

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
FIFTEENTH DAY

Charleston, West Virginia, Wednesday, February 22, 2017

The Senate met at 11 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by the Reverend Jim Butcher, Madison Baptist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Douglas E. Facemire, a senator from the twelfth district.

Pending the reading of the Journal of Tuesday, February 21, 2017,

At the request of Senator Mullins, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 9, Regulating unmanned aircraft systems.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 9 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-2B-1, §29-2B-2, §29-2B-3, §29-2B-4, §29-2B-5, §29-2B-6, §29-2B-7 and §29-2B-8, all relating to regulation of unmanned aircraft systems; requiring compliance with federal laws and regulations relating to such systems; defining terms; creating criminal offenses for certain conduct using an unmanned aircraft system and setting penalties therefor; regulating law-enforcement use of unmanned aircraft systems; limiting uses by law enforcement of unmanned aircraft systems;

requiring search warrants to be obtained before unmanned aircraft systems may be used in criminal investigations and creating exemptions thereto; requiring documentation of law-enforcement flights of unmanned aircraft systems and maintenance of records; exempting images obtained pursuant to law-enforcement action from application of the Freedom of Information Act; precluding admissibility in civil, criminal and administrative proceedings of images or the evidence obtained in violation of the provisions of this article; requiring the West Virginia Aeronautics Commission in consultation with the Secretary of the West Virginia Department of Military Affairs and Public Safety, the West Virginia State Police and the Law-Enforcement Professional Standards Subcommittee of the Governor's Committee on Crime, Delinquency and Correction to propose legislative rules and authorizing the promulgation of emergency rules; and specifically directing and authorizing the proposal and promulgation of certain rules.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 80, Equalizing criminal penalty for entering without breaking regardless of time of day.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 80 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to burglary; eliminating the offense of daytime burglary; making breaking and entering or entering without breaking into a dwelling or outbuilding thereof a felony regardless of time of day; and establishing the penalty for burglary.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 121, DHHR rule relating to medication-assisted opioid treatment programs.

And has amended same.

And,

Senate Bill 122, DHHR rule relating to medication-assisted treatment, office-based medication-assisted treatment.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Tom Takubo,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 164, Relating to traffic regulations and special load limits.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 173, Relating to autocycles.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 173 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver’s license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 173), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 204 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §5-1-22 of the Code of West Virginia, 1931, as amended, relating to filling vacancies in offices by appointment of the Governor; providing for what shall be considered an appointment; and requiring that persons appointed to fill a vacancy have the same qualifications for the vacated office and receive same compensation and expenses for the office otherwise provided by law.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 209, Defining term “veteran” as it relates to veteran-owned business.

And,

Senate Bill 280, Moving administration of Civil Air Patrol to Adjutant General.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on Government Organization.

Respectfully submitted,

Ryan W. Weld,
Chair.

The bills, under the original double committee references, were then referred to the Committee on Government Organization.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 210, Providing for fair distribution of costs for county development by authorizing assessment and collection of fees.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 210 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-seven new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50 and §7-20-51; and to amend said code by adding thereto a new section, designated §31-15-16d, all relating to Local Powers Act; renaming short title the County Local Powers Act; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; making technical corrections; amending authorization for county commissions related to imposition of impact fees, services fees and other taxes; providing for county commission review and permissive approval of impact fees; amending use of proceeds from sale of bonds; adding payment sources for bonds; allowing the reallocation of certain ad valorem property taxes after ratification of constitutional amendment and procedures and requirements related to reallocation of ad valorem property taxes; specifying effective date; providing requirements and procedures concerning creation and finalization of county road construction project plans and amendments thereto; specifying public hearing and notice requirements and opportunity for public comment; requiring consent; permitting joint road construction projects; setting forth duties, authorities and jurisdiction of Commissioner of Highways; authorizing intergovernmental agreements and setting forth requirements related thereto; providing for the termination of road construction projects plan; providing for application for approval of road construction project plans and application content; providing for certification of road construction project; providing rule-making authority; providing for acceptance into state road system; qualifying road construction projects as public improvements; providing for reporting by Commissioner of Highways; creating special revenue revolving fund and for county subaccounts; providing for funding and expenditures from account; authorizing West Virginia Economic Development Authority to issue revenue bonds and refunding bonds; permitting cash-basis projects; setting forth requirements concerning issuance, selling, execution and use of bonds; permitting trust agreements; specifying that bonds and other obligations undertaken by the West Virginia Economic Development Authority do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision; specifying that bonds are negotiable instruments; providing exemption from taxation;

waiving and exempting personal liability; providing that authority for exercise of powers are cumulative and neither powers nor bonds are limited; permitting cash-basis projects; providing for termination of special allocation of property taxes; providing for excess fund deposit; specifying that powers are supplemental; providing for severability; and providing authority and requirements related to West Virginia Economic Development Authority, including authority to issue bonds, limitations, payments, certification and return of unused funds.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 210), under the original double committee reference, was then referred to the Committee on Finance.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 231, Relating to State Board of Education and Medicaid-eligible children.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Kenny Mann,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 236, Relating to damages for medical monitoring.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 236 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-31, relating to claims or damages for medical monitoring; providing for certain elements for a claim for medical monitoring damages in addition to the underlying cause of action; requiring future medical surveillance, screening tests or monitoring procedures are directly related to a presently existing and diagnosable physical disease or injury of a plaintiff; requiring that a plaintiff's presently existing physical disease or injury was caused by the defendant's conduct; and providing that an increased risk of disease is not a compensable basis for damages in any civil action.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 257, Relating to Civil Air Patrol leave and protection of employees performing missions.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 257 (originating in the Committee on Military)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-1K-3, §15-1K-4, §15-1K-5, §15-1K-6, §15-1K-7, §15-1K-8 and §15-1K-9, all relating to Civil Air Patrol leave and protection of employees performing Civil Air Patrol missions; providing that employers may not discriminate based on an employee's membership in the Civil Air Patrol; and providing that an employee may bring a civil action to enforce the provisions of this article but shall not recover monetary damages.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Chair.

The bill (Com. Sub. for S. B. 257), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 281, Increasing number of limited video lottery machines retailer may have.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 281 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing the number of limited video lottery terminals allowed at a retail location; increasing the number of limited video lottery terminals located on the premises of certain tax exempt organizations; and requiring Lottery Commission to conduct a bid for permits held by current permit holders expiring June 30, 2021, prior to September 1, 2017.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 281), under the original double committee reference, was then referred to the Committee on Finance.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 337, Hiring correctional officers without regard to placement on correctional officer register.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 349, Repealing outdated code related to Division of Corrections.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles and referred to the appropriate committees:

By Senators Weld, Ferns and Maroney:

Senate Bill 387—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2A-1, §16-2A-2, §16-2A-3, §16-2A-4, §16-2A-5 and §16-

2A-6, all relating to creating the Ryan Brown Addiction Prevention and Recovery Fund Act; providing funding for drug addiction prevention and treatment not otherwise covered by legislative appropriations, Medicare, Medicaid or private insurance; and requiring West Virginia Department of Health and Human Resources to administer the fund.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Sypolt, Azinger, Boso, Cline, Ferns, Karnes, Maynard, Ojeda, Rucker, Smith, Takubo, Trump and Maroney:

Senate Bill 388—A Bill to amend and reenact §61-7-6, §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as amended, all relating to dangerous weapons.

Referred to the Committee on the Judiciary.

By Senators Takubo, Stollings, Blair and Mullins:

Senate Bill 389—A Bill to amend and reenact §16-2D-10 of the Code of West Virginia, 1931, as amended, relating to creating an exemption from certificate of need for services and equipment purchased solely for use in private physician offices.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Takubo, Stollings, Unger, Blair and Maroney:

Senate Bill 390—A Bill to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-12d of said code, all relating to the practice of medicine and telemedicine; providing exception to prescribing limitation for Schedule II controlled substances via telemedicine for certain diagnosed pediatric patients.

Referred to the Committee on Health and Human Resources.

By Senators Takubo, Stollings, Unger and Boso:

Senate Bill 391—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5W-1, §16-5W-2 and §16-5W-3, all relating to requiring the Commissioner of the Bureau for Public Health to establish a call-in center for state residents to receive assistance with health care; setting forth requirements for operation of a center; setting powers and duties of the commissioner; and granting rule-making authority.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senator Gaunch:

Senate Bill 392—A Bill to amend and reenact §8-22A-2, §8-22A-17 and §8-22A-18 of the Code of West Virginia, 1931, as amended, all relating to the Municipal Police Officers and Firefighters Retirement System; defining the term “vested”; clarifying factors determining duty/nonduty disability payouts; and requiring ten or more years of contributory service as a municipal police officer or municipal firefighter for a member to be eligible to receive benefits for nonduty disability.

Referred to the Committee on Pensions; and then to the Committee on Finance.

By Senators Gaunch and Maroney:

Senate Bill 393—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §8-22-27a and §8-22-27b, all relating to administration of municipal pensions; establishing procedures to correct errors in the administration of municipal pensions; making the act of fraud in relation to a record of a municipal pension a felony; and providing for criminal penalties.

Referred to the Committee on Pensions; and then to the Committee on Finance.

By Senators Plymale, Unger and Maroney:

Senate Bill 394—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to generally applied associate of science degrees that target workforce needs; authorizing certain schools to grant applied associate of science degrees that target workforce needs; requiring the West Virginia State Board of Education to promulgate rules setting the minimum standards for granting applied associate of science degrees that target workforce needs; and limiting the schools that grant applied associate of science degrees that target workforce needs to vocational technical schools which are accredited by the appropriate nationally recognized accrediting agency or association approved by the United States Department of Education.

Referred to the Committee on Education.

By Senators Ferns, Blair, Takubo and Mullins:

Senate Bill 395—A Bill to repeal §9-5-19 of the Code of West Virginia, 1931, as amended; to repeal §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-5c, §16-2D-5f, §16-2D-6, §16-2D-7, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14, §16-2D-15, §16-2D-16, §16-2D-17, §16-2D-18, §16-2D-19 and §16-2D-20 of said code; to repeal §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10 of said code; to repeal §33-15B-5 of said code; to amend and reenact §5F-1-3a of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 and §9-4C-8 of said code; to amend and reenact §16-5B-17 of said code; to amend and reenact §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-6 of said code; to amend said code by adding thereto a new section, designated §16-5F-8; to amend said code by adding thereto two new sections, designated §16-29B-30 and §16-29B-31; to amend and reenact §16-29G-1, §16-29G-2, §16-29G-3, §16-29G-4, §16-29G-5, §16-29G-6, §16-29G-7 and §16-29G-8 of said code; to amend and reenact §21-5F-4 of said code; and to amend and reenact §33-16D-16 of said code, all relating to the West Virginia Health Care Authority; eliminating the Health Care Authority; providing for an effective date for closure of the Health Care Authority; eliminating the salaries of board members from code; eliminating an outdated report; eliminating the Health Care Authority from the Health Care Provider Medicaid Enhancement Act; eliminating certificate of need; providing for an effective date for the elimination of certificate of need; providing that any pending applications for certificate of need are deemed approved following the effective date; continuing the moratorium on specified services; moving the Infection Control Advisory Panel to the Department of Health and Human Resources; transferring health care financial disclosure to the Department of Health and Human Resources; providing for an effective date for the transfer of the health care financial disclosure; requiring the Health Care Authority to develop a transition and closure plan; providing for an effective date for submittal of the transition and closure plan; setting out required elements of the plan; transferring the State Privacy Office to the Office of the Governor; providing for an effective date for the transfer of the State Privacy Office; transferring the West Virginia Health Information Network to the Office of Technology; providing for an effective date for the transfer of the West Virginia Health Information Network; transferring funding

of the West Virginia Health Information Network to the Office of Technology; transferring rule-making authority for the West Virginia Health Information Network from the Health Care Authority to the Office of Technology; providing for continuation of existing rules until amended, modified, repealed or superseded by the Office of Technology; modifying payment of administrative penalties for violation of the Nurse Overtime and Patient Safety Act into the General Revenue Fund; substituting the Insurance Commission for duties of the Health Care Authority relative to marketing and rate practices for small employer accident and sickness insurance policies; and making conforming amendments.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Sypolt, Azinger, Blair, Boso, Smith and Swope:

Senate Bill 396—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §54-2-14b, relating to setting forth how minerals are to be valued in eminent domain actions.

Referred to the Committee on the Judiciary.

By Senators Takubo and Maroney:

Senate Bill 397—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1, §55-7K-2, §55-7K-3, §55-7K-4, §55-7K-5, §55-7K-6, §55-7K-7, §55-7K-8, §55-7K-9, §55-7K-10, §55-7K-11 and §55-7K-12, all relating to granting immunity to health care providers who provide medical services to low-income persons in this state; setting out findings and intent; defining terms; providing immunity from civil liability upon execution of a contract; setting out contract requirements; setting out contract terms; requiring notice to patients; setting out notice contents; required reporting of adverse incidents; requiring a quality assurance program to be developed; required reporting to the Legislature; providing for payment of litigation costs; setting out applicability; setting out construction of the article; and requiring rulemaking.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

By Senators Takubo, Stollings, Unger and Maroney:

Senate Bill 398—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7, §29-30-8, §29-30-9, §29-30-10, §29-30-11 and §29-30-12, all relating to creating the Emergency Volunteer Health Practitioners Act; defining terms; providing for applicability of the article; regulating the practice of volunteer health practitioners during an emergency; creating a registration system; granting reciprocity to licenses issued to volunteer health practitioners in other states during an emergency; allowing for credentialing and privileges of a volunteer health practitioner; providing for sanctions; relating article to other laws of the state; providing for limitation of liability; allowing volunteer health practitioners to collect workers' compensation; and providing for rulemaking by the Secretary of the Department of Health and Human Resources.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

By Senators Ferns, Blair and Trump:

Senate Bill 399—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-4 and §21-5A-5, all

relating to prohibiting political subdivisions from enacting local ordinances regulating benefits employers provide to their employees.

Referred to the Committee on the Workforce; and then to the Committee on the Judiciary.

By Senator Blair:

Senate Bill 400—A Bill to amend and reenact §31-15A-3 of the Code of West Virginia, 1931, as amended, relating to eliminating an unnecessary and contradictory provision concerning appointments to the West Virginia Infrastructure and Jobs Development Council.

Referred to the Committee on Government Organization.

By Senators Gaunch and Takubo:

Senate Bill 401—A Bill to amend and reenact §18A-4-7a of the Code of West Virginia, 1931, as amended, relating to permitting a county board of education to base its employment decisions, transfers, reassignments, reducing the number of professional personnel, reductions in classroom teaching positions and reductions in the workforce on an individual's qualifications; and setting forth the factors to be considered when determining an individual's qualifications.

Referred to the Committee on Education.

By Senators Takubo, Stollings and Romano:

Senate Bill 402—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-11E-1, §47-11E-2, §47-11E-3, §47-11E-4 and §47-11E-5, all relating to covenants not to compete between physicians and hospitals; defining terms; setting forth prohibition against contract terms in certain circumstances; providing for enforceability of other contract terms; providing for exemptions; and setting forth an effective date.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

By Senators Gaunch, Takubo, Maroney, Romano and Boso:

Senate Bill 403—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to reducing state income tax liability for certain retired public employees; increasing the amount of retirement income received from certain state and federal retirement systems that is excluded from the calculation of income subject to state personal income taxes; and establishing an effective date for the increased exclusion.

Referred to the Committee on Finance.

By Senators Gaunch, Takubo, Maroney, Romano, Boso and Plymale:

Senate Bill 404—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to reducing state income tax liability for certain retired public employees; increasing the amount of retirement income received from certain state and federal retirement systems that is excluded from the calculation of income subject to state personal income taxes; and establishing an effective date for the increased exclusion.

Referred to the Committee on Finance.

Senators Stollings, Unger, Gaunch, Cline, Prezioso, Takubo, Maroney, Romano, Boso and Plymale offered the following resolution:

Senate Resolution 18—Designating the week of March 5-11, 2017, as MS Awareness Week.

Whereas, Multiple sclerosis (MS) is a neurological disease of the central nervous system, affecting 2.3 million people worldwide; and

Whereas, The National Multiple Sclerosis Society reports that in our state more than 3,000 people are living with MS and that the disease generally strikes people in the prime of life, between ages 20 through 50, and the cause and course of the often debilitating symptoms of MS remain unknown and no cure currently exists; and

Whereas, The National Multiple Sclerosis Society has been committed for more than 70 years to a world free of MS, heightening public knowledge about and insight into the disease; and

Whereas, Since 1946, the National Multiple Sclerosis Society has been a driving force of MS research, relentlessly pursuing prevention, treatments and a cure, and has invested more than \$900 million in groundbreaking research; and

Whereas, Funds raised through the National Multiple Sclerosis Society fuel \$42.1 million, funding 380 research projects at the best medical centers, universities and other institutions throughout the U. S. and abroad, leading to many breakthroughs in the treatment of MS; and

Whereas, Stopping MS in its tracks, restoring what has been lost and ending MS forever is the mission of the National Multiple Sclerosis Society and one that all Americans and West Virginians should support; and

Whereas, The West Virginia Senate recognizes the importance of finding the cause and cure of MS and expresses its appreciation for the dedication that the National Multiple Sclerosis Society has shown toward creating a world free of MS; therefore, be it

Resolved by the Senate:

That the Senate hereby designates the week of March 5-11, 2017, as MS Awareness Week; and, be it

Further Resolved, The Senate encourages all West Virginians to learn more about multiple sclerosis and what they can do to support individuals with MS and their families; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of MS Awareness Week.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with and adopted.

Thereafter, at the request of Senator Unger, and by unanimous consent, the remarks by Senators Stollings and Ojeda regarding the adoption of Senate Resolution 18 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and proceeded to the seventh order of business.

Senate Concurrent Resolution 18, US Marine CPL Walter Vincent Filipek Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

Senate Concurrent Resolution 19, Blue Demon Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 188, Correcting definition of “telehealth” in medication-assisted treatment programs.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 188) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 222, Relating to disqualification for unemployment benefits.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 222 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—22.

The nays were: Facemire, Jeffries, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—11.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 222) passed with its title.

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

Eng. Com. Sub. for Senate Bill 242, Relating to school calendars.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 242) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2017.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 242) takes effect July 1, 2017.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 182, Providing procedures that prevent disqualifying low bids for government construction contracts due to document technicalities.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Jeffries, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page three, section one, line thirty-nine, after the word “shall” by inserting the word “promptly”;

On page five, section five, line four, after the word "shall" by inserting the word "promptly";

And,

On page ten, section eleven, line seven, after the word "shall" by inserting the word "promptly".

The bill (Com. Sub. for S. B. 182), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 240, Creating crime of nonconsensual distribution of sexual images.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 330, Relating to WV Workplace Freedom Act.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Senate Bill 41, Extending time person may be subject to probation.

Com. Sub. for Senate Bill 113, Authorizing DEP promulgate legislative rules.

And,

Senate Bill 325, Relating to crossbow hunting.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Prezioso, Palumbo, Blair and Gaunch.

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senators Prezioso, Palumbo, Blair and Gaunch were ordered printed in the Appendix to the Journal.

Remarks were made by Senator Hall.

Following a point of inquiry to the President, with resultant response thereto,

Remarks were made by Senator Unger.

Thereafter, at the request of Senator Ferns, unanimous consent being granted, the remarks by Senators Hall and Unger were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 351** (*Relating to emergency medical services*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Thursday, February 23, 2017, at 11 a.m.

SENATE CALENDAR

**Thursday, February 23, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Thursday, March 09, 2017 – 11:00 AM

Consideration of executive nominations

THIRD READING

- Eng. Com. Sub. for S. B. 182 - Providing procedures that prevent disqualifying low bids for government construction contracts due to document technicalities
- Eng. Com. Sub. for S. B. 240 - Creating crime of nonconsensual distribution of sexual images

SECOND READING

- S. B. 41 - Extending time person may be subject to probation (original similar to HB2607)
- Com. Sub. for S. B. 113 - Authorizing DEP promulgate legislative rule awarding matching grants for litter control programs (original similar to HB2229)
- S. B. 325 - Relating to crossbow hunting
- S. B. 330 - Relating to WV Workplace Freedom Act

FIRST READING

- Com. Sub. for S. B. 9 - Regulating unmanned aircraft systems (original similar to SB218)
- Com. Sub. for S. B. 80 - Equalizing criminal penalty for entering without breaking regardless of time of day
- S. B. 164 - Relating to traffic regulations and special load limits
- Com. Sub. for S. B. 204 - Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses (original similar to SB205)
- S. B. 231 - Relating to State Board of Education and Medicaid-eligible children (original similar to HB2420)
- Com. Sub. for S. B. 236 - Relating to damages for medical monitoring (original similar to HB2580)
- S. B. 349 - Repealing outdated code related to Division of Corrections

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Thursday, February 23, 2017

9:30 a.m.	Finance	(Room 451M)
10 a.m.	Workforce	(Room 208W)
1 p.m.	Health & Human Resources	(Room 451M)
1 p.m.	Energy, Industry & Mining	(Room 208W)
2 p.m.	Education	(Room 451M)
2 p.m.	Government Organization	(Room 208W)