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SIXTEENTH DAY

Thursday, January 25, 2018

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Wednesday, January 24, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4102, State Tax Department, rule relating to farm to food bank tax credit,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 4102) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4100, Lottery Commission, rule relating to state lottery rules,

H. B. 4103, State Tax Department, rule relating to payment of taxes by electronic funds transfer,

H. B. 4104, Tax Department, rule relating to property transfer tax,

And,

H. B. 4105, Tax Department, rule relating to municipal sales and service and use tax administration,

And reports the same back with the recommendation that they each do pass but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4100, H. B. 4103, H. B. 4104 and H. B. 4105) were each referred to the Committee on the Judiciary.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 4010, Providing no requirement to perform or host a marriage ceremony that does not conform to sincerely held religious beliefs,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2845, Establishing that the Division of Corrections is responsible for the costs of housing and maintaining an inmate the day following an inmate's conviction,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 2845) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2799 - "A Bill to amend and reenact §21-6-3 of the Code of West Virginia, 1931, as amended, all relating generally to the issuance of a minor's work permit; prohibiting the superintendent of schools from requiring a physical examination to be included with the application for a minor's work permit unless required by the prospective employer; and removing the requirement that the superintendent of schools certify that the minor personally appeared before him or her prior to the issuance, modification, or rejection of a work permit,"

With the recommendation that the committee substitute do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4048, Board of Examiners of Psychologists, rule relating to requirements for licensure as a psychologist and/or a school psychologist,

H. B. 4050, Board of Optometry, rule relating to rules of the West Virginia Board of Optometry,

H. B. 4060, Real Estate Appraiser Licensing and Certification Board, rule relating to requirements for licensure and certification,

H. B. 4071, Board of Hearing Aid Dealers, rule relating to rules governing the West Virginia Board of Hearing Aid Dealers,

And,

H. B. 4072, Board of Licensed Dietitians, rule relating to licensure and renewal requirements,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4048, H. B. 4050, H. B. 4060, H. B. 4071 and H. B. 4072) were each referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4049, Board of Examiners of Psychologists, rule relating to fees,

H. B. 4058, Real Estate Commission, rule relating to schedule of fees,

H. B. 4075, Athletic Commission, rule relating to regulation of mixed martial arts,

And,

H. B. 4076, Athletic Commission, rule relating to administrative rules of the West Virginia State Athletic Commission,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4049, H. B. 4058, H. B. 4075 and H. B. 4076) were each referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 37 - "A Bill to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to the crime of 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 criminal penalty for burglary"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 39 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights; declaring additional rights bestowed upon sexual assault survivors regarding medical forensic examinations, sexual assault evidence collection kits, and other similar topics; clarifying the right of a victim to be accompanied by a personal representative during certain proceedings; requiring sexual assault victims be informed or notified of certain rights; incorporating other rights contained in code; and defining terms"; which was referred to the Committee on the Judiciary.

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

Com. Sub. for S. B. 75 - "A Bill to amend and reenact §29-22B-501 of the Code of West Virginia, 1931, as amended, relating to video lottery in general; providing that a limited video lottery retailer may sell or transfer ownership of one or more locations, including the limited video lottery retailer's license or permit associated with that location; providing that a purchaser or transferee shall satisfy the requirements for a limited video lottery retailer's license; providing that the state Lottery Commission be given prior written notice of the sale or transfer; and making technical corrections to internal citations"; which was referred to the Committee on the Judiciary then Finance.

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

Com. Sub. for S. B. 134 - "A Bill to amend and reenact §15-5-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Homeland Security and Emergency Management to contract with or employ individuals and contract for goods for the purpose of emergency response and recovery; and providing requirements for such contracts or employment"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 292 - "A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to the Commission on Special Investigations; continuing the commission; clarifying composition and chairmanship of the commission; redefining what constitutes a quorum for voting procedures of the commission; clarifying contents of the commission's annual report; listing existing and necessary commission staff positions; granting power to conduct interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, or any other tangible thing, computers, laptops, computer hard drives, electronic records including, but not limited to, emails, files, documents and metadata, or any other thing, in any form in which they may exist; requiring compliance with such requests; authorizing the director to issue subpoenas on the commission's behalf; granting authority to the commission to

require an agency head to appear before the commission to answer questions regarding a failure to appear or produce requested or subpoenaed material or other related concerns including the basis for the failure to comply; authorizing the commission and director to order or direct that all or a portion of the information communicated to the commission at the commission's request, including the existence of the investigation, be confidential and not made public; establishing requirements for the commission to enter into executive session; establishing procedures for conducting executive session; removing requirement that Joint Committee on Government and Finance approve expenses of the commission; establishing procedure for the commission's retention and disposal of records; establishing new offenses of impersonating a commission member or staff member and of threatening or otherwise obstructing a commission member or staff; establishing penalties; allowing the commission to award duty weapons to certain members on retirement; exempting the commission from the jurisdiction of the agency for surplus property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission's primary and secondary duty weapons; and authorizing sale of surplus weapons to active and retired members of the commission's investigative staff"; which was referred to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Atkinson, Frich, Dean, Shott, Sypolt, Graves, Hamrick, White, Walters, Ward and Capito:

H. B. 4016 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6-9B-1, §6-9B-2, §6-9B-3 and §6-9B-4; to amend and reenact §12-4A-1, §12-4A-2, §12-4A-3, and §12-4A-4 of said code; to amend said code by adding thereto two new sections, designated §12-4A-2a and §12-4A-5; to amend and reenact §61-3-20 of said code; to amend said code by adding thereto a new section, designated §61-3-20b; and to amend and reenact §61-3-37 of said code, all relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency; setting forth legislative findings; defining terms; creating open governmental finances; directing Auditor to develop and maintain a searchable financial transparency website; setting forth the necessary contents of the searchable website; authorizing the Auditor to set forth specifications and guidance to governmental agencies; clarifying authority and purpose of receiving and investigating reports of possible fraud, misappropriation, mismanagement or waste of public funds; setting forth duties of Auditor to receive and investigate reports; clarifying modes of communicating reports; allowing reports to be made anonymously; establishing investigative powers of Auditor to investigate possible fraud, misappropriation, mismanagement or waste of public funds; authorizing the Auditor and others to examine into financial affairs of a state governmental office or political subdivision and all boards, commissions, authorities, agencies or other offices created under authority thereof; authorizing the Auditor and others to issue subpoenas and compulsory process, direct the service thereof by any sheriff, compel the attendance of witnesses and the production of books and papers, and administer oaths; authorizing the Auditor and others to interview witnesses and require production of items; authorizing the Auditor and others to assist in other entities in the investigation and prosecution of crimes; authorizing the Auditor's Office to be deemed a criminal justice agency; authorizing the sharing of confidential documents, material or information; requiring recipient of confidential information to agree to maintain confidentiality and privileged nature of the document and material; directing Auditor to forward a summary report and evidence to certain entities when evidence exists of potential criminal violations; clarifying that Auditor investigative powers does not preempt authority or duty of other law enforcement or regulatory agencies; clarifying that Auditor investigative powers does not prevent or prohibit the voluntary disclosure of information to other law enforcement or regulatory agencies; clarifying that Auditor investigative powers does not limit powers granted elsewhere to the Auditor;

directing the Auditor to track and compile instances of possible fraud, misappropriation, mismanagement or waste of public funds; directing the Auditor to annually publish a report detailing the compiled instances of possible fraud, misappropriation, mismanagement or waste of public funds; setting forth the contents of the report; directing the Auditor to provide an annual report to the Legislature's Commission on Special Investigations disclosing the nature and disposition of completed investigations; authorizing the Auditor to issue publicly an audit, special report or fraud report at the completion of an investigation; amending the criminal offense of embezzlement to remove the larceny distinction; increasing the penalties for criminal offense of embezzlement; authorizing an award of restitution to an investigating entity to cover certain expenses; creating a new criminal offense constituting larceny and penalties for improper receipt or concealment of public funds; and increasing the penalties for the criminal offense of making a false statement as to the financial condition of a person, firm or corporation"; to the Committee on the Judiciary then Finance.

By Delegates Bates, Fluharty, Fleischauer, Longstreth, Ellington, Summers, Householder, Rohrbach, Atkinson and Queen:

H. B. 4294 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-53-1, §16-53-2, §16-53-3, §16-53-4, §16-53-5, and §16-53-6 all relating to creating a state-administered wholesale drug importation program"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates A. Evans, R. Romine, Hamilton, Rowan, Statler, Love and Campbell:

H. B. 4295 - "A Bill to amend and reenact §19-35-2, §19-35-3 and §19-35-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-5, all relating to farmers markets; removing local health departments from farmers market permit process; transferring rules and regulations for farmers markets, cottage foods, acidified foods, nonpotentially hazardous foods and exempted foods from Department of Health and Human Resources to Department of Agriculture; clarifying consignment markets; requiring farmers market registration and fees; expanding farmers market vendor permits and fee structure to include egg permit and cottage foods permit; clarifying certain farm and food products require other permits; permitting sampling of certain food products; clarifying scope, labeling and sources of cottage foods; requiring online farmers market sales be delivered in person; permitting home, farm, community or commercial kitchen to be used by cottage foods vendor as determined by the department; and clarifying that cottage foods includes certain acidified foods, nonpotentially hazardous foods and exempted foods"; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates A. Evans, R. Romine, Hamilton, Rowan, Eldridge, Love, Campbell and Hicks:

H. B. 4296 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-1B-1, §5B-1B-2, §5B-1B-3, and §5B-1B-4, all relating to establishing the Southern West Virginia Lake Development Study Commission; providing legislative findings; establishing the commission and designating its membership; defining components of commission study; authorizing the commission to create committees and utilize university and other state government resources; providing for expense reimbursement for certain commission members; and requiring reports to the Legislature"; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates Foster, Householder, Sobonya, Frich, Fast, Upson, Cowles, C. Miller, Moore, Hamrick and Jennings:

H. B. 4297 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to prohibiting state licensing boards from hiring lobbyists; and declaring that the director and appointed board members of each board may lobby on behalf of the board"; to the Committee on Government Organization then the Judiciary.

By Delegates Butler, Householder, Higginbotham, Eldridge, McGeehan, Marcum, Blair, Espinosa, Foster, A. Evans and R. Romine:

H. B. 4298 - "A Bill to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as amended, to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-2A-4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by adding thereto a new section, designated §18B-4-5b, all relating to denying institutions of higher education the authority to restrict or regulate the carrying of a concealed deadly weapon by a person who holds a current license to carry a concealed deadly weapon; providing exceptions as to when regulation may occur; and designating these amendments as "The Campus Self Defense Act"; to the Committee on Education then the Judiciary.

By Delegates Phillips, Hollen, Criss, White, Ward, Moye, Rohrbach, Paynter, Maynard, Marcum and Pack:

H. B. 4299 - "A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to providing a \$2,000 salary increase to West Virginia State Troopers"; to the Committee on Finance.

By Delegates Hamilton, Eldridge, Rodighiero and Maynard:

H. B. 4300 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-3b, relating to increasing compensation for Parole Board members"; to the Committee on the Judiciary then Finance.

By Delegates Hamrick, Howell, Moore, Espinosa, Higginbotham, Pack, Queen, Westfall, Hollen, Ward and Capito:

H. B. 4301 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-6-4d, relating to requiring all state agencies to develop a plan to evaluate a transition to cloud based data storage; reporting requirements"; to the Committee on Government Organization then Finance.

By Delegate Marcum:

H. B. 4302 - "A Bill to amend and reenact §51-3-16 of the Code of West Virginia, 1931, as amended, relating to authorizing the use of bailiffs who are not law-enforcement officers"; to the Committee on the Judiciary.

By Delegate Westfall:

H. B. 4303 - "A Bill to amend and reenact §29-22B-503, §29-22B-504, §29-22B-903, and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating generally to limited video lottery; allowing operators to be retailers at up to 10 licensed locations with certain exceptions; increasing the maximum wager permitted per limited video lottery game; removing restrictions on bill denominations accepted by limited video lottery terminals; fixing the state's share of gross terminal income at 50 percent on July 1, 2018; and requiring an additional 5 percent of gross terminal income for a total state share of 55 percent if locations are operated by the same individual or entity that holds both operator and retailer licenses"; to the Committee on the Judiciary then Finance.

By Delegates Summers, Ellington, Hamrick, Criss, Rohrbach and Hollen:

H. B. 4304 - "A Bill to repeal §30-7-1a, §30-7-6a, §30-7-6b, §30-7-8a, §30-7-11a, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, and §30-7-15e of the Code of West Virginia, 1931, as amended; to repeal §30-7A-2, §30-7A-3, §30-7A-4, §30-7A-5, §30-7A-6, §30-7A-6a, §30-7A-7, §30-7A-7a, §30-7A-8, §30-7A-9, §30-7A-10, and §30-7A-11 of said code; to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12, and §30-7D-13 of said code; to repeal §30-7E-1, §30-7E-2, and §30-7E-3 of said code, to amend and reenact §16-5B-19 of said code; to amend and reenact §30-7-1, §30-7-2, §30-7-3, §30-7-4, §30-

7-5, §30-7-6, §30-7-7, §30-7-8, §30-7-9, §30-7-10, §30-7-11, §30-7-12, §30-7-13, §30-7-14, §30-7-15, §30-7-16, §30-7-17, §30-7-18, §30-7-19, and §30-7-20 of said code; to amend said code by adding thereto twelve new sections, designated §30-7-21, §30-7-22, §30-7-23, §30-7-24, §30-7-25, §30-7-26, §30-7-27, §30-7-28, §30-7-29, §30-7-30, §30-7-31, and §30-7-32; and to amend and reenact §30-7A-1 of said code, all relating to the regulation of certain professions by Board of Nursing, prohibiting the practice of nursing without a license; providing other applicable sections; defining terms; providing for board composition and qualifications; setting forth the powers and duties of the board; clarifying rule-making authority; continuing a special revenue account; establishing license and permit requirements; establishing qualifications for licensure; codifying a scope of practice; creating a temporary permit; providing for reciprocal licensure; establishing renewal requirements; providing for exemptions from licensure; creating a special volunteer license; continuing a Joint Advisory Council; providing the council's composition; providing council members' terms; providing powers of the council; providing duties of the council; setting forth limitations of the article; permitting the board to file an injunction; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing duty to warn; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; providing criminal offenses are to be reported to law enforcement; eliminating the Board of Examiners for licensed practical nurses; transferring assets to the Board of Nursing; transferring employees to the Board of Nursing; repealing expired authority; and updating internal references"; to the Committee on Health and Human Resources then Government Organization.

House Calendar

Third Reading

S. B. 263, Eliminating film tax credits; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 2916, Authorizing certain first responders to carry firearms; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 13**), and there were—yeas 96, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Kessinger and Love.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2916) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2916 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6; to amend and reenact §6-1-3a of said Code; to amend said code by adding thereto a new section, designated §7-1-3tt; to amend said code by adding thereto a new section, designated §7-15-19; to amend said code by adding thereto a new section, designated §8-15-28; and to amend said code by adding thereto a new section, designated §16-4C-24, all relating to authorizing certain investigators, homeland security emergency management personnel, and first responders to carry firearms; authorizing supervising entities to authorize investigators employed by the attorney general, reserve deputy sheriffs, homeland security

emergency management personnel, ambulance crew members, firefighters, rescue squad members and emergency service personnel to carry firearms; specifying the training required for all such persons to be eligible to carry a firearm; requiring successful completion of such training; and, for first responders, allowing for reimbursement for the cost of the training.”

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

Com. Sub. for H. B. 3004, Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates; on third reading, coming up in regular order, with amendment pending and with restricted right to amend by Delegate Hanshaw, was reported by the Clerk.

On motion of Delegate Hanshaw, the bill was amended on page three, after line forty-four, by inserting a new section, designated section four, to read as follows:

“§3-10-4. Vacancies in representation in United States Congress.

(a) (1) If there is a vacancy in the representation from this state in the House of Representatives in the Congress of the United States, the Governor shall, within five days after the fact comes to his or her knowledge, issue a proclamation setting dates for a special general election that is not less than eighty-four nor more than one hundred twenty days from the date of the vacancy and requiring nomination of candidates as provided in subdivision (2) of this subsection: *Provided*, That no such proclamation may be made nor may a special election be held if the vacancy occurs after the eighty-fourth day prior to the regularly scheduled general election for a new full term of the office. The election shall follow the requirements of section one of this article that are not in conflict with this section.

(2) The party executive committees for the congressional district for which there is a vacancy shall each, within thirty days of the Governor’s proclamation, nominate a candidate to stand at the general election required by subdivision (1) of this subsection.

(b) If there is a vacancy in the representation from this state in the Senate of the United States Congress, the vacancy shall be filled by the Governor of the state by appointment ~~and~~. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within fifteen days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the fifteen-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

Furthermore,

(1) If the vacancy occurs on or before the primary cutoff date, then an election shall be held pursuant to section one of this article; or

(2) If the vacancy occurs after the primary cutoff date, but on or before the general cutoff date, then the Governor shall issue a proclamation providing for: (A) A special filing period; (B) a special primary election to be held in conjunction with the upcoming general election; and (C) a special general election to be held not less than eighty-four nor more than one hundred twenty days following

the date of the special primary election. Each election shall follow the requirements of section one of this article that are not in conflict with this section.”

On motion of Delegate Hanshaw, the bill was amended on page two, section three, line thirteen, following the word “occurred”, by inserting a colon and the following proviso: “*Provided*, That the provisions of this subsection do not apply to subsections (b), (c), (d), and (e) of this section.”

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 14**), and there were—yeas 62, nays 34, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponagle, Thompson and Williams.

Absent and Not Voting: Caputo, Kessinger and Love.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3004) passed.

On motion of Delegate Hanshaw, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3004 - “A Bill to amend and reenact §3-10-3, §3-10-4, §3-10-5, and §3-10-7 of the Code of West Virginia, 1931, as amended, all relating to filling vacancies in elected offices; the filling of vacancies in offices of state officials, Justices, judges, and magistrates; and requiring a vacancy in the partisan offices of that section to be filled by appointment by the Governor; providing that such vacancies be filled with a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred; setting requirements for party executive committees to submit qualified names for vacancies in said offices; providing that such appointments be made within a time certain; providing for appointment of a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred under circumstances where party executive committees do not act to submit qualified names for vacancies in said offices; requiring vacancies in the office of United States senator to be filled by appointment by the Governor; providing that such vacancy be filled with a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred; setting requirements for party executive committees to submit qualified names for vacancies in office of United States senator; providing that such appointments be made within a time certain; providing for appointment of a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred under circumstances where party executive committees do not act to submit qualified names for vacancies in said office; requiring vacancies created in state Legislature to be filled by appointment by the Governor; providing that such vacancies be filled with a person from the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred; requiring vacancies in offices of county commissioner or clerk of the county commission to be filled with person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred; providing process for vacancy on county commission or clerk of the county commission to be filled by the county commission itself; providing process for vacancy on county commission to be filled if county commission fails to fill the vacancy by itself; requiring the Governor appoint persons to fill vacancies on county commission when no quorum on

county commission with a person from the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred; setting requirements for party executive committees to submit qualified names for county commission vacancies that must be filled by the Governor; ensuring county commission appointments are subject to time periods set forth in section one of the article; and making technical corrections.”

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

Com. Sub. for H. B. 3005, Relating to regulation of unmanned aircraft systems; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Folk asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the offering and consideration of amendments on third reading.

On motion of Delegate Folk, the bill was amended on page one, section one, line two, by striking out the word “contrivance” and inserting the word “device”.

And,

On page one, section one, line three, by striking out the words “for navigation or”.

Having been engrossed, the bill was read a third time.

Delegate Folk moved that the bill be tabled, which motion did not prevail.

Delegate Hamrick requested to be excused from voting on the passage of Com. Sub. for H. B. 3005 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 15**), and there were—yeas 78, nays 18, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Canestraro, Ferro, Fluharty, Folk, Hartman, Hornbuckle, Iaquinta, Isner, McGeehan, Pushkin, Robinson, Rowe, Sponaugle, Storch, Wagner and Williams.

Absent and Not Voting: Caputo, Kessinger and Love.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3005) passed.

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

Com. Sub. for H. B. 4150, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 16**), and there were—yeas 94, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan and Robinson.

Absent and Not Voting: Caputo, Kessinger and Love.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4150) passed.

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

Second Reading

Com. Sub. for H. B. 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4035, Creating a legislative coalition to study and report to the Legislature on palliative care; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4135, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4144, Relating to the elimination of film tax credits; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4146, Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4169, Requiring certain establishments and facilities to post human trafficking assistance notices; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4174, Designating the placement of nonpartisan judicial offices on the primary election ballot; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4207, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 2546, Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned,

And,

H. B. 4183, Relating generally to standardized testing requirements for nonpublic schools.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Caputo, Kessinger and Love.

Miscellaneous Business

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Fleischauer during the debate regarding Com. Sub. for H. B. 3004
- Delegate Fleischauer during Remarks by Members
- Delegate E. Evans during Remarks by Members
- Delegate Moye during Remarks by Members

Pursuant to House Rule 94b, Members filed forms to be added as a cosponsor of the following bills:

- Delegate Frich for H. B. 4175 and 4276
- Delegate Lovejoy for H. B. 4175
- Delegate R. Romine for H. B. 2123

Pursuant to House Rule 94b, Members filed forms to be removed as a cosponsor of the following bills:

- Delegate Hamrick for H. B. 4163
- Delegate C. Miller for H. B. 4287
- Delegate Overington for H. B. 2523

At 1:19 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, January 26, 2018.

HOUSE CALENDAR

Friday, January 26, 2018

17th Day

11:00 A. M.

THIRD READING

- S. B. 263 - Eliminating film tax credits (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2483 - Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4035 - Creating a legislative coalition to study and report to the Legislature on palliative care (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4135 - Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4146 - Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 4169 - Requiring certain establishments and facilities to post human trafficking assistance notices (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4174 - Designating the placement of nonpartisan judicial offices on the primary election ballot (SHOTT) (REGULAR)
- H. B. 4207 - Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement (SHOTT) (REGULAR)

SECOND READING

- Com. Sub. for H. B. 2546 - Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned (SHOTT) (REGULAR)
- H. B. 4144 - Relating to the elimination of film tax credits (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4183 - Relating generally to standardized testing requirements for nonpublic schools (ESPINOSA) (REGULAR)

FIRST READING

- Com. Sub. for H. B. 2799 - Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit (SHOTT) (REGULAR)
- H. B. 4010 - Providing no requirement to perform or host a marriage ceremony that does not conform to sincerely held religious beliefs (SHOTT) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, JANUARY 26, 2018

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON FINANCE
8:30 A.M. – ROOM 460M**

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 418M**

**COMMITTEE ON EDUCATION
9:00 A.M. – ROOM 434M**

**COMMITTEE ON GOVERNMENT ORGANIZATION
9:00 A.M. – ROOM 215E**

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