subject to the agreement may petition the circuit court for a court order declaring the agreement unenforceable and attorney fees and costs are to be awarded if the party prevails.

This bill provides that any unfair real estate service agreements are void as a matter of law, and a person subjected to an unfair real estate agreement has a private right of action for injunctive and declaratory relief, compensatory relief, and recovery of attorneys' fees and court costs.

CODE REFERENCE: West Virginia Code §30-38B-1 through §30-38B-8 – new

DATE OF PASSAGE: March 8, 2023

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5349

West Virginia Truth in Food Labeling Act

This bill creates a new article within Chapter 19 (Agriculture), titled the “Truth in Food Product Labeling Act”.

Section 1 defines several terms: “analogue product”, “cell-cultured product”, “egg”, “egg product”, “fish”, “fishery product”, “food”, “food product”, “meat”, “meat food product”, “poultry”, and “poultry product”.

Section 2 lists various circumstances in which a food product (i.e., an analogue product or cell-cultured product) is deemed to be misbranded. To avoid being deemed misbranded, a food must comply with the listed labeling requirements. As such, this section establishes criteria for determining misbranded analogue products and cell-cultured products, which will put them into a similar regulatory framework for other misbranding laws that apply to other food items.

It provides exceptions for food products sold in restaurants, retail establishments, infant formula, medical food, certain food products exempted by the commissioner, food distributors, and food product businesses under a certain sales threshold.

Section 3 authorizes the Department of Agriculture to promulgate legislative rules to implement the new article, including provisions for inspection, other labeling information, violations, administrative enforcement, and appeals. It provides that federal law or regulation controls in the event of a conflict with the new article.

CODE REFERENCE: West Virginia Code §19-39-1, §19-39-2, and §19-39-3 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5395

Relating to judicial review of board decisions

The bill provides that appeals of unemployment benefits shall be to the Intermediate Court of Appeals rather than the Circuit Court of Kanawha County. Of note, the commissioner’s participation in an appeal becomes discretionary. Additionally, this bill removes language requiring the Board of Review to be a party to all judicial actions involving its decisions.

CODE REFERENCE: West Virginia Code §21A-7-17 – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: March 1, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5430

Relating to per diem compensation and expenses of newly elected or appointed judicial officers receiving education and training prior to taking the oath of office

This bill authorizes the Supreme Court of Appeals to pay newly appointed or elected circuit judges, family court judges, and magistrates per diem compensation and expenses for attending training and education sessions prior to taking the oath of office and beginning their term. Additionally, it specifies that this compensation may be as much as the daily per diem rate of senior status circuit judges, senior status family court judges, or senior status magistrates for each required day of attendance, plus travel expenses.

CODE REFERENCE: West Virginia Code §51-3-20 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 28, 2024

House Bill 5510

Clarify law regarding the crime of witness tampering

This bill modifies certain predicate behaviors in the elements of the offenses of intimidation toward and retaliation against public officials, public employees, jurors, and witnesses. It eliminates the requirement that a person's threat must be directed at inciting or producing imminent lawless action of a violent nature that could cause bodily harm and is likely to incite or produce such action.

CODE REFERENCE: West Virginia Code §61-5-27 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5520

Relating to juvenile competency

This bill reduces the age under which a juvenile is presumed incompetent to participate in a court action from 14 to 13.

The bill clarifies that all options remain available to the parties short of an adjudication of delinquency while the issue of competency is pending. The bill authorizes the juvenile's attorney, guardian litem, or prosecuting attorney to seek or the court to order any pre-adjudatory procedures or case-specific alternatives permitted by the Rules of Juvenile Procedure, or any disposition alternatives set forth in §49-4-734.

CODE REFERENCE: West Virginia Code §49-4-727, §49-4-729, and §49-4-733 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5561

Relating to permitting the electronic execution of trusts

This bill amends several sections within the Uniform Trust Code (Chapter 44D) which will allow trusts to be executed electronically.

In the definitions section for the entire chapter, the bill adds two new defined terms (“record” and “sign”) and amends the definition of the term “trust instrument” to incorporate both the traditional written format as well as the new electronic format. The definition of “record” expressly excludes a will unless it is duly admitted to probate. The existing definitions of “record” and “sign” have been deleted from a supplemental definitions section later in the chapter.

The bill incorporates these changes throughout the chapter by replacing references to a “writing” with a “trust instrument” or “record”, with the result that it permits non-testamentary trusts to be in either written or electronic form:

- §44D-4-402(a)(2) (statutory elements of a trust);
- §44D-4-402(d)(2) (requirements for trust where grantor does not have capacity);
- §44D-5-503c(c)(1) and (4) (rights, powers, and interests that expressly do not qualify as a revocable trust);
- §44D-7-701(a)(2) (actions that result in a designated trustee accepting a trusteeship);
- §44D-7-704(c)(2) (requirements for filling vacancy in trusteeship of noncharitable trust);
- §44D-7-704(d)(2) (requirements for filling vacancy in trusteeship of charitable trust);
- §44D-7-705(a) (authorizing trustee to resign without court approval); and
- §44D-10-1011(a) (limiting liability of trustee who holds interest as general partner in general or limited partnership on contract entered into by partnership after trust’s acquisition of interest).

The bill does not allow electronic execution of a testamentary trust unless the will is duly admitted to probate.

CODE REFERENCE: West Virginia Code §44D-1-103, §44D-4-402, §44D-5-503c, §55D-7-701, §44D-7-704, §44D-7-705, §44D-8B-2, and §44D-10-1011 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5662

Relating to adding “person in a position of trust” to certain crimes

This bill updates the criminal code by imposing criminal liability upon certain individuals in positions of trust who harm children. A "person in position of trust in relation to a child" is defined as someone who is generally acting in the place of a parent or by virtue of his or her occupation is "charged with any duty or responsibility for the health, education, welfare, or supervision of the child."

Under this bill a "person in position of trust in relation to a child" may be prosecuted under a number of criminal law provisions including: 1) murder of a child by refusal or failure to supply necessities, or by delivery, administration or ingestion of a controlled substance, 2) death of a child by child abuse, 3) child abuse resulting in injury, 4) child abuse creating risk of injury, 5) female genital mutilation, 6) child neglect resulting in injury, 7) child neglect creating risk of injury, and 8) child neglect resulting in death.

This legislation also updates the definition section of the article to align the terms "gross neglect" and "abuse" and further provides limitations on the certain objections for workers charged with caring for a child. Finally, the bill provides that a person in a position of trust in relation to a child includes a person who "under law or agreement" acts in the place of the parent.

CODE REFERENCE: West Virginia Code §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4, and §61-8D-4a – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5668

Creating the Responsible Gaming and Research Act

This bill authorizes West Virginia University (WVU) to analyze gaming operations-related transactional data and metrics collected and maintained by the West Virginia Lottery as of March 1, 2024.

The bill defines transactional data and metrics to include demographic data, usage data, utilization of responsible gaming features, account suspension, complaints and financial information, including deposits, withdrawals, bonus usage, balance statements and beta-level data, as determined in the sole discretion of the West Virginia Lottery.

The bill requires the data to be transmitted in an anonymized data, excluding all personally identifiable information. It clarifies that the data is not a public record and is exempt from the West Virginia Freedom of Information Act.

The bill prohibits WVU from disclosing the data to any person except for the purposes of the research described in this section, as part of a peer-reviewed research, or to gaming operators pursuant to a written request delivered to the WV Lottery.

The bill requires WVU to use the data to develop a new program or alter or expand existing programs to include courses, training, certificates, initiatives, or other methods designed to foster innovation in gaming technology development and to prepare students for careers in racing, gaming, gaming operations, hospitality management, guest relations, entertainment, and other amenities typically offered in conjunction with gaming operations.

The bill requires the State Lottery Commission, with the cooperation of WVU, to prepare and submit an annual report to the Joint Committee on Government and Finance beginning January 1, 2026. The report is to include the impact of gaming on players and the state's economy, innovation in gaming technologies and operations resulting from this research, a curriculum designed to educate future leaders in the industry, and policy proposals developed by the West Virginia Lottery from this research.

CODE REFERENCE: West Virginia Code §29-22-30 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Joint Resolution 28

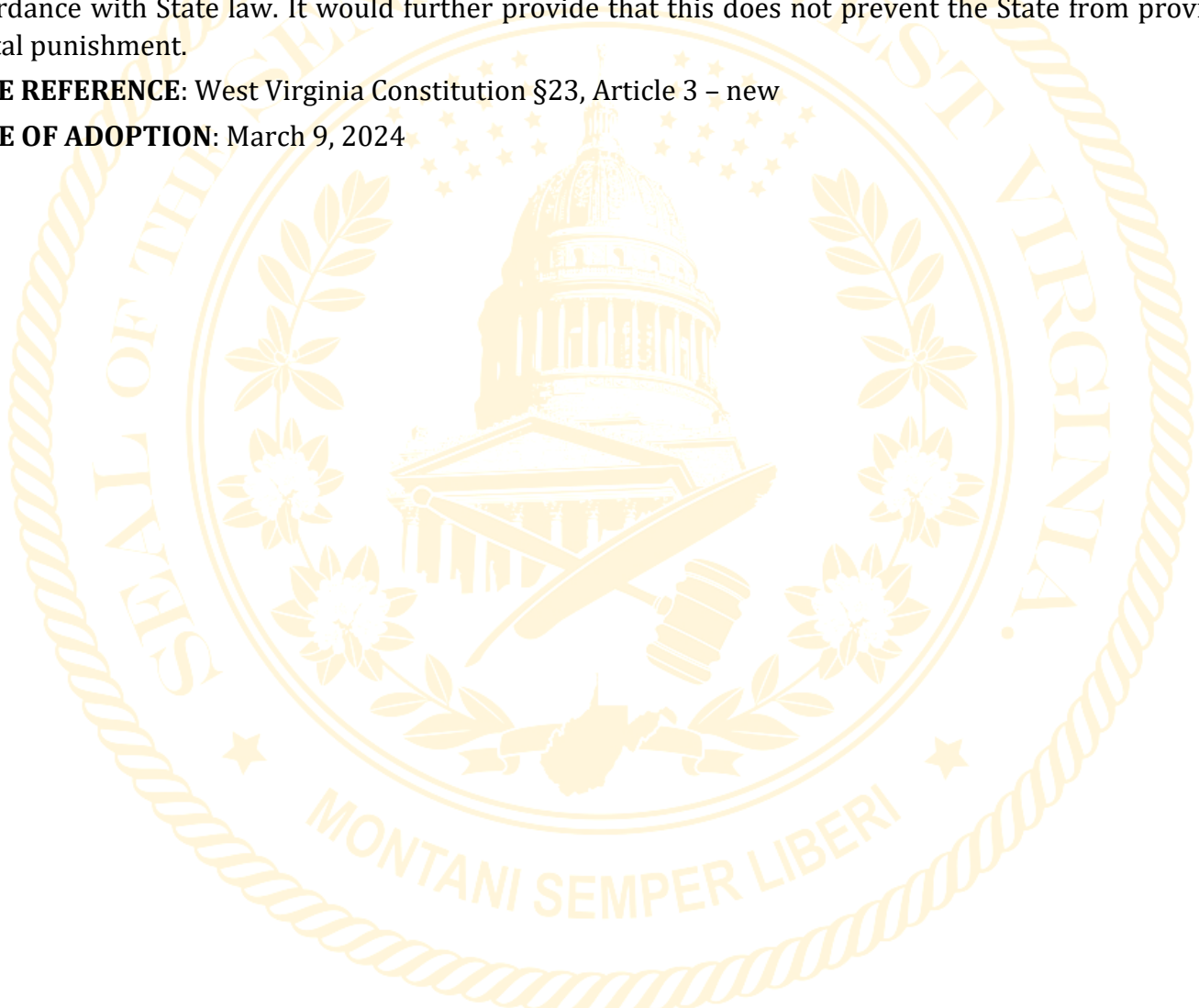
Protection from medically-assisted suicide or euthanasia in West Virginia Amendment

House Joint Resolution 28 places a proposed amendment to the West Virginia Constitution on the ballot in the 2024 general election. If ratified, it would add a new section 23 to article 3 (Bill of Rights), entitled “Protection from medically-assisted suicide”.

It would prohibit any person, physician, or health care provider in West Virginia from participating in the practice of medically-assisted suicide, euthanasia, or mercy killing of a person. It would also provide that this does not prohibit the administration or prescription of medication for the purpose of alleviating pain or discomfort while the patient’s condition follows its natural course, nor the withholding or withdrawing or life-sustaining treatment, as requested by the patient or his or her decision-maker, in accordance with State law. It would further provide that this does not prevent the State from providing capital punishment.

CODE REFERENCE: West Virginia Constitution §23, Article 3 – new

DATE OF ADOPTION: March 9, 2024



Finance



Senate Bill 200

Budget Bill

This bill appropriates all public monies out of the state treasury for the Fiscal Year starting July 1, 2024 (Fiscal Year 2025).

This bill appropriates:

- \$4,996,598,939 out of General Revenue funds, this total includes claims against the state;
- \$1,998,604,764 out of the State Road funds, this total includes claims against the state;
- \$2,122,765,170 in Special Revenue spending authority, this total includes claims against the state;
- \$149,104,142, out of Lottery funds;
- \$337,436,083 out of Excess Lottery funds;
- \$8,778,821,122 in Federal spending authority;
- \$688,383,417 in Federal Block Grant spending authority;
- \$120,064,646 in General Revenue surplus;
- \$16,750,000 in Lottery surplus; and,
- \$17,800,000 in Excess Lottery surplus.

For a total appropriation of state funds and spending authority of \$19,226,328,283.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 14, 2024, with certain line-item vetoes.

Senate Bill 462

Updating definitions of certain terms used in Personal Income Tax Act

This bill updated the West Virginia personal income tax to make it conform to the 2024 federal tax code.

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

DATE OF PASSAGE: January 29, 2024

EFFECTIVE DATE: January 29, 2024

ACTION BY GOVERNOR: Signed February 7, 2024

Senate Bill 483

Amending Corporation Net Income Tax Act

The 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: January 29, 2024

EFFECTIVE DATE: January 29, 2024

ACTION BY GOVERNOR: Signed February 7, 2024

Senate Bill 574

Supplemental appropriation to DOT, Division of Highways

A supplemental appropriation that increases State Road Fund spending authority by \$275,000,000 in the following manner:

- \$62,500,000 increase to the Interstate Construction appropriation,
- \$87,500,000 increase to the Other Federal Aid Programs appropriation, and,
- \$125,000,000 increase to the Appalachian Programs appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 628

Declaring certain claims as 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 §14-2-13]. The total amount of the claims itemized in the bill is directed to be paid from various state funds as follows:

- General Revenue Fund: \$1,647,647.42
- State Road Fund: \$386,855.50
- Special Revenue Funds: \$32,520.70
- Total: \$2,067,823.62

CODE REFERENCE: Not codified.

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 643

Supplementing and amending appropriations to Department of Education, School Building Authority

This bill appropriates an additional \$5,000,000 from the unappropriated balance of General Revenue for fiscal year 2024 to the School Building Authority appropriation within the Department of Education.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 644

Supplementing and amending appropriations to Department of Commerce, Division of Forestry, and Geological and Economic Survey

A supplemental appropriation that appropriates an additional \$913,972 from the unappropriated balance of General Revenue for fiscal year 2024 to multiple appropriations within the Department of Commerce.

- \$755,000 to the Personal Services and Employee Benefits appropriation within the Division of Forestry,
- \$110,997 to the Personal Services and Employee Benefits appropriation within the Geological and Economic Survey, and,
- \$47,975 to the Mineral Mapping System appropriation with the Geological and Economic Survey.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 650

Supplementing and amending appropriations to Higher Education Policy Commission, Fairmont State University

A supplemental appropriation that appropriates an additional \$400,000 from the unappropriated balance of General Revenue for the fiscal year 2024 to Fairmont State University within the Higher Education Policy Commission.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: March 5, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 652

Supplementing and amending appropriations to DHHR, Health Facilities

A supplemental appropriation that appropriates \$45,000,000 from the unappropriated balance of the General Revenue surplus by creating multiple new appropriations within the Department of Health and Human Resources.

- \$34,000,000 to the new Contract Nursing – Surplus appropriation for William R. Sharpe Jr. Hospital, and
- \$11,000,000 to the new Contract Nursing – Surplus appropriation for Mildred Mitchell–Bateman Hospital.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: March 5, 2024

ACTION BY GOVERNOR: Signed March 13, 2024

Senate Bill 653

Supplementing and amending appropriations to School Building Authority, School Construction Fund

A supplemental appropriation that appropriates \$150,000,000 from the unappropriated balance of the General Revenue surplus by creating the new School Building Authority – Surplus appropriation within the School Building Authority, Department of Education.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 656

Supplementing and amending appropriations to DHHR, Division of Human Services

A supplemental appropriation that appropriates \$12,453,411 from the unappropriated balance of the General Revenue for fiscal year 2024 by increasing two current appropriations within the Department of Health and Human Resources, Division of Human Services.

- \$350,000 increase to the Current Expenses appropriation, and.
- \$12,103,411 to the Medical Services Administrative Costs appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 657

Expiring funds from Excess Lottery Revenue Fund to General Revenue

A supplemental appropriation that expires \$71,000,000 from the Excess Lottery surplus to the unappropriated balance of the General Revenue surplus.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 658

Supplementing and amending appropriations to Department of Administration, Public Defender Services

A supplemental appropriation that appropriates \$22,600,000 from the unappropriated balance of the General Revenue surplus by creating two new appropriations within the Department of Administration, Public Defender Services.

- \$2,600,000 to the new Public Defender Corporations – Surplus appropriation, and,
- \$20,000,000 to the new Appointed Counsel Fees – Surplus appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: February 23, 2024

EFFECTIVE DATE: February 23, 2024

ACTION BY GOVERNOR: Signed March 6, 2024

Senate Bill 661

Expiring funds from Lottery Net Profits to General Revenue Surplus

A supplemental appropriation that expires \$35,000,000 from the Lottery Net Profits surplus to the unappropriated balance of the General Revenue surplus.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 663

Supplementing and amending appropriations to Division of Administrative Services, Criminal Justice Fund

A supplemental appropriation that appropriates \$10,000,000 from the unappropriated balance of the General Revenue for fiscal year 2024 by creating a new Victims of Crime Act appropriation within the Department of Homeland Security, Division of Administrative Services.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 665

Supplementing and amending appropriations to DHHR, Division of Health

A supplemental appropriation that appropriates \$4,654,921 from the unappropriated balance of the General Revenue for fiscal year 2024 by increasing multiple appropriations within the Department of Health and Human Resources, Division of Health.

- \$4,390,787 increase to the Chief Medical Examiner appropriation, and,
- \$264,134 increase to the Vaccine for Children appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 683

Amending definition of "alternative fuel" under motor fuel excise tax

The proposed legislation relates to the definitional section of the West Virginia Motor Fuel Excise Tax. It removes "hydrogen" from the definition of "alternative fuel." Alternative fuels are certain combustible gases or liquids that are used or are suitable for use as a motor fuel in an internal combustion engine or motor to propel or operate any form of vehicle, machine, or mechanical contrivance. The definition has an expansive list of possible alternative fuels which includes hydrogen. Hydrogen is deleted from the list. The bill also makes a technical change to match current bill drafting methodologies.

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

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: N/A

ACTION BY GOVERNOR: Vetoed March 27, 2024

Senate Bill 695

Supplementing and amending appropriations to Energy Assistance, TANF, and Child Care and Development

This bill grants \$411,361 in Federal Black Grant Spending authority to multiple items within the Division of Human Services.

- \$42,434 in spending authority increase to the Personal Services and Employee Benefits appropriation within the Energy Assistance program,
- \$5,000 in spending authority increase to the Current Expenses appropriation within the Energy Assistance program,
- \$296,927 in spending authority increase to the Personal Services and Employee Benefits appropriation within the TANF program,
- \$15,000 in spending authority increase to the Current Expenses appropriation within the TANF program, and,
- \$52,000 in spending authority increase to the Personal Services and Employee Benefits appropriation within the Child Care and Development program.

The bill also realigns \$20,000,000 from the Federal Coronavirus Pandemic appropriation to the Current Expenses appropriation within the Child Care and Development Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 696

Supplementing and amending appropriations to Department of Homeland Security, Division of Emergency Management

This bill grants \$310,000 in additional Federal spending authority to the Personal Services and Employee Benefits appropriation within the Department of Homeland Security, Division of Emergency Management.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 697

Supplementing and amending appropriations to DHHR, Consolidated Medical Service Fund

This bill grants \$6,000,000 in additional Federal spending authority to the Current Expenses appropriation within the Department of Health and Human Resources, Consolidated Medical Services Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 698

Supplementing and amending appropriations to DHHR, Division of Human Services

This bill grants a total of \$44,622,110 in additional Federal spending authority to multiple appropriations within the Department of Health and Human Resources, Division of Human Services.

- \$1,541,821 increase in Federal spending authority to the Personal Services and Employee Benefits appropriation,
- \$2,722,653 increase in Federal spending authority to the Current Expenses appropriation,
- \$36,638,300 increase in Federal spending authority to the Medical Services Administration Costs appropriation,
- \$1,901,888 increase in Federal spending authority to the CHIP Administrative Costs appropriation, and,
- \$1,817,448 to the CHIP Services appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 699

Supplementing and amending appropriations to DHHR, Child Support Enforcement Fund

This bill grants a total of \$3,000,000 in additional Special Revenue spending authority to the Personal Services and Employee Benefits appropriation within the Department of Health and Human Resources, Division of Human Services, Child Support Enforcement Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 700

Supplementing and amending appropriations to Miscellaneous Boards and Commissions, Hospital Finance Authority

This bill grants a total of \$10,000 in additional Special Revenue spending authority to the Personal Services and Employee Benefits appropriation within the Hospital Finance Authority Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 701

Supplementing and amending appropriations to Department of Education, School Construction Fund

This bill grants a total of \$150,000,000 in additional Special Revenue spending authority to the SBA Construction Grants appropriation within the School Building Authority, School Construction Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: March 5, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 702

Supplementing and amending appropriations to DHHR, Laboratory Services Fund

This bill grants a total of \$250,000 in additional Special Revenue spending authority to the Personal Services and Employee Benefits appropriation within the Division of Health, Laboratory Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 703

Supplementing and amending appropriations to Department of Homeland Security, WV State Police

This bill grants a total of \$750,000 in additional Federal Revenue spending authority to the Personal Services and Employee Benefits appropriation within the Department of Homeland Security, West Virginia State Police.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 704

Supplementing and amending appropriations to PSC, Motor Carrier Division

This bill grants a total of \$118,983 in additional Federal Revenue spending authority to multiple appropriations within the Public Service Commission.

- \$69,990 in Personal Services and Employee Benefits within the Motor Carrier Division, and,
- \$48,993 in Personal Services and Employee Benefits within the Gas Pipeline Division

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 705

Supplementing and amending appropriations to PSC

This bill grants a total of \$1,747,517 in additional Special Revenue spending authority to multiple appropriations within the Public Service Commission.

- \$350,000 in Debt Payment/Capital Outlay within the Public Service Commission
- \$1,080,229 in Personal Services and Employee Benefits within the Public Service Commission
- \$174,975 PSC Weight Enforcement within the Public Service Commission,
- \$93,320 in Personal Services and Employee Benefits within the Gas Pipeline Division, Public Service Commission Pipeline Safety Fund, and,
- \$48,993 in Personal Services and Employee Benefits within the Public Service Commission Motor Carrier Division.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 707

Supplementing and amending appropriations to Department of Commerce, Division of Natural Resources

This bill grants a total of \$977,502 in additional Special Revenue spending authority to multiple appropriations within the Department of Commerce, Division of Natural Resources.

- \$436,157 in the Wildlife Resources appropriation within the License Fund – Wildlife Resources,
- \$500,000 in Capital Improvements and Land Purchases within the License Fund – Wildlife Resources, and,
- \$41,345 in Personal Services and Employee Benefits within the Nongame Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 708

Supplementing and amending appropriations to Department of Agriculture, WV Spay Neuter Assistance Fund

This bill grants \$100,000 in additional Special Revenue spending authority to the Personal Services and Employee Benefits appropriation within the Department of Agriculture, West Virginia Spay, and Neuter Assistance Fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 709

Supplementing and amending appropriations to Department of Arts, Culture and History, National Coal Heritage Area Authority

This bill grants \$415,000 in additional Federal Revenue spending authority to the Current Expenses appropriation within the Department of Arts, Culture and History, National Coal Heritage Area Authority fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 710

Supplementing and amending appropriations to State Board of Education, Aid for Exceptional Children

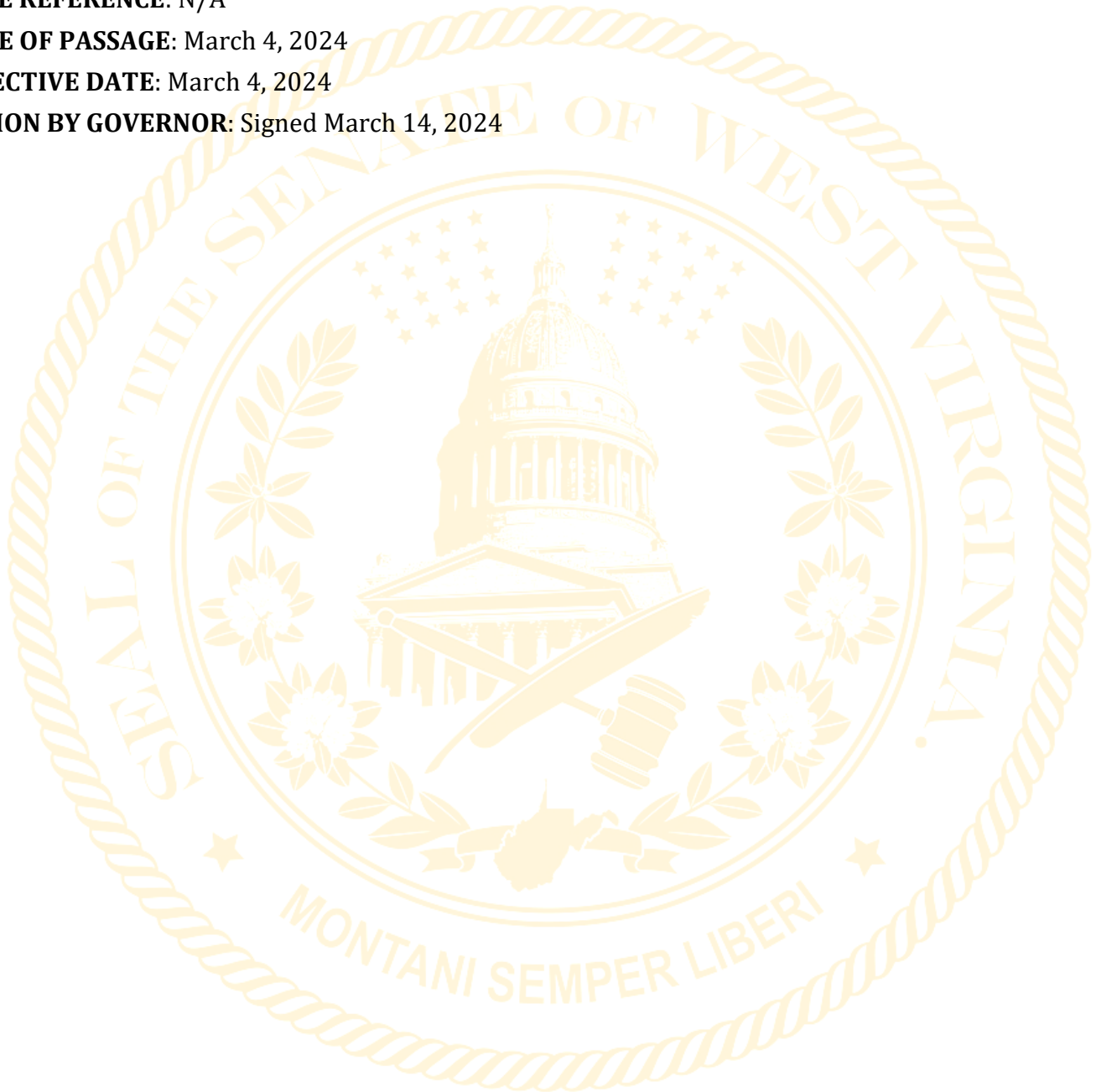
This bill grants \$6,000,000 in additional Federal Revenue spending authority to the Current Expenses appropriation within the Department of Education, Aid for Exceptional Children fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 14, 2024



Senate Bill 841

Setting amount of unemployment taxes and benefits

This bill modifies the amount of employment taxes and benefits and to alter the calculation of the taxable wage base to calculate maximum benefits.

The current law definition of "wage" states wages does not include that part of the remuneration which, after remuneration equal to \$8,000 or the threshold wage is paid during a calendar year to an individual by any employer. This bill would modify that to \$9,500. The bill also removes the definitions of "average annual wage" and "threshold wage" which would no longer be necessary.

The bill creates the "Jobs and Reemployment Act." It would condition eligibility for unemployment benefits "only if (and otherwise eligible person) actively seeks, and continues to seek, work by conducting at least four work search activities weekly." The Executive Director of Workforce WV must seek proof of search activities and verify them every week for every recipient. The Executive Director must establish processed to help recipients find work.

If Workforce WV makes a job referral to a recipient, the recipient must "apply for that job or those jobs within one-week of receiving the referrals and accept employment in suitable work if offered." Employers must report any refusals to accept the job offered after referral to the Executive Director.

If a recipient accepts a referral-based job offer "to a part-time open position or otherwise accept part-time employment for which the wages are less than his or her weekly benefit rate, (then the recipient) shall continue to receive unemployment benefits without reduction for those wages for the duration of his or her benefits period.

"[A]ll individuals applying for or receiving unemployment benefits shall be subject to the requirements of this section, including, but not limited to, individuals who are seasonally unemployed or laid off subject to recall by their employer," except:

- individuals who have received or been served with a summons for jury duty or are serving on a jury
- individuals who are receiving vocational training
- individuals who are members in good standing of a union that refers its members to employment from a union hall.

Workforce WV must notify recipients when they initially apply for benefits of the obligation to actively seek work when they initially apply for benefits and "at any . . . time during the benefit year that the requirements substantively change." The section describes what the notices must contain.

Rulemaking is required of the Executive Director.

The bill would also modify the maximum weekly amount. Current law sets that at 66 2/3 percent of the average weekly wage in West Virginia to 26 times the weekly benefit rate set forth in a benefit table. The bill also removes a formula to accelerate the weekly benefit rate.

There are provisions that allow "[a]n individual who is totally unemployed but earns in excess of \$60 as a result of odd job or subsidiary work or is paid a bonus in any benefit week, shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment."

Finally, if a balance of benefits remains after an individual receives 24 weeks of unemployment benefits, due to partial unemployment as defined in §21A-6-11, the individual may receive benefit

payments at the same weekly benefit rate as the most recent week, until the maximum benefit balance is exhausted.

CODE REFERENCE: West Virginia Code §21A-1A-28, §21-6-1, §21A-6-10, §21A-6A-4, §21A-6A-5, and §21A-6B-6 – amended; §21-6-1d – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Became law without signature March 27, 2024



Senate Bill 864

Clarifying reporting requirements of Grant Transparency and Accountability Act

This bill excepts from the requirements of the Grant Transparency and Accountability Act any funds which are given by the West Virginia Water Development Authority. It does so by explicitly stating such moneys are not “state grants.” Money given by the Water Development Authority has several layers of oversight and signoffs which are more stringent than what is required in the Act, and therefore requiring it to comply would be duplicative and redundant.

The bill also provides cleanup language and clarifies throughout that the Act applies only to state grants. It also excepts from the requirements of the act any money granted specifically for the purpose of matching federal funds for a project.

CODE REFERENCE: West Virginia Code §12-4-14 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 866

Designating State Treasurer as chairperson of WV Investment Management Board

This bill would substitute the State Treasurer for the Governor as the Chairperson of the West Virginia Investment Management Board. It would also expand the powers and duties of the chairperson to appoint the chief executive officer subject to board approval. The chief executive officer would serve until and new chief is appointed, the chief resigns, or the chief is removed from office. The chairperson is permitted to appoint an acting chief without board approval for a period not to exceed six months. These changes would take effect July 1, 2025.

CODE REFERENCE: West Virginia Code §12-6-4 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 868

Supplementary appropriation to Department of Commerce, Geological and Economic Survey

This bill grants \$150,000 in additional Federal Revenue spending authority to the Personal Services and Employee Benefits appropriation within the Department of Commerce, Geological and Economic Survey fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 871

Supplementary appropriation to Department of Veterans' Assistance, Veterans' Facilities

This bill grants \$2,000,000 in additional Special Revenue spending authority to the Current Expenses appropriation within the Department of Veterans' Assistance, Veterans' Facilities Support fund.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 873

Schedule for tax installment payments

Current law provides that installment payments for severance and business privilege taxes are due on the 15th of June of each year. This bill would move that date to June 30th of each year. Prior to 1988 payments were due on the 30th but the Legislature altered that at that time. This bill would return the due date back to its original date as enacted in 1985.

CODE REFERENCE: West Virginia Code §11-13A-9 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 875

Relating to certain insurance coverage provided by BRIM

This originating bill would place a moratorium preventing the Board of Risk and Insurance Management (BRIM) from taking on any new insureds that are not required under the code until July 1, 2025. This does not affect any existing contracts or agreements, or any coverage in place when this bill takes effect. BRIM also maintains the ability to extend existing coverage.

The bill also provides that BRIM always has the authority to non-renew policies of permissive entities with 60 days' advance notice.

CODE REFERENCE: West Virginia Code § 29-12-15 and §29-12-16 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 876

Supplementing and amending appropriations to Department of Health and Human Resources, Health Facilities

This bill appropriates an additional \$5,000,000 from the unappropriated General Revenue balance of fiscal year 2024 to the Contract Nursing appropriation within the Department of Health and Human Resources, Health Facilities, Mildred Mitchel-Bateman Hospital.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

Senate Bill 877

Supplementing and amending appropriations to Higher Education Policy Commission

This bill appropriates an additional \$1,600,000 from the unappropriated General Revenue balance of fiscal year 2024 to the Current Expenses appropriation within the Higher Education Policy Commission – Control Account.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 14, 2024

House Bill 4850

Removing the sunset clause from Oil and Gas Personal Property Tax

The purpose of this bill is to provide that valuation of industrial property and natural resources property by Tax Commissioner interest may not exceed the average actual sale price of similarly situated and like royalty interests. The bill also makes technical changes by alphabetizing definitions and it also eliminates a sunset date.

CODE REFERENCE: West Virginia Code §11-1C-10 – amended

DATE OF PASSAGE: February 23, 2024

EFFECTIVE DATE: May 23, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4880

Relating to personal income tax social security exemption

This bill relates to the elimination of the decreasing modification of the personal income tax due on social security. It provides for a graduated “exemption” from West Virginia personal income taxes due on social security by providing a 3-year phased-in of an exemption. Beginning January 1, 2024, there will be a 35% reduction in the amount of personal income tax due on social security. This will be increased on January 1, 2025, to 65% with a total elimination on January 1, 2026. These reductions apply to Social Security benefits received by a taxpayer with a Federal Adjusted Gross Income that exceeds \$100,000 if married filing jointly, or \$50,000 if single or married filing separately. As of January 1, 2022, persons below those income levels do not pay personal income tax on social security benefits.

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

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4883

Relating to increasing annual salaries of certain employees of the state

The bill amends provisions of the WV Code relating to the salaries of teachers, school service personnel and employees of the state police.

The bill would increase the annual salaries of state police personnel by \$2900 and teachers by \$2460 for each classification listed in the Code. The monthly salaries of school service personnel would increase by \$1400 for each classification listed in the Code.

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

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 24, 2024

House Bill 4945

Relating generally to the Hope Scholarship Program

This bill makes changes to the HOPE Scholarship program. The changes are as follows:

- Provides that microschoools, learning pods, or individualized instructional programs pursuant to the Hope Scholarship Act have the authority to issue secondary school diplomas.
- Modifies how the HOPE Scholarship is funded. Current funding provides the annual appropriation would be the greater of an amount not less than two percent of net public school enrollment adjusted for state aid purposes or the total number of eligible HOPE Scholarship applications received. A new funding mechanism is included in the bill that requires the number of eligible HOPE students to be changed to the "estimated" number of applications. The HOPE Scholarship Board is charged with certifying the estimated number of applications to the Department of Education by 12/10 each year.
- The bill modifies definitions. "Curriculum" is modified to include elementary or secondary education and provides specificity as to what content is included as curriculum such as textbooks, workbooks, student and teacher curriculum kits, activity, learning, or study guides.
- A definition of "Individualized Instructional Program" has been added and exempts them from the requirements of compulsory school attendance.
- Adds a new section to clarify available educational privileges and programs available to HOPE Scholarship students. This new section clarifies students who is a HOPE student who is in an individualized instructional program is exempt from compulsory school attendance and has the same privileges as other students with a similar exemption including the right to a diploma, the ability to receive a PROMISE scholarship, the ability to receive a work permit, and the ability to participate in ACE programs.
- Modifies the composition and powers of the HOPE Scholarship Board and allows the State Treasurer to substitute a designee. For appointments made to the Hope Scholarship Board after July 1, 2024, the parent members shall represent parents of students engaged in a diverse range of educational options, such as microschoools or other individualized instruction. Appointments shall be made to satisfy the requirements of the board composition to staggered terms as determined by the Governor.
- Modifies the powers of the board by allowing them to take any issues relating to Hope Scholarship student participation, in established public charter schools, to the West Virginia Professional Charter School Board, and request such information from the Department of Education and the county boards as is necessary for completion of the board's responsibilities.
- Directs to board to process, accept, and make available Hope Scholarship. applications and awards at any time during the calendar year.
- Modifies the parent's agreement for receipt of HOPE funds to include notification to the HOPE Scholarship Board if a student reenrolls in the public school system or graduates from or completes a secondary school program.
- Makes all records of the HOPE Scholarship Board confidential and not subject to FOIA.
- Allows public charter schools to invoice a HOPE student for their services adds "online curriculum courses and tutorial programs" and "instruments and equipment as part of a music education course or curriculum" to qualifying expenses for Hope Scholarship accounts.

- Permits the board to adopt rules and procedures of Hope Scholarship students who want to continue to receive services provided by a public school or district.
- Requires the Hope Scholarship Board to promulgate legislative rules to ensure that an education service provider with 15 or more students can provide compensation to employees of the provider in the provider's regular course of business, notwithstanding the fact that an employee's child receives services from the education service provider.
- Allows the board to adopt procedures for establishing a reimbursement process for any qualifying expenses not available for purchase by a Hope Scholarship parent through the existing online Hope Scholarship Program portal.
- Modifies the standardized achievement test to provide annual testing in reading, language, and mathematics, and, if available grade appropriate testing in science and social studies. For a Hope student who chooses an individualized instructional program, it is the means of the child's overall test results tested for any single year that must be within or above the 4th stanine and that is what will be reported to the county superintendent.
- Continues the Hope Scholarship on an annual basis and specifies how parents must annually meet the requirements. Effective January 1, 2025, a Hope student may continue participation from year to year without reapplying. If a parent fails to meet the annual conditions or declines participation the account will be closed. If they desire to return, they must reapply.
- Moves the language that the board, in consultation with the Department of Education, may adopt rules and policies to provide the least disruptive process for Hope students who desire to stop receiving payments and return full-time to a public school to a more appropriate subsection.
- Removes a list of required audit elements to audit education service providers accepting HOPE funds and replaces them with rulemaking by the HOPE Scholarship Board to set audit standards.
- Adds to the requirements for a criminal background check a certification that a person who may have contact with a HOPE Scholarship student has not been convicted of a felony involving violence to a person and that they are not listed on a federal or state sex offender registry.
- Allows charter school governing boards to charge tuition to Hope students who enroll in a public school or a public charter school but prohibits an education service provider from requiring tuition, costs, or fees above or in addition to the provider's regular tuition or fee schedule based upon participation in the HOPE Scholarship.
- Lastly, the amendment requires the board to provide a comprehensive report on the status of the Hope Scholarship program to LOCEA on or before December 31, 2025, and annually. As part of the report, the board, in collaboration with the state and county boards of education shall survey participating Hope families on various issues. The board shall use only aggregate, non-identifying evaluation data when compiling the public reports.

CODE REFERENCE: West Virginia Code §18-8-12, §18-9A-25, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-10, and §18-31-11 – amended; §18-31-2A and §18-31-14 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4971

Relating to Critical Materials Manufacturing Tax

This bill provides property tax relief to companies which manufacture silicon and silicon carbide into a raw material, only. On all assessments made on or after July 1, 2025, the value of silicon and silicon carbide manufacturing equipment, for the purpose of ad valorem property taxation, shall be its salvage value, being no more than five percent of its fair market value for which such equipment would sell in place. The Tax Commissioner is to promulgate rules to effect the new article, and a sunset date of July 1, 2035, is set.

CODE REFERENCE: West Virginia Code §11-6M-1 et seq. – new

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: July 1, 2025

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4984

Relating to repealing tax credit for employing former employees of Colin Anderson Center

This bill repeals a tax credit that was created to encourage the hiring of individuals who became unemployed with the closure of the Colin Anderson Center. In 1995 a tax credit was created for “a person, firm, partnership, corporation or other entity who employs a person or persons who lost his or her job as a result of the closure of the Colin Anderson Center”. The credit was eligible from December 31, 1995, and through December 31, 2000.

CODE REFERENCE: West Virginia Code §11-13I-1, 11-13I-2, and §11-13I-3 – repealed

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: June 3, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 5014

Supplementing and amending appropriations to West Virginia University General Administration Fund

This bill appropriates \$6,000,000 from the unappropriated General Revenue balance of fiscal year 2024 to multiple new appropriations within the Governor’s Civil Contingent Fund.

- \$2,000,000 to a new West Virginia Health Systems for the Federal Food and Drug Administration Pilot Program appropriation, and
- \$4,000,000 to a new Hospital Grants and Research Programs appropriation.

CODE REFERENCE: N/A

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Vetoed March 14, 2024

House Bill 5024

Relating to exempting non-grantor trusts administered in this state from the personal income tax

This bill exempts the income generated by non-grantor trusts administered by licensed private trust companies from the state personal income tax.

CODE REFERENCE: West Virginia Code §11-21-3, §11-21-4g, §11-21-18, §11-21-30, §11-21-40, §11-21-51, and §11-21-71a – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5128

Directing transfer of moneys into fire protection funds at the end of each year

This bill would require at the end of each fiscal year and once all debt obligations set out in code are met that the sum of \$12,000,000 from the State Lottery Fund be distributed as follows:

- \$6,000,000 to the Fire Protection Fund
- \$3,000,000 to the County Fire Protection Fund
- \$3,000,000 to the All County Fire Protection Fund

If at the end of the year, the proceeds are insufficient to transfer the allocated amounts, then the available net profits shall be reduced and transferred on a pro rata basis.

CODE REFERENCE: West Virginia Code §29-22-18G – amended

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: June 3, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5157

Relating to contingent increase of tax rate on certain eligible acute care hospitals

This bill relates to the health care provider tax levied against specified acute care hospitals. Current law provides that eligible acute care hospitals as defined in the bill, will be assessed an additional tax of 75/100's of 1% on gross receipts received or receivable. An acute care hospital is defined as any in or outpatient hospital doing business in West Virginia. Excluded from the definition are state-owned or designated facilities, federally designated critical access hospitals, licensed free-standing psychiatric or medical rehabilitation hospitals, long-term acute care hospitals, or hospitals designated critical access meeting certain statutory requirements.

This bill modifies the tax in two ways:

- It would allow the tax rate to be increased as needed to provide non-federal share funding. The Bureau for Medical Services is granted the authority to calculate the new rate. The new rate is required to be within the allowable rates of the Center for Medicare and Medicaid Services (CMS) and the calculation must be done according to CMS-approved methodologies. The Tax Commissioner is required to publish the new rate.
- The second modification is to eliminate the list of exclusions from the definition of "eligible acute care hospital" except for the exclusions of state-owned or designated facilities. The effect of this is to open the provider tax to previously excluded types of facilities.

CODE REFERENCE: West Virginia Code §11-27-38 – amended

DATE OF PASSAGE: February 14, 2024

EFFECTIVE DATE: February 14, 2024

ACTION BY GOVERNOR: Signed February 29, 2024

House Bill 5188

Relating to awards and benefits for duty related disability in the municipal police officers and firefighters retirement system

This bill relates to the WV Municipal Police Officers and Firefighters Retirement System (MPOFRS). It specifically pertains to duty-related disability payments for municipal police officers and firefighters. Currently, there is no provision for partial disability. This bill would add benefits for a partial disability.

The bill defines partial disability to mean a member's inability to engage in the duties of a police officer or fire fighter by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. A person may be considered partially disabled and maintain the ability to engage in other gainful employment but would not enable him or her to earn an amount at least equal to two thirds of the average annual compensation earned by all active members of the retirement plan during the plan year ending as of the most recent June 30, as of which plan data has been assembled and used for the actuarial valuation of the plan.

It provides that partially disabled members may receive 45% of their average full monthly compensation for the 12-month contributory period that precedes the disability. This time frame may be shortened if the person has worked less than 12 months. By contract, a totally disabled member is entitled to 90% of his or her full monthly compensation averaged for the 12-month contributory period that precedes the disability. This time frame may be shortened if the person has worked less than 12 months.

MPOFRS consists of municipality governments and does not cover any state employees. For fiscal 2025, funding for MPFRS is through member contributions of 8.50% of payroll and employer contributions of 8.50% of payroll. MPOFRS does not impact the costs or revenues of state government.

CODE REFERENCE: West Virginia Code §8-22A-17 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 5261

Relating to the definition of small arms for purposes of taxation

During the 2021 Regular Session of the Legislature a tax exemption was created on small arms and ammunition. "Small arms" was defined as a portable firearm, designed to be carried and operated by a single person, including, but not limited to, rifles, shotguns, pistols, and revolvers, with a barrel greater than an internal diameter of .50 caliber or a shogun of 10 gauge or smaller. This definition excluded some necessary parts of a small firearm which was not the intention of the initial legislation.

This bill adds a definition of "receiver or frame". The definition is based upon the federal definition and requires the part to contain a manufacturer-assigned serial number which provides housing for the hammer, bolt, or breechblock, and firing mechanism and which is usually threaded at its forward portion to receive the barrel.

The definition of "small arms" is amended in the bill to include that a small arm includes the receiver or frame. This addition is designed to alleviate the problem of excluding necessary parts.

CODE REFERENCE: West Virginia Code §11-15-9U – amended

DATE OF PASSAGE: February 19, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 6, 2024

House Bill 5338

Relating to Safe Harbor for Cybersecurity Programs

This bill establishes a legal safe harbor for certain businesses which handle personal information. It provides that, if a business adheres to the creation and maintenance of cybersecurity protocols primarily adjudged by industry standards, it has a prima facie affirmative defense against lawsuits arising from breaches of such data.

CODE REFERENCE: West Virginia Code §31A-8H-1 through §31A-8H-5 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Vetoed March 27, 2024

House Bill 5432

To move the essential functions of the Information Services and Communications Division into the Office of Technology

This bill repeals Article 7 of Chapter 5A which created the Information Services and Communications Division and moves the essential functions of the Information Services and Communications Division into the Office of Technology.

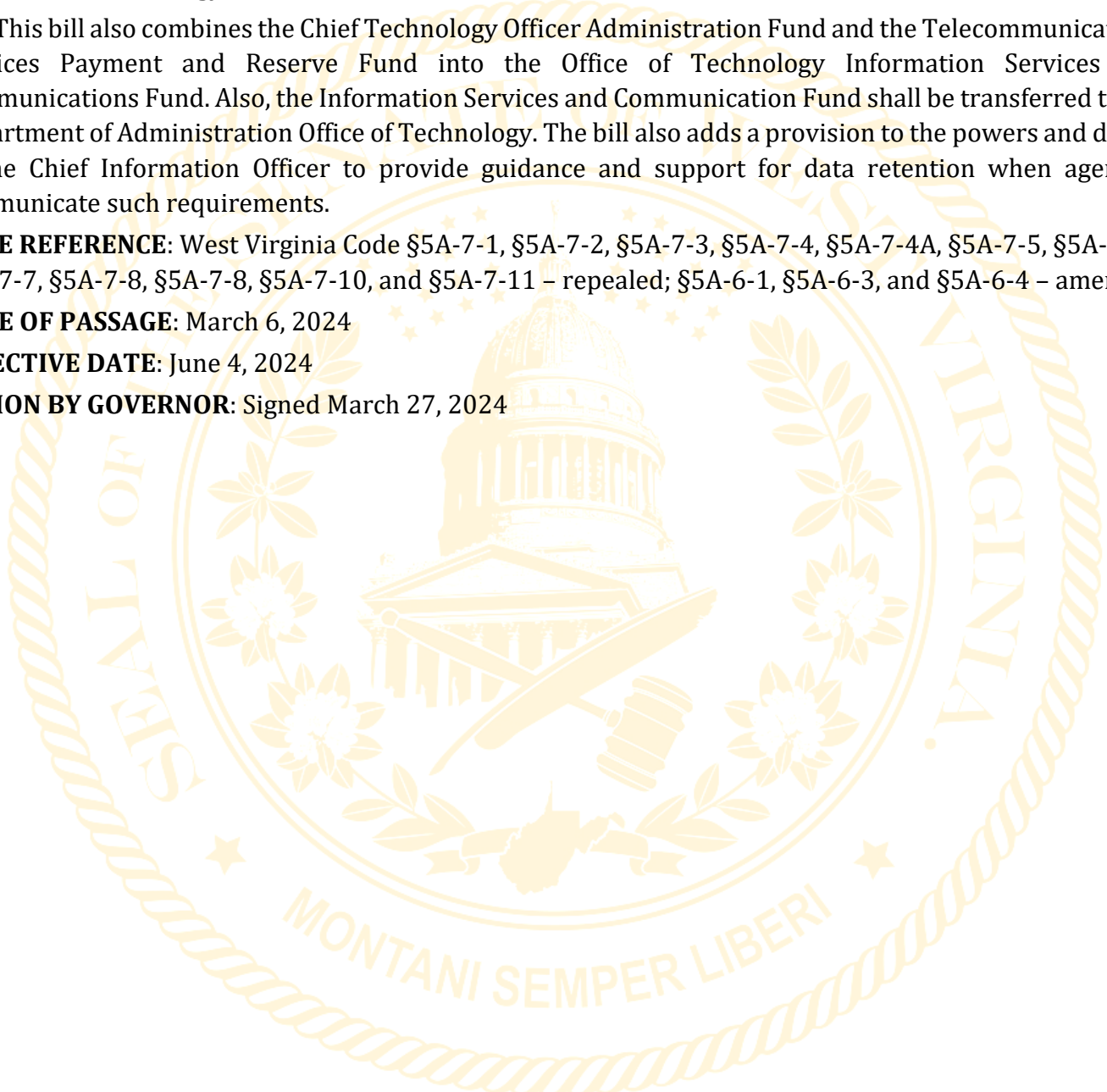
This bill also combines the Chief Technology Officer Administration Fund and the Telecommunications Services Payment and Reserve Fund into the Office of Technology Information Services and Communications Fund. Also, the Information Services and Communication Fund shall be transferred to the Department of Administration Office of Technology. The bill also adds a provision to the powers and duties of the Chief Information Officer to provide guidance and support for data retention when agencies communicate such requirements.

CODE REFERENCE: West Virginia Code §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4A, §5A-7-5, §5A-7-6, §5A-7-7, §5A-7-8, §5A-7-8, §5A-7-10, and §5A-7-11 – repealed; §5A-6-1, §5A-6-3, and §5A-6-4 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



Education



Senate Bill 280

Allowing teachers in public schools to discuss scientific theories

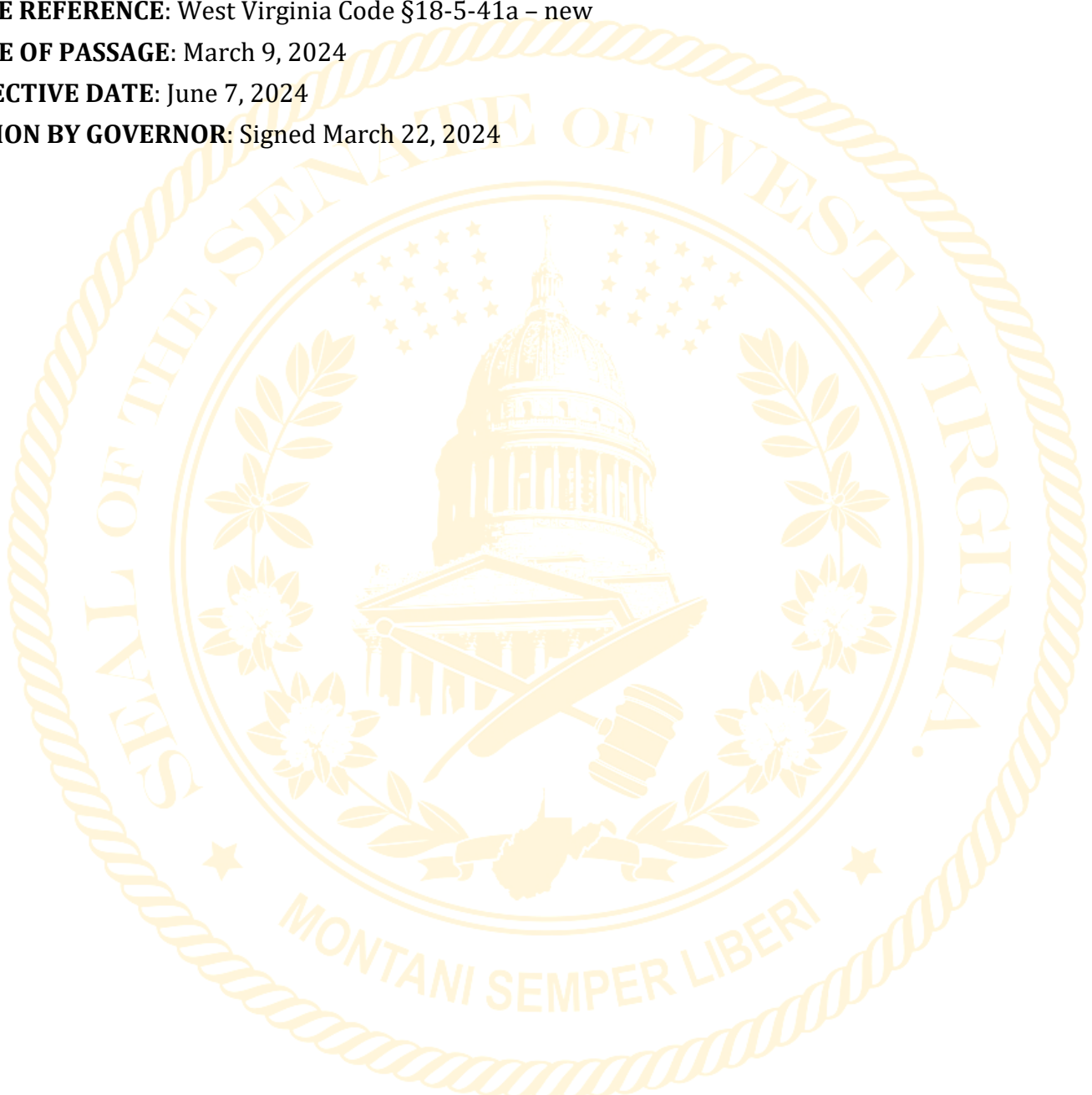
This bill provides that no public school board, school superintendent, or school principal can prohibit a public school classroom teacher from responding to student inquiries or answering questions from students about scientific theories of how the universe and/or life came to exist.

CODE REFERENCE: West Virginia Code §18-5-41a – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 22, 2024



Senate Bill 466

Requiring State Board of Education develop Safety While Accessing Technology education program

This bill requires that the state board, in collaboration with law-enforcement agencies, criminal justice agencies, and other nongovernmental organizations with experience in child online safety issues and human trafficking prevention, develop a Safety While Accessing Technology (SWAT) education program for elementary and secondary school students. The program is to include instruction on the following topics:

- Safe and responsible use of social networking websites, including Internet chat rooms, email, instant messaging, and other modes of electronic communication.
- The risks of transmitting personal information on the Internet and the importance of privacy protection.
- Copyright laws on written materials, photographs, music, and videos posted or shared online.
- The importance of establishing open communication with responsible adults about any online communications or activities.
- How to recognize, avoid, and report suspicious, potentially dangerous, or illegal online communications or activities, including potential solicitation by sexual predators, unsolicited or deceptive communication, and harassment and cyberbullying.
- Resources and assistance programs available for any child or parent who may have encountered online solicitation by sexual predators or other illegal online communications or activities, including the National Center for Missing and Exploited Children's Cyber Tipline.
- The risks associated with sharing sexually suggestive or sexually explicit materials including at a minimum:
 - The legal consequences and penalties for sharing sexually suggestive or sexually explicit materials.
 - The non-legal consequences of sharing sexually suggestive or sexually explicit materials, including but not limited to, the effect on relationships, mental health, loss of educational and employment opportunities, and being barred or removed from school programs and extracurricular activities.
 - The potential, based on the unique characteristics of the Internet, of long-term and unforeseen consequences for sharing sexually suggestive or sexually explicit materials.
 - The potential of long-term and unforeseen consequences for sharing sexually suggestive or sexually explicit materials during past relationships.
 - The potential connection between bullying, cyber-bullying, sextortion, and human trafficking and juveniles sharing sexually suggestive or sexually explicit materials.

The bill also allows the state board to develop and provide age-appropriate instructional materials and resources to assist county boards in establishing and implementing the SWAT education program. In developing the instructional materials and resources, the board can collaborate with law-enforcement agencies, criminal justice agencies, and other nongovernmental organizations with expertise in child online safety issues and human trafficking prevention.

The bill also requires each county board to adopt policies requiring all elementary and secondary schools in the district to provide the SWAT education program to students in grade three through 12 at least once each school year; and requires that the policies include:

- A process for allowing a parent, guardian, or custodian to review the instructional materials used in the SWAT education program.
- An option for the parent, guardian, or custodian of any child to opt his or her child out of participating in the program.

The bill also requires the state board to make the SWAT education program and any accompanying instructional material and resources, available to county school boards before the start of the 2025-2026 school year; and requires each county board to implement the SWAT education program beginning with the 2025-2026 school year.

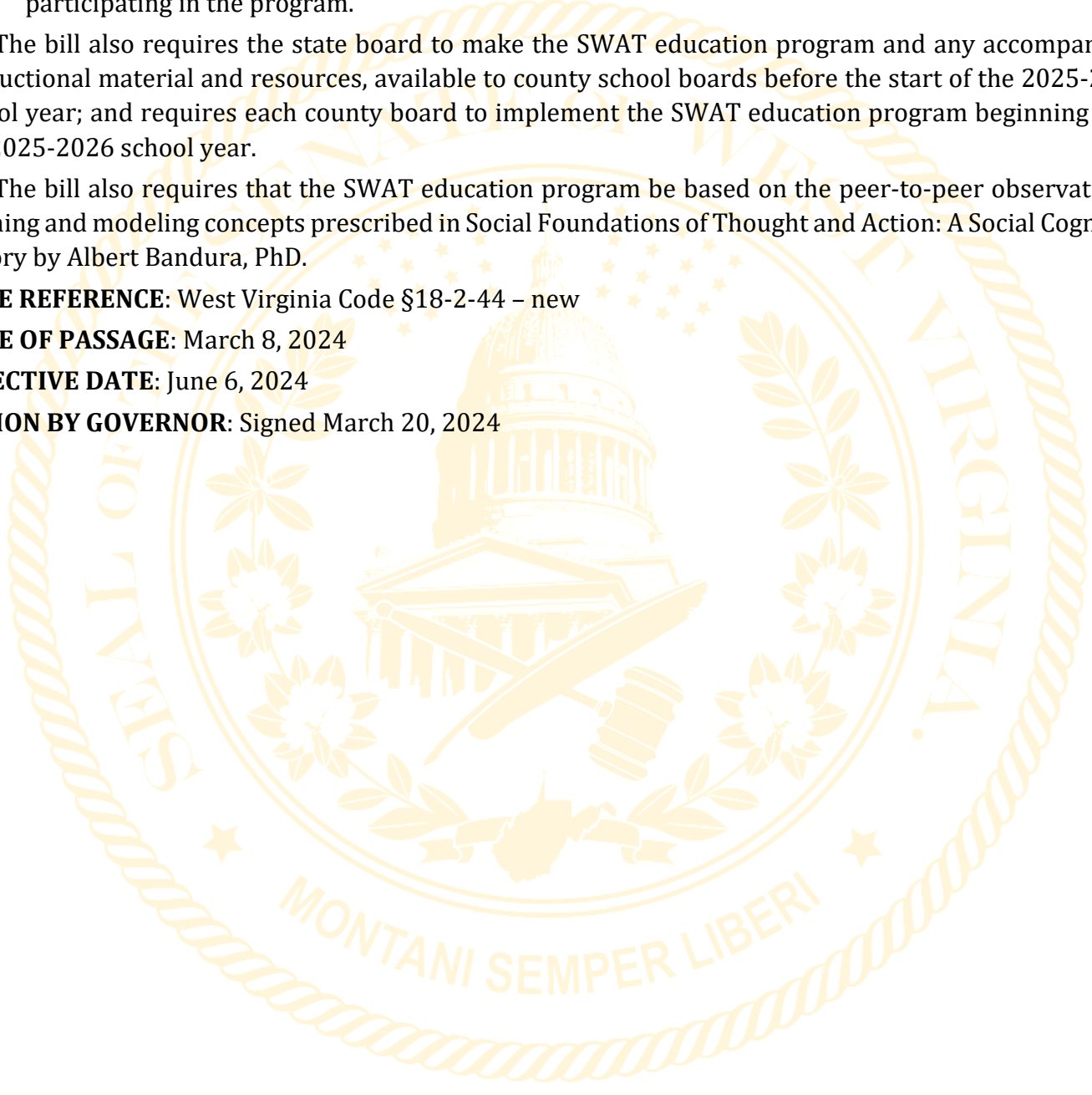
The bill also requires that the SWAT education program be based on the peer-to-peer observational learning and modeling concepts prescribed in Social Foundations of Thought and Action: A Social Cognitive Theory by Albert Bandura, PhD.

CODE REFERENCE: West Virginia Code §18-2-44 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 20, 2024



Senate Bill 487

Requiring periodic review of professional development for teachers and education staff

This bill provides for periodic reviews of required professional development for teachers and education staff. Beginning with the school year 2024-2025, and every five years after, the State Board of Education shall perform periodic reviews of professional development for teachers and education staff to ensure:

- That requirements and current training regimens are necessary and truly essential; and
- That a distinction is made between those professional education opportunities which are required and those just encouraged.

The purpose of these reviews is to establish a training regimen that has the minimum amount of required training so that teachers can be better focused on the classroom. The bill also permits school personnel to recommend legislative changes to this section and any other requirements mandated in this code.

CODE REFERENCE: West Virginia Code §18A-3-1 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 503

Protecting belief-based student organizations from certain types of discrimination

This bill expands the student organizations that are protected from differential treatment to include those religious, political, or ideological student organizations that are not open to all students and by changing the types of differential treatment the student organizations are protected from to include differential treatment based on a requirement of the organization that its leaders and members:

- Affirm and adhere to the organization's sincerely held beliefs.
- Comply with the organization's standards of conduct.
- Further the organization's mission, expression, or purpose.

CODE REFERENCE: West Virginia Code §18B-20-5 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 507

Relating to repeal of WV EDGE

The purpose of this bill is to repeal West Virginia EDGE which became unnecessary last year with the passage of the dual enrollment pilot program in House Bill 2005.

CODE REFERENCE: West Virginia Code §18-13-1 through §18-13-5 – repealed

DATE OF PASSAGE: February 20, 2024

EFFECTIVE DATE: May 20, 2024

ACTION BY GOVERNOR: Signed February 29, 2024

Senate Bill 529

Including Salem University in PROMISE Scholarship program

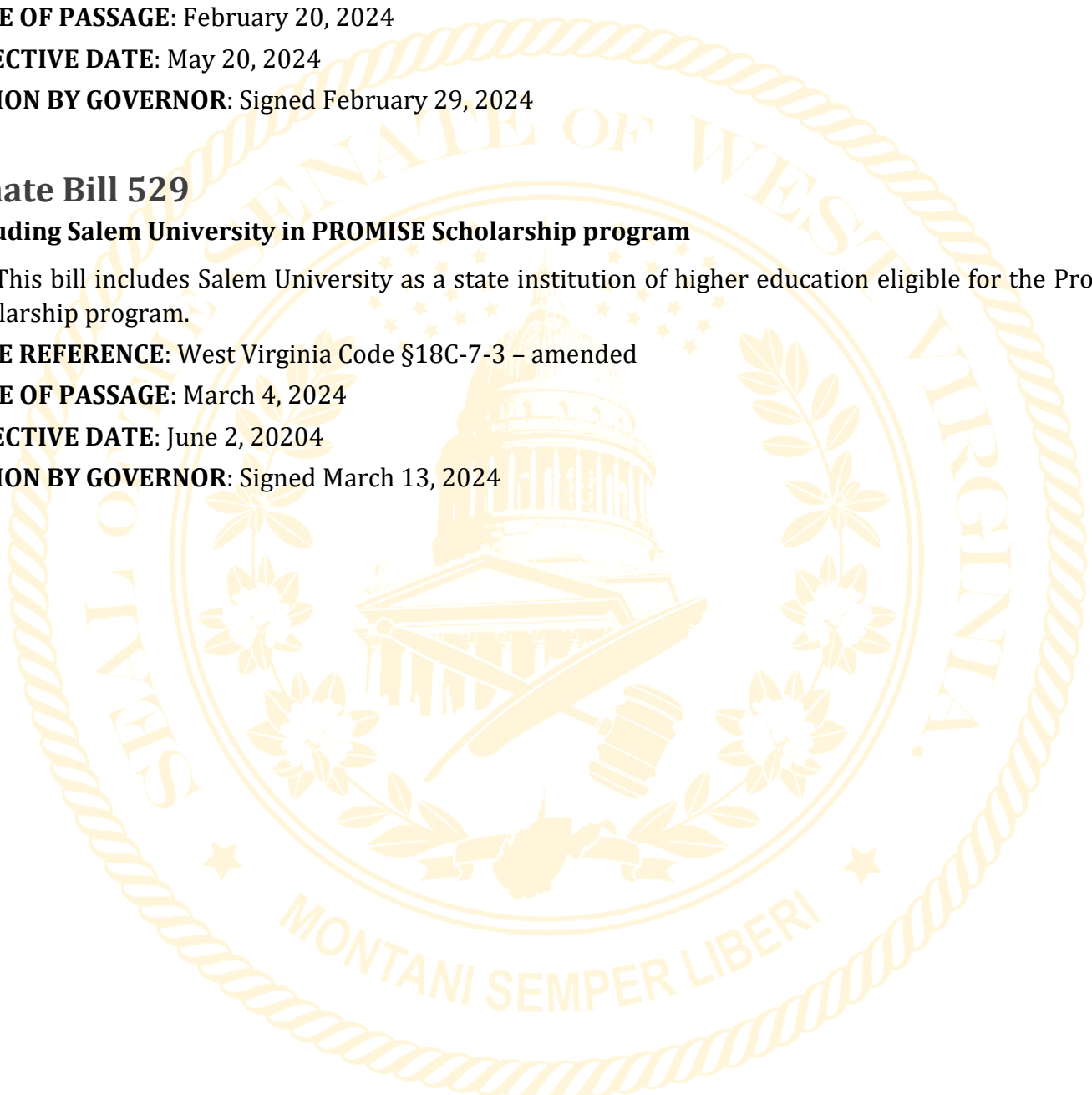
This bill includes Salem University as a state institution of higher education eligible for the Promise Scholarship program.

CODE REFERENCE: West Virginia Code §18C-7-3 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 13, 2024



Senate Bill 547

Authorizing legislative rules for Higher Education Policy Commission

This bill authorizes rules of both the Higher Education Policy Commission (HEPC) and the Community and Technical College Council (CTCC). All of the rules have been recommended for authorization by LOCEA.

The following HEPC rules are authorized:

133 CSR 5, Guidelines for Governing Boards in Employing and Evaluating Presidents

The amendments to this rule simplify the rule, clarify provisions, and align it more closely with statutory requirements.

133 CSR 6, Higher Education Adult Part-Time Student (HEAPS) Grant Program

Updates to this rule reflect changes to the Free Application for Federal Student Aid that go into effect in the 2024-2025 school year, including the replacement of the Expected Family Contribution (EFC) with the Student Aid Index (SAI) as a key factor in student need analysis. The changes clearly distinguish the differences between the HEAPS Part-Time Grant Program and the HEAPS Workforce Grant Program, update provisions based on recent amendments to federal student financial aid requirements and make additional changes to clarify and streamline language.

133 CSR 7, Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program

Revisions to this rule update course and grade requirements, streamline language, and clarify terms. The revisions would allow students to be considered full-time under certain circumstances during terms when they may not be taking a full-time degree pursuant load. These students would remain eligible if they successfully complete all available degree pursuant courses during the institutions regular academic year, allowing more students to maintain the award. The revisions also would allow students to maintain a cumulative 2.75 GPA, rather than 3.0, each year to be eligible, allowing an additional 100 students to maintain eligibility standards. The changes also revise the appeals process by having appeals reviewed by the Vice Chancellor of Administration or a designee instead of a review committee.

133 CSR 19, Dual Enrollment Pilot Program

This rule is a proposed amendment to an existing procedural rule which offered guidelines for early enrollment courses for high school students. Since procedural rules are not presented to the Legislature, this rule is presented as a new legislative rule.

HB2005 established a 4-year pilot program where eligible institutions offer dual enrollment courses that will comprise individualized pathways for career and postsecondary education opportunities. Students are required to be enrolled in eligible courses leading to careers in certain designated pathways that meet a workforce need as determined by the WV Chamber of Commerce. This rule is authorized by HB2005 and governs the development, implementation, and administration of the program.

133 CSR 28, Engineering, Science, and Technology Scholarship Program

The revisions to this rule amend the scope of the rule to include the acronym WV STEM Program and the language is changed throughout the rule. This effectively adds math to the disciplines that can receive the scholarship. The remaining revisions streamline and clarify language, amend monetary repayment and deferred provisions, and streamline the appeal process.

133 CSR 42, Higher Education Grant Program

Updates to this rule reflect changes to the Free Application for Federal Student Aid (FAFSA) that go into effect in the 2024-2025 school year, including the replacement of the Expected Family Contribution (EFC) with the Student Aid Index (SAI) as a key factor in student need analysis. Additional changes are made to align the rule to statute and removes provisions already stated in statute. In addition, the review committee is removed from the appeals process and appeals will go through the Vice Chancellor.

133 CSR 58, Nursing Scholarship Program

During the 2022 legislative session, SB518 removed the provision that a licensure fee could be charged to registered nurses upon license renewal to fund the WV Center for Nursing and the WV Nursing Scholarship Program. This change resulted in a 75% reduction in funds to the program and the need for change in how the program is currently administered. Changes to this rule reflect the needed changes and provide guidance in program administration. Changes to the rule include:

- Removing reference to the fee from nursing licensure renewal as the funding stream for the scholarship.
- Clarifying that students can be enrolled in an accredited or approved nursing program to be consistent with language used by the WV Registered Nurses Board.
- Providing categories of information to be included in the application for scholarship.
- Clarifying who assists with selection of scholarship recipients.
- Removing language on scholarship award levels already contained in statute.
- Clarifies and simplifies language related to scholarship and service agreements.
- Aligning repayment language with current state law related to charging interest, forbearance, and collections.
- Clarifying language related to deferment and repayment.
- Aligning language related to appeal and similar programs.

The following CTCC rules are authorized:

135 CSR 6, Higher Education Accountability System

Amendments are made to conform with Senate Bill 673 (2019), which repealed requirements for the development of a system master plan and agency and institutional compacts. That bill provided for additional flexibility in the reporting of institution- and system-level data by streamlining requirements for published annual reports and allowing Council staff to make data available to the public using internet-based data tools and the agency's official website.

The amendments also redefines the rule's purpose and establishes definitions, guidelines, and procedures related to the collection and analysis of system- and institution-level accountability data, and the publication of these data. In addition, language from Series 49, Accountability System, Section 6, State Compacts and Section 8, Institution and System Report Cards is relocated to this rule with grammatical and technical revisions.

135 CSR 19, Dual Enrollment Pilot Program

Same as the HEPC's 133 CSR 19 described above.

135 CSR 20, Initial Authorization of Degree-Granting Institutions

Amendments to this rule are made to conform with amendments to Series 52, Annual Reauthorization of Degree-Granting Institutions, approved during the 2023 Legislative Session and to meet the Council's

responsibility to update the rule prior to the March 2024 sunset date.

The amendments clarify the Council's processes and compliance standards regarding initial authorization, streamline the rule in conformance with statutory provisions, remove extraneous provisions, and provide technical updates. The rule also adds a section providing penalties for any false statement made in any application or documentation submitted to the Council and sets forth parameters for injunctive relief against any institution in violation of this rule or condition of its authorization.

135 CSR 32, Tuition and Fees

The proposed amendments simplify the rule, remove unnecessary and obsolete language, and align it more closely with statutory requirements.

The Tuition and Fees section is revised to require the Council to provide certain benchmarks and guidelines for consideration of any tuition and fee increase each year by February 28th. Language is added to require reciprocity agreements to also be approved by the Attorney General's office as to form, consistent with statutory requirements.

The Refunds section is rewritten to allow flexibility to institutions consistent with the U.S. Department of Education requirements for the return of Title IV student aid funds.

The Deferred Payment Plans section is rewritten to require each board of governors to establish a policy that provides for the implementation of deferred payment plans, and specifying the items that shall be addressed by the policy.

The Expenditures section is added to outline the categories for which the tuition and fees revenues can be disbursed.

135 CSR 49, Accountability System

This rule is recommended for repeal to conform with Senate Bill 673 (2019), which repealed requirements for the development of a system master plan and agency and institutional compacts. A majority of the rule is obsolete due to Senate Bill 673 (2019) requirements. Sections 6 and 8 are retained and merged into the proposed amendments to Series 6, Higher Education Accountability System (formerly "Performance Indicators").

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: February 12, 2024

EFFECTIVE DATE: February 12, 2024

ACTION BY GOVERNOR: Signed February 22, 2024

Senate Bill 568

Creating multi-tiered system for school absenteeism

This bill:

- Clarifies the definition of “excused absences” for the purposes of truancy.
- Limits the number of parent notes to 10 per school year unless supported by a physician’s note.
- Requires the implementation of a System of Support Plan.
- Provides that if documentation related to absences is not provided within three instructional days, the absences are unexcused.
- Removes requirement for the attendance director and assistant directors to prepare a report for submission by the county superintendent to the state superintendent on school attendance.
- Removes requirement for a state board rule that sets forth absences that are excluded for accountability purposes.
- Removes requirement that the attendance director file with the county superintendent and county board at the close of each month showing activities of the school attendance office and the status of attendance in the county.
- Provides that a student’s absence due to a student’s pregnancy or parenting needs is a lawful absence.
- Requires each county board to develop a written attendance policy for pregnant and parenting students and requires the policy to:
 - Excuse all absences due to pregnancy, or parenting-related conditions.
 - Provide at least eight weeks of excused absences for a mother for the birth of the student’s child.
 - Provide excused absences for antenatal care by recommendation of the medical provider.
 - Provide two weeks excused absence for the father of the child.
 - Provide an excused absence for parenting students whose children are sick if they provide a doctor’s excuse for that child.
 - Require the schools to refer the pregnant and parenting student to a “pregnancy help organization” by providing a list of pregnancy or postpartum assistance organizations within the county and surrounding counties.
- Requires that a doctor’s or medical excuse be provided up to the initial eight weeks absence and a separate excuse for each period of absence after the initial eight weeks.
- Requires county boards to ensure that the parent remains on track for graduation by providing academic support options including, but not limited to, work provided virtually and a homebound instructor for weekly visits to ensure accountability.
- Makes referral for the development of a diversion program in truancy offense matters discretionary.

CODE REFERENCE: West Virginia Code §18-8-2, §18-8-4, and §49-4-702 – amended; §18-34-1 through §18-34-3 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 24, 2024

Senate Bill 806

Removing certain required reports to Legislative Oversight Commission on Education Accountability

This bill removes the following LOCEA reports:

- It removes the requirement for a plan to implement and update computer science instruction and learning standards in the public schools. This was a one-time report required to be submitted to LOCEA prior to the 2023 regular legislative session (§18-2-12).
- It removes the requirement for an annual report on innovation zones and the progress of innovation zone plans to be submitted to LOCEA (§18-5B-7). §18-5B-14 terminated funding for innovation zones effective June 30, 2016. The rest of article remains due to two of the exemptions still being in use.
- It removes the requirement for the WVDE at the end of the first year any virtual instruction program is implemented to report to LOCEA on all aspects of the program (§18-5F-6). All counties now have implemented a virtual instruction program.
- It removes the requirement for the State Board to propose revisions to the calculation of the allowance for service personnel to provide additional funded service personnel positions for the lower-population density districts covering a large geographic area and report the proposal to the Legislature (§18-9A-7a). These proposals were submitted in writing on November 29, 2023.
- It removes the requirement for LOCEA to review the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth and authorization for LOCEA to make recommendations to the Legislature (§18A-3C-3). These comprehensive systems of support have been fully implemented for years.

The bill also amends the requirement for the School Building Authority to report to LOCEA on the implementation of the school access safety article of code (§18-9F-8) that was only required to be made in 2007 and 2008 by instead requiring the authority to report on its duties under the article, including at least the following:

- County school access safety plans or annual plan updates.
- Allocations, transfers, and disbursements of School Access Safety Fund moneys.
- Collaboration with the state board and the Division of Homeland Security and Emergency Management in complying with the provisions of this article.

CODE REFERENCE: West Virginia Code §18-5F-6 and §18-9A-7a – repealed; §18-2-12, §18-5B-7, §18-9F-8g, and §18A-3C-3 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4305

Relating to granting in-state resident status to economic development participants

This bill provides that the terms “resident” and “residency”, or any other term or expression used to designate a WV resident student, when used to determine the rate of tuition to be charged students attending state institutions of higher education, can include economic development participants.

The bill also lists the following criteria that must be met in order to qualify as an “economic development participant”:

- The person or the person’s parent or legal guardian received economic development incentives to locate to WV, offered pursuant to the section of code that creates the “Economic Development Promotion and Closing Fund” (§5B-2-3b).
- The person files with that institution of higher education a letter of intent to establish residency in this state.

The bill also provides that an economic development participant who qualifies as a resident on the first day of the semester or term of the institution of higher education shall be eligible for resident tuition rates.

CODE REFERENCE: West Virginia Code §18B-10-1d – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: March 27, 2024

House Bill 4709

Relating to vocational and technical education programs

This bill establishes a 4-year career and technological education pilot program for middle school students to provide participating middle schools with an elective course to better prepare 5th through 8th grade students to take advantage of West Virginia's career and technical education programs and to improve students' college and career readiness prior to high school.

The bill provides for definitions. A middle school's participation in the pilot program is contingent upon the availability of existing funding. The bill requires the state board to promulgate a legislative rule, and, if necessary, an emergency rule which shall include, at a minimum:

- Guidelines for admission to the pilot program;
- Administration of the program which includes parameters that include the definitions included in the bill; and
- Requirement that program participants receive a certificate upon successful completion of the pilot program.

Lastly, the bill provides for annual reporting to LOCEA beginning July 1, 2025, on:

- The number of students participating;
- The graduation rates of participating students;
- To the extent practicable, the job placement rates of participant students;
- Any issues with the program reported by students, parents, and participating middle schools; how these issues are being addressed; and whether the issues require legislative action; and
- A recommendation from the state superintendent on whether the program should continue beyond its 4-year period.

CODE REFERENCE: West Virginia Code §18-21A-1, §18-21A-2, and §18-21A-3 – new

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4768

Relating to increasing the number of out-of-state medical students receiving in-state tuition rates who agree to practice for a specific time within West Virginia

The purpose of this bill is to increase the number of out-of-state medical students receiving in-state tuition rates from two to four students per medical school for a total of twelve. The bill also requires each medical student that participates in the program to practice in a medically underserved area and in a primary care or specialty practice or field in which there is a shortage of physicians.

CODE REFERENCE: West Virginia Code §18C-3-5 – amended

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: June 3, 2024

ACTION BY GOVERNOR: March 22, 2024

House Bill 4814

Relating to extending the reporting and sunset dates of the State Advisory Council on Postsecondary Attainment Goals

This bill extends the date for which the State Advisory Council on Postsecondary Attainment Goals is required to report its findings to LOCEA and the Joint Committee on Government and Finance from December 31, 2020, to December 31, 2024; and extends the sunset date for the council from December 31, 2023, to December 31, 2027. The council was originally created in SB 839, passed during the 2020 Regular Session, for several purposes one of which was to develop a plan to assist the state in achieving its postsecondary attainment goal of having 60% of West Virginians between the ages of 25 and 64 hold a degree, certificate, or other postsecondary workforce credential of value in the workplace by 2030.

CODE REFERENCE: West Virginia Code §18B-1D-11 – amended

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: May 29, 2024

ACTION BY GOVERNOR: March 27, 2024

House Bill 4829

Relating to employment of service personnel and removing the requirement for a high school diploma or general education development certificate

The board of education may employ such service personnel, including substitutes, as deemed necessary for meeting the needs of the county school system.

This bill removes the requirement for a high school diploma or general education development certificate for school bus drivers who are 21 years of age or older.

The bill also makes technical cleanup to this section of code by changing “is authorized to” to “may” regarding the board employing such personnel.

The bill changes “must” to “shall” regarding the service personnel contract of employment being signed and returned to the Board within 30 days of being received by the employee.

CODE REFERENCE: West Virginia Code §18A-2-5 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4830

To address the professional development of teachers

This bill relates to training requirements for school personnel. It modifies the frequency of training from annually to upon employment and every three years thereafter, for suicide prevention awareness, child sexual abuse prevention, the county policy on harassment, intimidation or bullying, and multicultural education.

The bill adds a requirement for first aid training to include blood borne pathogen information.

The bill adds language requiring those who care for, educate, or house disabled children to be trained on mandatory reporting obligations.

CODE REFERENCE: West Virginia Code §18-2-40, §18-2-41, §18-2C-5, §18-5-15a, §18-9F-10, and §61-8F-6 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4832

Relating to state superintendent's reports regarding the finances of school districts

This bill requires the state superintendent to make an annual report to the Legislative Oversight Commission on Education Accountability, rather than the Governor and Legislature, regarding the finances of each school district. It provides that any school district that fails to report its finances to the state superintendent may be subject to a reduction of its state funding. It also provides the state superintendent to make special reports as the Legislative Oversight Committee on Education Accountability may require.

CODE REFERENCE: West Virginia Code §18-9B-21 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: March 27, 2024

House Bill 4838

Require county boards of education to provide long-term substitute teachers, upon hiring, with certain information

This bill requires that persons who are hired as long-term substitute teachers be provided information by the county board relating to an IEP plan and 504 plan, detailing their uses and what those long-term substitute teachers should do to implement these plans upon their hiring.

CODE REFERENCE: West Virginia Code §18A-2-3 – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: May 30, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4860

Providing that a general education teacher may not be responsible for accommodation logs

This bill provides that a general education teacher shall not be responsible for daily accommodation logs. The general education teacher shall only be responsible for acknowledging, at the end of each grading period, that each accommodation as required by the IEP has been met. All accommodations of the students shall be discussed before placement, and it is the responsibility of the special education teacher to monitor progress. Parents and guardians may request daily accommodation logs.

CODE REFERENCE: West Virginia Code §18-20-1C – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4863

Patriotic Access to Students in Schools Act

This bill creates the Patriotic Access to Students in Schools Act. The bill defines patriotic societies as set forth in Title 36 of the United State Code. Beginning in the 2024-2025 school year, public-school principals shall allow representatives of a patriotic youth society the opportunity to speak with and recruit students to participate in their organizations. This may occur during school hours if it doesn't take away time from instructional learning. Participation of students is voluntary.

The patriotic society must notify the board of education of its intent to speak to the students. Upon approval from the board the patriotic society shall provide verbal or written notice to the principal. The principal shall provide verbal or written approval of the specific day and time for the society to address the students.

CODE REFERENCE: West Virginia Code §18-2-44 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4919

Relating to the Promise Scholarship

This bill provides that if a student is eligible to receive the PROMISE scholarship under current law but fails to meet the requirements for the annual award, that student may petition the institution to reinstate the award upon successfully reattaining the credit hour and minimum overall grade point qualifications set out in the commission's rule governing eligibility for receipt of the PROMISE scholarship.

A student who has lost the PROMISE scholarship award is only eligible to be reinstated one time. If the student becomes ineligible for the PROMISE scholarship award a second time, the student may not again petition the institution for reinstatement of the award nor again be reinstated.

The student forfeits a term of eligibility for each term in which is the student is enrolled to meet the renewal requirements. Upon a finding that the student successfully reattained the credit hour and minimum overall grade point qualifications set out in the commission's rule governing eligibility for receipt of the PROMISE Scholarship award as required, the institution shall reinstate the award.

CODE REFERENCE: West Virginia Code §18C-7-6 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: March 26, 2024

House Bill 4951

To facilitate the interstate practice of School Psychology in educational or school settings

This bill creates the Interstate Compact for School Psychologists. The bill defines terms, sets forth eligibility requirements for member states, sets forth requirements for a school psychologist to participate in the compact and receive an equivalent license, sets forth locations where an active military member or his or her spouse are considered to hold a home state license, states that the Compact does not limit the authority of a member state to investigate or impose disciplinary measures on licensees, establishes the Commission and sets forth its powers and duties, requires the Commission to facilitate the exchange of information between the Commission and a member state, provides the Commission with rule-making authority, provides for oversight, dispute resolution and enforcement, and provides for the effective date of the compact, withdrawal of a member state from the compact and amendment to the compact.

CODE REFERENCE: West Virginia Code §18-10R-1 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4986

Relating to computer science and cybersecurity instruction for adult learners

The purpose of this bill is to provide computer science and cybersecurity instruction for adult learners. The bill requires the State Superintendent of Schools, or its designee, to seek, apply for, and if received, administer, and distribute through the division of PK through 12 Adult Instruction & Career Engagement, any grants or other financial assistance the federal government and other public or private sources shall make available for purposes of providing computer science and cybersecurity instruction to adults.

The State Superintendent or designee shall distribute any grants or other financial assistance to school districts, public charter schools, area career and technology centers, job service and WV Workforce centers, public libraries, adult education centers, and learning centers that qualify as a non-profit 501(c)(3), not to exceed \$300,000 per recipient. This shall occur on a biennium basis beginning July 1, 2024 and ending on June 30, 2026.

The non-profit 501(c)(3) entities that qualify shall use all or part of the grant money or financial assistance received to cover the expenditures, including instruction compensation, incurred in providing this instruction to adults. The State Superintendent shall have the authority to provide for the suitable coordination and supervision necessary to implement this section and all instruction shall be under the regulations of the State Department of Education.

CODE REFERENCE: West Virginia Code §18-5-19e – new

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 5056

Relating to substitute service personnel positions

The purpose of this bill is to allow for service personnel to serve as substitute workers on a day-to-day basis in a position outside of their regular full-time position. Conditions that prohibit a service personnel from substituting in another service personnel position are:

- A qualified substitute is available to fill the shift;
- The shift interferes with their regular duties and or responsibilities; and
- The service personnel assuming the shift is not properly certified and trained for that position.

CODE REFERENCE: West Virginia Code §18A-4-8h – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5158

Relating to making technical corrections to the special education code

This bill:

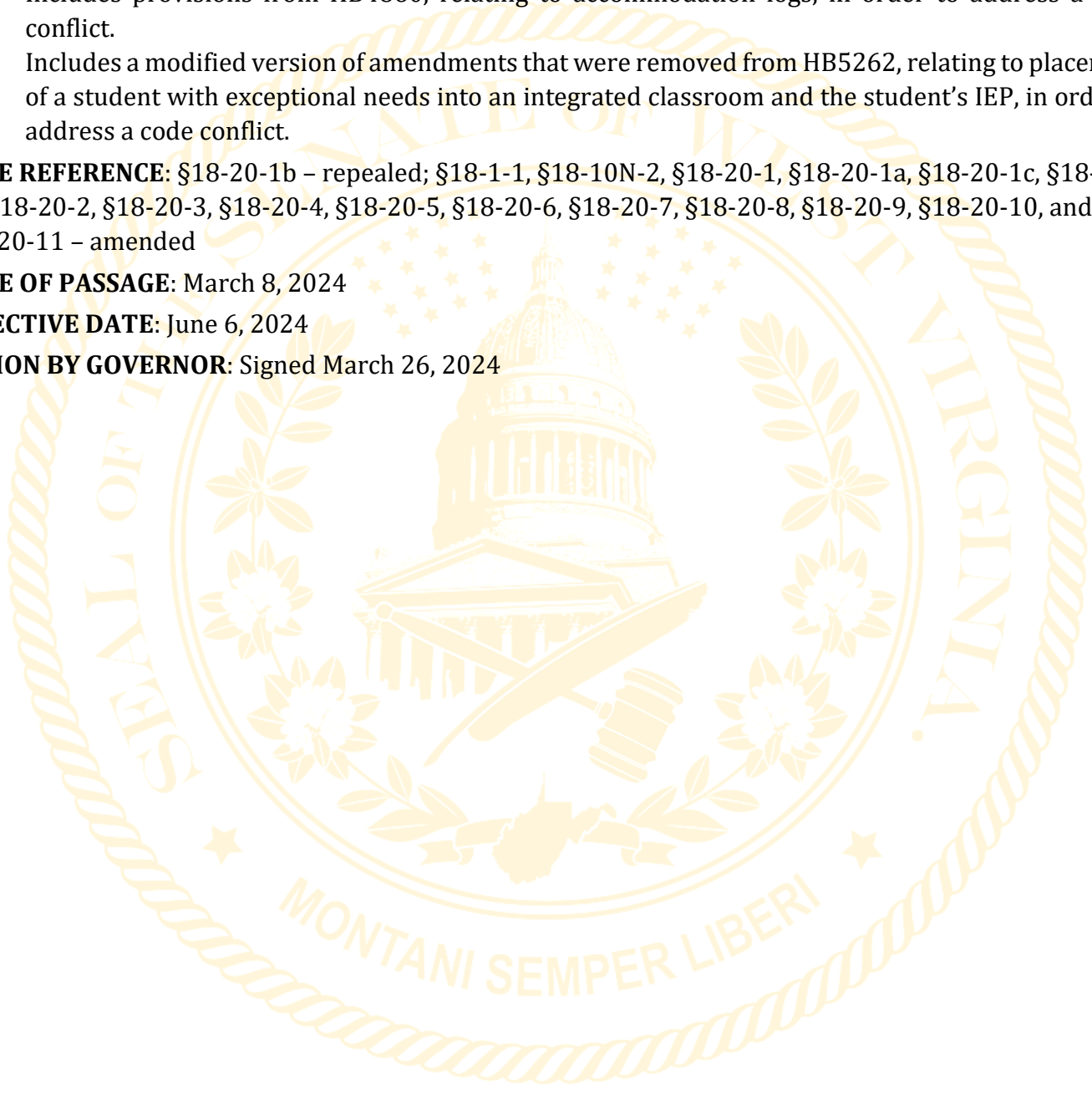
- Encompasses language provided by the Office of Special Education within the WV Department of Education to ensure WV special education law is consistent with federal law.
- Includes provisions from HB4860, relating to accommodation logs, in order to address a code conflict.
- Includes a modified version of amendments that were removed from HB5262, relating to placement of a student with exceptional needs into an integrated classroom and the student's IEP, in order to address a code conflict.

CODE REFERENCE: §18-20-1b – repealed; §18-1-1, §18-10N-2, §18-20-1, §18-20-1a, §18-20-1c, §18-20-1d, §18-20-2, §18-20-3, §18-20-4, §18-20-5, §18-20-6, §18-20-7, §18-20-8, §18-20-9, §18-20-10, and §18-20-11 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



House Bill 5162

Establish a program to promote creation and expansion of registered apprenticeship programs

This bill creates the “Youth Apprenticeship Program” which allows any public, private, or home school student in the 11th or 12th grade, or who is 16 years or older, the opportunity to enroll in apprenticeship programs; and provides that any student participating in the program can receive secondary credit or other credentialing for the apprenticeship when the apprenticeship is approved by the local county board of education and consistent with the rules of the Division of Labor.

The bill also makes the WV Department of Education responsible for establishing the program, including setting standards, providing guidelines for county boards to approve local enterprise, and granting release time from public schools to participate in the program. The bill requires that the program include a broad range of skills, including those specifically focused on manufacturing, engineering technology, administration and office technology, and health care; requires the county boards of education to develop materials in conjunction with industry to promote awareness of the apprenticeship for students and to encourage recruitment; and requires the program to create a structural linkage between secondary and postsecondary components of the program leading to the school awarding a high school diploma and postsecondary certification of occupational skills.

The bill requires that the department develop pilot projects for the 2024-2025 school year and implement and direct a comprehensive apprenticeship program for all school systems by the beginning of the 2025-2026 school year; and requires that each apprenticeship meet the department’s criteria which at least must include:

- A detailed training plan between the employer and the apprentice that identifies specific work tasks that will develop workplace competency.
- A minimum of 135 classroom hours of related academic instruction and training.
- A minimum of 400 hours of on-the-job training.
- A progressive wage schedule established by the participating employer.
- On-site evaluation of the student’s performance.
- Training remediation as necessary at the school site.

The bill also provides that the training hours accumulated by a student’s participation in the “Youth Apprenticeship Program” counts toward the student’s certifications or licensures, if appropriate; and requires the State Board of Education, the Higher Education Policy Commission, and the Department of Commerce to maintain a list of current apprenticeships throughout the state along with free career exploration resources and planning materials for postsecondary opportunities in addition to credentials, certifications, and/or exams that reflect industry requirements or lead to postsecondary credit.

The bill authorizes students enrolled in a Youth Apprenticeship Program to work on machinery associated with certain listed occupations only on an occasional and incidental basis while under mandatory direct supervision.

It also requires that in compliance with U.S. Child Labor Provisions for nonagricultural occupations under the Fair Labor Standards Act, Child Labor Bulletin 101, exemptions be made for students 16 years of age or older performing roofing operations above ground level for the express purpose of learning how

to install, wire, or repair a rooftop or other equipment provided the student is employed under the following conditions:

- The student is enrolled in a course of study and training in a cooperative vocational training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school.
- Written consent of the parent or legal guardian for the student to perform roofing operations is submitted.
- The student is employed under a written agreement which stipulates that:
 - The work will be intermittent and under the direct and close supervision of a qualified and experienced person.
 - Safety instruction will be provided by the school and coordinated with the employer through on-the-job training.
 - A schedule of organized and progressive work processes be performed.

Finally, the bill allows the department to authorize other limited exemptions for nonagricultural work in compliance with U.S. Child Labor Provisions for nonagricultural occupations under the Fair Standards Act, Child Labor Bulletin 101.

CODE REFERENCE: West Virginia Code §18-2-7g, §21-1E-2, §21-1E-3, and §21-6-2 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5252

Requiring certain minimum experience for the director or coordinator of services class title involving school transportation

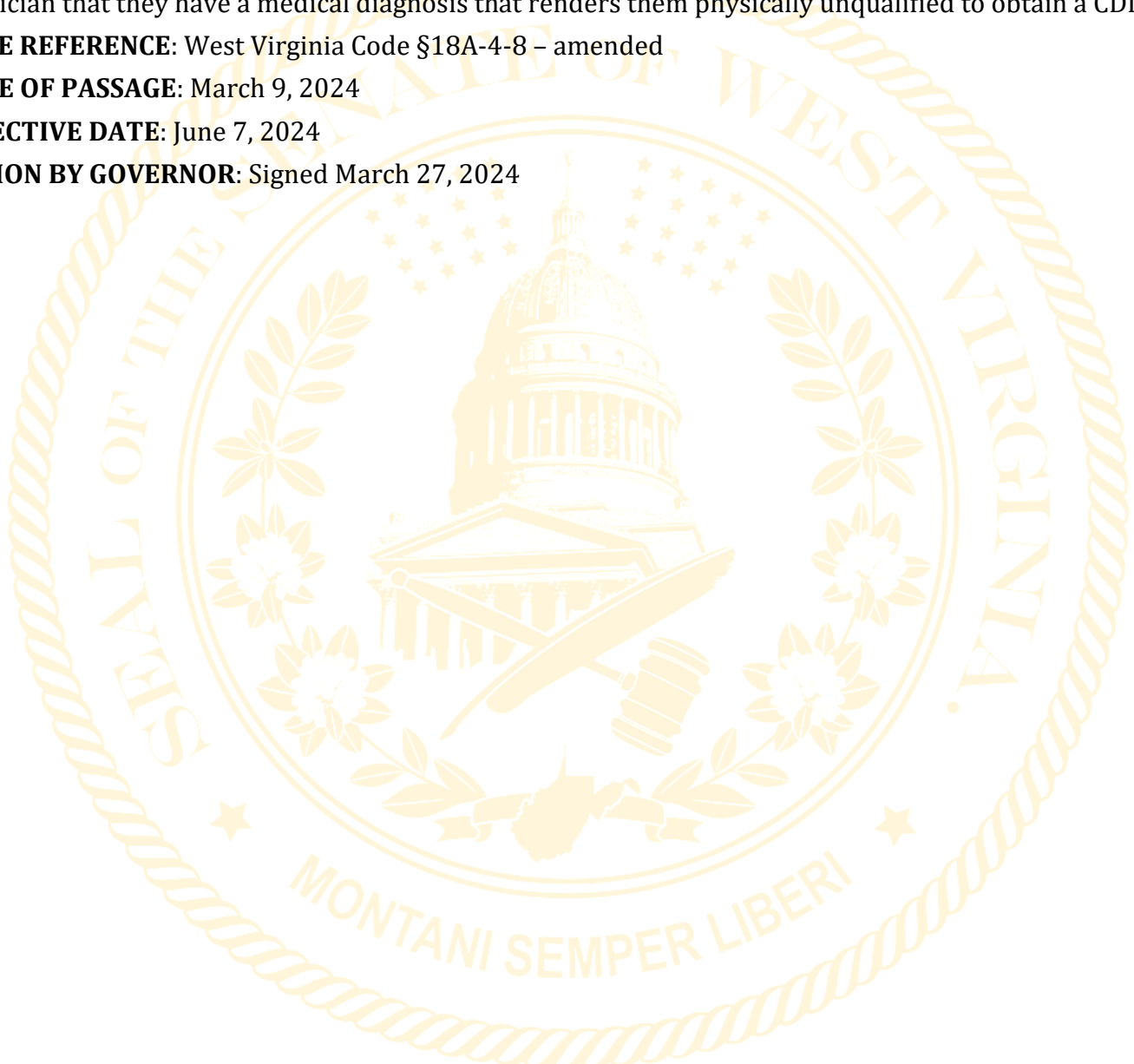
This bill requires that after July 1, 2024 all persons employed for the first time in a position with a director or coordinator of services class title as a director, assistant director, or coordinator of transportation must possess a CDL within one year of employment; but would exempt from this requirement persons who are multiclassified, hold multiple job titles, or provide documentation from a physician that they have a medical diagnosis that renders them physically unqualified to obtain a CDL.

CODE REFERENCE: West Virginia Code §18A-4-8 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 5262

Relating generally to teacher's bill of rights

This bill prohibits school counselors from performing the following duties without a written agreement:

- Administering cognitive, aptitude, and achievement testing programs except that school counselors may administer make up tests and any tests that are required for virtual students, if no other person is available to administer the test.
- Routinely signing excuses for students who are tardy or absent.
- Performing disciplinary actions or assigning discipline consequences.
- Routinely covering classes when teachers are absent or to create teacher planning time.
- Maintaining student records, but the counselor can have access to student records.
- Computing grade-point averages except that school counselors can compute grade-point averages for the purpose of determining a student's eligibility for scholarships or postsecondary goals.
- Routinely supervising classrooms or common areas.
- Keeping clerical records, but the counselor can access to clerical records.
- Coordinating Individual Education Plans, but this does not preclude school counselors from otherwise participating in Individual Education Plans when appropriate.
- Coordinating 504 Plans, but this does not preclude school counselors from otherwise participating in 504 Plans when appropriate.
- Coordinating Student Study Teams, but this does not preclude school counselors from otherwise participating in Student Study Teams when appropriate.

The bill also requires that beginning with the 2024-25 school year, school counselors participate in the following training:

- At least once every two years, school counselors serving students in grades Pre-K through 12 are required to participate in the School Counselors Conference, which is to address the following:
 - Career Counseling and Life Planning.
 - Career awareness.
 - Career and life planning.
 - Career and life success.
 - Opportunities with Career Technical Education available in West Virginia.
 - Post secondary options.
 - Academic Counseling and Personalized Planning.
 - Academic motivation.
 - Goal setting.
 - Academic scheduling.
 - Personalized Education Plans.
 - Dual credit.
 - Learning skills.
 - Personal and Social Counseling.
 - Decision making.
 - Personal responsibility.
 - Conflict resolution.
 - Prevention.

- Every two years, school counselors serving students in grades seven through 12 must receive training regarding building and trades and apprenticeship programs available to students in West Virginia. This training is required to be administered by the Department of Education and provided at no cost to the counselors.

The bill also prohibits self-contained and resource classrooms, as well as any special education environment, from having a student/instructor ratio over the current limit provided for in the Individuals with Disabilities Education Act 2004 and State Board Policy 2419. The bill allows a two-week waiver to be signed with the understanding that the local county board is responsible to remediate the situation while compensating the teacher with overage pay provided by the county with county or federal funds. This waiver is good for two weeks to allow the district time to find an additional classroom teacher. If the district is unable to find an additional classroom teacher, the district, upon the agreement of the teacher, can submit a waiver to the state board of education. This waiver is required to have the teachers signature acknowledging that although they are over the limit, they recognize that this is a dire situation.

The bill also prohibits a county from submitting a waiver to exceed the current limit of students set forth in Individuals with Disabilities Education Act 2004 and Policy 2419 without the written consent of the special education instructor. If the instructor chooses to sign the waiver to exceed the limit, that instructor is entitled to the full amount of compensation as provided per county. The bill also prohibits the county from allowing more than three students over the limit, even with the additional pay for the teacher.

The bill also defines supplemental duty and provides that not later than the 15th day before the first day of the employment term of each school year, the county board is required to adopt and provide to each classroom teacher, full-time counselor, and full-time librarian employed by the district a calendar that specifies the days each employee is expected to work for that school year; requires that any duty exceeding the eight hour contracted day is to be by agreement with the employee and preapproved by the county superintendent or by his or her designee, unless the supplemental duty is the result of an unanticipated emergency and must be paid in accordance with the agreement between the employee and the county.

CODE REFERENCE: West Virginia Code §18-5-18b, §18-20-12, and §18A-2A-1 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5405

Providing additional professional development and support to West Virginia educators through teacher and leader induction and professional growth

This bill:

- Adds the number of full-time-equivalent teachers employed by the county who are less than fully certified for the teaching position in which they are employed to the factors that are to be considered when allocating Step 7d funding to the counties.
- Allows the Department of Education to retain an additional amount of 7d funds beginning with the school year 2024 – 2025, not exceeding \$15,000,000, to accommodate the participation by county school systems in regional professional learning cadres or teacher leadership networks established or supported by the Department of Education, to expand regional professional learning cadres or teacher leadership networks designed to support the full implementation of the Third Grade Success Act, to implement the Department of Education's academic initiatives, and to assist teachers who are less than fully certified for the teaching position in which they are employed.
- Requires up to \$1,000,000 of the \$15,000,000 to be distributed to county boards for the purpose of expanding the school districts' ability to contract with organizations that facilitate the school districts' participation in regional professional learning cadres or teacher leadership networks designed to support math and science improvement or to support teachers who are less than fully certified for the teaching position in which they are employed. The \$1,000,000 is required to be distributed to the county boards under a grant program to be established by the state board by rule. The bill requires that the rule include at least the following:
 - A requirement and procedures for county boards to submit applications for a grant.
 - Criteria on which awards of the grants will be based on.
 - A requirement for an external evaluation for any program funded by a grant.
- Requires each county board to ensure that the results on the comprehensive statewide student assessment for the students taught by each teacher are provided to that teacher so that the teacher can see the performance of the students he or she taught the previous school year.
- Requires that the plan for implementation of a comprehensive system of support for improving professional practice include the manner in which the county will provide the strong support and supervision necessary to assist teachers employed by the county who are less than fully certified for the teaching position in which they are employed that will include an emphasis on grade-level content, standards driven instruction, research-based instructional strategies, and mentoring support consistent with the West Virginia Professional Teaching Standards.
- Requires that any additional amount paid to a teacher for duties for new teacher induction, improving professional practice, and furthering professional growth only be for the duration of the provided service and not be considered salary for the purposes of calculating an annuity under the Teachers Retirement System.

- Removes the requirement for LOCEA to review the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth to be consistent with SB 806.

CODE REFERENCE: West Virginia Code §18-9A-10 and §18A-3C-3 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 5435

Establishing the registered apprenticeship to associate of applied science program to be administered by the Council for Community and Technical College Education

The purpose of this bill is to create a comprehensive registered apprenticeship to associate of applied science degree program to be known as the Skilled Trades Apprenticeship Nontraditional Degree (or STAND) program to provide apprentices or journeyworkers with the opportunity to obtain associate degrees in applied science while gaining practical skills and on-the-job training through federally recognized apprenticeship programs.

The bill requires that the Chancellor, under the supervision of the Council for Community and Technical College Education, establish the STAND program whereby the state's community and technical colleges can offer general education courses to eligible students in a manner and on a timeline that will allow the eligible student to earn at least 15 credit hours of general education courses toward an associate of applied science degree. The bill further provides that in order to be eligible for the STAND program, an individual is required to be enrolled in an apprenticeship program recognized by the U.S. Department of Labor's Office of Apprenticeship or must have received a U.S. Department of Labor Certificate of Completion of Apprenticeship. The bill also allows an apprentice or journeyworker to apply for enrollment in the STAND program at the next available program offering; requires that student-apprentices complete and pass all general education coursework within six years from the initial date of enrollment in the STAND program or within two years after completing the apprenticeship program, whichever is longer; and requires journeyworkers to complete and pass all general education coursework within six years from the initial date of enrollment.

The bill further requires that from appropriations to the council for the purposes of implementing and administering the STAND program, the council pay directly to the participating public community and technical colleges the cost of the tuition and academic fees incurred by eligible students taking courses through the STAND program; and prohibits the funding from being used to pay for any of the costs associated with the apprenticeship program or otherwise incurred by the apprenticeship program in conducting the training.

The bill also allows the council to propose emergency and legislative rules to implement the STAND program; and requires that by December 1, 2025, and annually thereafter, the Chancellor report to LOCEA on any STAND programs created. The report, at a minimum, is to include the following information:

- The number of student-apprentices and journeyworkers participating in the STAND program.
- The number of associate of applied science degrees earned by students who have participated in the STAND program.
- Projected growth in the STAND program and funding needs for the next year.
- Any issues with the STAND program reported by students, the registered apprenticeship program, and the community and technical colleges, how these issues are being addressed, and whether the issues require legislative action.

CODE REFERENCE: West Virginia Code §18B-3D-7 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5514

Enhancing training requirements for county boards of education members

The purpose of this bill is to enhance training requirements for county board of education members by increasing the number of hours required for training.

The bill authorizes the State Board to require members to attend additional training when beneficial to those members. The bill modifies training topics that are offered to county board members, including fiscal management. The bill increases the compensation rate for meeting attendance and decreases the number of meetings members may be compensated to attend.

The bill prohibits compensation to county board members who have not complied with all training requirements. A county board member who is default of a training requirement may cure the default by completing the unfulfilled training within three months of the default. Upon curing the default, the member shall receive compensation, without interest, for the meetings held during the period of default. Up to five paid meetings may be provided when planning for activities such as running an election for excess levy, construction bond hearings, school closure hearings, personnel hearings, student expulsion hearings, and in the case of a disaster. Members shall be paid up to two trainings.

The bill includes the chairs of the House and Senate Education Committees, as ex officio members, of the county board member standards review committee.

CODE REFERENCE: West Virginia Code §18-5-1a and §18-5-4 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: March 27, 2024

House Bill 5650

Allow suspended school personnel to enter school property functions open to the public

This bill prohibits a suspended school employee from being barred from attending public events on school property and prohibits a suspended employee who has a dependent child or other family member from being barred from entering the school to exercise the normal functions of a parent or guardian; and provides exceptions to the prohibition when the suspended employee's presence would:

- Jeopardize the health, safety, or welfare of students, employees, or visitors.
- Impact the learning environment or the school-sponsored activity.
- Prejudice an investigation or disciplinary proceedings involving the employee.
- Violate a court order or any law.
- Or threaten damage to property.

CODE REFERENCE: West Virginia Code §18A-2-8 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Health and Human Resources



Senate Bill 300

Relating to organization of Office of Inspector General

The purpose of this bill is to create a new chapter of the code to house the Office of the Inspector General, its related units, programs, and commissions. The bill was based upon the modifications contained in HB 2006, passed during the last legislative session. This bill states that the Office of the Inspector General includes: the Office of Health Facility Licensure and Certification, the Board of Review, the Foster Care Ombudsman, the Olmstead Office, the Investigations and Fraud Management Unit, Quality Control, the Mental Health Ombudsman, WV Clearance for Access Registry, the Human Rights Commission, and any other agency or entity hereinunder established.

CODE REFERENCE: West Virginia Code §5-11-1 through §5-11-20; §5-11A-1 through §5-11A-20; §16-1-22, §16-1-22a, §16-1-22b, and §16-1-22c; §16-2E-1 through §16-2E-5; §16-2N-1, §16-2N-2, and §16-2N-3; §16-5B-1 through §16-5B-20; §16-5C-1 through §16-5C-22; §16-5D-1 through §16-5D-15 and §16-5D-18; §16-5E-1 through §16-5E-6; §16-5H-1 through §16-5H-10; §16-5I-1 through §16-5I-5; §16-5N-1 through §16-5N-16; §16-5O-1 through §16-5O-12; §16-5R-1 through §16-5R-7; §16-5W-1 through §16-5W-4; §16-5Y-1 through §16-5Y-13; §16-5AA-1 through §16-5AA-10; §16-49-1 through §16-49-9; §49-9-101 through §49-9-110 – repealed; §9-5-27, §25-1B-7, §27-1-9, §27-1A-6, §27-1A-7, §27-9-1, §27-9-2, §27-17-1, §27-17-3, and §49-1-203 – amended; §16B-1-1, §16B-2-1 through §16B-2-4; §16B-3-1 through §16B-3-20; §16B-4-1 through §16B-4-20; §16B-5-1 through §16B-5-16; §16B-6-1 through §16B-6-6; §16B-7-1 through §16B-7-10; §16B-8-1 through §16B-8-6; §16B-9-1 through §16B-9-16; §16B-10-1 through §16B-10-12; §16B-11-1 through §16B-11-7; §16B-12-1, §16B-12-2, and §16B-12-3; §16B-13-1 through §16B-13-13; §16B-14-1 through §16B-14-10; §16B-15-1 through §16B-15-9; §16B-16-1 through §16B-16-10; §16B-17-1 through §16B-17-20; §16B-18-1 through §16B-18-20; §16B-19-1 through §16B-19-7; §16B-20-1 through §16B-20-5; and, §16B-21-1, §16B-21-2, and §16B-21-3 – new

DATE OF PASSAGE: February 8, 2024

EFFECTIVE DATE: February 8, 2024

ACTION BY GOVERNOR: Signed February 19, 2024

Senate Bill 325

Relating to distribution of drugs to safety net providers and contract pharmacies

The bill prevents a manufacturer or its affiliate from denying, restricting, or prohibiting the acquisition of a 340B drug, unless receipt of the drug is prohibited by the United States Department of Health and Human Services. The bill also prohibits a manufacturer or affiliate from requiring a 340B entity, including contract pharmacies, to submit a claim or provide utilization data as a condition for allowing the acquisition of a 340B drug, unless the information is required by the United States Department of Health and Human Services.

The bill provides penalties for the violation of the article in the form of \$50,000 per violation, in addition to liability under the WV Consumer Credit and Protection Act. The bill does not permit private causes of action.

The Board of Pharmacy (BOP) has authority to investigate complaints of violations, and may suspend licenses/permits of any such person or entity found to be in violation of this section. The BOP shall report the results of investigations to the Attorney General and the WV Insurance Commissioner. Both the Insurance Commissioner and the BOP have authority to promulgate rules to enforce the terms of this proposed statute.

CODE REFERENCE: West Virginia Code §60A-8-6a – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 378

Prohibiting smoking in vehicle when minor 16 or under is present

The bill prohibits a person 18 or older from smoking or possessing a lit tobacco product in a motor vehicle when a person 16 or younger is present inside the vehicle. Violators are charged with a misdemeanor and subject to a \$25 fine upon conviction. No other court cost or fees may be assessed for the violation.

Violations may only be enforced as a secondary action, requiring the driver to first be detained for probable cause of violating another section of the code (i.e., speeding, broken taillight, expired registration). Violations are charged as a single offense regardless of the number of children 16 or younger that are in the vehicle.

CODE REFERENCE: West Virginia Code §16-9A-11 – new

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 453

Requiring pricing and payment transparency from pharmacy benefits managers contracting with PEIA

The bill would amend current code to add additional items of information required to be reported to PEIA by each Pharmacy Benefit Manager (PBM) contracting with PEIA on a quarterly basis:

- the date of service,
- the NDC-11,
- the drug name,
- the drug strength
- the quantity,
- the days of therapy,
- Rx count,
- mail/retail code,
- brand/generic indicator,
- specialty drug indicator
- compound indicator,
- formulary indicator
- gross cost,
- member cost,
- plan cost,
- dispense as written,
- pharmacy NPI number,
- pharmacy claim ID,
- prescriber NPI number,
- pharmacy name, and
- ingredient cost.

The section would be further amended to remove from code current law provisions requiring that all data and information provided by PBMs to PEIA be kept secure, that PEIA shall maintain its confidentiality of the proprietary information, that PEIA shall not share or disclose this outside the agency, and that the information all is exempt from disclosure under FOIA as proprietary and confidential.

New language that will become effective for PEIA Plan Year beginning July 1, 2024, requires that PEIA must require the following in its requests for proposals and contracts with a pharmacy benefit manager:

“(1) The pharmacy benefit manager shall disclose all information and data related to contracting, reimbursement, networks, rebates, fees, and any other information and data requested by the Public Employees Insurance Agency, the Legislature, and vendors for the purpose of performing study and analysis. Effective with the changes made to this section during the regular session of the Legislature, 2024, a comprehensive pharmacy business intelligence study and analysis shall be conducted by an organization with expertise in studying and analyzing pharmacy benefit managers to determine what, if any, changes could be made to facilitate savings with respect to the Public Employees Insurance Agency's pharmacy benefit manager services. A final report, including recommendations, shall be presented no later than December 31, 2024, to the Public Employees Insurance Agency and the Joint Committee on Government and Finance.”

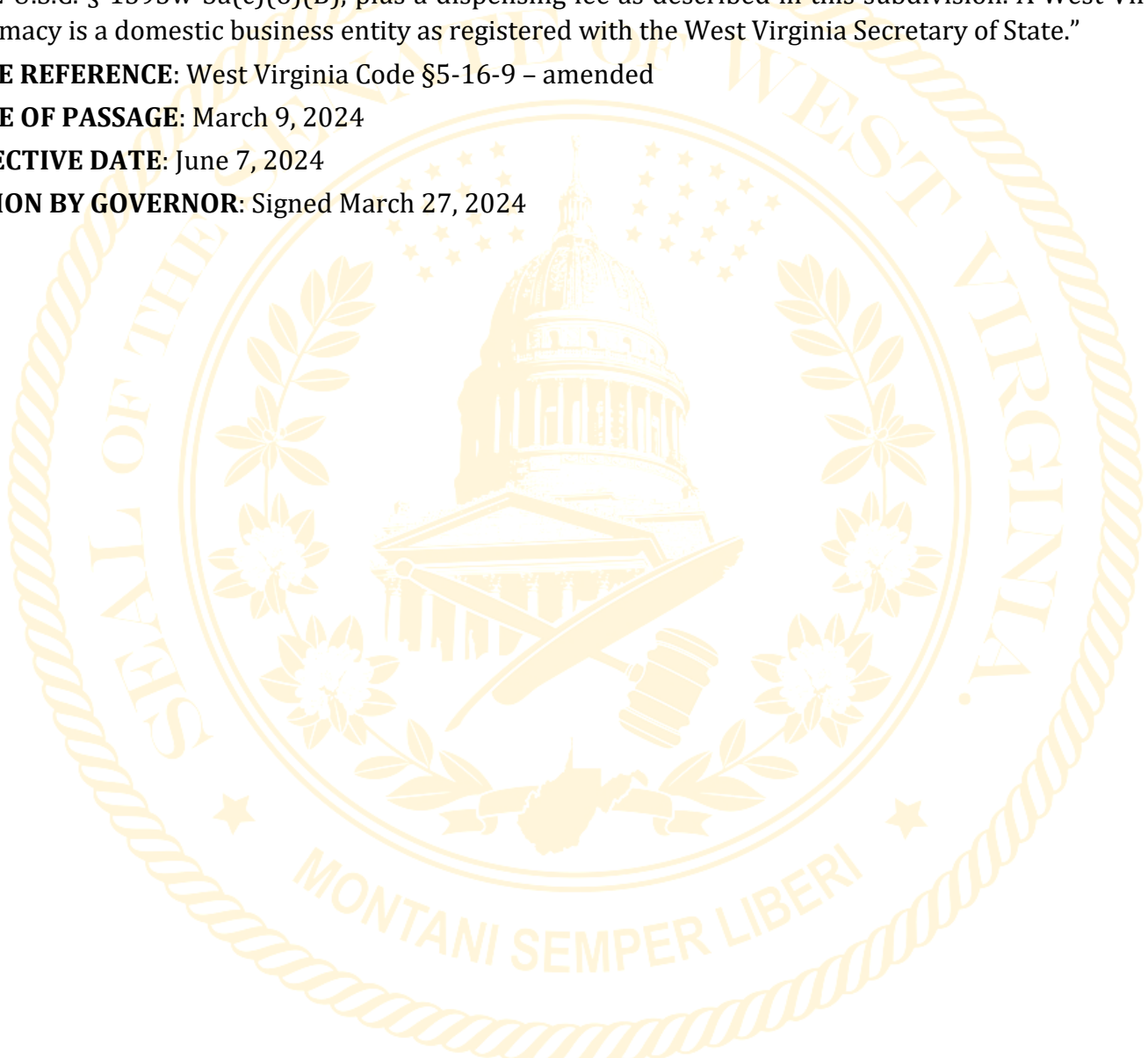
(2) A pharmacy benefit manager shall not reimburse a West Virginia pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the national average drug acquisition cost for a prescription drug or pharmacy service at the time the drug is administered or dispensed, plus a professional dispensing fee at least equal to the professional dispensing fee paid by West Virginia Medicaid for outpatient drugs. Increases to the professional dispensing fee may be set by the Director in accordance with this subdivision: Provided, That if the national average drug acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy benefit manager may not reimburse a West Virginia pharmacy or pharmacist in an amount that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus a dispensing fee as described in this subdivision. A West Virginia pharmacy is a domestic business entity as registered with the West Virginia Secretary of State.”

CODE REFERENCE: West Virginia Code §5-16-9 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



Senate Bill 475

Relating to recovery residences

The proposed legislation aims to enhance protections against human trafficking and predatory practices in recovery residences by incorporating these issues into accreditation standards. It mandates registration of all recovery residences with the Office of Health Facility Licensure and Certification, and requires data submission determined by the department and stakeholders. Privacy standards for data security are outlined, allowing immediate jeopardy situations to trigger corrective action within five days or patient transfer. It prohibits uncertified residences from receiving referrals from correctional or medical facilities funded by the state, imposing criminal penalties. It also restricts state benefit payments to certified residences, applies patient brokering laws, mandates Office of Inspector General oversight, and clarifies administrative procedures and fee structures. It authorizes the Inspector General to refer patient brokering violations to law-enforcement who shall investigate the allegations. Technical adjustments were made for clarity and coordination between oversight agencies.

CODE REFERENCE: West Virginia Code §16-59-1, §16-59-2, §16-59-3, §16-62-1, and §16-62-2 – amended; §16-59-4 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 533

Allowing EMS agencies to triage, treat or transport patients to alternate destinations

The purpose of this bill is to establish that an emergency medical services agency may triage and transport a patient to an alternative destination in this state or treat in place if the ambulance service is coordinating the care of the patient through medical command or telehealth services and to require insurance plans to provide coverage for those services (§16-4C-26). It modifies the chapter on public health and the chapter on insurance, and clarifies the duties and responsibilities required to implement the bill.

The bill also inserts provisions of SB444 - which mandates that the various types of insurance providers cover prehospital screenings and stabilization care provided by an ambulance service whether the patient is transported to an emergency room or later declines transportation against medical advice.

CODE REFERENCE: West Virginia Code §16-4C-3, §33-15-21, §33-16-3i, §33-24-7e, and §33-25-8d – amended; §16-4C-26, §33-15-4x, §33-16-3rr, §33-24-7y, §33-25-8v, and §33-25A-8y – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 602

Cardiac Emergency Response Plan Act

The purpose of this bill is to create a cardiac response plan in schools. The bill repeals the existing sudden cardiac arrest prevention act and incorporates it into the new cardiac response plan bill. The bill applies to any school with an athletic department under the jurisdiction of a county board of education and requires the school to develop a cardiac emergency response plan to provide for specific training for staff in the event of a sudden cardiac arrest. The bill permits a county board of education to accept gifts, grants, and donations for the purchase of an automatic external defibrillator.

CODE REFERENCE: West Virginia Code §16-57-1, §16-57-2, §16-57-3, and §16-57-4 – repealed; §18-5-22e – new

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: May 30, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 667

Creating Physician Assistant Compact

This bill creates a physician assistant compact program, allowing physician assistants in participating states to practice in participating states regardless of their actual state of licensure. A qualifying physician assistant may apply with a participating state for the compact privilege to practice in that state. Only the licensing state may take adverse action against a license issued in that state, but other states may take adverse action against the compact privilege itself.

The participating states create an interstate Physician Assistant Licensure Compact Commission, to which each state has one delegate selected by that state's licensing board(s). The commission shall provide for the development and maintenance of a coordinated data and reporting system, which shall contain licensure, adverse action, and the reporting of the existence of significant investigative information on all licensed physician assistants and denied applicants in participating states. The commission has the authority to make binding rules with the force of law, subject to hearing and notice requirements.

The executive and judicial branches of state government in each participating state have the duty of enforcing the compact and judicial proceedings by or against the commission shall be brought exclusively in the jurisdiction where the principal office of the commission is located. The commission comes into existence on the date on which the compact is enacted into law in the seventh participating state. A state may unilaterally withdraw by enacting a statute repealing this one. The compact is fully severable. States whose enacted statutes are materially different than the model may be removed from the compact in accordance with procedures set forth therein. Any conflicting laws with the bill are superseded to the extent of the conflict.

CODE REFERENCE: West Virginia Code §30-3G-1 through §30-3G-13 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 668

Increasing amount of certain controlled substances persons may purchase annually

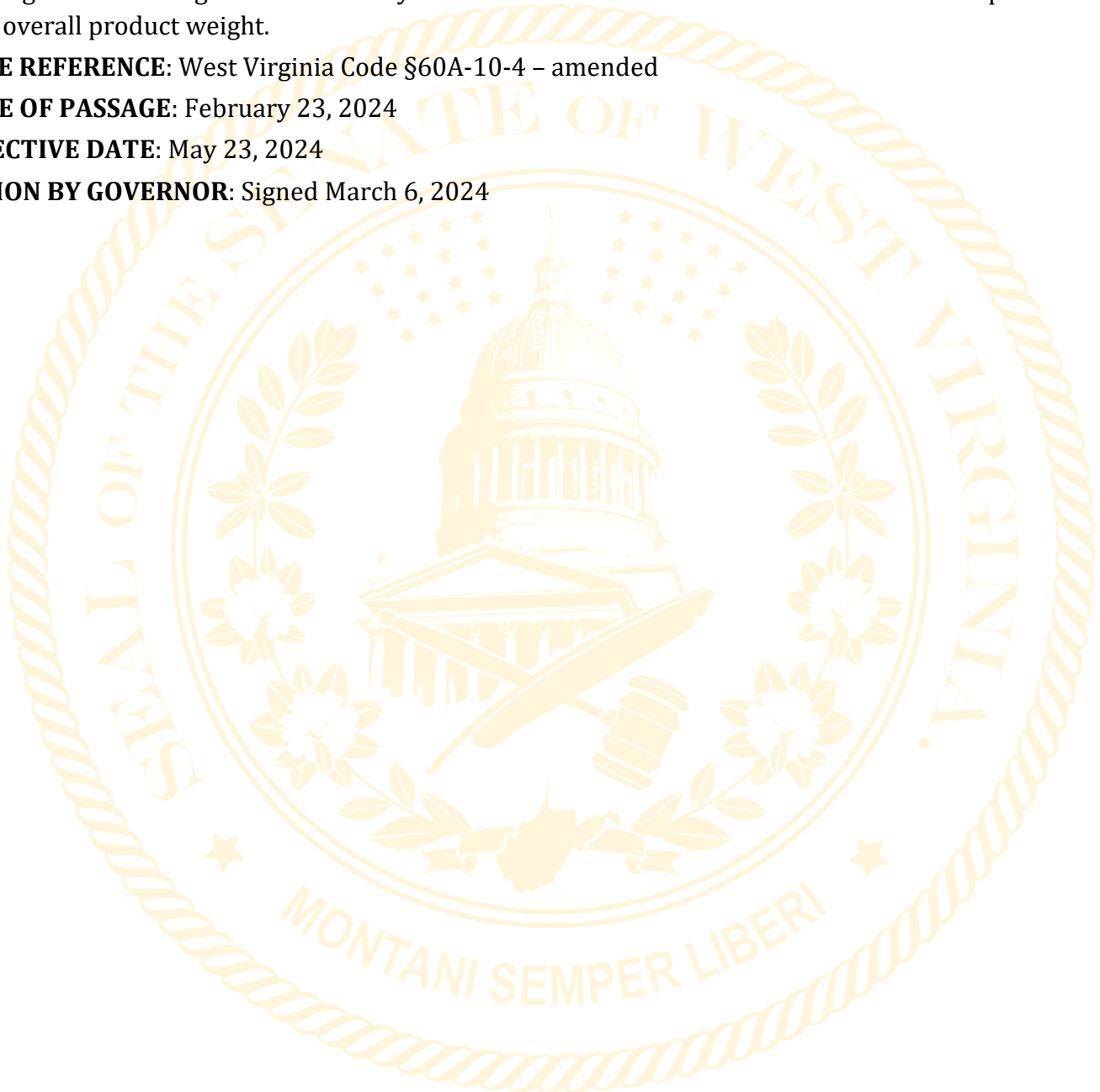
The proposed bill makes changes to the maximum annual limit of ephedrine, pseudoephedrine, or phenylpropanolamine that a pharmacy can dispense to a person or that a person may purchase for themselves without a prescription. The bill changes the maximum yearly limit from 48 to 86 and four-tenths grams. The weight is calculated by the total amount of the substance contained in the product rather than overall product weight.

CODE REFERENCE: West Virginia Code §60A-10-4 – amended

DATE OF PASSAGE: February 23, 2024

EFFECTIVE DATE: May 23, 2024

ACTION BY GOVERNOR: Signed March 6, 2024



Senate Bill 714

Transferring duties and licensing from Board of Osteopathic Medicine to Board of Medicine

The bill combines the Osteopathic Board of Medicine and the Allopathic Board of Medicine and adds genetic counseling subject to regulation of the new combined board. This will take place on January 1, 2025. The bill begins with a section regarding criminal background checks and makes genetic counseling subject to background checks.

The bill makes changes to board composition by providing that until January 1, 2025, the board shall have 15 members. Effective January 1, 2025, the WV Board of Medicine will assume, carry on, succeed to all of the duties, rights, powers, obligations and liabilities previously exercised by the WV Board of Osteopathic Medicine. The bill provides the board will be 21 members and provides that the existing members of the Board of Medicine and the Osteopathic Board holding appointments as of December 31, 2024, shall serve as members of the board until expiration of their terms unless removed. If the number of board members exceeds 21 members, then the members shall be reappointed consistent with the new criteria in the bill.

The bill amends provisions related to the license to practice to incorporate licensing Osteopathic physicians beginning January 1, 2025. There is a section of the bill related to special license types including: restricted license in extraordinary circumstances and medical school faculty license. A section of the bill relating to endorsement of licenses to practice medicine, temporary licenses, and summer camp licenses is made applicable to osteopathic physicians. There is a section of the bill addressing administrative licenses which applies to medical and/or osteopathic education. This section requires rulemaking. The language regarding medical corporations is amended regarding physician assistants.

Educational permit requirements are amended to include osteopath physicians.

There is a new provision added that sets forth a requirement for a transition plan. It provides effective January 1, 2025, the WV Board of Medicine shall consult with the Osteopathic Board to develop and implement a transition plan of their remaining functions.

The bill addresses the Osteopathic Board's special revenue account and states that funds shall transfer to the WV Board of Medicine.

The bill establishes licensure for genetic counselors effective July 1, 2025; sets forth the duties of the board; licensure requirements; permits a person to practice with a permit; sets forth expiration of the license; renewal; scope of practice; and disciplinary proceedings.

There is a provision that sets forth requirements for a transition plan to be submitted to the Joint Committee on Government and Finance no later than July 1, 2024, and sets forth the requirements of the plan.

The bill revises language regarding board appointment. It removes language on page 8. Lines 58-59 related to a proviso requiring the board member to meeting the eligibility criteria in effect for board membership in effect on January 1, 2025. Language is also added regarding the citizen member stating that it applies to members appointed after January 1, 2025. The revised language states that the citizen member shall never have performed any services as a licensed health care provider and shall not have a financial interest in the practice of the professions regulated by the board. It has a 3 part test to determine a financial interest. The test is if the individual: (1) Owns or operates a business that is engaged in the delivery of health services or the provision of health care related goods, services or staffing; (2) is married to a health care provider who is licensed to practice in the state; or (3) is employed by an entity which provides health care

goods or services to WV patients if the individual’s work responsibilities relate, in whole or in part, to the delivery of health care services, health care administration, management, or policy. Additional language is added regarding disqualification of the citizen member stating a citizen member, who is appointed after January 1, 2025, who develops a financial interest in the practice of a professional regulated by the board automatically forfeits membership to the board. Language is also added to the powers of the board stating that purchases of hardware, software, technology, or technological services made for the purpose of digitizing records or improving the board’s technological capability to carry out its functions is exempt from purchasing and the Office of Technology. With respect to licensure, reference to good moral character as a part of the licensure process are removed. Last, with respect to continuing medical osteopathic medical education designated as Category 1a by either the American Osteopathic Association or the American Medical Association.

CODE REFERENCE: West Virginia Code §30-3-7a, §30-3-11b, and §30-3-11c – repealed; §30-1D-1, §30-3-1, §30-3-2, §30-3-4, §30-3-5, §30-3-6, §30-3-7, §30-3-8, §30-3-9, §30-3-10, §30-3-11, §30-3-11a, §30-3-12, §30-3-13, §30-3-13a, §30-3-15, §30-3-16, §30-3-17, §30-3-18, and §30-14-3 – amended; §30-3-10b, §30-3-21, §30-3-22, §30-3G-1, §30-3G-2, §30-3G-3, §30-3G-4, §30-3G-5, §30-3G-6, §30-3G-7, §30-3G-8, §30-3G-9, §30-3G-10, §30-3G-11, §30-3G-12, §30-14-18, and §30-14-19 – new

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: N/A

ACTION BY GOVERNOR: Vetoed March 27, 2024

Senate Bill 820

Requiring automatic enrollment of substance abuse disorder population into managed care

The purpose of this bill is to require day one enrollment of all Medicaid enrollees in a managed care organization. The Bureau for Medical Services (Medicaid) is required to develop a work plan which they are required to submit to the Legislative Oversight Commission on Health and Human Resources Accountability on or before September 30, 2024 (§9-5-29(d)).

The bill also requires the Bureau to develop performance outcome measures at the provider level to be developed for inpatient substance use disorder providers (§9-5-29(b)). These are required to include nationally recognized measures of performance outcomes. This plan is to be submitted to the Legislative Oversight Commission on Health and Human Resources Accountability on or before August 30, 2024, and is required to be implemented by January 1, 2025.

The third and final provision of the bill requires the Bureau to develop a managed care quality withhold program based on national standards, measures, and outcomes (§9-5-29(c)). A quality withhold as defined in the bill means a capitated model, having a portion of the rate withheld subject to performance consistent with quality requirements. The Bureau is required to submit this workplan to the Legislative Oversight Commission on Health and Human Resources Accountability on or before September 30, 2024.

CODE REFERENCE: West Virginia Code §9-5-29 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4233

Non-binary not permitted on birth certificates

The purpose of the bill is to amend existing code regarding birth registration to add language stating that the birth certificate shall list the child's sex at birth as male or female and may not use the term "non-binary."

CODE REFERENCE: West Virginia Code §16-5-10 – amended

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: May 29, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4376

Relating to surgical smoke evacuation

The purpose of this bill is to ensure that a smoke evacuation system is in place to protect medical personnel during any medical treatment where there could be surgical smoke. It requires the inspector general to propose rules by January 1, 2025, requiring healthcare facilities that utilize an "energy generating device" to use a "smoke evaluation system" during any procedure likely to produce "surgical smoke". Healthcare facilities who violate the requirement are subject to a fine between \$1,000-\$5,000 per violation.

CODE REFERENCE: West Virginia Code §16B-3-21 – new

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4431

Permitting the cremation of unidentified remains

The bill allows the Chief Medical Examiner to cremate unclaimed and unidentified human remains after 30 days if efforts to identify the body have been exhausted. The bill requires the Chief Medical Examiner to preserve certain data in the database for possible future identification. The bill includes preserving biological samples, including, but not limited to, teeth, bone, tissue, or blood samples.

CODE REFERENCE: West Virginia Code §61-12-15 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4594

Relating to extending managed care

The bill extends the foster care managed care contract. The bill does so by removing a code provision which provides that the managed care of children in the foster care system will terminate on June 30 of this year. The bill also removes a report which updated the legislature on its implementation and removes the requirement that the MCO consult with voluntary advisory groups.

CODE REFERENCE: West Virginia Code §9-5-27 – amended

DATE OF PASSAGE: February 13, 2024

EFFECTIVE DATE: February 13, 2024

ACTION BY GOVERNOR: Signed March 1, 2024

House Bill 4667

Prohibiting syringe services programs from distributing listed smoking devices

The purpose of the bill is to prohibit syringe services programs from distributing certain smoking devices. Under the bill, a syringe services program may not distribute bongs, crack pipes, disposable smoking devices or other smoking related devices to individuals engaging with the program.

CODE REFERENCE: West Virginia Code §16-64-3 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 4756

Creating a state Alzheimer’s plan task force

The purpose of this bill is to create a council to establish a state Alzheimer's Plan. The bill describes the composition of the Council as well as a description of its responsibilities and reporting requirements. The Department of Health may provide staff to the council. The Council terminates July 31, 2026, after it submits a State Alzheimer’s Plan to the Joint Committee on Health.

CODE REFERENCE: West Virginia Code §16-5R-8 – new

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4874

Relating to fatality and mortality review team

The purpose of this bill is to update the composition, authority, and responsibilities of the Fatality and Mortality Review Team. The bill removes the study of overdose deaths and the advisory panels. The Fatality and Mortality Review Team will review deaths resulting from suspected domestic violence, the deaths of all infants and all women who die during pregnancy, at the time of birth or within one year of the birth of a child, and children under 18 years of age. Requires annual report to the Governor, the Office of the Inspector General, and the Legislative Oversight Commission on Health and Human Resources Accountability. The report is due annually starting on December 1 and shall reflect the previous year's data.

CODE REFERENCE: West Virginia Code §61-12A-5 – repealed; §61-12A-1, §61-12A-2, §61-12A-3, and §61-12A-4 – new

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: March 1, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4933

Relating to Medicaid dental coverage

The purpose of this bill is to change the timeframe for the expenditure of the Medicaid dental benefit from one year to two years. It states coverage is limited to \$2000 per two years budget period. There is no increase in overall limit. The bill requires the recipient to pay for services over the \$2000 limit.

CODE REFERENCE: West Virginia Code §9-5-12a – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4975

Relating to establishing a foster parent information system

The bill outlines the priorities for the use of funds in the Department of Human Services, as directed by the Legislature. It mandates the development and implementation of a web-based communication system to facilitate information exchange among parties involved in the child welfare system, ensuring timely updates, evaluations, and reporting on responsiveness. The bill sets forth the components on the system to include: that permission to utilize the system about a foster child is granted to only those parties with legal responsibility to care for and support the foster child; facility communications between those individuals involved in the child welfare system; foster parent or kinship parent request and responses to request to staff of the bureau; provide information regarding visitation, appointments, travel and other services available to the foster child; provide information regarding court hearings, meetings with the guardian ad litem, and MDT; provide health records, have the capacity to archive communications for the purpose of running reports, be created to prevent the input of redundant information. The bill requires that by July 1, 2026, and quarterly thereafter the department shall analyze and evaluate a CPS workers responsiveness to information placed in the system which shall be shared with the Foster Care Ombudsman and LOCHHRA.

The specific requirements and deadlines outlined for implementation and evaluation are that the system be implemented on or before July 1, 2025, and the project completed on or before July 1, 2026. The department shall analyze and evaluate the average time CPS worker takes to update the web-based communication system on or before July 1, 2026, and quarterly thereafter; and share the analysis with the Foster Care Ombudsmen and presented to LOCHHRA on or before July 1, 2026, and annually thereafter. The Department shall submit a report to LOCHHRA on the overall status, projected expenditures, and timeline for completion of the web-based communication system on or before December 31, 2024.

CODE REFERENCE: West Virginia Code §49-2-111c – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5105

To eliminate the vaccine requirements for public virtual schools

This legislation outlines the compulsory immunization requirements for school children in West Virginia. It mandates that children entering school or state-regulated childcare centers must be immunized against various diseases unless they have a valid exemption. The commissioner is tasked with providing parents with information on required immunizations, and schools must report any non-compliance. Exemptions may be granted based on medical evidence, with a certification from a licensed physician required. A private or parochial school may elect by informing the West Virginia Department of Health, in writing, to develop a policy that exempts the private or parochial school from the mandatory vaccination requirements. A limitation of liability is provided to the private or parochial school which elects to opt out of the vaccination requirements. A full time virtual public school student who does not physically attend public school shall be exempt from the mandatory vaccination requirements. All students participating in any activity sponsored by the West Virginia Secondary School Activities Commission or any school sponsored club activities which result in competition with other schools shall have obtain the mandatory vaccinations.

CODE REFERENCE: West Virginia Code §16-3-4 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: N/A

ACTION BY GOVERNOR: Vetoed March 27, 2024

House Bill 5151

Relating to defining term fictive kin

The bill adds former foster parents to the definition of fictive kin and reinserts the existing definition of “Restorative justice program” into the bill which had been omitted from previous versions.

CODE REFERENCE: West Virginia Code §49-1-206 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5175

Eliminate funding for the Center for Nursing and transfer its duties and authorities to the Higher Education Policy Commission

The purpose of this bill is to terminate the Center for Nursing and transfer its duties and authorities to the Higher Education Policy Commission. This bill creates an Office of Nursing Education and Workforce Development underneath the Higher Education Policy Commission, and it outlines the duties of the office.

It redesignates the Center for Nursing Fund as a Nursing Scholarship and Workforce Fund, and authorizes funding the account through legislative appropriations, organizational agreements, and other funding sources. The bill also amends the Nursing Scholarship Program to give up to \$7,500 for students in a pre-licensure nursing education program.

The bill repeals the code sections that outline the definitions, purpose, powers and duties, reimbursements, and reporting requirements that were established for the Center for Nursing. It also repeals the code section that gave the Board of Nursing the authority to assess supplemental licensure fees to fund the Center for Nursing.

CODE REFERENCE: West Virginia Code §30-7A-7A and §30-7B-1 through §30-7B-7 – repealed; §18C-3-4 – amended; §18B-16-6 – new

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: May 29, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5347

Relating to establishing a program for emergency medical services personnel to become certified paramedics

The bill requires the Secretary to propose legislative rules in consultation with the state health officer to establish a program for emergency medical technicians, who, after three years of serving as an emergency medical technician, are eligible for state assistance through the fund established in this bill to become certified paramedics. Clarifies and deletes language regarding the appellate process and states that the appeal shall be conducted in conformity with the Administrative Appeals Act.

CODE REFERENCE: West Virginia Code §16-4C-6, §16-4C-10, §16-4C-24 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Government Organization



Senate Bill 217

Authorizing state and subdivisions to negotiate price for construction when all bids received exceed maximum budget

Senate Bill 217 creates a new section of code relating to bidding on government construction contracts. It would allow governmental entities bidding out a construction project to establish a maximum budgeted amount for the project. If all bids exceed that amount, the state entity may negotiate a contract with the lowest responsive and responsible bidder based on the original purpose of the solicitation. Any negotiated award must be made within 30 calendar days after bid opening and may not exceed 10 percent of the original scope or base bid. The bill does not alter the provisions of existing code that permit a state entity to withdraw or resolicit a bid if it determines that doing so is in its best interest. §5-22-1(e).

The bill also clarifies that it does not apply to roads, highway, or bridge projects.

The bill has a sunset date of December 31, 2029.

CODE REFERENCE: West Virginia Code §5-22-4 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 240

Increasing fees charged by sheriff

Senate Bill 240 increases the maximum fees that sheriffs may charge for performing various tasks. In general, it raises the maximum fees from \$25 to \$30.

The bill increases from \$2 to \$5 the amount of the fee that is deposited in the “West Virginia Deputy Sheriff Retirement Fund”.

CODE REFERENCE: West Virginia Code §59-1-14 – amended

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: May 29, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 262

Clarifying procedure for administrative dissolution of corporations by Secretary of State

This legislation amends and clarifies the process Secretary of State must follow to administratively dissolve a corporation. After service of notice of dissolution from the Secretary of State has been perfected, the corporation has 60 days to correct or demonstrate to the satisfaction of the Secretary of State that each ground for dissolution does not exist. If the corporation cannot demonstrate that each ground for dissolution has been corrected or does not exist, the Secretary of State shall dissolve the corporation by signing and filing a certificate of dissolution citing each ground for dissolution and its effective date. A corporation administratively dissolved may not carry on any business except that necessary to wind up and liquidate its business and affairs. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

CODE REFERENCE: West Virginia Code §31D-14-1421 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 331

Eliminating cap on maximum amount of money in county's financial stabilization fund

Senate Bill 331 removes the cap on the amount of money that may be held in a county's "financial stabilization fund." Currently, such a fund is capped at 50 percent of the county's most recent General Fund budget.

The bill also expressly allows a county commission to place moneys in the fund for investment with the Investment Management Board or the Board of Treasury Investments. The bill directs county commissions to consider tax reduction measures if the amount in the fund exceeds 50 percent of the county's most recent general fund budget, but does not mandate any such measures be implemented.

CODE REFERENCE: West Virginia Code §7-6-5a and §7-21-3 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: March 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 428

Establishing appeals from administrative rulings are to be filed with Intermediate Court of Appeals

Senate Bill 428 amends a single section of code to state that appeals from administrative orders regarding frozen desserts and imitation frozen desserts are to be taken to the Intermediate Court of Appeals, pursuant to §29A-5-4 of the code.

This bill is corrective in nature. Jurisdiction over administrative appeals was given to the ICA with the passage of SB 275 in 2021.

CODE REFERENCE: West Virginia Code §19-11B-12 – amended

DATE OF PASSAGE: February 12, 2024

EFFECTIVE DATE: May 12, 2024

ACTION BY GOVERNOR: Signed February 20, 2024

Senate Bill 430

WV Rent-to-Own Act

Senate Bill 430 amends disclosure requirements for rent-to-own contracts and goods under the West Virginia Consumer Goods Rental Protection Act. It updates the disclosure requirements by allowing the required disclosures to be made electronically, so long as they are disclosed in a clear, conspicuous manner.

The bill also removes a proviso that currently bars the dealer from charging a delivery or pickup fee unless the transaction takes place on the dealer's premises. Both changes are made in recognition of online rent-to-own transactions.

The Attorney General is charged with enforcement of the rent-to-own act. See, §46B-8-1 et seq. The AG may pursue civil remedies, including injunctive relief.

CODE REFERENCE: West Virginia Code §46B-3-7 and §46B-3-9 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 438

Modifying roster requirements of authorizing entities

Senate Bill 438 amends a single section of code to eliminate the requirement that a mailing address, or any geographical information, be included on a roster of individuals authorized to engage in a profession or occupation that is made available to the public.

It also clarifies that this roster requirement does not apply to chapter 30 boards, which have their own roster requirement (which does not require any geographical information, either.)

This bill modifies the roster requirement included in SB 244 from 2023. The modification was motivated, at least in part, by a misunderstanding that the personal residence address of licensees was required to be listed on the roster.

CODE REFERENCE: West Virginia Code §5-30-2 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 445

Reducing certification periods and renewal fees for EMS personnel

Senate Bill 445 sets the period for the validity of the certification of emergency medical services personnel at two years and mandates rule-making to establish certification standards. Currently, the West Virginia portion of the certification expires after four years, while the national certification expires every two years. The intent of the bill is to align the West Virginia standard with the national standard. The bill reduces the fee for recertification from \$50 to \$25.

The bill also requires that OEMS electronically publish on its website and make available to the public information regarding disciplinary actions taken to suspend or revoke the certifications of EMS personnel, and requires the individual's name, certification number, type of action, and date of the action to be provided.

CODE REFERENCE: West Virginia Code §16-4C-8 and §16-4C-9 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 482

Relating to rule-making authority of Ethics Commission

Senate Bill 482 amends the general legislative rulemaking authority of the Ethics Commission under §6B-2-2 by making its rulemaking authority permissive; by extending that rulemaking authority to the entire Chapter 6B; and by specifying that disclosure forms, statements, and reports required by the Ethics Commission must be made in a manner prescribed by legislative rule of the Commission. It also repeals §6B-2A-1, which currently contains obsolete language, as well as the rulemaking requirement for disclosure forms, statements, and reports that has been moved to §6B-2-2.

CODE REFERENCE: West Virginia Code §6B-2A-1 – repealed; §6B-2-2 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 530

Removing requirement for counties to draft and adopt zoning ordinances

Impact fees are fees assessed against a development project to fund capital improvements and the expansion of public services made necessary by the development. The concept is to allow the costs of such capital improvements and public services to be amortized as part of the development's costs and to prevent county taxpayers who do not benefit from the development from being required to subsidize it. Before being authorized to impose levying impact fees, counties must meet seven prerequisites. One of them is adoption of a comprehensive zoning ordinance. It amends a single section of code to eliminate the comprehensive zoning ordinance prerequisite to levying impact fees. The other six requirements remain.

CODE REFERENCE: West Virginia Code §7-20-6 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 540

Updating WV coordinate systems

Senate Bill 540 updates the West Virginia Coordinate System, which may be used to define the geospatial position of any point or points within the state by locating each point with reference to east-west and north-south axes. The bill eliminates the division of the state into North and South zones, and reference to use of the North and South Zones in describing the location of a tract of land that lies in both zones. The bill also eliminates reference to the "United States Survey foot", instead using the word "foot".

CODE REFERENCE: West Virginia Code §1-1-5 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 542

Amending procedure for filling vacancies in certain county offices having more than three commissioners

Senate Bill 542 amends a single code section to account for vacancies in the position of county clerk and county commissioner or councilor in counties with five commissioners or councilors.

The bill adds as a qualification for commissioner and councilor that the person appointed must reside in an open magisterial district, i.e., one in which no other member of the commission or council resides.

The bill clarifies that the party affiliation of the vacated position is determined by the party affiliation of the vacating person at the time of his or her election, not at the time he or she vacates the position.

The bill otherwise follows the current procedure for filling vacancies in the county clerk or county commissioner positions, except that for five-member commissions or councils, there is a procedure to resolve issues where there might be two commissioners/councilors with equal tenure: a drawing by lot. The bill also adds that when commissioners/councilors on five-member commissions or boards strike names from the list of candidates according to tenure, they strike according to political party and tenure, with the commissioners/councilors affiliated with the party of the person who vacated the position each striking first. The remaining commissioners/councilors then strike names according to tenure.

CODE REFERENCE: West Virginia Code §3-10-7 – amends

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 551

Modifying requirements related to levy of service fees

This legislation removes the requirement that any surplus in the special business improvement district fund be used to reduce the amount of services fees required for the next fiscal year.

Now, BIDs are allowed to carry over surplus funds from year to year. This allows BIDs to plan, budget, and save for large and expensive improvements.

CODE REFERENCE: West Virginia Code §8-13A-12 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 557

Relating to compensation for firefighters required to work holidays

Senate Bill 557 clarifies compensation for municipal firefighters who are required to work on a holiday. The bill does not change the rate of compensation or the compensatory time allowed, but adds that, effective July 1, 2024, firefighters are entitled to payment or compensatory time for their entire holiday shift, even if the shift spans two calendar days.

The bill thus establishes that firefighters are entitled to holiday compensation for an entire shift even if only a portion of the holiday shift actually falls on the holiday.

CODE REFERENCE: West Virginia Code §8-15-10a – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 587

Enabling State Fire Commission to propose legislative rules

Senate Bill 587 amends a single section of code to grant the State Fire Commission general rulemaking authority to propose legislative rules and promulgate interpretive and procedural rules.

Although the Fire Commission has been granted rule-making authority regarding specific sections of code in the past, this bill gives it general rule-making authority.

CODE REFERENCE: West Virginia Code §15A-11-8 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 603

Solid Waste Management Act

Senate Bill 603 amends the definitions section of the Solid Waste Act to modify what constitutes a “commercial solid waste facility”. The modification excludes solid waste facilities that are essentially transfer and consolidation points, where a PSC-certificated trash collector places trash collected from its customers in smaller trucks and consolidates it for transport to a landfill in a larger truck at no additional charge to the customers.

Any such transfer station must still comply with the DEP’s pre-siting notice and performance bonding requirements for commercial solid waste facilities and must be located on a site that contains a mixed waste processing and resource recovery facility that possesses a solid waste facility permit from DEP.

CODE REFERENCE: West Virginia Code §22-15-2 – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: March 1, 2024

ACTION BY GOVERNOR: Signed, March 5, 2024

Senate Bill 610

Clarifying authority of Water Development Authority in certain circumstances

Senate Bill 610 amends the section of code prescribing the powers of the Water Development Authority to give classified-exempt status to newly hired employees and current employees who change classification. Classified-exempt status essentially means that although DOP classifies the positions within the agency, the employees are will and pleasure employees.

CODE REFERENCE: West Virginia Code §22C-1-6 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 631

Prohibiting municipalities from disconnecting water service for nonpayment of stormwater fees

Senate Bill 631 amends several sections of code to make it more difficult for a utility to shut off the water of a customer simply for a delinquency in paying a stormwater fee. The stormwater fee, however, creates a lien on the premises for which the stormwater services are provided.

Before terminating a user's water service for a delinquency in a stormwater fee, the fee must be in arrears at least 90 days, the utility must contact the user, and a deferred payment plan must be offered. The bill applies to municipal utilities, private utilities, and public service districts.

CODE REFERENCE: West Virginia Code §16-13-16, §16-13A-9, §24-3-10 – amended; §16-13-16a – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 687

Clarifying Legislative Auditor's scope of authority

Senate Bill 687 clarifies that the Legislative Auditor's authority derives from, and is subject to, the control of the Joint Committee on Government and Finance. It also conforms the Legislative Auditor's role in budgetary matters to current practice, which is the preparation of various reports.

The bill establishes that the Auditor does not have independent hiring authority, and clarifies that the Joint Committee has employment and termination powers over all joint committee personnel.

This bill also revises presentation and review of departments and departmental agencies, eliminating the current fixed schedule and making them subject to the discretion of the Senate President or the Speaker of the House of Delegates or by recommendation of the Joint Standing Committee on Government Organization. Agencies are, though, required to be reviewed at least once every 15 years. Any such reviews may be, but are not required to be, conducted according to generally accepted government accounting standards (GAGAS). Reviews of regulatory boards remain mandatory under the bill, and must be conducted at least once every 12 years, but the bill eliminates the specific schedule for them.

The bill adds that regulatory board reviews may be conducted more frequently than every 12 years, at the discretion of the Senate President or the Speaker of the House of Delegates. As with department and agency reviews, regulatory board reviews are not required to be conducted in conformity with GAGAS.

CODE REFERENCE: West Virginia Code §4-2-5 and §4-10-8 – repealed; §4-2-3, §4-2-4, §4-2-6, §4-2-8, §4-3-3c, §4-10-3, §4-10-6, §4-10-7, §4-10-9 and §4-10-10

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 712

Reducing minimum age for State Police cadet

This legislation reduces minimum age requirement for a State Police cadet from 21 to 18.

CODE REFERENCE: West Virginia Code §15-2-7 – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: March 1, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 722

Revising examination of records relating to limited video lottery

Senate Bill 722 restricts the financial records of a Limited Video Lottery permittee that the Lottery Commission has a right to examine to only those for the LVL business that is permitted or in which the permittee has an interest.

CODE REFERENCE: West Virginia Code §29-22B-1406 – amended; §29-22B-1305 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Vetoed March 27, 2024

Senate Bill 730

Clarifying compensation for county tax collector

This legislation changes the salary structure for sheriffs. The new law ensures that each sheriff will receive \$15,000 compensation for acting as the county's tax collector.

CODE REFERENCE: West Virginia Code §11A-1-17 – amended (amend)

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 20, 2024

Senate Bill 827

Providing for regional distribution and dismantling centers

The Division of Highways regulates and licenses salvage yards. One of the primary concerns with such facilities is their visual effect on the areas near highways, interstates, and primary roads. The two major restrictions relate to screening and distance from roadways.

Currently, salvage yards are required to obtain an approval permit from the county commission or planning commission in which the salvage yard is located, and then obtain a license from the DOH commissioner.

Senate Bill 827 creates a new type of facility, called a “regional distribution and dismantling center” and provides a definition for it. It would remove usable vehicle parts and offer them for resale through a national supply network. It would not accept vehicles from individuals, would sort parts and store them in an onsite warehouse, remove fluids and tires from vehicles and processes them, and store the remainder of the vehicle within a screened property. By definition, it would not constitute a salvage yard.

The bill would allow such a center to qualify for a special license from the commissioner if the center obtains approval from the county in which it is located and is not visible within 1,000 feet from the edge of the right-of-way of an interstate or federal-aid primary highway.

CODE REFERENCE: West Virginia Code §17-23-2 and §17-23-4 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 844

Redesignating Educational Broadcasting Authority as Educational Broadcasting Commission

Senate Bill 844 changes the name of the Educational Broadcasting Authority to the Educational Broadcasting Commission throughout and provides that the Secretary of the Department of Arts, Culture, and History is to appoint the director of the commission. Currently, the authority appoints the director.

The bill also reduces the number of public members on the commission from seven to five and the overall membership on the commission from 11 to nine.

CODE REFERENCE: West Virginia Code §10-5-1, §10-5-2, and §10-5-3 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: March 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 858

Clarifying filing requirements and deadlines in property tax cases

Senate Bill 858 provides that the Office of Tax Appeals has jurisdiction to hear property tax appeals even if the taxpayer fails to perform all preliminary administrative steps.

The bill was requested jointly by both the Office of Tax Appeals and the Tax Division.

CODE REFERENCE: West Virginia Code §11-3-25b – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 865

Changing reference to Curator of Department of Arts, Culture, and History to secretary

The Division of Culture and History is continued as an agency within the Executive Branch as the Department of Arts, Culture, and History. The West Virginia Educational Broadcasting Authority is continued as a separate agency within the Department of Arts, Culture, and History. The number of sections within the Department of Art, Culture and History are increased from seven to eight to include The Educational Broadcasting Commission. Additionally, the Department will also consist of four citizen commissions to include an Educational Broadcasting Council.

There were also technical changes to reflect the division of the Department of Health and Human Resources into the Department of Health and the Department of Human Services. There were also technical changes to reflect the changing of curator of Department of Arts, Culture, and History to secretary.

CODE REFERENCE: West Virginia Code §5F-2-1 and §29-1-1 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: March 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 872

Relating to county fire service fees

This bill amends a single section of code relating to the imposition of county fire service fees. There are two methods provided in code to authorize such a fee: a petition from 10 percent of qualifying voters or a ballot referendum after receipt of a resolution from the county fire board.

This bill addresses the procedure that ensues after a county commission's receipt of a resolution from the county fire board to amend a fire fee. Currently, the county commission is required simply to submit the resolution from the fire board to a ballot referendum. This bill would give the county commission discretion to determine how it deals with a fire board's resolution. It could, as in current code, simply submit it to a referendum; it could reject the resolution altogether; or it could decrease or increase the fee amount stated in the board's resolution and submit it to a referendum.

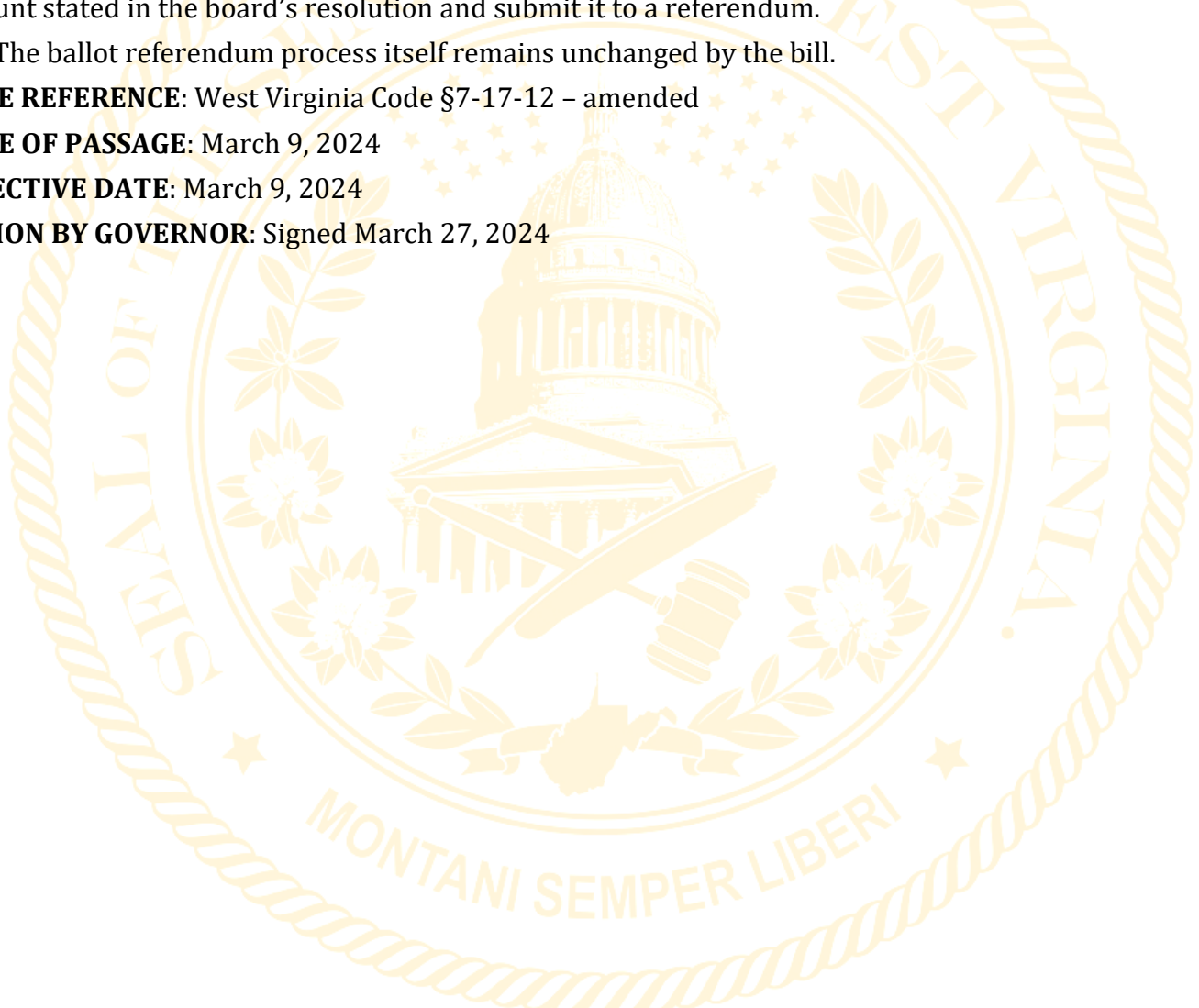
The ballot referendum process itself remains unchanged by the bill.

CODE REFERENCE: West Virginia Code §7-17-12 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 4350

Relating to appointment of candidates after filing period

This legislation provides that if, after the time is closed for announcing as a candidate, there is a vacancy on the ballot caused by the failure of any person of a particular party to file for each available seat of each available office, that vacancy may not be filled. If a vacancy in nomination is caused by withdrawal, disqualification, incapacitation, or death of a candidate, a vacancy will still be filled.

CODE REFERENCE: West Virginia Code §3-5-11 and §3-5-19 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4721

Require Surveyors to offer to record surveys of property

The bill requires surveyors to offer to record the map or plat of the measurements of a property survey, for a reasonable fee, on the client's behalf, in the office of the county clerk of the county in which the property is located.

CODE REFERENCE: West Virginia Code §30-13A-10 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4793

Relating to distilled liquor

House Bill 4793 amends a single section of code to create an exception to the general prohibition against making, or aiding in the making of, distilled spirits to allow individuals over the age of 21 to manufacture distilled spirits for personal or family use. The amount is limited to five gallons per calendar year for a household having only one person over the age of 21 years, and 10 gallons per calendar year for households having two or more persons over the age of 21 years.

Any alcoholic liquor manufactured may not be sold or offered for sale.

CODE REFERENCE: West Virginia Code §60-6-10 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4812

Capping amount of moneys to third party vendors who collect business and occupation taxes on behalf of cities

House Bill 4812 amends a single section of code to cap the amount of fees that third-party vendors may charge a municipality to collect B&O taxes to no more than 20 percent of the amount of taxes collected.

CODE REFERENCE: West Virginia Code §8-13-5 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4976

Providing the contact information of the Inspector General on the agencies and boards websites of the executive departments

This legislation requires all agencies and boards listed in §5F-2-1(i) (Department of Homeland Security) to post office contact information of the Inspector General in a conspicuous place on the agency/board's website, and, if the agency/board has a physical office space, to post the contact information of the Inspector General in the in the agency/board's physical office.

CODE REFERENCE: West Virginia Code §15A-13-1 – amended

DATE OF PASSAGE: February 14, 2024

EFFECTIVE DATE: May 14, 2024

ACTION BY GOVERNOR: Signed March 29, 2024

House Bill 5013

Relating to Timber Management

This legislation amended the definition of managed timberland to be more inclusive of certain real estate by removing an exception to the program. The following exception was removed:

Any tract or parcel of real estate, regardless of its size, which is part of any subdivision that is approved or exempted from approval to the provisions of a planning ordinance adopted under the provisions of §8-24-1 et seq. of this code.

These parcels are to be now allowed into the managed timberland program if they otherwise qualify.

The second change is that real estate, regardless of its size, which is also subject to contracts and agreement which preclude the commercial production and harvesting of timber may not be considered managed timberland program. This is in addition to deed restrictions, deed covenants, or zoning regulations which preclude harvesting.

The third change is that a landowner whose land is currently subject, or may become subject to, a conservation or preservation easement may not be prevented from entering a timberland management plan with the West Virginia Division of Forestry.

CODE REFERENCE: West Virginia Code §11-1C-2 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5017

Relating to mobile food establishment reciprocity.

This legislation allows local or county health department to issue a statewide permit to a mobile food service establishment operating in the state of West Virginia. Each vendor must provide notice to the local health department with jurisdiction at least 72 hours prior to operating within the jurisdiction. The mobile food establishment statewide permit shall be valid for the fiscal year in which the permit is issued.

Previously, a mobile food service establishment must seek a reciprocity permit from the local or county health department for each county in which it wishes to operate.

CODE REFERENCE: West Virginia Code §16-2-18 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5117

Relating generally to waiver of initial licensing fees for certain individuals

House Bill 5117 amends a single section of code concerning chapter 30 boards. It makes rule-making for all chapter 30 boards permissive rather than mandatory with respect to the waiver of initial licensing fees for low-income individuals and military families.

The underlying code section was enacted in 2019. The intent of the bill is to reduce needless rule-making where the rule that is proposed simply restates the code provisions regarding the waiver.

CODE REFERENCE: West Virginia Code §30-1-23 – amended

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: May 29, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5122

Relating to civil service for deputy sheriffs

House Bill 5122 removes the upper limitations on the age that deputy sheriffs and municipal police officers may be initially appointed. Further, it clarifies and restates the requirements for reinstatement as a deputy sheriff.

CODE REFERENCE: West Virginia Code §7-14-8 and §8-14-12 – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: May 30, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5348

Changing the name of the “Raleigh County Recreation Authority” to the “Raleigh County Parks and Recreation Authority”

This legislation changes the name of the Raleigh County Recreation Authority to the Raleigh County Parks and Recreation Authority

CODE REFERENCE: Acts of Legislature, Chapter 136, §2 (1982) and Acts of Legislature 154, §2 (1987)

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5569

Requiring an appraiser to pay for a background check required by the AMC as a condition of being added to the AMCs panel of appraisers

House Bill 5569 amends the list of actions by appraisal management companies that are prohibited. It provides that an appraisal management company may not require an appraiser to pay for a background check as a condition of being added to the appraisal management company's panel of appraisers.

CODE REFERENCE: West Virginia Code §30-38A-15 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5582

Modifying exceptions for real estate appraisal licensure

House Bill 5582 amends several sections of article 38 of chapter 30 regarding real estate appraisers licensing. The bill clarifies an exception to the licensing requirement for individuals performing evaluations of real estate that will serve as collateral for a loan from a financial institution insured by FDIC. It adds requirements intended to make it clear to borrowers that the evaluation was not performed by a licensed real estate appraiser. The bill adds a definition of "evaluation" in that same regard.

The bill allows the appraiser board to issue an appraiser licensee a copy of his or her license via an electronic format. It also authorizes an appraiser to renew his or her license after it has lapsed by satisfying the requirements for renewal and paying a late renewal fee. It eliminates the two-year limit on late renewals provided that an applicant can demonstrate that he or she can practice with reasonable skill and safety. That standard may be described by rule, pursuant to §30-1-8a of the code.

CODE REFERENCE: West Virginia Code §30-38-1, §30-38-3, §30-38-6, §30-38-7, and §30-38-11 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5594

Exempting the West Virginia School of Osteopathic Medicine, West Virginia University and Marshall University from contracts, agreements, or memorandums of understanding with spending units in state government with exceptions

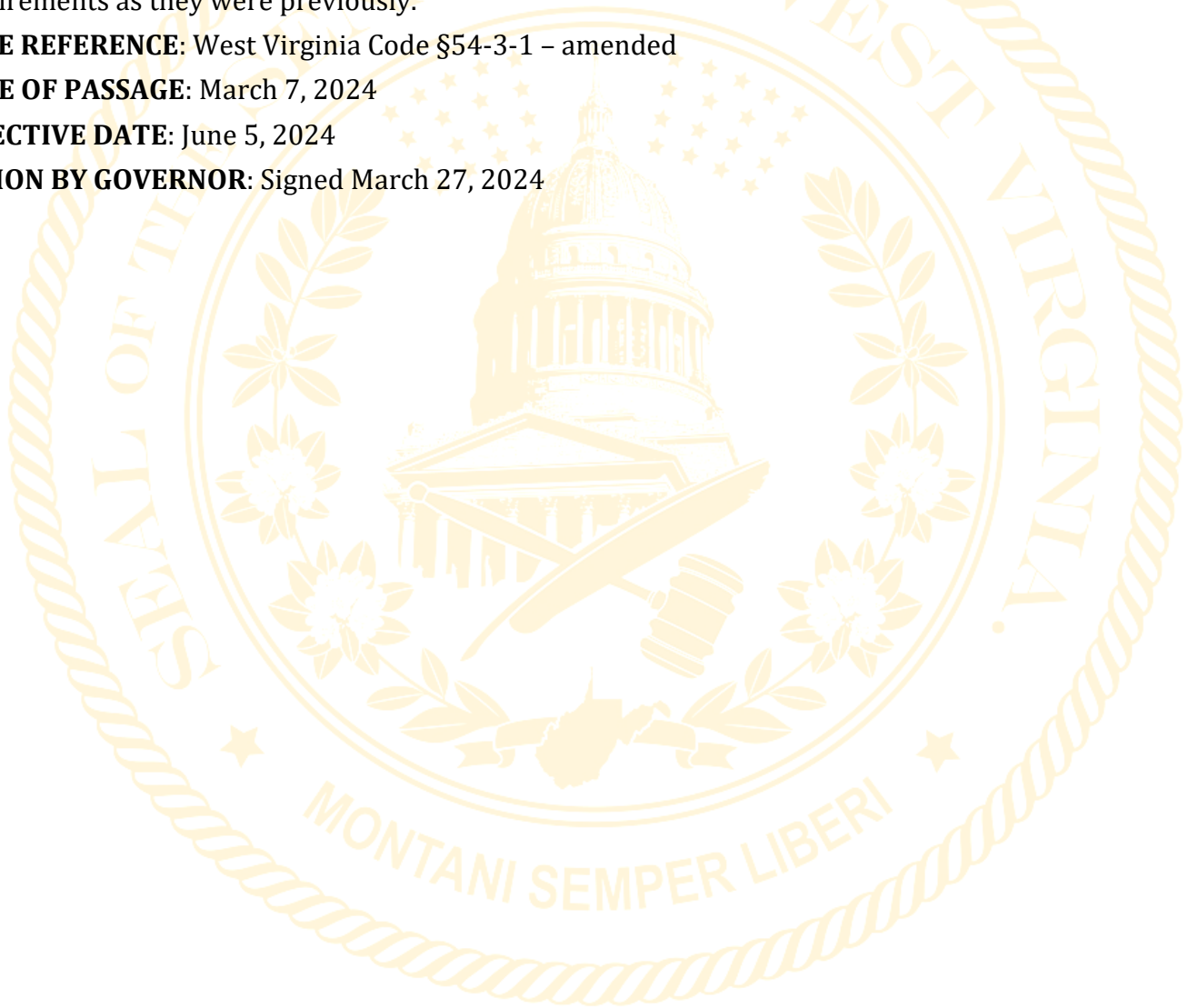
This legislation exempts from Purchasing Division requirements, contracts, agreements, or memorandums of understanding between a spending unit and West Virginia University, Marshall University, and West Virginia School of Osteopathic Medicine for services. Contracts entered to implement professional health care, managed care, actuarial and healthcare related monitoring, quality review/utilization, claims processing and independent professional consultant contracts for Medicaid program are not included in this new exception and would still be subject to the Purchasing Division requirements as they were previously.

CODE REFERENCE: West Virginia Code §54-3-1 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 5604

Relating to procurement by state spending units

House Bill 5604 amends certain provisions of West Virginia Code relating to purchases of technical infrastructure by the state and its subdivisions.

Current law requires the Director of the Division of Purchasing to solicit bids on behalf of spending units for the purchase of commodities and printing if the cost for such commodities or printing is estimated to exceed \$25,000. House Bill 5604 increases this threshold cost from \$25,000 to \$250,000 for “technical infrastructure” to be purchased by spending units. In short, the director will delegate to state spending units the authority to procure technical infrastructure costing less than \$250,000. The director has the discretion to lower or increase the delegated authority to individual spending units. Current law defines technical infrastructure as “all information systems, information technology, information technology equipment, telecommunications and technology services.” The definition of “technology services” would be amended to specifically including “cloud computing.”

The bill requires state spending units that want to obtain technical infrastructure through competitively procured agreements to make a written request to the Director of the Division of Purchasing. If the director does not respond to a spending unit’s request for procurement of technical infrastructure within 30 days, the director will be deemed to have approved the request.

The bill further requires the Secretary of the Department of Administration to approve for use at least two Information Technology Marketplace Portals for use by state spending units by September 1, 2024. The bill defines the term Information Technology Marketplace Portal as “a structured digital catalog that customers can use to find, buy, deploy, and manage third-party information technology products and services whose pricing and discount levels are set by the third party providers.”

The bill also provides that local fiscal bodies, which includes county boards of education, may obligate funds beyond the current fiscal year for contracts executed to procure technology licensing service agreements or technology services including cloud computing. Local fiscal bodies must justify entering into such multi-year technology agreements by maintaining documentation of material fiscal savings to the body.

CODE REFERENCE: West Virginia Code §5A-3-10, §5A-6-2, and §11-8-26 – amended; §5a-3-10f and §5A-6-4f – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Vetoed March 27, 2024

House Bill 5617

Authorizing the Public Service Commission to promulgate rules for maintenance, flushing, flow testing, and marking of fire hydrants owned by water utilities

House Bill 5617 allows the PSC to promulgate rules concerning inspection, flow testing, flushing, and marking of fire hydrants. The bill requires all public water utilities to comply with any such rules.

A utility may use its cash working capital reserve to pay for compliance with the PSC's hydrant rules, including replacement of hydrants.

This bill was requested by the PSC. The bill follows an investigation by PSC staff that found that only 68 percent of utilities regularly flow test hydrants, which staff said should all be inspected annually. Eleven percent of hydrants in the state are more than 50 years old, the age at which they should be replaced, and only 42 percent of utilities have any written procedures for hydrant maintenance.

The "cash working capital reserve" is mandated by statute and is to be at least 12.5 percent of a utility's annual O&M expense. See, §24-1-1(k). When the cash reserve is depleted suddenly, the PSC allows a utility to request to replenish it through a rate increase. See, PSC General Order 183.08.

CODE REFERENCE: West Virginia Code §24-2-1r – new

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 20, 2024

House Bill 5632

Relating generally to West Virginia Real Estate License Act

House Bill 5632 amends the requirements for licensure as a real estate broker. It provides an exception to the requirement that every broker have an active place of business within the state for nonresident brokers whose home state has a reciprocity agreement with the West Virginia real estate commission that does not require West Virginia-licensed brokers to have an active place of business in that state. The broker "place-of-business" requirement has been an issue that has been raised frequently since passage of HB 3203 in 2023, which generally updated the Real Estate License Act and required licensure in West Virginia as a broker even if licensed in another state.

The bill also increases the number of closed transactions that are required to qualify for a broker's license.

The bill adds a definition for "property management", which means the overseeing and management of commercial and residential real estate properties.

CODE REFERENCE: West Virginia Code §30-40-4, §30-40-12, and §30-40-17 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5690

Creating a West Virginia Task Force on Artificial Intelligence

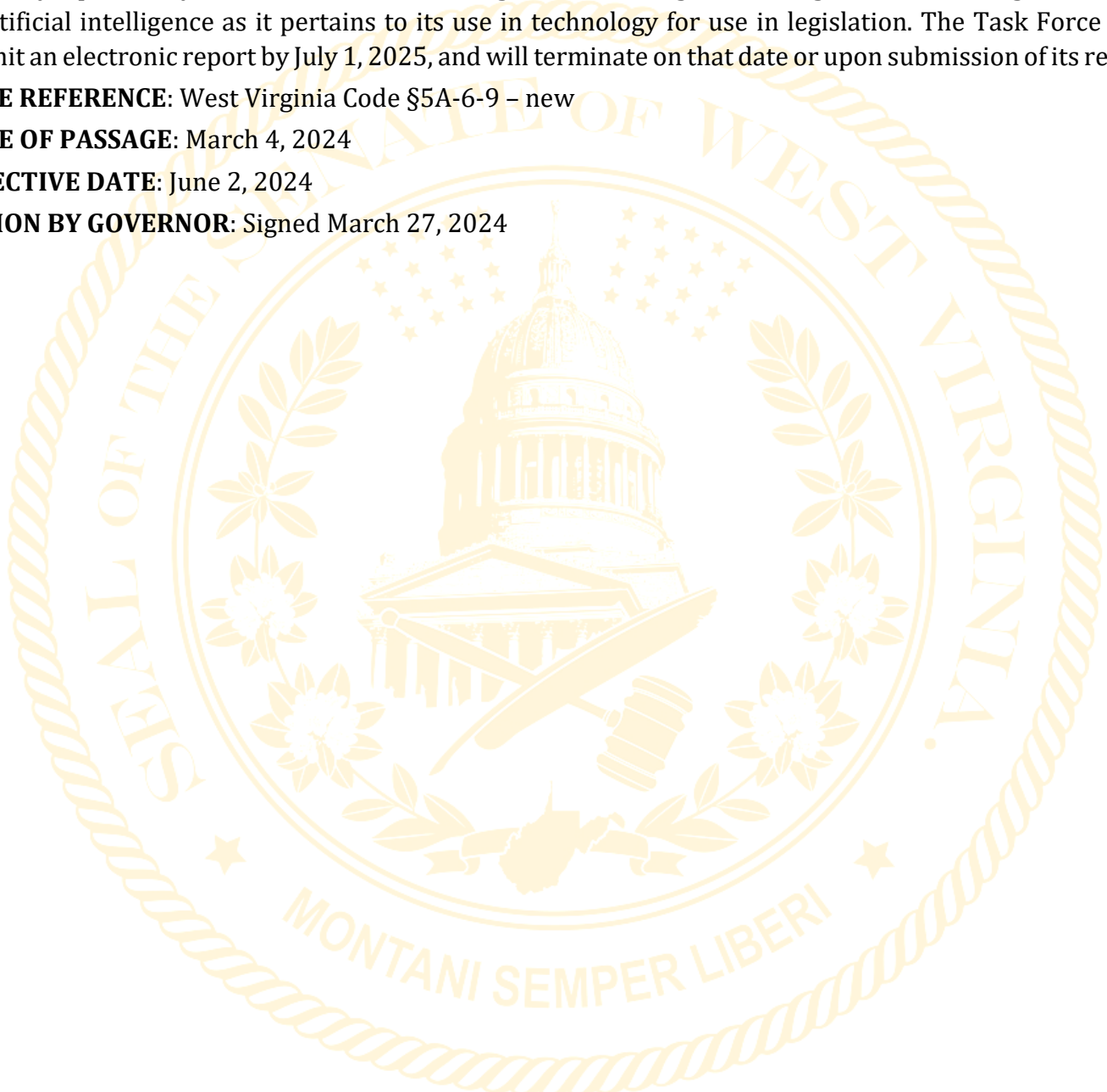
This legislation creates an Artificial Intelligence Task Force in the office of the Governor. names the members are named and their appointments are set forth. This new code section also prescribes the duties of the Task Force, the areas of inquiry, requires reporting, establishes deadlines, and provides authority generally. Specifically, the AI Task Force is charged with, among other things, recommending a definition of artificial intelligence as it pertains to its use in technology for use in legislation. The Task Force shall submit an electronic report by July 1, 2025, and will terminate on that date or upon submission of its report.

CODE REFERENCE: West Virginia Code §5A-6-9 – new

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



Economic Development



Senate Bill 354

Relating to the WV Advanced Energy and Economic Corridor Authority

This bill creates the West Virginia Advanced Energy and Economic Corridor Authority (Authority) to promote economic development and diversification and job creation along the Interstate 73/74 corridor running through the counties of McDowell, Mercer, Mingo, Wayne, and Wyoming. The full length of the corridor runs from northern Michigan to eastern South Carolina.

The intent of this legislation is to facilitate implementation of opportunities for economic expansion and job creation in southern West Virginia by establishing an Authority to provide assistance and guidance to the economic development agencies of McDowell, Mercer, Mingo, Wayne, and Wyoming counties and to businesses and industries located in the economic corridor.

The Authority will consist of 15 members:

- A representative from each county economic development agency;
- One representative each from Region 1 and Region 2 Planning & Development Councils;
- A representative from business and industry located in WV;
- A representative from a utility that provides service to the corridor region;
- Four private sector representatives from technology, energy, advanced manufacturing, aviation, aerospace, or advanced air mobility sectors located in the corridor region; and,
- Two at-large members with expertise in local issues and economic development in the corridor.

Except for the members from the county economic development agencies and Region I and 2 Planning & Development Councils, the Governor or his or her designee will appoint the eight public members.

Members will serve a term of five years, may be appointed to additional terms, will continue to serve until a successor is appointed, and will serve without compensation.

Powers and duties of the Authority will include:

- Setting goals and objectives;
- Seeking private-public partnerships;
- Encouraging partnerships with groups in other states along the economic corridor;
- Developing a memorandum of understanding with the Appalachian Regional Commission regarding economic development, transportation, tourism, infrastructure, and technology for the benefit of counties and communities in the corridor;
- Proposing legislation to allow regulatory flexibility in the corridor and to provide for bonding and tax credits to facilitate economic development in the corridor;
- Acquiring, leasing, disposing of and granting security interests in property;
- Entering into contracts; and,
- Accepting gifts, funds, property any federal or state governmental unit or any person or business.

Finally, the Authority is required to submit a report to the Joint Committee on Government and Finance on or before December 1 of each year detailing its undertakings for the past year.

CODE REFERENCE: West Virginia Code §5B-11-1, §5B-11-2, §5B-11-3, and §5B-11-4 – new

DATE OF PASSAGE: February 14, 2024

EFFECTIVE DATE: May 14, 2024

ACTION BY GOVERNOR: Signed February 23, 2024

Senate Bill 400

Creating limited waiver from certificate of public convenience and necessity requirement for certain water or sewer services projects

This bill amends a section in the Public Service Commission (PSC) statute, §24-2-11, to allow a waiver of the requirement to obtain a certificate of public convenience and necessity for projects that are funded, in whole or part, by:

- The American Rescue Plan Act of 2021 (ARPA) or the Coronavirus State Fiscal Recovery Fund (SFR) and approved by the Infrastructure and Jobs Development Council (IJDC) as technically feasible, or
- ARPA or the SFR through Economic Enhancement Grant funding and approved by the IJDC as technically feasible and approved by the Water Development Authority.

This waiver provision will expire April 30, 2025.

CODE REFERENCE: West Virginia Code §24-2-11 – amended

DATE OF PASSAGE: February 22, 2024

EFFECTIVE DATE: February 22, 2024

ACTION BY GOVERNOR: Signed March 4, 2024

Senate Bill 452

Designating certain water and wastewater facilities as emergency project

This bill modifies certain findings relating to water and wastewater treatment facilities designated by the IJDC (Infrastructure and Jobs Development Council) as an emergency project.

Current law provides that if the IJDC determines a project to be an emergency project and finds that the project:

- Will be funded solely with grant money for the extension of an existing water or wastewater facility,
- Will have no effect on the public utility's customer rates, and
- Will have no significant effect on the utility's operational costs as a result of the project cost,

then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity (certificate). Current law also provides that any public utility emergency project that does not meet the exemption requirements, must obtain a certificate.

The bill amends current law to provide that emergency projects do not have to meet the exemption requirements to be exempt from the requirement to obtain a certificate.

CODE REFERENCE: West Virginia Code §31-15A-8 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 461

Relating to county economic opportunity development districts

This bill extends the date when the Fort Henry Economic Opportunity Development District, located in Ohio County, would be abolished from the year 2044 to the year 2054. The bill also increases the size of the Ridges Economic Opportunity Development District, located in Mercer County, from 390 contiguous acres to 420 contiguous acres. The bill also requires the Mercer County Commission to comply with requirements relating to holding a public hearing, submitting an application, and obtaining approval from the Department of Economic Development to increase the size of the District.

CODE REFERENCE: West Virginia Code §7-22-9 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 29, 2024

Senate Bill 543

Relating to research and economic development agreements for state institutions of higher education

This bill amends a statute which authorizes state institutions of higher education to contract with non-profit corporations formed by the institutions to promote research at the institutions. The amendment clarifies that the authorization also includes contracting with the corporations to promote and support economic development efforts at the institutions.

This amendment reflects findings by the legislature that economic development projects in the state depend in part on research at state institutions of higher education.

CODE REFERENCE: West Virginia Code §18B-12-3, §18B-12-4, and §18B-12-10 – amended

DATE OF PASSAGE: February 9, 2024

EFFECTIVE DATE: May 9, 2024

ACTION BY GOVERNOR: Signed February 20, 2024

Senate Bill 544

Raising threshold for bid requirement of municipal public works projects

The bill raises the threshold bid requirement for public contracts for labor or materials for municipal public works, including any municipal public utility, for public service districts, and for regional water and wastewater facilities which do not have to be advertised for bids. Current law provides that public contracts that do not exceed \$25,000 do not have to be advertised. The bill increases the threshold bid requirement for public contracts to \$50,000.

CODE REFERENCE: West Virginia Code §8-16-5, §16-13A-7, and §16-13D-4 – amended

DATE OF PASSAGE: February 27, 2024

EFFECTIVE DATE: May 27, 2024

ACTION BY GOVERNOR: Signed March 7, 2024

Senate Bill 690

Establishing WV Agritourism Commission

This bill creates the Agritourism Commission consisting of nine members, the Commissioner of Agriculture, and eight citizen members with agritourism experience representing the sectors of economic development, tourism, agriculture extension service, farm distilleries, vineyards, wineries, small farms, and the farm bureau.

The purpose of the commission is to focus on preserving farmland and growing agritourism and agricultural economic development.

The Governor would appoint the citizen members with the advice and consent of the Senate no later than July 1, 2025. No more than five members may belong to the same political party, the length of appointment would be concurrent with the governor's term of office, and members may be reappointed to additional terms. Members will serve without compensation or will not be reimbursed for expenses.

The commission may meet with similar commissions in other states, recommend legislation to implement the commission's purpose and is required to report annually to the Legislature and Governor regarding all activities, recommendations, and other necessary information.

CODE REFERENCE: West Virginia Code §19-36-6 – new

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 782

Defining deadlines for local permits and extensions for property development or improvement

This bill adds a new article to Chapter 8A in the West Virginia Code, Land Use Planning, to impose deadlines on counties and municipalities acting on applications for a permit or license to develop or improve property.

Specifically, the bill requires a county or municipality to either approve or deny an application for a permit or license within sixty days of receiving the application. If a decision is not issued within the sixty-day period, then the application is approved. If the application is approved, then the governing body may not impose any additional requirements on the application. If the application is denied, the governing body must provide written reasons for the denial. If the application is denied because it is incomplete, then the governing body must provide written reasons for the denial.

Finally, the bill authorizes an extension of up to additional sixty days to act on an application, if the application requires prior approval from a state or federal agency, and extensions are also permitted if an application submits a written request for an extension. Additionally, the bill clarifies that the sixty-day deadline to act on an application does not apply to state agencies.

CODE REFERENCE: West Virginia Code §8A-13-1, §8A-13-2, §8A-13-3, and §8A-13-4 – new

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 874

Relating to WV Division of Multimodal Transportation

This bill amends the West Virginia Division of Multimodal Transportation Facilities (Division) statute which was created in 2022 with the merger of the Public Port Authority (Port Authority), the State Rail Authority, the Division of Public Transit, and the State Aeronautics Commission into the Division. The Port Authority was created in 1989 for the primary purpose of coordinating the movement of products and services into and out of the state. To promote this, the Legislature gave the Port Authority the authority to create local port authority districts. However, when the 2022 merger occurred, the authority to create local authority districts was inadvertently not included in the merger.

This bill corrects that mistake by establishing a process for political subdivisions and joint ventures of political subdivisions, private industry, and bordering states to apply to the Division for authorization to establish a local port authority district and appoint a board of directors (Board) to administer the district.

The legislative findings reiterate the primary purpose for creating local port authority districts is to enhance the efficiency and cost of moving goods and services into and out of markets in the state and to encourage the construction of local infrastructure projects for all types of transportation systems.

Boards will consist of members from each participating political subdivision and each participating private entity and at a minimum from the following areas:

- One member from the congressional district in which the district is located;
- At least two members with recognized ability and practical experience in transportation;
- At least two members with recognized ability and experience in economic development, freight, or logistics;
- At least one member with recognized ability and practical experience in international trade;
- At least one member with recognized ability and practical experience in economics or accounting; and,
- Two members from the public at large.

The bill also authorizes Boards to exercise all powers, excluding eminent domain, necessary and proper to implement the purpose of the local port authority district so long as those powers do not exceed or supersede the powers of the Division and to prepare and submit a plan by October 31 of each year to the Division for future development, construction, and improvement of its services and facilities.

CODE REFERENCE: West Virginia Code §17-16F-1, §17-16F-3, §17-16F-4, and §17-16F-5 – amended; §17-16F-10a, §17-16F-10b, and §17-16F-10c – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4822

Creating the Certified Sites and Development Readiness Program

This bill amends the Department of Economic Development's Certified Sites and Development Readiness Program.

It increases the limit on the annual matching grants available to eligible state and local governments and authorities that apply to the Department of Economic Development for grants to improve selected sites for development.

Current law provides for a maximum limit of \$25,000 for a matching grant. The bill increases the maximum limit to \$75,000.

The grants are provided from the Departments' special revenue fund known as the Certified Sites and Development Readiness Fund.

CODE REFERENCE: West Virginia Code §5B-2-19 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5170

Increasing the size of matching grants for local economic development from \$30,000 to \$50,000

This bill increases the limit on the annual matching grants available for eligible corporations or authorities that participate in the Department of Economic Development's Certified Development Community Program from \$30,000 to \$50,000.

CODE REFERENCE: West Virginia Code §5B-2-14 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 14, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5528

Relating to the renewable energy facilities program

This bill amends two provisions in the renewable energy facilities program.

This is a program which allows regulated utilities to produce a limited amount of solar energy power to attract businesses that might not locate here without a renewable energy-generating facility.

The first amendment increases the incremental steps for the construction of a solar energy facility. Current law provides that a solar energy facility may not have a generating capacity greater than 50 megawatts, but when 85 per cent of that capacity is reached, the regulated utility may then expand the generating capacity in 50 megawatt increments up to a maximum amount of 200 megawatts per utility. The amendment increases the 50 megawatts incremental limit to increments of 100 megawatts. This will allow construction of larger, more cost-effective facilities.

The second amendment deletes the sunset provision. Current law provides that utilities have until December 31, 2025, to apply to the PSC for permission to construct a solar energy generating facility. The bill continues the program indefinitely or until the maximum generation capacity per utility, 200 megawatts, is reached.

Finally, the bill does not change the total maximum amount of megawatts generated from solar energy in the state, which is 400 megawatts.

CODE REFERENCE: West Virginia Code §24-2-1o – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: N/A

ACTION BY GOVERNOR: Vetoed March 26, 2024

Pensions



Senate Bill 439

Authorizing certain 911 personnel to be members of Emergency Medical Services Retirement System under certain circumstances

This bill from the Interim Committee on Pensions and Retirement allows 911 personnel employed by participating public employers throughout the state to transfer their years of service under PERS into the EMSRS, also overseen by the Consolidated Public Retirement Board (CPRB).

Several sessions ago, all new hires were automatically enrolled in EMSRS. This bill allows existing 911 personnel employed by participating employers to move over, as well.

The first amended section is definitional. The definition of “accrued benefit” is amended to account for 911 personnel moving over depending on whether they choose to pay back higher past contributions. The definition for “contributing service” is also amended to state that, under the EMSRS, all contributory service transferred in full from PERS is contributory service here. The definition of “credited service” is amended likewise.

Section 5 is amended to include county firefighters (from a previous bill) and 911 operators under the plan. Language is also added that states that any increased cost to the CPRB owing to this transfer, including necessary modifications to computer systems, personnel costs, etc., shall be borne by the participating public 911 employers in a share proportionate to the number of 911 operators it employs.

Section 6 is amended to include 911 operators under the plan as members.

Section 6c is new and deals with the vote by members to transfer service from PERS to EMSRS. All 911 personnel employed by a participating public employer (county) who currently contributes to PERS is eligible to vote to transfer. Participating public employers do have the option to opt-out until June 28, 2024, and the board must notify them of such. If they do, they can't try to get back in for at least 3 years, and must pay for the transfer at that time.

If, by August 30, 2024, 75% of members eligible to vote affirmatively elect to transfer from PERS to EMSRS, then the board will notify those who did so elect and contributions to EMSRS will begin in October 2024. If 25% or more do not so affirmatively elect to transfer, nothing happens for anybody. The vote is directly to the board with the employers have no knowledge of the members' individual votes. Educational materials will be provided by the board accessible to all members and must be made available by employers to the members eligible to vote.

All costs to the board attributable to this vote shall, again, be borne by the participating employers in a proportionate share to the number of members they employ. This vote is irrevocable and any member transferring service shall be a member of EMSRS and ineligible to participate in other plans. If that member is employed in another plan overseen by the board, they can only participate in one. Other language is added regarding rehires and transfer of prior service.

Section 6d is also new and regards the actual transfer of assets by the board, including the calculations to compute PERS years of service into EMSRS service and repayments that must be made by members.

Section 8 regards member and employer contributions to the plan and is amended to include existing 911 personnel therein.

Section 14a regards rollovers and transfers to purchase service credit or repay withdrawn contributions and likewise is amended to include existing 911 personnel therein.

CODE REFERENCE: West Virginia Code §16-5V-2, §16-5V-5, §16-5V-6, §16-5V-8, and §16-5V-14a – amended; §16-5V-6c and §16-5V-6d – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



Senate Bill 605

Requiring electronic funds transfer of retirement contributions by participating employers

This bill amends provisions of the WV Code relating to payments to the WV Consolidated Public Retirement Board. The bill requires payments of contributions and fees to the board from participating public employers be by electronic funds transfer beginning on July 1, 2024. After that date, any payments made by check will be assessed a surcharge of \$300 per check. The Executive Director would be authorized to waive the surcharge on an emergency basis or for an extenuating circumstance.

CODE REFERENCE: West Virginia Code §5-10D-12 – amended

DATE OF PASSAGE: February 16, 2024

EFFECTIVE DATE: May 16, 2024

ACTION BY GOVERNOR: Signed February 28, 2024

Senate Bill 606

Relating to Natural Resources Police Officers Retirement System

This bill relates to the WV Division of Natural Resources Police Officers Retirement System (NRPORS) and makes the following substantive changes:

- Removes the employer contribution cap now set at 12% of the monthly salary of each member and replaces it with a percentage of the monthly salary of each member as annually reviewed and actuarially set by the Consolidated Public Retirement Board. (Sect 8)
- Substitutes “credited service” to “contributory service” in provisions relating to the refund of accumulated contributions for members who die from non-duty related injuries and do not have enough service to qualify for a death benefit from the plan. (Sect 20)
- Substitutes “the preceding 12-month period” with “the last 12 full months” of contributory service so that the calculation of benefits are calculated using full months of compensation when calculating death benefits from the plan. (Sect 25)
- Provides method of calculating the death benefit for a member who had retired with a disability retirement benefit who dies from a non-duty related disability.

CODE REFERENCE: West Virginia Code §20-18-8, §20-18-20, §20-18-25 and §20-18-26 – amended

DATE OF PASSAGE: February 16, 2024

EFFECTIVE DATE: May 16, 2024

ACTION BY GOVERNOR: Signed February 28, 2024

Senate Bill 607

Clarifying Municipal Police Officers and Firefighters Retirement System surviving spouse benefits

The bill relates to the WV Municipal Police Officers and Firefighters Retirement System (MPOFRS) and makes the following substantive changes:

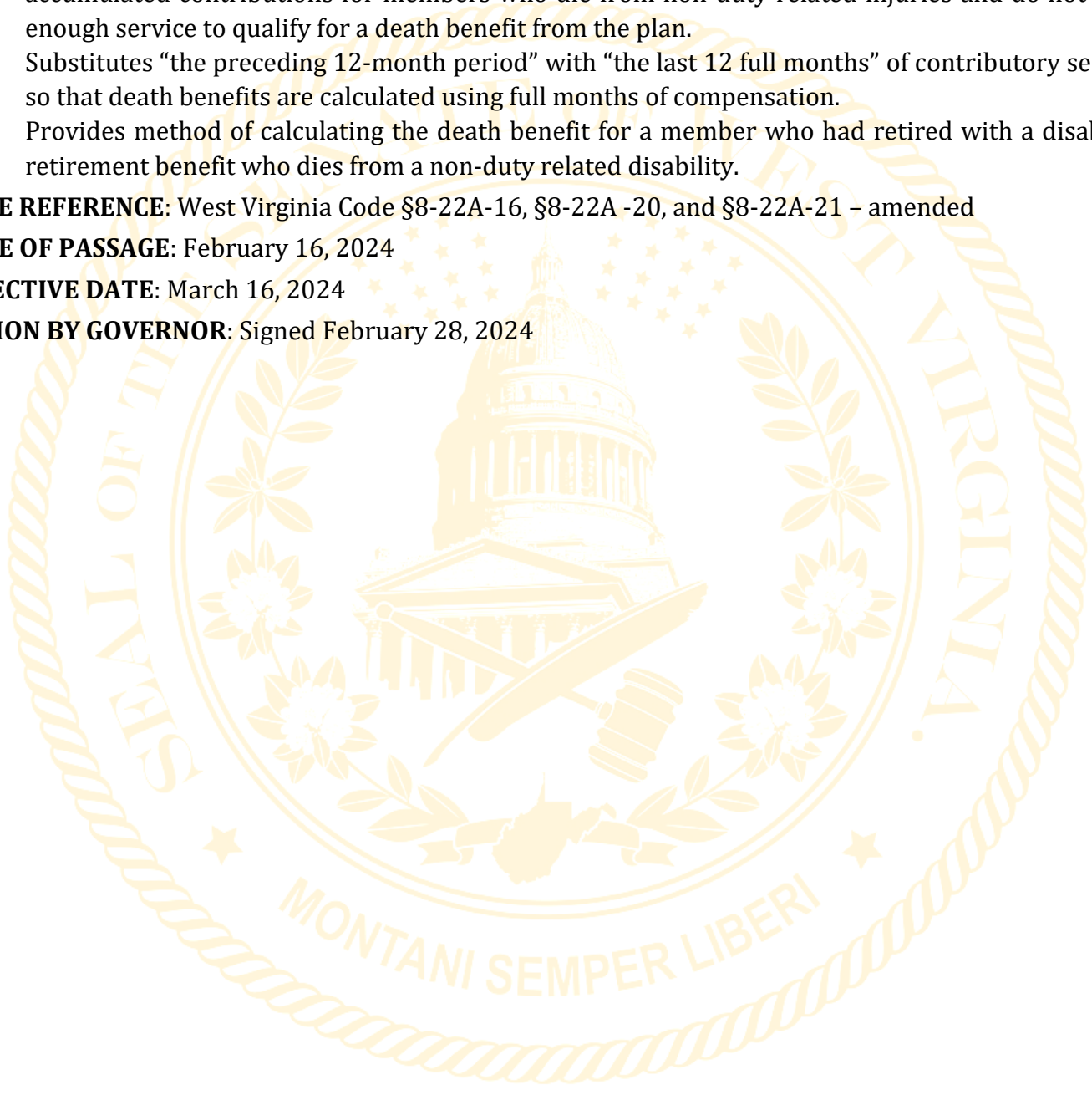
- Substitutes “credited service” to “contributory service” in provisions relating to refund of accumulated contributions for members who die from non-duty related injuries and do not have enough service to qualify for a death benefit from the plan.
- Substitutes “the preceding 12-month period” with “the last 12 full months” of contributory service so that death benefits are calculated using full months of compensation.
- Provides method of calculating the death benefit for a member who had retired with a disability retirement benefit who dies from a non-duty related disability.

CODE REFERENCE: West Virginia Code §8-22A-16, §8-22A -20, and §8-22A-21 – amended

DATE OF PASSAGE: February 16, 2024

EFFECTIVE DATE: March 16, 2024

ACTION BY GOVERNOR: Signed February 28, 2024



House Bill 5267

Relating to the Deputy Sheriff Retirement System

This bill relates to the Deputy Sheriff Retirement System (DSRS) and makes the following substantive changes:

- Substitutes “credited service” to “contributory service” in provisions relating to refund of accumulated contributions for members who die from non-duty related injuries and do not have enough service to qualify for a death benefit from the plan.
- Substitutes “the preceding 12-month period” with “the last 12 full months” of contributory service so that death benefits are calculated using full months of compensation.
- Provides method of calculating the death benefit for a member who had retired with a disability retirement benefit who dies from a non-duty related disability.
- Provides method of calculating the retirement benefit for a member who retired under the early retirement provisions of DSRS and then is reemployed in covered employment and subsequently retires again.

CODE REFERENCE: West Virginia Code §7-14D-13, §7-14D-18, §7-14D-19, and §7-14D-24a – amended

DATE OF PASSAGE: February 19, 2024

EFFECTIVE DATE: May 19, 2024

ACTION BY GOVERNOR: Signed March 6, 2024

House Bill 5273

Relating to the Emergency Medical Services Retirement System and clarifying payment upon death of member with less than 10 years of contributory service

This bill relates to the Emergency Medical Services Retirement System (EMSRS) and makes the following substantive changes:

- Authorizes the refund of accumulated contributions for members who die from non-duty related injuries and do not have enough service to qualify for a death benefit from the plan.
- Substitutes “the preceding 12-month period” with “the last 12 full months” of contributory service so that death benefits are calculated using full months of compensation.
- Provides method of calculating the death benefit for a member who had retired with a disability retirement benefit who dies from a non-duty related disability.
- Provides method of calculating the retirement benefit for a member who retired under the early retirement provisions of EMSRS and then is reemployed in covered employment and subsequently retires again.

CODE REFERENCE: West Virginia Code §16-5V-18, §16-5V-23, §16-5V-24, and §16-5V-35 – amended

DATE OF PASSAGE: February 19, 2024

EFFECTIVE DATE: May 19, 2024

ACTION BY GOVERNOR: Signed March 6, 2024

Banking and Insurance



Senate Bill 613

WV Residential Mortgage Lender, Broker and Servicer Act

This is an agency bill from the Division of Financial Institutions (DFI). The bill amends and updates code applicable to residential mortgage lenders, brokers, and servicers. It contains several technical corrections. The bill removes an unused definition (“affiliated”). It adds definitions for “control,” “key individual,” and “tangible net worth” [same definitions as in W.Va. Code § 32A-2-1 as they relate to money transmission, transportation, and exchange services]. It clarifies the net worth requirement for license applicants. It updates language with reference to the Nationwide Multistate Licensing System and Registry.

The bill creates two new sections. New §31-17-4a specifies the information that is required of individuals due to a change of control. Those requirements are the same as for money transmission, transportation, and exchange services pursuant to W.Va. Code § 32A-2-8a. It requires individuals in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual to furnish certain information to the commissioner, including fingerprints and other information related to any wrongdoing. When an application is filed and considered complete, the commissioner would be required to investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The bill provides time periods for the review and approval or denial of applications. It allows the commissioner to accept the investigation results of another lead investigative state as part of the multistate licensing process. It allows a person to request a determination from the commissioner as to whether the person is subject to the requirements of this section before filing an application.

New §31-17-9a permits employees of a West Virginia mortgage broker, lender, or servicer licensee to perform work for the licensee at their residence provided that various requirements are met. Such work would be subject to periodic review, annual certification, and proof upon request by the Division of Financial Institutions. [Based on W.Va. Code § 46A-4-114 concerning regulated consumer lenders].

The bill authorizes the commissioner to cooperate with federal and state agencies in discharging the commissioner's responsibilities. It sets forth that information may be exchanged among government officials and the type of information that is confidential as it relates to reports of investigation and examination, including financial information [based on W.Va. Code § 32A-2- 24]. The bill allows emergency rules to implement the amendments made by the bill as they relate to the licensure and regulation of mortgage brokers, lenders, and loan originators [to avoid conflicts with 106 C.S.R. 5, Rule Pertaining To Residential Mortgage Lenders, Brokers And Loan Originators].

CODE REFERENCE: West Virginia Code §31-17-1, §31-17-3, §31-17-4, §31-17-6, §31-17-7, and §31-17-11 – amended; §31-17-4a and §31-17A-9a – new

DATE OF PASSAGE: March 5, 2024

EFFECTIVE DATE: June 3, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 826

Creating exemption from bond or security requirement of banking institutions holding certain funds for county commissions

This bill amends one section of code in chapter 7 on county commissions, in article 6 on county depositories, that sets forth security requirements for deposits of county commissions in banking institutions for funds in excess of that insured by the Federal Deposit Insurance Corporation (FDIC). The code currently requires banking institutions to execute bond, or obtain certain security in lieu of bond, to secure such excess funds. The code also currently provides an alternative method for securing deposits of county commissions that are in excess of that insured by the FDIC—certificates of deposit meeting certain requirements.

This bill adds another alternative method for securing deposits in excess of that insured by the FDIC: A banking institution would not be required to provide a bond or security in lieu of bond for deposits with any duly designated state depository that is selected and authorized by the county commission to arrange for the redeposit of the funds through a deposit placement program that meets certain conditions:

- On or after the date that the county commission funds are received, the selected depository:
 - Arranges for the redeposit of the funds into deposit accounts in one or more federally insured banks or savings and loan associations that are located in the United States; and,
 - Serves as custodian for the county commission with respect to the funds deposited into such accounts;
- County Commission funds so deposited and held at the close of business in the selected depository in excess of the amount insured by the Federal Deposit Insurance Corporation are secured through bonds or letters of credit;
- The full amount of the funds of the county commission redeposited by the selected depository into deposit accounts in banks or savings and loan associations, plus accrued interest, if any, are insured by the Federal Deposit Insurance Corporation; and,
- On the same date that the funds of the county commission are redeposited, the selected depository receives an amount of deposits from customers of other financial institutions through the direct placement program that are equal to the amount of the county commission's funds redeposited by the selected depository.

CODE REFERENCE: West Virginia Code §7-6-2 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 4786

Delivery Network Company (DNC) Insurance Model Act

This bill creates a new article, the “Delivery Network Company Insurance Act,” which applies to delivery network companies like Uber Eats, Grubhub, and DoorDash. It defines terms. For purposes of the act, a network delivery driver is an independent contract of the delivery network company unless otherwise agreed in writing. The bill requires delivery drivers be covered under motor vehicle liability insurance during the period they are driving for purposes of making a delivery. The coverage must be in an amount not less than \$50,000 for damages arising from bodily injury sustained by one individual in an accident, not less than \$100,000 for damages arising out of bodily injury sustained by all persons injured in an accident, and of not less than \$25,000 for property damage in an accident.

The bill requires that if the insurance coverage maintained by a delivery network driver has lapsed or does not provide the required coverage, insurance maintained by the delivery network company must provide coverage. Also, if a dispute arises as to whether an accident occurred during a delivery period, and the delivery network company cannot provide information it was required to provide, then the delivery network company’s insurer is required to provide primary liability coverage for the claim.

It requires delivery drivers to carry proof of insurance. The driver is required, upon request, to disclose to the directly interested parties, motor vehicle insurers, and investigating law enforcement officers whether the driver was operating during a delivery period at the time of the accident. Similarly, in a claims coverage investigation, a delivery network company or its insurer are required to cooperate with all other insurers.

Delivery network companies are required to disclose insurance information to their drivers. The bill preserves an insurer’s abilities, such as to exclude coverage and to seek recovery from another insurer. Finally, the bill provides a July 1, 2025, effective date for the new article.

CODE REFERENCE: West Virginia Code §33-63-1 through §33-63-6 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4801

Relating generally to the banking authority of the State Treasurer's Office

The bill relates generally to the banking authority of the State Treasurer's Office. The bill clarifies that contract clauses or conditions, which require the State Treasurer to agree to or abide by a contract clause or condition prohibited in W.Va. Code §5A-3-62, are void. [W.Va. Code §5A-3-62 is a section in an article covering the Purchasing Division and currently provides that certain terms or conditions in any contract entered into by the state are void. Terms that are void include, but are not limited to, terms requiring the state to indemnify and hold harmless another entity or to agree to binding arbitration. W.Va. Code §5A-3-62 was enacted in 2021 (SB587) to streamline contracting and eliminate the need to edit vendor forms and boilerplate contracts].

The bill duplicates language from W.Va. Code §5A-3-62 and provides that all contracts entered into by the State Treasurer, except for contracts with another government, shall be governed by West Virginia law notwithstanding any term or condition to the contrary.

The bill also allows a delay of the implementation of the West Virginia Security for Public Deposits Program. Instead of requiring that the program be operable by March 1, 2024, it allows the State Treasurer to announce the commencement date by publishing a notice in the State Register at least 30 days prior to commencement of the program.

The bill relieves the State Treasurer from the mandatory duty to propose rules for legislative approval on the “dedicated method,” a means of securing state funds on deposit in any depository in excess of the amount insured by an agency of the federal government, and on the Public Deposits Program. Instead, it makes such rulemaking discretionary, allowing more time for rulemaking.

CODE REFERENCE: West Virginia Code §12-1-5, §12-1B-5, and §12-1B-7 – amended; §12-1-1b – new

DATE OF PASSAGE: February 8, 2024

EFFECTIVE DATE: May 8, 2024

ACTION BY GOVERNOR: Signed February 23, 2024

House Bill 4809

Health Care Sharing Ministries Freedom to Share Act

The bill completed legislative action on February 26, 2024, and has a regular effective date, which means it is effective 90 days from passage. B&I handled and reported the companion bill, SB 375, Health Care Sharing Ministries Freedom to Share Act.

House Bill 4809 creates the “Health Care Sharing Ministries Freedom to Share Act”. The bill exempts health care sharing ministries from West Virginia’s insurance laws. It is based on a model made available by the Alliance of Health Care Sharing Ministries [<https://alec.org/model-policy/health-care-sharing-ministries-freedom-to-share-act/> or <http://ahcsm.org/>].

The bill defines “health care sharing ministry” as a not for profit organization that meets certain criteria. Ministries act as a facilitator among members who have financial or medical needs through member contributions. There is no assumption of risk or promise to pay among the members or by the health care sharing ministry. Members share a common set of ethical or religious beliefs. Ministries provide to members the total dollar amount of qualified needs actually shared in the previous month, and they have an annual audit requirement.

Health care sharing ministries are required to provide written disclaimers on or accompanying all applications and guideline materials that provide notice that the organization facilitating the sharing of medical expenses is not an insurance company, and neither its guidelines nor plan of operation is an insurance policy, that assistance is totally voluntary because no other member will be compelled by law to contribute, and that members are always personally responsible for the payment of their own medical bills. The bill also directs members to the Attorney General for complaints.

The bill provides that if a public institution of higher education in this state requires a student to purchase health care insurance, the institution must allow the student to satisfy this requirement through membership in a health care sharing ministry. It also provides that a health care sharing ministry may not be considered a third-party payer under West Virginia law.

CODE REFERENCE: West Virginia Code §35-1B-1 through §35-1B-6 – new

DATE OF PASSAGE: February 26, 2024

EFFECTIVE DATE: May 26, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4837

Clarifying the duty of banks to retain and procure records

The bill amends two sections of code, one related to recordkeeping requirements of banks, and the other related to the statute of limitations in the Uniform Commercial Code (UCC) as it relates to negotiable instruments. The bill protects banks from liability and synchronizes the time frames for 1) bank record retention length, 2) the time frame in the Unclaimed Property Act for when financial instruments are deemed abandoned, and 3) the statute of limitations to enforce an obligation to pay on a negotiable instrument, including notes, certificates of deposit, and drafts. The bill eliminates the liability of banks due to the destruction of records that were destroyed after the statutory period for keeping such records (5 years from the last entry, last deposit, or trust termination).

As to the statute of limitations in the UCC, it provides that an action to enforce the obligation of a party to pay a note payable must be commenced within five years (not six years). As such, the bill shortens that statute of limitation by one year. The bill also creates the assumption that an action to enforce the obligation of a demand, savings, or time deposit, including a deposit that is automatically renewable, that is brought more than 10 years after the initial date of the maturity, must be presumed to have been paid and redeemed absent evidence of either 1) Owner consent in a record on file with the holder to renewal; or 2) Escheatment to the state pursuant to the Unclaimed Property Act.

The bill shortens the statute of limitations on actions to enforce the obligation of a party to pay a note, a certificate of deposit to pay the instrument, and an accepted draft from six to five years. The bill adds that an action to enforce a note is barred if the bank was no longer statutorily required to retain records and actually no longer has such records; or if the note or certificate of deposit has, in accordance with the Unclaimed Property Act, been presumed abandoned, reported to the State Treasurer, and paid, delivered, or caused to be paid or delivered to the State Treasurer.

The bill also provides that no action to enforce the obligation of a party to a certificate of deposit to pay may be maintained against a bank if the bank has destroyed or otherwise disposed of all records relating to the certificate of deposit in compliance with W.Va. Code §31A-4-35 (stating that records must be retained for at least five years).

CODE REFERENCE: West Virginia Code §7-6-2 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5057

To raise the threshold for nominal referral fees from \$25 to \$100

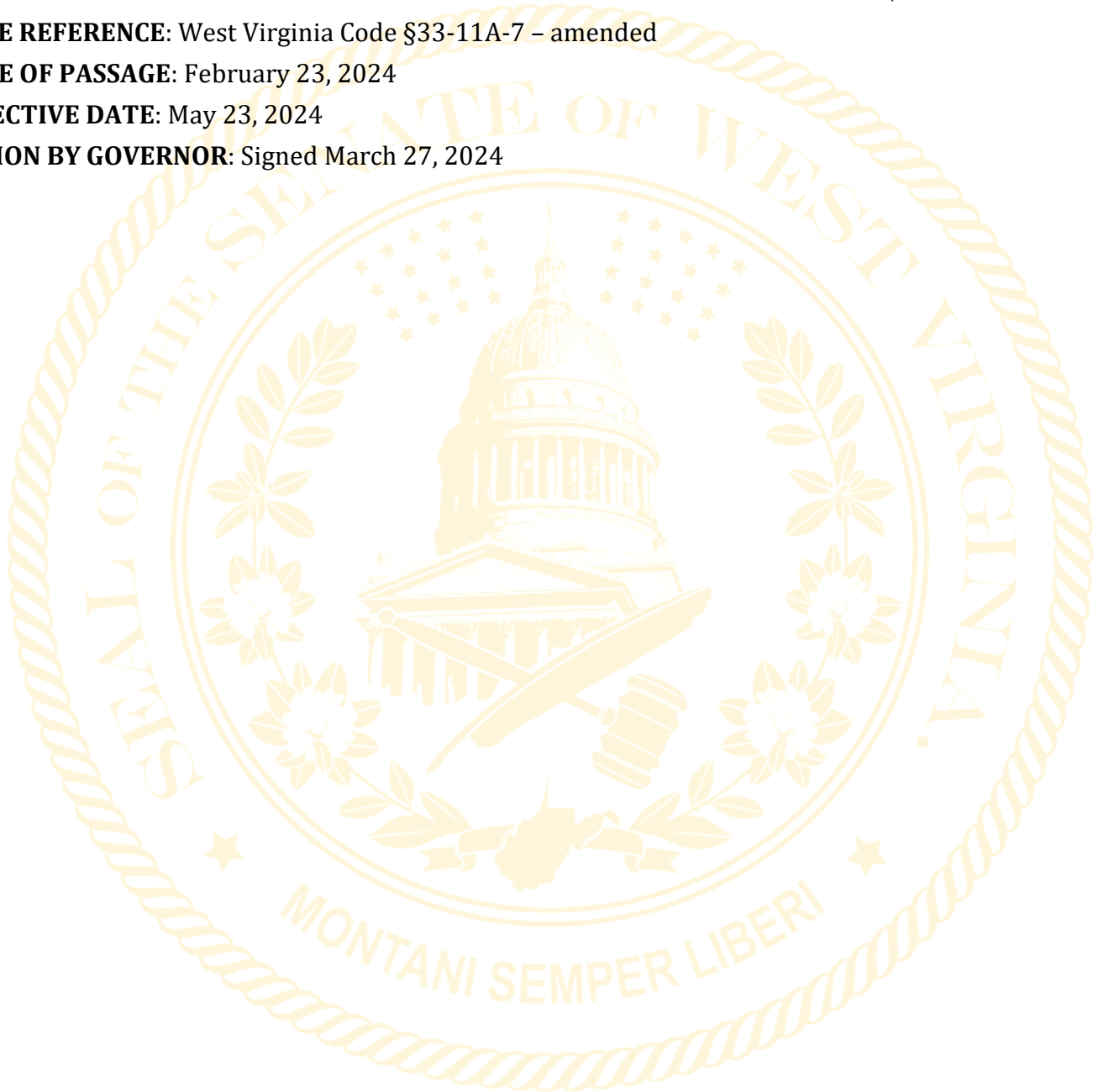
The bill amends one section in insurance code in the “Insurance Sales Consumer Protection Act”. The section permits referrals by unlicensed persons, provided that the person receives no fee or only a nominal fee for such referral. Under current law, “nominal fee” means \$25 or less, per 114 C.S.R. 70.4.1. The bill adds a definition for "nominal fee." "Nominal fee" would be defined as a one-time fee of \$100 or less.

CODE REFERENCE: West Virginia Code §33-11A-7 – amended

DATE OF PASSAGE: February 23, 2024

EFFECTIVE DATE: May 23, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



Transportation & Infrastructure



Senate Bill 429

WV Farm Use Vehicle Tag Placement Act

This bill amends one section in motor vehicle code that makes every vehicle driven upon a highway subject to registration and certificate of title provisions in chapter 17A of the West Virginia Code. The section exempts implements of husbandry and requires such implements that are exempted to display the words “farm use.” The bill modifies the farm use vehicle tag placement and letter size. The bill allows the words “farm use” to be displayed on both the front and back of the implement (instead of on both sides). The bill also allows the letters to be larger than 10 inches. Instead of on both sides, the bill allow words to be displayed on the front and back on license plates. The minimum size of the letters is reduced to 2-inch letters if “farm use” is displayed on such plates.

CODE REFERENCE: West Virginia Code §17A-3-2 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 583

Relating to employer liability and damages in civil actions involving commercial motor vehicles.

The bill limits liability for certain employers due to operation of commercial motor vehicles. The bill defines “commercial motor vehicle,” “defendant employer,” and “operation.” The bill provides that in any civil action for personal injury or wrongful death involving the operation of a commercial motor vehicle requiring a commercial driver’s license, the maximum amount recoverable by each person injured or killed against the employer defendant of a commercial motor vehicle as compensatory damages for noneconomic loss may not exceed \$5 million for each occurrence, regardless of the number of claims or theories of liability. As such, that cap is per plaintiff and per occurrence on personal injury and wrongful death claims.

For an employer defendant to take advantage of the cap, it must have liability insurance in the amount of at least \$3 million dollars in the aggregate. The cap would also not apply in certain circumstances when the operator of the commercial motor vehicle 1) is found to have been under the influence of drugs or alcohol at the time of the incident; 2) refused to submit to a breathalyzer exam per West Virginia law following the incident; 3) was driving in excess of the hours permitted under state or federal law; 4) was driving in willful or wanton disregard for the safety of persons or property; 5) was operating an overloaded vehicle not under special permit; or, 6) engaged in distracted driving as set forth in our code, such as by holding a cell phone, texting, or watching video other than navigation. The \$5 million cap is subject to an inflation adjustment. The law is effective on July 1, 2024, and only applies to claims arising after that date.

CODE REFERENCE: West Virginia Code §55-7-32 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: July 1, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 834

Increasing number of members for Motor Vehicle Dealers Advisory Board

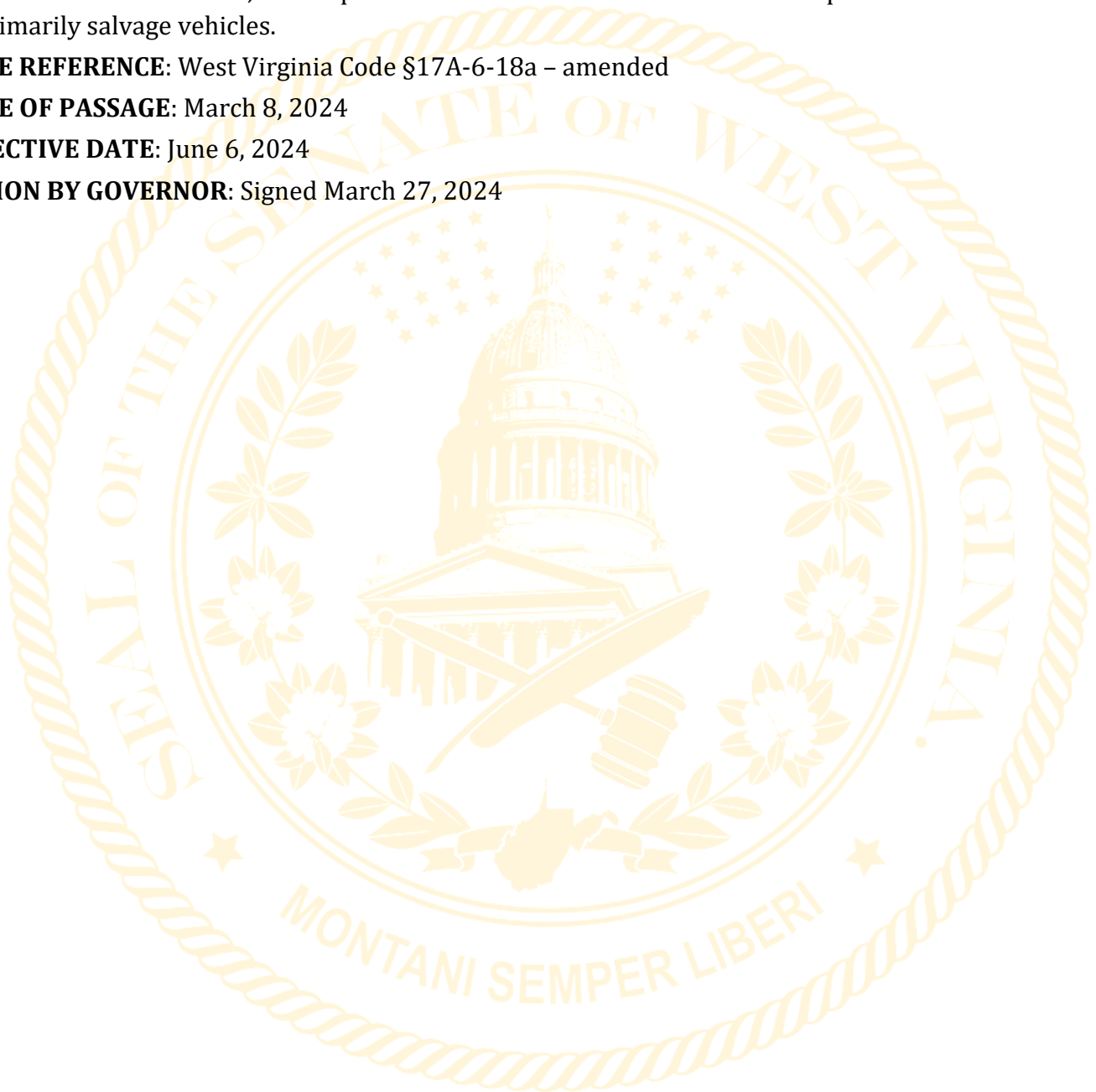
This is a Division of Motor Vehicles agency bill that increases the number of members on the Motor Vehicle Dealers Advisory Board by one member, from nine to 10. Currently, one member on the board represents automobile auction companies. The bill increases the representation of automobile auction companies to two member, and it specifies that one of these members must represent automobile auctions of primarily salvage vehicles.

CODE REFERENCE: West Virginia Code §17A-6-18a – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024



House Bill 5019

Relating to surrender and return of license not required for disqualifying or downgrading a driver's license

This is a Division of Motor Vehicles (DMV) agency bill that amends one section of code, which covers the surrender and return of drivers' licenses. The section currently provides that the DMV may not require that a license be surrendered to the DMV if it is suspended or revoked. The bill adds that surrender is not required if a license is disqualified or downgraded.

CODE REFERENCE: West Virginia Code §17B-3-9 – amended

DATE OF PASSAGE: February 15, 2024

EFFECTIVE DATE: May 15, 2024

ACTION BY GOVERNOR: Signed February 29, 2024

House Bill 5178

Requiring car dealerships in this state to utilize a search engine to determine if buyers of vehicles have valid motor vehicle insurance

This House bill provides that the Division of Motor Vehicle's online electronic insurance verification system may be accessed by new and used motor vehicle dealerships in this state to verify if a prospective purchaser has valid motor vehicle insurance.

CODE REFERENCE: West Virginia Code §17D-2A-6a – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

House Bill 5238

Mandating that all courts provide adjudication for juvenile offenders for traffic violations to the Division of Motor Vehicles

This Division of Motor Vehicles agency bill amends one section of code covering motor vehicle drivers' license, in the section of graduated driver's licenses, including instruction permits, by adding one subsection. The new subsection requires that all adjudications of delinquency or convictions in a juvenile proceeding which involve a traffic offense, a violation of any provision of the graduated driver's license program, or an order in furtherance of §49-4-713 (juvenile alcohol consumption) or §49-4-715 (authority of court to impose additional penalties on juveniles) must be forwarded to the Commissioner of the Division of Motor Vehicles, notwithstanding §49-5-101 (confidentiality of juvenile records).

CODE REFERENCE: West Virginia Code §17B-2-3a – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5317

Making it permissive for commercial motor vehicles registered in this state to pass an annual inspection of all safety equipment to be consistent with the federal motor carrier safety regulations

This bill provides that commercial motor vehicles which are subject to the federal motor carrier safety administration rules and regulations should be inspected at least once annually to meet the requirements of federal motor carrier safety regulations. It defines “commercial motor vehicle” similar to how the term is defined in 49 U.S.C. § 31132.

The bill states that if requested by the owner of the vehicle, the superintendent shall cause to be inspected on an annual basis any commercial motor vehicle which is subject to the federal motor carrier safety administration rules and regulations. If the commercial motor vehicle passes the inspection, the superintendent shall cause a certificate of inspection to be issued for that vehicle, with a validity period of one year. The inspection sticker charge is set at \$3 per sticker for deposit in the State Treasury and credited to the account of the State Police for application in the administration and enforcement of the vehicle inspection program and for the purchase of vehicles, equipment for vehicles, and maintenance of vehicles. For annual inspections of commercial motor vehicles, the total charge, including the cost of the sticker, may not exceed \$14.

CODE REFERENCE: West Virginia Code §17C-16-4 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: March 9, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5549

Relating to allowing license plates to be obtained from alternative sources when the Division of Corrections and Rehabilitation is unable to produce them

This bill is a Division of Motor Vehicles (DMV) agency bill. It amends one section in the chapter on Homeland Security, in an article entitled “Corrections Management.” The section provides that the Commissioner of the Division of Corrections and Rehabilitation (Corrections) may operate a plant to manufacture vehicle license plates and road signs. The section currently prohibits any state official or employee to manufacture or obtain license plates, road signs, or markers other than from Corrections, and the bill strikes this prohibition.

The bill still requires the DMV to obtain their license plates from Corrections, but it permits the DMV to secure license plates from alternative sources when necessary to maintain a reasonable supply when the division is unable to produce an adequate supply based on a shortage of resources, labor, or other circumstance beyond the control of the division. The bill also makes it optional for the Division of Highways to obtain road signs and markers from Corrections.

CODE REFERENCE: West Virginia Code §15A-4-15 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5583

Permitting the Commissioner of the Division of Highways to issue a special permit to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified

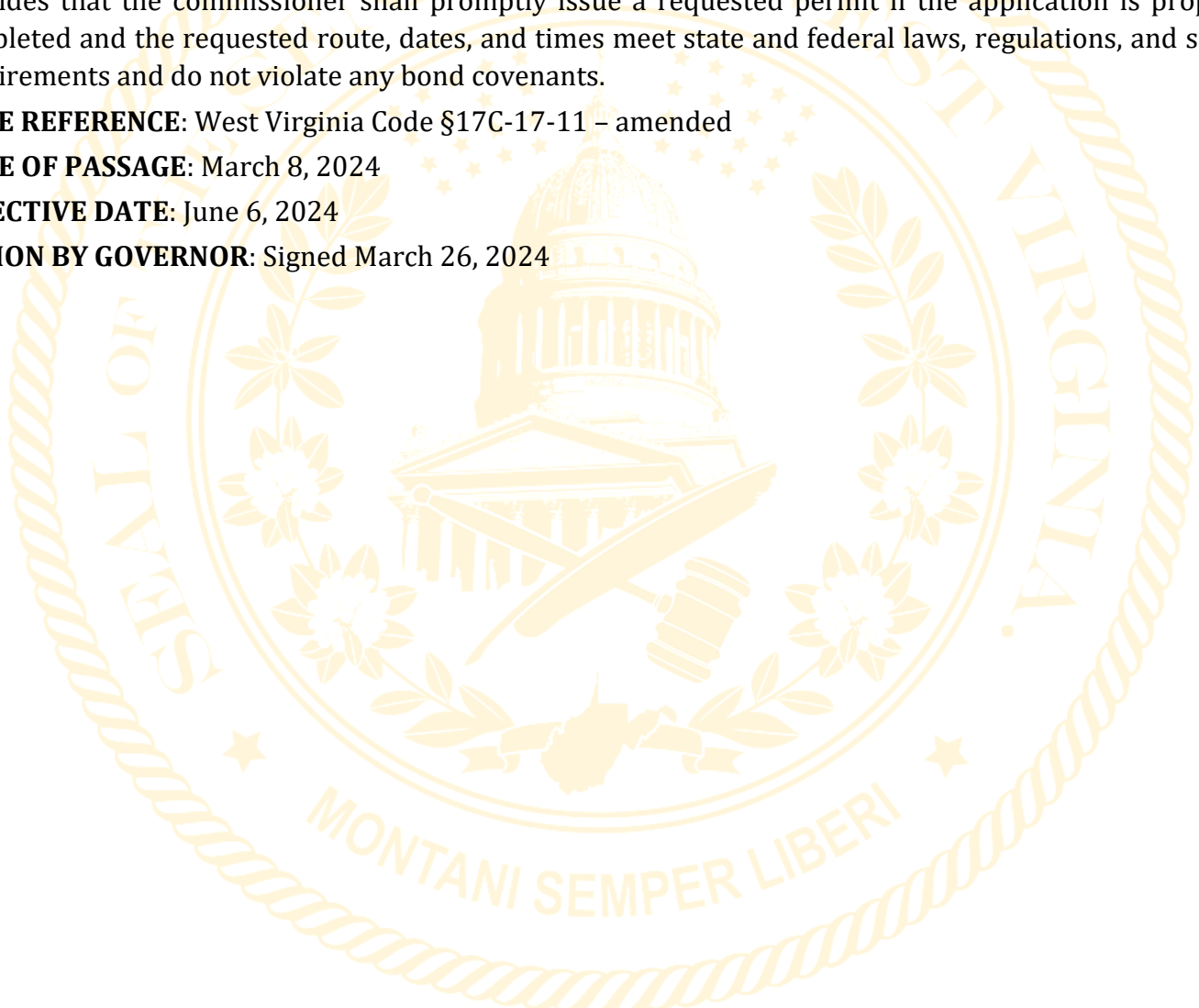
The bill amends one section in traffic code on permits for excess size and weight. It adds that the Commissioner of Highways may issue a special permit to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified in state law over routes designated by the Commissioner of Highways at night, and during holidays, holiday weekends, Saturdays, and Sundays. The special permit applies to all interstate highways, United States highways with four or more travel lanes, and divided highways within the state with four or more travel lanes. The bill provides that the commissioner shall promptly issue a requested permit if the application is properly completed and the requested route, dates, and times meet state and federal laws, regulations, and safety requirements and do not violate any bond covenants.

CODE REFERENCE: West Virginia Code §17C-17-11 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024



Miscellaneous



Senate Bill 142

Clarifying deadline to file annual report for companies authorized to do business in WV

SB 142 change the deadlines for a business entity's filings with the Secretary of State from July 1 to June 30. The bill authorizes the Secretary of State to waive new business registration fees at up to three entrepreneurship events or conferences within the state of West Virginia. The bill also adds invalid account number as a ground for issuance of a "bad check fee." Non-governmental entities wishing to make an annual report filing with the Secretary of State on behalf of a WV business entity in a solicitation would also be required to display in the heading on the front and back of each page of the solicitation that the product or service, as well as the offer, have not been approved or endorsed (nor is it being made), by any government agency; where the solicitation is mailed, the envelope, cover or wrapper must clearly indicate that the solicitation is not a government document; and on each fee schedule page, there should be a disclosure that the annual report filings may be filed with the Secretary of State for the statutory \$25 fee. These disclosures come with font and display requirements. The bill also creates a misdemeanor criminal penalty for a violation of these requirements of up to a \$1,000 per noncompliant solicitation or up to one year confinement, or both. An additional civil penalty allows a harmed individual to collect up to three times the solicited amount and, at the court's discretion, attorneys' fees and costs.

CODE REFERENCE: West Virginia Code §59-1-2 A – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 146

Creating adult education taskforce

This act requires the State Superintendent to establish within the Department of Education a taskforce to consider options for direct funding of adult education centers. The taskforce is to include at a minimum the State Superintendent, or a designee, the head of adult education learning centers, and geographically diverse representatives from the community, including but not limited to, representation from business and the community college system, appointed by the State Superintendent, in consultation with the Chancellor for Community and Technical College Education.

The act requires the State Superintendent the number of members of the taskforce and eligibility to serve. The meetings of the taskforce shall be open to the public and follow the Open Governmental Meetings Act.

The act also requires that the taskforce be created and begin its meetings on or before July 1, 2024, and to submit a report of recommendations to the Legislative Oversight Commission on Education Accountability by December 1, 2024. The act sunsets on December 31, 2025.

CODE REFERENCE: West Virginia Code §18-5-19e – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 147

Adding definition of “ammunition” for purposes of obtaining state license to carry concealed deadly weapon

The bill clarifies that ammunition designed for training including marking rounds and simulated ammunition may be used in the required training course and removed the requirement that an applicant for a concealed deadly weapon license or a provisional concealed deadly weapon license must provide a Social Security number.

CODE REFERENCE: West Virginia Code §61-7-4 and §61-7-4 a – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 148

Establishing auto-renewal program for wildlife licenses

This bill amends one section of code to authorize the Director of the Division of Natural Resources to create a program which would allow purchasers of hunting and fishing licenses, stamps, and permits to have each license, stamp, or permit automatically renewed on the renewal date. The bill provides that a license renewed through this program will not be assessed an electronic license-renewal fee. The bill also authorizes the Director to offer a discount on fees for persons enrolling in the auto-renewal program and to propose rules (permissive) for legislative approval to implement the program.

CODE REFERENCE: West Virginia Code §20-2-33 – amended

DATE OF PASSAGE: March 6, 2024

EFFECTIVE DATE: June 4, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 149

Relating to municipalities required to be represented on county authority boards

SB 149 allows county commissions to exercise a greater degree of discretion when appointing members to county development authority boards. The bill does so by removing the requirements that county commissions appoint representatives of certain municipalities. The bills also removes language that requires county commissions to appoint members with backgrounds in business, industry, or labor.

CODE REFERENCE: West Virginia Code §7-12-3 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 159

Prohibiting persons convicted of certain crimes against minors from holding positions on boards of education

This bill prohibits persons who have been convicted of certain crimes against minors from holding positions on boards of education and requires candidates for the county board of education to include a statement on the certificate of announcement that he or she swears and affirms they have not been convicted of certain crimes against minors.

CODE REFERENCE: West Virginia Code §3-5-7, §18-2-1, and §18-5-1A – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 164

Relating generally to trespassing

The bill clarifies protected activities relating to trespass on property other than a structure or conveyance; makes double damages applicable to all violations of the article including cleanup costs; authorizes courts presiding in cases for misdemeanor violations of the article to defer entry of judgment and dismiss the charges if payment of ordered damages is made within six months after conviction; and creates criminal penalties.

CODE REFERENCE: West Virginia Code §61-3B-2, §61-3B-3, §61-3B-6, §61-3B-7 – amended; §61-3B-8 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 166

Updating contested elections procedures

The bill changes the initial forum to circuit court with a right to appeal directly to the Supreme Court of Appeals, provides that when an election contest involves a challenge to the counting of certain votes, the recount procedure set forth in §3-6-9 shall be completed before the contest is filed, and for contests around a candidate's eligibility, the legality of the election, or alleging fraud, the recount procedures are not a prerequisite to the challenge.

CODE REFERENCE: West Virginia Code §3-7-3, §3-7-6, and §3-7-7 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: January 1, 2025

ACTION BY GOVERNOR: Signed March 26, 2024

Senate Bill 170

Workers' Comp Rebuttable Presumption for Firefighters

The bill provides that a rebuttable presumption exists in a Workers' Compensation case for a professional firefighter who has developed bladder cancer, mesothelioma, or testicular cancer arising out of, and in the course of, employment as a firefighter has received an injury or contracted a disease arising out of, and in the course of, his or her employment if certain conditions are met.

One of those conditions is that the firefighter "has not used tobacco products for at least 10 years." That condition is modified as follows: the firefighter "has not used tobacco products more than six times in a calendar year for at least 10 years." The bill also adds language that provides that "[t]he amendments made to this section during the regular session of the Legislature, 2024, to include bladder cancer, mesothelioma or testicular cancer arising out of, and in the course of, employment as a firefighter as a rebuttable presumption expire on July 1, 2027, unless extended by the Legislature."

Note: Current law, as shown in the bill at §23-4-1(h), already provides that a rebuttable presumption exists in a Workers' Compensation case for a professional firefighter who has developed leukemia, lymphoma, or multiple myeloma, arising out of, and in the course of, employment as a firefighter has received an injury or contracted a disease arising out of, and in the course of, his or her employment if those conditions are met.

CODE REFERENCE: West Virginia Code §23-4-1 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: March 8, 2024

ACTION BY GOVERNOR: Signed by March 26, 2024

Senate Bill 171

Prohibiting county commissions from adopting authorization that exceeds state law regarding agriculture operations

This bill amends two sections in the code relating to county commissions. It would prohibit county commissions from adopting any ordinance, rule, license, or other requirement that contravenes any state law or rule governing agricultural operations and it would revoke any previously adopted ordinance, rule, license, or authorization that contravenes state law relating to agricultural operations. The bill refers to §19-19-2 for the definition of an agricultural operation, which includes any facility used to produce food, land used for cultivating soil, raising animals or livestock, and all farming practices. The bill also prohibits county commissions from adopting ordinances that prohibit the purchase or restrict the use of any federal or state registered pesticide, herbicide, or insecticide. It also clarifies that county commissions may not adopt ordinances regulating dwellings or buildings on agricultural operations or lands as defined in §19-19-2 and it requires one of the two at-large members on a county commission enforcement agency to have a background in or knowledge of agricultural operations.

CODE REFERENCE: West Virginia Code §7-1-3, §7-1-3ff – amended

DATE OF PASSAGE: February 13, 2024

EFFECTIVE DATE: May 13, 2024

ACTION BY GOVERNOR: Signed February 23, 2024

Senate Bill 172

Revising requirements of local school improvement councils

This act changes the membership of Local School Improvement Councils (LSIC) by allowing one of the two service persons to be a bus driver rather than requiring one to be a bus driver; and simplifying the method of electing the three parent/guardian/custodian members by simply requiring in all cases that those members be elected by the parents, guardians, and custodians of students enrolled in the school.

It requires minutes to be taken at every LSIC meeting and made available on the school's website and upon request. The act requires that a report of concerns, suggestions, and points raised during the LSIC's annual meeting regarding the school's academic performance be produced and made available on the school's website and forwarded to both the county board and the Department of Education's (DOE) Office of Accountability and posted on the county board's website.

It requires that the role and governance of LSICs be covered at least once a year in training provided to principals, county boards, and others the state board determines appropriate, upon employment and every three years thereafter. It requires a document to be produced explaining to parents and community leaders their role in LSICs; requires the document to be made available on the DOE's website; and allows the document to be distributed to parents. The act allows a public charter school, at its discretion to abide by all or some of the LSIC requirements and may modify any of the requirements it elects to follow to adapt them to be consistent with the operations of the school.

CODE REFERENCE: West Virginia Code §18-5A-2 – amended

DATE OF PASSAGE: February 26, 2024

EFFECTIVE DATE: May 26, 2024

ACTION BY GOVERNOR: Signed March 7, 2024

Senate Bill 173

Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers

The purpose of this bill is to modify several sections in Article 6A of Chapter 17A, which deals with the relationship between auto manufacturers and new vehicle dealers.

This bill:

- Clarifies a manufacturer's obligations for warranty and recall reimbursement to a new motor vehicle dealer;
- Restricts manufacturer and distributor right of first refusal;
- Identifies and clarifies unlawful and prohibited practices;
- Clarifies statutory authority of dealer data systems vendor agreements.

CODE REFERENCE: West Virginia Code §17A-6A-3, §17A-6A-8A, §17A-6A-10, and §17A-6A-18 – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 13, 2024

Senate Bill 222

Exempting WV veterans from certain fees and charges at state parks

This bill would require the Director of the Division of Natural Resources to develop a program to encourage the use of state parks and forests by resident veterans who have been honorably discharged or under honorable conditions.

CODE REFERENCE: West Virginia Code §20-5-23 – new

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 261

Exempting WV veterans from certain fees and charges at state parks

This bill would create “The West Virginia Veterans’ Home Loan Mortgage Program of 2024.” The new program would be administered by the WV Housing Development Fund (WVHDF) for eligible veterans who are first-time home buyers. WVHDF would be authorized to purchase mortgage loans from participating financial institutions or through direct origination.

The program is limited to an eligible veteran who is establishing his or her residence in WV and purchasing a home in this state for the first time.

CODE REFERENCE: West Virginia Code §36-8-13 – amended; §31-8F-1 through §31-8F-6 – new

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 600

Revising criteria for receiving reenlistment or retention bonus

This bill would revise the criteria to receive a reenlistment or retention bonus for the West Virginia National Guard. The bill allows the Adjutant General to determine eligibility for bonuses based on satisfactorily service and military training and expertise deemed satisfactory and important by the Adjutant General.

CODE REFERENCE: West Virginia Code §15-1B-25 – amended

DATE OF PASSAGE: February 26, 2024

EFFECTIVE DATE: May 26, 2024

ACTION BY GOVERNOR: Signed March 7, 2024

Senate Bill 681

Revising service obligation for certain doctoral medical degree programs

This bill would revise the mandatory service obligation for the National Guard Doctor of Medicine or Doctor of Osteopathic Medicine degree program from a minimum of 10 years as a practice obligation to a mandatory service obligation as prescribed by the Adjutant General.

CODE REFERENCE: West Virginia Code §15-1B-21 – amended

DATE OF PASSAGE: March 9, 2024

EFFECTIVE DATE: June 7, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 752

Changing reference to Curator of Department of Arts, Culture, and History to Cabinet Secretary

This bill authorizes the Commissioner of Agriculture to complete the transfer of approximately 250 acres of land, known as the Huntington State Hospital institutional farm, located in Barboursville, WV, to the Village of Barboursville. It also authorizes the Commissioner to transfer all lots owned by the Department of Agriculture in the City of Ellenboro, WV, to the city.

These transfers of title will be without consideration for the purpose of providing public services.

CODE REFERENCE: West Virginia Code §19-1-4 – amended

DATE OF PASSAGE: February 29, 2024

EFFECTIVE DATE: May 29, 2024

ACTION BY GOVERNOR: Signed March 22, 2024

Senate Bill 790

Changing reference to Curator of Department of Arts, Culture, and History to Cabinet Secretary

This bill elevates the Curator of the Department of Arts, Culture, and History to the Secretary of the Department of Arts, Culture, and History.

CODE REFERENCE: West Virginia Code §29-1-1 – amended

DATE OF PASSAGE: February 19, 2024

EFFECTIVE DATE: February 19, 2024

ACTION BY GOVERNOR: Approved; February 28, 2024

Senate Bill 802

Updating consumer credit and protection laws on certain agricultural vehicles and equipment

The purpose of this bill is to modify provisions of the Consumer Protection – New Motor Vehicle Warranties and Farm Equipment Dealer Contract Act.

This bill:

- Includes the new definition of "motor vehicle" a self-propelled vehicle designed primarily for, and used in, the occupation of business of farming, with a horsepower unit of 20 or greater;
- Adds the right to bring an action for breach of warranty involving a self-propelled vehicle designed primarily for, and used in, farming.

CODE REFERENCE: West Virginia Code §46A-6A-2 and §47-11F-8 – amended

DATE OF PASSAGE: March 4, 2024

EFFECTIVE DATE: June 2, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Senate Bill 824

Increasing membership of WV Motorsport Committee

This bill would expand the membership of the West Virginia Motorsport Committee from five to seventeen members, including the chairperson; and to designate various types of motorsports to be represented by the increased membership. The members will be appointed by the Governor and serve at his or her will and pleasure. The Secretary of the Department of Tourism and the Secretary of the Department of Economic Development shall also serve on the committee as ex-officio members. The members of the committee are not compensated, nor receive reimbursement for expenses.

CODE REFERENCE: West Virginia Code §5B-2-17 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4274

Renaming the Department of Health and Human Resources

The purpose of this bill is to rename the Department of Health and Human Resources, into the Department of Health, Department of Human Services, and Department of Health Facilities.

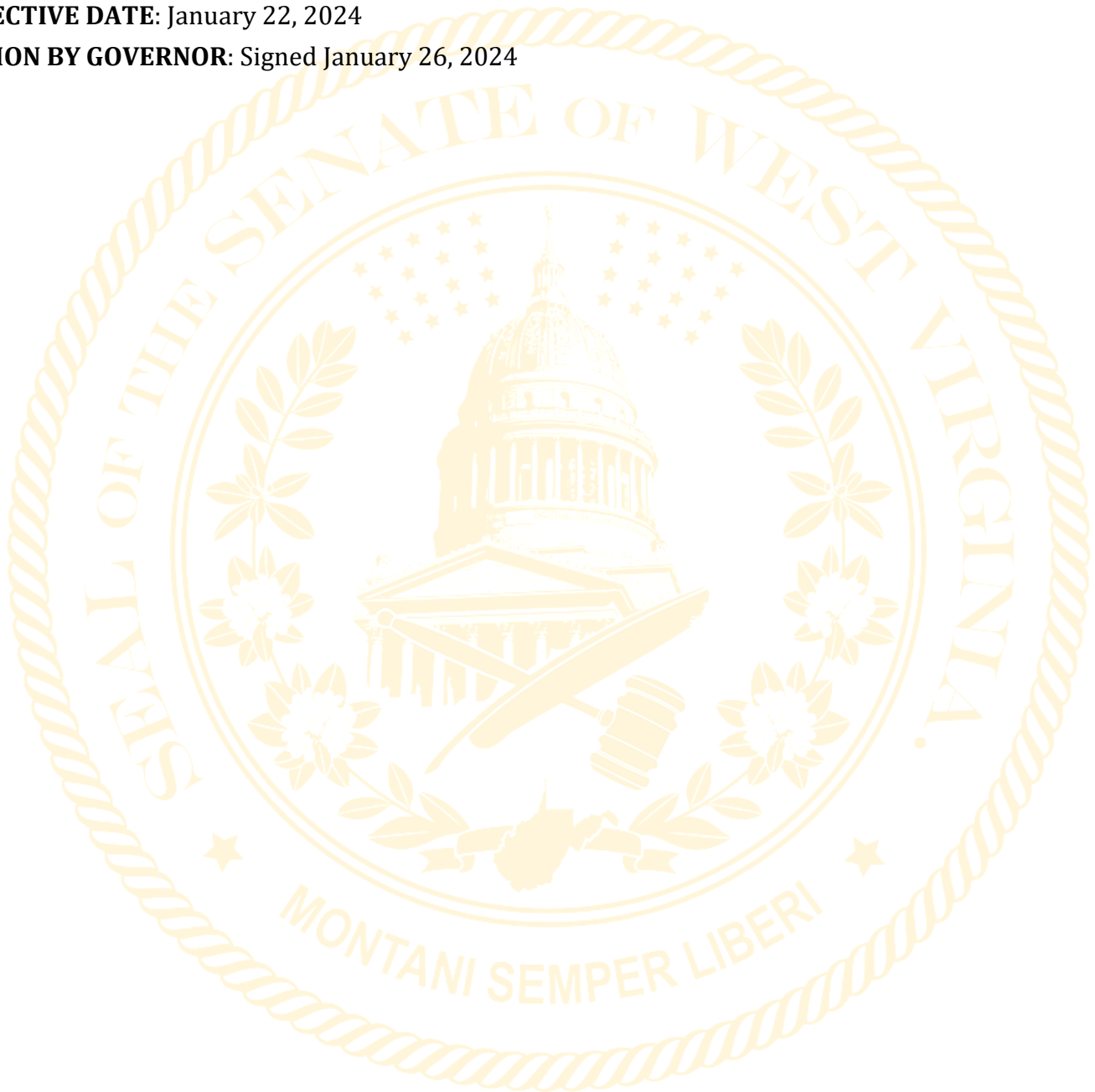
CODE REFERENCE: West Virginia Code §5-5-4, §5A-2-34, §9-2-9, §9-5-25, and §9-10-6 – repealed; §4-10-8, §5-1E-1, §5-1E-2, §5-6-4, §5-10C-3, §5-14-3, §5-14-5, §5-16-2, §5-16-18, §5-16B-1, §5-16B-2, §5-16B-4, §5-16B-10, §5-26-1, §5-29-2, §5A-1A-2, §5A-3-1a, §5A-3-3b, §5B-2-15, §5F-1-2, §6-7-2a, §7-1-3a, §7-4-4, §7-10-2, §8-19-21, §8A-1-2, §9-1-2, §9-2-6a, §9-2-10, §9-3-4, §9-3-5, §9-3-6, §9-4A-2, §9-4A-2a, §9-4A-2b, §9-4A-4, §9-4B-1, §9-4B-4, §9-4C-1, §9-4C-7, §9-4C-8, §9-4D-2, §9-4D-9, §9-5-9, §9-5-11, §9-5-11a, §9-5-11b, §9-5-11c, §9-5-12a, §9-5-15, §9-5-16a, §9-5-19, §9-5-26, §9-5-27, §9-5-29, §9-5-30, §9-6-1, §9-6-2, §9-6-9, §9-6-11, §9-6-16, §9-7-1, §9-7-2, §9-7-3, §9-7-4, §9-7-5, §9-7-6, §9-7-6a, §9-7-8, §9-8-1, §9-9-3, §9-9-16, §9-9-21, §9-10-1, §9-10-2, §9-10-3, §11-10-5u, §11-13I-3, §11-27-3, §11-27-30, §11B-2-15, §12-3-10e, §12-3A-4, §12-3A-5, §15-1E-76b, §15-1I-2, §15-2-55, §15-2C-1, §15-2C-2, §15-2C-4, §15-2C-7, §15-3D-3, §15-12-2, §15-13-2, §15-13-5, §15-14-5, §15-14-7, §15-14-9, §15A-4-11, §15A-4-12, §16-1-2, §16-1-20, §16-1A-1, §16-1A-2, §16-1A-3, §16-1A-4, §16-1C-1, §16-1C-4, §16-2-2, §16-2B-1, §16-2B-2, §16-2B-3, §16-2D-2, §16-2D-11, §16-2H-2, §16-3C-1, §16-3D-2, §16-4-1, §16-4C-3, §16-4C-4, §16-4C-24, §16-4D-2, §16-4E-2, §16-4E-4, §16-4E-6, §16-4F-1, §16-4F-5, §16-5-1, §16-5-3, §16-5A-5, §16-5K-2, §16-5K-3, §16-5K-4, §16-5K-6, §16-5L-5, §16-5L-10, §16-5L-14, §16-5L-15, §16-5P-7, §16-5Q-2, §16-5Q-4, §16-5R-3, §16-5R-4, §16-5S-5, §16-5T-2, §16-5T-5, §16-5CC-1, §16-5CC-2, §16-7-3, §16-7-8, §16-8-2, §16-9A-7, §16-22A-3, §16-22A-4, §16-22B-2, §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-12, §16-29B-25, §16-29D-3, §16-29D-7, §16-29D-8, §16-29G-1a, §16-29G-2, §16-30-8, §16-30-25, §16-30C-13, §16-32-2, §16-33-2, §16-34-2, §16-34-3, §16-34-5, §16-34-6, §16-34-9, §16-34-13, §16-37-2, §16-37-4, §16-38-3, §16-42-1, §16-44-2, §16-48-5, §16-48-6, §16-50-1, §16-53-1, §16-53-2, §16-53-3, §16-57-3, §16-57-4, §16-59-1, §16A-2-1, §16A-4-3, §16A-15-6, §17-4A-3, §17-28-10, §17C-15-26, §18-2-5b, §18-2-9, §18-2-13h, §18-2K-2, §18-5-15c, §18-5-42, §18-5-44, §18-5D-4, §18-7B-2, §18-10K-1, §18-10M-6, §18-20-11, §18-21-1, §18-21-2, §18-21-3, §18-21-4, §18A-2-8, §18A-4-17, §18B-10-7b, §18B-16-3, §18C-3-1, §19-1-7, §19-11E-1, §19-11E-17, §19-12A-1a, §19-12A-2, §19-12A-5, §19-12A-6, §19-29-1, §19-29-3, §19-30-2, §19-34-5, §20-5J-2, §20-5J-3, §20-5J-5, §20-5K-2, §20-5K-3, §21A-6-16, §21A-6-17, §22-5-9, §22-15A-10, §22-18-6, §22-18-7, §22-30-21, §22C-3-4, §24-2A-5, §24-2C-4, §27-1-7, §27-1A-4, §27-1A-6, §27-1A-12, §27-2-1, §27-2A-1, §27-5-1, §27-5-1b, §27-5-2, §27-5-4, §27-5-9, §27-5-11, §27-6A-1, §27-6A-12, §29-12-5, §29-15-1, §29-15-5, §29-15-6, §29-20-1, §29-20-2, §29-20-3, §29-20-4, §29-20-6, §29-22A-19, §29-30-8, §29-30-9, §29-30-11, §29-31-2, §30-3-7, §30-4-3, §30-7B-4, §30-30-16, §30-30-30, §31-15A-7, §31A-2A-4, §33-15B-3, §33-25A-7b, §33-25A-9, §33-25A-17, §33-25A-18, §33-25A-27, §33-25A-36, §33-25B-6, §33-25D-18, §33-25D-20, §33-25D-29, §33-46-18, §33-54-2, §33-55-1, §33-56-1, §33-59-1, §44-16-3, §44A-1-8, §44A-1-9, §44A-1-15, §44A-2-2, §44A-3-11, §46A-6L-102, §48-1-104, §48-1-206, §48-1-236, §48-2-701, §48-2-702, §48-9-209, §48-11-105, §48-14-102, §48-14-407, §48-14-413, §48-14-414, §48-17-101, §48-17-102, §48-18-101, §48-18-118, §48-18-126, §48-19-103, §48-22-104, §48-23-301, §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-501, §48-26-502, §48-26-801, §48-27-206, §49-1-104, §49-1-106, §49-1-202, §49-1-206, §49-1-208, §49-2-106, §49-2-110a, §49-2-111a, §49-2-125, §49-2-301, §49-2-302, §49-2-303, §49-2-401, §49-2-502, §49-2-503, §49-2-504, §49-2-604, §49-2-605, §49-2-701, §49-2-708, §49-2-802, §49-2-803, §49-2-804, §49-2-813, §49-2-814, §49-2-901, §49-2-903, §49-2-906, §49-2-913, §49-2-1001, §49-2-1002, §49-2-1003, §49-2-1004, §49-2-1005, §49-2-1006, §49-4-104, §49-4-108, §49-4-112, §49-4-114, §49-4-202, §49-4-203, §49-4-401, §49-4-402,

§49-4-403, §49-4-408, §49-4-501, §49-4-704, §49-4-705, §49-4-706, §49-4-711, §49-4-726, §49-4-801, §49-4-803, §49-5-101, §49-5-106, §49-6-103, §49-6-105, §49-6-110, §49-6-113, §49-6-116, §49-7-102, §49-7-201, §49-7-202, §49-7-204, §49-8-1, §51-2A-21, §53-8-17, §55-7B-9c, §55-19-3, §60A-9-5, §60A-9-8, §60A-11-1, §60A-11-2, §60A-11-3, §61-2-14a, §61-2-14h, §61-2-29b, §61-7A-3, §61-7A-4, §61-8D-3, §61-8D-4, §61-11-26a, §61-11A-6, §61-12-12, §61-14-7, §62-1D-2, §62-12-2, and §62-15B-1 – amended

DATE OF PASSAGE: January 22, 2024

EFFECTIVE DATE: January 22, 2024

ACTION BY GOVERNOR: Signed January 26, 2024



House Bill 4782

Preventing municipalities from targeting protected businesses with planning and zoning ordinances more restrictive than those placed upon other businesses

The bill clarifies the authority of a municipality to enact and enforce zoning ordinances relating to firearms businesses.

CODE REFERENCE: West Virginia Code §8-12-5A – amended

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: May 30, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 4882

Extending in-state tuition rates to all members and veterans of the National Guard, reserves, and armed forces as well as their spouses and dependents

This bill would extend in-state tuition rates at the state's institutions of higher education regardless of domicile to: Current members of the United States armed forces who move to West Virginia; Veterans of the National Guard, a reserve unit, or the armed forces of the United States who reside in or move to West Virginia for the purpose of attending a state institution of higher education; and, Spouses or dependents of a member or veteran of the National Guard, a reserve unit, or the armed forces of the United States who reside in or move to West Virginia with such member or veteran.

CODE REFERENCE: West Virginia Code §18B-10-1a – amended

DATE OF PASSAGE: March 7, 2024

EFFECTIVE DATE: June 5, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5006

Relating to the administration of the A. James Manchin Rehabilitation Environmental Action Plan

This bill amends the A. James Manchin Rehabilitation Environmental Action Plan (Plan), (§22-15A-1 et seq.) to ensure the state continues to receive federal funding for its recycling program. The federal government provides funding through grants which require state recipients to report recycling data to EPA (Environmental Protection Agency).

In addition to recycling, the Plan addresses litter control, open dump elimination, tire cleanup, and extending the useful life of landfills.

The amendments require recycling facilities to report to the DEP (Department of Environmental Protection) about the amount and kind of materials being recycled at and shipped by the facilities. This is accomplished by adding definitions for “Recycling”, Recycling establishment”, and “Reportable recyclable material” and requiring facilities to report annually to the DEP. This in turn will ensure that proper recycling data will be reported to the EPA as required by the grants. Currently, there is no requirement to report recycling data to the DEP.

The amendments also revise current state recycling goals and establish criteria to assist the state to reach its recycling goals. The criteria include establishing a base recycling rate and directing the DEP to reevaluate the rate every five years to implement efforts to promote and increase recycling in the state.

Finally, the bill authorizes the DEP to propose legislative rules as needed.

CODE REFERENCE: West Virginia Code §22-15A-2 and §22-15A-16 – amended

DATE OF PASSAGE: February 19, 2024

EFFECTIVE DATE: May 19, 2024

ACTION BY GOVERNOR: Signed March 6, 2024

House Bill 5045

Related to the administration of the West Virginia Water Pollution Control Act, and Underground Carbon Dioxide Sequestration and Storage

This bill provides further assurances to the United States Environmental Protection Agency regarding the State of West Virginia's application for primary enforcement authority over underground carbon dioxide sequestration program in the State of West Virginia.

This bill:

- Inserts cross references between the Underground Carbon Sequestration and Storage statues and the West Virginia Water Pollution Control Act to protect water resources;
- Provides that before a Certificate of Completion can be issued all the requirements of a class 6 injection well permit must be met, including post injection site care and closure requirements;
- Alters the minimum 10-year period between the end of injections and the issuance of the certificate to be either 50 years or another time period on a site-specific basis as determined by DEP rules;
- Provides exceptions and limitations to what liability is transferred to the state and what remains with the permittee;
- Provides that a permittee will be responsible for certain 15 contractual obligations and criminal liability;
- Provides that a release of liability does not 16 apply to owners or operators of a facility when liability arises from noncompliance with 17 applicable laws, regulations, or permits prior to issuance of the Certificate of Completion;
- Provides for liability when it is determined that fluid migration has occurred that causes or threatens underground sources of drinking water;
- Provides that the secretary will implement the article in a manner consistent with the requirements of the federal Safe Drinking Water Act;
- Provides for the exercise of the state's authority to restrain people from endangering or damaging public health or the environment.

CODE REFERENCE: West Virginia Code §22-11-4, §22-11-22, §22-11-22a, §22-11-24, §22-11-25, §22-11B-3, and §22-11B-12 – amended

DATE OF PASSAGE: February 13, 2024

EFFECTIVE DATE: May 13, 2024

ACTION BY GOVERNOR: Signed February 29, 2024

House Bill 5153

All relating to the engineering, science, and technology scholarship

This act updates and streamlines statutory provisions governing our state's STEM Scholarship.

The act changes reference to the Higher Education governing boards to the Higher Education Policy Commission and updates that authority throughout the code. It adds engineering and physical sciences to the definition of a STEM related field.

The act adds provides that STEM scholarships shall be available to students in charter schools, home schools, learning pods, microschoools, and other educational programs authorized by the Legislature.

Finally, the act clarifies that recipients who are serving in the Armed Forces in a STEM related field and maintain legal residency in this state, while serving in a different location, shall be considered as meeting the employment requirement set forth in the code.

CODE REFERENCE: West Virginia Code §18C-6-1, §18C-6-2, §18C-6-3, §18C-6-4, §18C-6-5, and §18C-6-6 – amended

DATE OF PASSAGE: February 23, 2024

EFFECTIVE DATE: May 13, 2024

ACTION BY GOVERNOR: Signed February 29, 2024

House Bill 5213

To allow Gold Star spouses to receive one free Gold Star vehicle registration for personal use

This bill would provide for one free Gold Star Family license plate to a Gold Star spouse. This bill adds one section to the West Virginia Code to add a provision allowing for one free Gold Star Family license plate to a Gold Star spouse.

CODE REFERENCE: West Virginia Code §17A-3-14b – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

House Bill 5268

Relating to the enhanced recovery of oil and natural gas in horizontal wells

The purpose of this bill is to clarify that horizontal wells and horizontal drilling include the injection of fluids or gases, including carbon dioxide, to enhance the recovery of oil and natural gas from horizontal wells. This is accomplished by modifying definitions for “Horizontal drilling” and “Horizontal well” and adding a definition for “Well work”.

The bill then adds to the list of sections incorporated by reference from the vertical well statute, §22-6-1 et seq, into the Horizontal Well Act. This is the original governing statute for vertical wells. The incorporation includes vertical well statutes governing preparation of plats, objections to a well above coal seams, and introducing liquid pressure to recover oil and gas as they relate solely to the injection of fluids or gases to enhance the recovery of oil and natural gas from horizontal wells.

Finally, section six in the Natural Gas Horizontal Well Act, 22-6A-1, et seq., is amended to clarify that the secretary of the DEP has sole and exclusive authority to regulate enhanced recovery from horizontal wells. There is also some technical clean up throughout the sections, including the renumbering of subdivisions as needed.

CODE REFERENCE: West Virginia Code §22-6A-4, §22-6A-5, and §22-6A-6 – amended

DATE OF PASSAGE: February 24, 2024

EFFECTIVE DATE: May 24, 2024

ACTION BY GOVERNOR: Signed March 26, 2024

House Bill 5332

Excepting persons previously commissioned as a notary public from requirement to have a high school diploma or its equivalent in order to be recommissioned as a notary public

This bill exempts persons previously commissioned as a notary public from the requirement that notary publics have a high school diploma or its equivalent in order to be recommissioned as a notary of public.

CODE REFERENCE: West Virginia Code §39-4-20 – amended

DATE OF PASSAGE: February 2, 2024

EFFECTIVE DATE: February 2, 2024

ACTION BY GOVERNOR: Signed February 8, 2024

House Bill 5540

Relating to fentanyl prevention and awareness Education (Laken's Law)

The Fentanyl Prevention and Awareness Education Act, or "Laken's Law", is created to help prevent overdose deaths in teens and young adults due to fentanyl and fentanyl components. This shall be accomplished through education of students in grades 6-12 in all public schools and be mandated annually, beginning the 2024-2025 school year.

The act requires that students receive instruction:

- about fentanyl, heroin, and opioids awareness, prevention, and abuse;
- the life-saving use of FDA-approved opioid reversal agents;
- the prevention of the abuse of and addiction to fentanyl;
- available state and community resources and organizations that work to prevent and reduce youth substance use; and
- health education covering the issues of substance abuse and youth substance abuse in particular.

CODE REFERENCE: West Virginia Code §18-34-1 – new

DATE OF PASSAGE: March 1, 2024

EFFECTIVE DATE: May 30, 2024

ACTION BY GOVERNOR: Approved March 27, 2024

House Bill 5696

Relating to the upper Ohio Valley Trail Network

This bill would assign Wood County as the lead member county of the Upper Ohio Valley Trail Network Recreation Authority for the purposes of its establishment and for coordinating with the Mountaineer Trail Network Recreation Authority.

CODE REFERENCE: West Virginia Code §20-17B-2 – amended

DATE OF PASSAGE: March 8, 2024

EFFECTIVE DATE: June 6, 2024

ACTION BY GOVERNOR: Signed March 27, 2024

Resolutions



All Resolutions Adopted by the Legislature: 2024 Regular Session

- **SCR 1:** US Army PFC Leon Charles Trader Memorial Bridge (Adopted, 02-28)
- **SCR 2:** US Army PFC John Henry Trail Memorial Bridge (Adopted, 02-28)
- **SCR 4:** US Army 2LT Eston Kuhn Memorial Bridge (Adopted, 02-28)
- **SCR 5:** US Army 1LT Herschel Jarrell Memorial Road (Adopted, 02-28)
- **SCR 6:** US Army SSG Orland Jackson "Tom" Meikles Memorial Road (Adopted, 02-28)
- **SCR 8:** US Army Corporal Clemon Knapp Memorial Bridge (Adopted, 02-28)
- **SCR 11:** US Marine Corps PFC Noel Harper Fields Memorial Bridge (Adopted, 02-28)
- **SCR 12:** US Army Private Raymond Lee Perkins Memorial Bridge (Adopted, 02-28)
- **SCR 14:** US Army PFC William Gorman Memorial Bridge (Adopted, 02-28)
- **SCR 15:** Chief Edward "Eddie" Keesecker Memorial Bridge (Adopted, 02-28)
- **SCR 16:** Urging US Congress enact reforms to federal permitting policies to accelerate deployment of new energy infrastructure (Adopted, 01-24)
- **SCR 17:** Reaffirming support of WV Legislature for State of Israel and Jewish people (Adopted, 01-24)
- **SCR 18:** Stanley W. and Evelyn C. See Memorial Bridge (Adopted, 02-28)
- **SCR 19:** US Army PFC Henry W. Baldwin Memorial Bridge (Adopted, 02-28)
- **SCR 21:** US Army MSG James E. Jackson Jr. Memorial Road (Adopted, 02-28)
- **SCR 22:** USMC Major Cornelius Burdette Memorial Road (Adopted, 02-28)
- **SCR 23:** US Navy LT Lewis Joseph D'Antoni Memorial Road (Adopted, 02-28)
- **SCR 24:** Recognizing First Responders Honor Board's nominees for Medal of Valor (Adopted, 02-06)
- **SCR 25:** US Army SGT Wyatt K. Hinton Memorial Bridge (Adopted, 02-28)
- **SCR 26:** US Army Private Clarence William "Buck" Holliday Memorial Road (Adopted, 02-28)
- **HCR 1:** Raising a Joint Assembly to hear remarks of the Governor (Adopted, 01-10)
- **HCR 2:** U.S. Army SPC Steven W. Herron Memorial Bridge (Adopted, 02-28)
- **HCR 3:** Legg Brothers WWII Veterans Memorial Bridge (Adopted, 02-28)
- **HCR 5:** George M. Hall Memorial Bridge (Adopted, 02-28)
- **HCR 6:** U.S. Army Staff Sgt. James Ira "Junior" Spurrier Memorial Bridge (Adopted 03-01)
- **HCR 7:** U. S. Navy Radarman 3rd Class Craig W. Haines Memorial Bridge (Adopted, 02-28)
- **HCR 8:** Judy Brothers Memorial Bridge (Adopted, 02-28)
- **HCR 9:** Private Jefferson Howell Memorial Road (Adopted, 02-28)
- **HCR 11:** VFD Gregory Linn Haught Memorial Bridge (Adopted, 02-28)
- **HCR 12:** U. S. Marine Private First Class Calvin Lee Loudin Memorial Bridge (Adopted, 02-28)
- **HCR 13:** Commemorating the life of Marilyn Kay Parsons (Adopted, 01-11)
- **HCR 14:** Assistant Chief David Timothy "Tim" Wilson Memorial Road (Adopted, 02-28)
- **HCR 15:** USMC Private Timith Daley Nunn Memorial Bridge (Adopted, 02-28)
- **HCR 16:** Thomas Leo Starsick Memorial Bridge (Adopted, 02-28)
- **HCR 17:** Ab and Laura Baisden Bridge (Adopted, 02-28)
- **HCR 18:** Caldwell Brothers Memorial Bridge (Adopted, 02-28)
- **HCR 19:** CPL Thomas Lowell Wines Memorial Bridge (Adopted, 02-28)
- **HCR 20:** SP4 Donnie Lee Hackney Memorial Bridge (Adopted, 02-28)

- **HCR 21:** Louie Patton Memorial Bridge (Adopted 03-01)
- **HCR 22:** U.S. Army Corporal William Edgar Hancock Memorial Bridge (Adopted, 02-28)
- **HCR 23:** Cody J. Mullens Memorial Bridge (Adopted, 02-28)
- **HCR 25:** U. S. Navy Sonarman First Class William C. Harris Memorial Bridge (Adopted, 02-28)
- **HCR 26:** PFC Jerry Lee Bassett Memorial Bridge (Adopted, 02-28)
- **HCR 27:** U. S. Army Sergeant Jerry Lee Harris Memorial Bridge (Adopted, 02-28)
- **HCR 28:** Karantonis Brothers Armed Forces Memorial Bridge (Adopted, 02-28)
- **HCR 29:** U.S. Army Sgt Thomas Lawson Memorial Bridge (Adopted, 02-28)
- **HCR 30:** Jack L. Hart Memorial Bridge (Adopted, 02-28)
- **HCR 32:** Sloan Brothers Memorial Bridge (Adopted, 02-28)
- **HCR 33:** U. S. Army PFC Gale Hall Memorial Bridge (Adopted, 02-28)
- **HCR 34:** U.S. Army Staff Sgt. Harlie Steven Gabbert Memorial Bridge (Adopted, 02-28)
- **HCR 35:** Gulf War Veteran's Memorial Bridge (Adopted, 02-28)
- **HCR 36:** Chief Master Sgt. Dan Chandler Bridge (Adopted, 02-28)
- **HCR 39:** US Army SP3 Delbert Sherdan "Buck" Huffman Sr. Memorial Bridge (Adopted, 02-28)
- **HCR 40:** USMC MSG Edward P. & MP Carl A. McCray Memorial Bridge (Adopted, 02-28)
- **HCR 41:** Thurman W. Whisner Memorial Bridge (Adopted, 02-28)
- **HCR 42:** U.S. Army SSG William E. Miller Memorial Bridge (Adopted, 02-28)
- **HCR 44:** Frank Walker Mosley Memorial Bridge (Adopted, 02-28)
- **HCR 45:** Alexander Arbuckle "Abe" McLaughlin Memorial Bridge (Adopted, 02-28)
- **HCR 46:** Jacob "Jack" Taylor Rudolph, Sr. Memorial Bridge (Adopted, 02-28)
- **HCR 47:** U. S. Army SGT John Claude Roby Memorial Bridge (Adopted 03-01)
- **HCR 49:** U. S. Air Force Airman 1st Class "Willis "Arnold" Karickhoff Memorial Bridge (Adopted 03-01)
- **HCR 50:** Jack A. Hatfield Memorial Bridge (Adopted, 02-28)
- **HCR 51:** U. S. Army Colonel Merlin C. Kerns Memorial Bridge (Adopted, 02-28)
- **HCR 53:** U. S. Navy Quartermaster Third Class Lawrence Earl Boggs Memorial Bridge (Adopted, 02-28)
- **HCR 59:** Asa H. Kisamore, Jr. Memorial Bridge (Adopted, 02-28)
- **HCR 60:** Terra Dawn Lewis Memorial Road and Bridge (Adopted, 02-28)
- **HCR 61:** Mollohan Brothers Memorial Bridge (Adopted, 02-28)
- **HCR 62:** U.S. Army First Sergeant Clarence Shirley Blake Memorial Bridge (Adopted, 02-28)
- **HCR 67:** Kenneth R. Lucas Memorial Bridge (Adopted 03-01)
- **HCR 66:** U.S. Army SP4 Lonnie "Bill" Walker Memorial Bridge (Adopted, 02-28)
- **HCR 68:** U. S. Army Air Force, Major (Ret.) Willis "Scottie" Adams Memorial Bridge (Adopted, 02-28)