

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Third Legislature
Second Extraordinary Session

Held at Charleston
Published by the Clerk of the House



October 16, 2017
FIRST DAY

West Virginia Legislature
Journal of the House of Delegates
Eighty-Third Legislature
Second Extraordinary Session

Charleston, Monday, October 16, 2017

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

Pursuant to the Proclamation of His Excellency, the Governor, issued the twelfth day of October, 2017, and hereinafter set forth, convening the Legislature in Extraordinary Session on the sixteenth day of October, 2017, the House of Delegates assembled in its Chamber in the Capitol Building in the City of Charleston at 12:00 noon, and was called to order by the Speaker, the Honorable Tim Armstead.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

**Messages from the Executive
and other Communications**

Various communications were laid before the House of Delegates, which were read by the Clerk as follows:

House of Delegates
West Virginia Legislature
Building 1, Room 258-M
1900 Kanawha Blvd., East
Charleston, WV 25305
September 1, 2017

The Honorable Stephen Harrison
Clerk of the West Virginia House of Delegates
Office of the Clerk
West Virginia House of Delegates
West Virginia Capitol
Charleston, West Virginia 25305

Dear Mr. Harrison,

Please allow this letter to serve as my official resignation notice to the West Virginia House of Delegates serving the 38th District. Please accept my resignation, effective September 1, 2017.

Thank you for your kindness and service to the members of the House. It was a pleasure to serve with you. I wish you all the best going forward.

Respectfully,

Nancy Reagan Foster

State of West Virginia
Office of the Governor
September 19, 2017

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Pursuant to W. Va. Code § 3-10-5, I have this day appointed Dianna L. Graves, 5014 Ann Lee Drive, Cross Lanes, Kanawha County, West Virginia 25313, as a Delegate representing the Thirty-Eighth District of the House of Delegates, to fill the vacancy created by the resignation of the Honorable Nancy Foster.

Sincerely,

Jim Justice,
Governor.

The Clerk announced that Delegate Graves had taken the oath of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on September 29, 2017.

The Speaker then asked the Members to stand for a moment of silence in memory of Delegate Tony Lewis, who died after a long and courageous battle with cancer on September 24, 2017.

State of West Virginia
Office of the Governor
October 10, 2017

The Honorable Mac Warner
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Warner:

Pursuant to W. Va. Code § 3-10-5, I have this day appointed D. Rolland Jennings, 1526 George Washington Highway, Thornton, Preston County, West Virginia 26440, as a Delegate representing the Fifty-Third District of the House of Delegates, to fill the vacancy created by the passing of the Honorable Tony Lewis.

Sincerely,

Jim Justice,
Governor.

The Clerk announced that Delegate Jennings had taken the oath of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on October 14, 2017.

House of Delegates
West Virginia Legislature
Building 1, Room 258-M
1900 Kanawha Blvd., East
Charleston, WV 25305
October 16, 2017

The Honorable Steve Harrison
Clerk of the House
1900 Kanawha Boulevard, East
Building 1, Room 212M
Charleston, West Virginia 25305

Dear Mr. Clerk,

Due to my recent appointment to the State Senate to fill the vacancy created by the resignation of Senator Ron Miller, I am hereby resigning my seat in the West Virginia House of Delegates.

I have been honored to serve in the House of Delegates, and I look forward to continuing to serve my constituents as a member of the Senate.

Sincerely,

Delegate Stephen Baldwin

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 682**), and 94 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Higginbotham, Isner, Summers, Upson and Wilson.

Proclamations of His Excellency, the Governor, convening the Legislature in extraordinary session, were then read by the Clerk, as follows:

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston

A P R O C L A M A T I O N

By the Governor

I, JIM JUSTICE, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby call the West Virginia Legislature to convene in Extraordinary Session at Noon on the sixteenth day of October, Two Thousand Seventeen, in its chambers in the State Capitol, City of Charleston, for the limited purpose of considering and acting upon the following matters:

FIRST: A bill exempting military retirement from state personal income tax after specified date.

SECOND: A bill increasing amount of credit allowed against personal and corporation net income taxes for qualified historic rehabilitation expenditures.

THIRD: Legislation authorizing and appropriating the expenditure of public funds to pay the expenses for the Extraordinary Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

Mac Warner,
Secretary of State

DONE at the Capitol in the City of Charleston, State of West Virginia, this twelfth day of October, in the year of our Lord, Two Thousand Seventeen, and in the One Hundred Fifty-Fifth year of the State.

Jim Justice,
Governor.

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston

A P R O C L A M A T I O N

By the Governor

I, JIM JUSTICE, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby **AMEND** the Proclamation dated the twelfth day of October, Two Thousand Seventeen, calling the Legislature of West Virginia to convene in Extraordinary Session at Noon on the sixteenth day of October, Two Thousand Seventeen, by adding items four, five, and six:

FOURTH: A bill allowing certain tax information to be shared with designated employees of Commissioner of Highways.

FIFTH: A bill implementing special hiring procedures for personnel positions in the Division of Highways and the Tax Commissioner.

SIXTH: A bill amending the West Virginia Jobs Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this thirteenth day of October, in the year of our Lord, Two Thousand Seventeen, and in the One Hundred Fifty-Fifth year of the State.

Jim Justice,
Governor.

By the Governor

Mac Warner,
Secretary of State

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston

A P R O C L A M A T I O N

By the Governor

I, **JIM JUSTICE**, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby **AMEND** the Proclamation dated the twelfth day of October, Two Thousand Seventeen, calling the Legislature of West Virginia to convene in Extraordinary Session at Noon on the sixteenth day of October, Two Thousand Seventeen, and amended by subsequent Proclamation dated the thirteenth day of October, Two Thousand Seventeen by adding items seven, as follows:

SEVENTH: A bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

Mac Warner,
Secretary of State

DONE at the Capitol in the City of Charleston, State of West Virginia, this sixteenth day of October, in the year of our Lord, Two Thousand Seventeen, and in the One Hundred Fifty-Fifth year of the State.

Jim Justice,
Governor.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamations by which it had been called together.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Harshbarger, Sypolt and Hartman.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three, to join with a similar committee on the part of the Senate, to inform His Excellency, the Governor, that

the Legislature had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamations.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Blair, Frich and Lynch.

Bills Introduced

Bills were introduced, pursuant to House Rule 92, as follows:

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 201 – “A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting military retirement income from personal income tax after specified date.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 201) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 202 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-5cc, relating generally to allowing certain tax information to be shared with designated employees of Commissioner of Highways pursuant to written agreement”; which was referred to the Committee on the Judiciary.

At 12:25 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 2002 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-5cc, relating generally to allowing certain tax information to be shared with designated employees of Commissioner of Highways pursuant to written agreement.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (S. B. 2002) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 683**), and there were—yeas 94, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Love, Summers, Thompson, Upson and Wilson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time.

On motion of Delegate Folk, the bill was amended on page one, section 5cc, line four, by striking out the word “may” and inserting in lieu thereof the word “shall”.

On page two, section 5cc, line fifteen, by striking out the words “appears to be” and inserting in lieu thereof the word “is”.

And,

On page two, section 5cc, line twenty-two, by striking out the words “appears to be” and inserting in lieu thereof the word “is”.

The bill was then ordered to third reading.

The bill was then read a third time, and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 684**), and there were—yeas 94, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Love, Summers, Thompson, Upson and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 2002) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 685**), and there were—yeas 94, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Love, Summers, Thompson, Upson and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 2002) takes effect from its passage.

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

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Eighth Order of Business for the purpose of introducing bills.

Bills Introduced

Bills were introduced, pursuant to House Rule 92, as follows:

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 203 - "A Bill to amend and reenact §11-21-8a and §11-21-8e of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-24-23a and §11-24-23e of said code, all relating generally to tax credits for rehabilitation of historic buildings and structures; increasing the amount of tax credit against personal and corporate net income taxes from ten percent to twenty-five percent for expenditures made on or after December 31, 2017; providing for the use of tax credit on or after January 1, 2020; prohibiting eligibility for credit if the taxpayer is in arrears on certain tax payments; providing rule-making authority to the Tax Commissioner; amending carryback and carryforward provisions for tax credit; limiting the maximum amount available for tax credit per project and in the aggregate per West Virginia state fiscal year; requiring the state historic preservation officer to reserve a certain amount of available tax credits for projects where proposed tax credits will not exceed \$500,000 per project; authorizing the state historic preservation officer to reallocate unused credits reserved for certain projects; providing procedures for the issuance of tax credit reservations and certificates by the state historic preservation officer; requiring the state historic preservation officer to prescribe and publish a form and instructions for applications for credits; providing for an application fee payable to the state historic preservation officer; requiring the state historic preservation officer to review and act upon applications within thirty days of receipt; and providing a sunset provision."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 203) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 204 - "A Bill finding and declaring a claim against the state and its agency to be a moral obligation of the state; and directing the Auditor to issue warrants for the payment thereof"; which was referred to the Committee on Finance.

Leaves of Absence

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

Miscellaneous Business

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

At 5:51 p.m., the House of Delegate adjourned until 12:00 noon, Tuesday, October 17, 2017.

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

SPECIAL CALENDAR

Tuesday, October 17, 2017

2nd Day

12:00 P. M.

SECOND READING

- H. B. 201 - Exempting military retirement income from personal income tax
- H. B. 203 - Relating generally to tax credits for rehabilitation of historic buildings and structures

**WEST VIRGINIA
HOUSE OF DELEGATES**

TUESDAY, OCTOBER 17, 2017

HOUSE CONVENES AT 12:00 NOON

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