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EIGHTH DAY

Wednesday, February 17, 2021

EIGHTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

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

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

The Clerk proceeded to read the Journal of Tuesday, February 16, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

H. B. 2081, Relating to withholding tax on income of nonresidents from natural resources royalty payments,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2081) was referred to the Committee on Finance.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that H. B. 2536, on Third reading, Special Calendar, had been transferred to the House Calendar; and H. B. 2582, First reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for H. B. 2002, Second reading, House, had been transferred to the Special Calendar.

Committee Reports

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Delegate Steele, 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. 2008, Amending requirements for licensure relating to elevator mechanics, crane operators, HVAC, electricians, and plumbers,

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

Com. Sub. for H. B. 2008 - "A Bill to repeal §21-3D-4, §21-3D-5, §21-3D-6, §21-3D-7, and §21-3D-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §21-3C-14; to amend and reenact §21-3D-1, §21-3D-2, §21-3D-3, and §21-3D-8 of said code; to amend and reenact §21-14-2 and §21-14-7 of said code; to amend and reenact §21-16-2, §21-16-3, §21-16-5, and §21-16-8 of said code; to amend said code by adding thereto a new section, designated §21-16-11; to amend and reenact §29-3B-2, §29-3B-3, §29-3B-4, §29-3B-6, and §29-3B-8 of said code; and to amend and reenact §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-6, and §29-3D-7 of said code, all relating to licensure in this state; providing for state code precedence over local ordinances; providing for a national standard and national certification for crane operators; providing for legislative appropriation of the Crane Operators Certification Fund on a certain date; providing for altered definitions of a Journeyman and Master plumber; providing for monetary penalties for improperly performing plumbing work under certain conditions; providing for altered definitions of HVAC Technician; providing that an applicant for a HVAC technician license must only provide documentation of up to 2,000 hours work, training, and experience; providing for monetary penalties for improperly performing HVAC work under certain conditions; providing for veterans who meet certain conditions be eligible for HVAC technician licensure; providing for altered definitions of Journeyman and Master electricians; providing for exemptions for licensure under certain conditions; providing for extended time frames for electricians to renew a license without retesting; providing for monetary penalties for improperly performing electrical work under certain conditions; providing for definitions of fire protection workers; providing for an altered definition of Journeyman sprinkler fitter; providing for an exemption from licensure when meeting certain conditions; providing for monetary penalties for improperly performing fire protection work; and providing for other minor technical changes,"

With the recommendation that the committee substitute do pass.

Delegate Capito, 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. 2253, Relating to forgery and other crimes concerning lottery tickets,

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

Delegate Capito, 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. 2003, Relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency,

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

Com. Sub. for H. B. 2003 - "A Bill to amend and reenact §15-5-2 and §15-5-6 of the Code of West Virginia, 1931, as amended, all relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency; clarifying the authority and obligations of the Governor during periods of preparedness and emergency; providing requirements for any proclamation or resolution issued relating to a state of preparedness or emergency; defining terms; specifying new criteria for the duration and termination of states of preparedness and

emergency; providing for the extension of states of emergency and preparedness by concurrent resolution of the Legislature and specifying the duration of such extensions; providing directives for lawsuits filed challenging actions taken pursuant to the authority granted herein; and updating references to a state agency,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for H. B. 2003) was taken up for immediate consideration, read a first time and ordered to second reading.

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. 9 - “A Bill to amend and reenact §29-22A-10 of the Code of West Virginia, 1931, as amended, relating to continuation of Licensed Racetrack Modernization Fund; and making technical corrections”; which was referred to the Committee on Finance.

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

S. B. 10 - “A Bill to amend and reenact §29-22C-8 of the Code of West Virginia, 1931, as amended, relating to changing date the annual racetrack table games license renewal fee is due to October 1 annually; and making technical corrections”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 34 - “A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to creating an exemption to the State Sales and Use Tax for the rental of equipment among corporations with a minimum of 50 percent common ownership”; which was referred to the Committee on Finance.

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

S. B. 78 - “A Bill to amend and reenact §48-8-105 of the Code of West Virginia, 1931, as amended, relating to correcting erroneous cross-references within this section regarding factors considered in awarding spousal support and separate maintenance”; 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. 81 - "A Bill to amend and reenact §44D-1-105 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-8A-809 of said code; and to amend and reenact §44D-10-1008 of said code, all relating generally to the West Virginia Uniform Trust Code; correcting certain internal code references; adding certain cross references within the trust code; and modifying standard for trustee liability from 'willful misconduct' to breach of fiduciary duty for consistency with similar trust law provisions"; 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. 126 - "A Bill to amend and reenact §64-2-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally, to authorizing certain agencies of the Department of Administration to promulgate legislative rules; authorizing the rules as filed, as modified, and as amended by the Legislative Rule-Making Review Committee; authorizing the Department of Administration to promulgate a legislative rule relating to purchasing; authorizing the State Board of Risk and Insurance Management to promulgate a legislative rule relating to mine subsidence insurance; authorizing the State Board of Risk and Insurance Management to promulgate a legislative rule relating to the public entities insurance program; and authorizing the State Board of Risk and Insurance Management to promulgate a legislative rule relating to the procedure for providing written notification of claims of potential liability to the state or its employees"; 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

S. B. 140 - "A Bill to amend and reenact §64-4-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Rehabilitation Services to promulgate a legislative rule relating to Ron Yost Personal Assistance Services Act Board"; 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. 156 - "A Bill to amend and reenact §64-6-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Homeland Security to promulgate legislative rules; authorizing the rules as filed and as amended by the Legislature; relating to authorizing the Fire Commission to promulgate a legislative rule relating to standards for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners; relating to authorizing the Fire Marshal to promulgate a legislative rule relating to standards for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners; relating to authorizing the State Emergency Response Commission to promulgate a legislative rule relating to emergency planning and community right-to-know; and relating to authorizing the State Emergency Response Commission to promulgate a legislative rule relating to the emergency planning grant program"; which was referred to the Committee on Government Organization

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 4 – “Recognizing June 19 as Juneteenth Day.”

Whereas, Juneteenth, also known as Juneteenth Independence Day, Emancipation Day, Emancipation Celebration, and Freedom Day, is the oldest African-American holiday observance in the United States; and

Whereas, Juneteenth commemorates the strong survival instinct of African Americans who were first brought to this country stacked in the bottom of slave ships in a month-long journey across the Atlantic ocean known as the Middle Passage; and

Whereas, In September 1862, President Lincoln issued the celebrated Emancipation Proclamation, warning the rebellious Confederate states that he would declare their slaves “forever free” if those states did not return to the Union by January 1, 1863; and

Whereas, Enforcement of the Emancipation Proclamation occurred only in Confederate states that were under Union Army control; and

Whereas, On January 31, 1865, Congress passed the Thirteenth Amendment to the United States Constitution, abolishing slavery throughout the United States and its territories; and

Whereas, Spontaneous celebration erupted throughout the country when African Americans learned of their freedom; and

Whereas, Juneteenth, or June 19, 1865, is considered the date when the last slaves in America were freed when General Gordon Granger rode into Galveston, Texas, and issued General Order No. 3, almost two and one-half years after President Lincoln issued the Emancipation Proclamation; and

Whereas, For former slaves, the Juneteenth celebration was a time for reassuring each other, praying, and gathering remaining family members together. Juneteenth continued to be highly revered in Texas decades later, with many former slaves and descendants making an annual pilgrimage back to Galveston on this date; and

Whereas, Today, Juneteenth commemorates African-American freedom and emphasizes education and achievement. It is a day, a week, and in some areas, a month marked with celebrations, guest speakers, picnics, and family gatherings. It is a time for reflection and rejoicing. It is a time for assessment, self-improvement, and planning for the future; and

Whereas, Juneteenth symbolizes freedom, celebrates the abolishment of slavery, and reminds all Americans of the significant contributions of African Americans to our society; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby recognizes June 19 as Juneteenth Day; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Honorable Jill Upson, Executive Director, Herbert Henderson Office of Minority Affairs.

Motions

On motion of Delegate Graves, and in the absence of objection, consent was obtained to print the remarks of all Delegates on yesterday regarding Com. Sub. for H. B. 2012 in the Appendix to the Journal.

Bills Introduced

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

By Delegates Williams and Lovejoy:

H. B. 2564 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; and requiring boards to provide free feminine hygiene products in grades six through 12"; to the Committee on Education then Finance.

By Delegate Williams:

H. B. 2565 - "A Bill to amend and reenact §21-5C-2 of the Code of West Virginia, 1931, as amended, relating to increasing the minimum wage based upon increases in the consumer price index"; to the Committee on Workforce Development then Finance.

By Delegates Williams and Lovejoy:

H. B. 2566 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §48-10A-101, §48-10A-102, §48-10A-201, §48-10A-202, §48-10A-203, §48-10A-204, §48-10A-301, §48-10A-401, §48-10A-402, §48-10A-403, §48-10A-501, §48-10A-502, §48-10A-601, §48-10A-602, §48-10A-701, §48-10A-702, §48-10A-801, §48-10A-802, §48-10A-901, §48-10A-902, §48-10A-1001, §48-10A-1002, §48-10A-1101, and §48-10A-1201; and to amend and reenact §51-2A-2 of said code, all relating to the creation of a statutory right to petition circuit and family courts in West Virginia for sibling visitation with minor children"; to the Committee on Senior, Children, and Family Issues then the Judiciary.

By Delegates Fast and D. Kelly:

H. B. 2567 - "A Bill to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating to the financial responsibility of inmates in relation to civil awards and previously entered court-ordered obligations, and requiring the division to subtract the moneys from civil judgments and settlements to be paid towards court ordered obligations even if a court of competent jurisdiction does not enter an order"; to the Committee on the Judiciary then Finance.

By Delegates Hott, Rowan and Martin:

H. B. 2568 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-39, relating to rules for hunting antlered deer"; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegate Higginbotham:

H. B. 2569 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to providing compensation to victims of abusive lawsuits; providing that a party in a civil action is entitled to recover attorney's fees and costs after a court dismisses a claim as lacking any basis in law or fact; and establishing an effective date"; to the Committee on the Judiciary.

By Delegate Williams:

H. B. 2570 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8e, relating to requiring the Commissioner of Highways to develop an app and a map that permits individuals to report, and keep track of, potholes on the roads and streets of the state"; to the Committee on Technology and Infrastructure then Government Organization.

By Delegate Williams:

H. B. 2571 - "A Bill to amend and reenact §46A-6L-101 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §46A-6L-104a, all relating to the theft of consumer identity protections; including protection for theft of identity information of persons 60 years of age or older or individuals under 18 years of age; adding definitions; providing that a report to law-enforcement agency is prima facie evidence of identity theft; and providing both misdemeanor and felony penalties for violations"; to the Committee on the Judiciary.

By Delegates Smith, Bridges, Gearheart, Martin, Hardy, Hamrick, Hanna, Clark, Howell, Ellington and Steele:

H. B. 2572 - "A Bill to amend and reenact §11-8-16 and §11-8-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9-1, §18-9-2, and §18-9-2a of said code, all relating to requiring that elections to increase levies coincide with a primary or a general election and removing references to special elections for levies"; to the Committee on the Judiciary.

By Delegates Rowan, Maynard, Hott, Hardy, J. Pack, Criss, Riley, Anderson, Gearheart and Graves:

H. B. 2573 - "A Bill to amend and reenact §12-4-14 of the Code of West Virginia, 1931, as amended, relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse; providing a short title; providing legislative intent; defining terms; establishing a West Virginia debarred list, establishing uniform reporting requirements; establishing a public data base for state grant reporting; establishing stop payment procedures and orders; authorizing grantors, the State Auditor, and the Attorney General to recover misspent grant funds; establishing procedures for the recovery of state grant funds by the grantors, State Auditor, and Attorney General; suspending expenditures of grant funds by grantor agencies under a specific grant until reporting requirements are met; providing for informal conferences and formal hearings to recover state grant funds; requiring written disclosure of conflicts of interest by grantees and grantors; providing for audits and reporting for grant funds; prohibiting grant funds from being used towards prohibited political activity, as defined, and establishing criminal penalties therefore; authorizing the State Auditor to promulgate rules governing state grants; and requiring reporting to the Joint Committee on the Government and Finance"; to the Committee on Finance then the Judiciary.

By Delegate Summers:

H. B. 2574 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-17-1, §21-17-2, §21-17-3, and §21-17-4, all relating to prohibiting employers from requiring employees or prospective employees to have devices implanted or otherwise incorporated into their bodies as a condition of employment or any employment benefit; to prohibit employers from discriminating in the terms, conditions, and benefits of employment against employees who refuse to have a device implanted or otherwise incorporated into their bodies; and to provide remedies"; to the Committee on Workforce Development then the Judiciary.

By Delegates Westfall, Wamsley, Statler and Storch:

H. B. 2575 - "A Bill to amend and reenact §18-15-17 of the Code of West Virginia, 1931, as amended, relating to increasing the age limit from 35 to 40 for original appointment by the Firemen's

Civil Service Commission to a municipal paid fire department”; to the Committee on Fire Departments and Emergency Medical Services then Finance.

By Delegate Foster:

H. B. 2576 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5H-1, §18-5H-2, §18-5H-3, and §18-5H-4, all relating to the Virtual Public School’s Act; providing a short title and declaration of intent; including definitions; and providing accountability requirements”; to the Committee on Education.

By Delegate Foster:

H. B. 2577 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10P-1, §18-10P-2, §18-10P-3, §18-10P-4, §18-10P-5, §18-10P-6, §18-10P-7, §18-10P-8, §18-10P-9, §18-10P-10, §18-10P-11, §18-10P-12, §18-10P-13, §18-10P-14, §18-10P-15, §18-10P-16, and §18-10P-17, all relating to creating a Statewide Online Education Program to enable eligible students to earn high school graduation credit through the completion of publicly funded online courses”; to the Committee on Education.

By Delegate Foster:

H. B. 2578 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-19-1, §55-19-2, §55-19-3, and §55-19-4, all relating to creating the Alternative Dispute Resolution Act; providing parties to a lawsuit with choices for resolving their dispute that save time and money, when compared to formal court proceedings, by encouraging alternative dispute resolution (ADR) procedures – limited discovery, confidential proceedings, and nonjudicial assistance in evaluating the parties’ claims”; to the Committee on the Judiciary.

By Delegate Foster:

H. B. 2579 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31E-17-1, §31E-17-2, §31E-17-3, §31E-17-4, §31E-17-5, §31E-17-6 and §31E-17-7, all relating to creating the West Virginia Volunteer Immunity and Charitable Organization Liability Limit Act; providing a short title and declaration of intent; including definitions; providing for volunteer immunity from civil liability in certain circumstances; addressing limitations on organization liability; addressing exclusions and severability”; to the Committee on the Judiciary.

By Delegates Nestor, McGeehan, Ferrell, Fast, Lovejoy, Longanacre, Kimes, Fluharty, D. Kelly, Jennings and Queen:

H. B. 2580 - “A Bill to amend and reenact §8-11-1 of the Code of West Virginia, 1931, as amended, relating to ensuring that municipal officers adhere to the Model Rules of Judicial Conduct, to provide a means by which the integrity of the judicial system of the state is preserved, and to ensure that the constitutional rights of all people will be adequately protected by all courts of this state”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Graves, Criss, Barrett, Anderson, Rohrbach, J. Kelly, Maynard, Burkhammer, J. Pack, Bridges and Westfall:

H. B. 2581 - “A Bill to repeal §11-3-24b and §11-3-25 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-1C-10 of said code, to amend said code by adding thereto a new section, designated §11-1C-10a; and to amend and reenact §11-3-15c, §11-3-15f, §11-3-15h, §11-3-15i, §11-3-23, §11-3-23a, §11-3-24, §11-3-24a, §11-3-25a, and §11-3-32 of said code, and to amend and reenact §11-10A-1, §11-10A-7, §11-10A-8, §11-10A-10, and §11-10A-19 of said code, all generally relating to the valuation, assessment, review, and appellate rights of property owners regarding valuation, classification, and taxability of real estate and personal property taxation; providing for revised methodology to value oil and natural gas property by Tax Commissioner; providing for the confidentiality of financial information disclosed to the Tax Commissioner; allowing

for the publication, release, or other disclosure of nonproprietary financial information by the Joint Committee on Government and Finance; providing for the confidentiality of annual industry operating expenses survey information used for property tax purposes and defining a criminal penalty for the unauthorized disclosure of financial information; providing that residential property owners may not be required to furnish a formal appraisal to establish the value of their primary residence; providing that an assessor's review is to be an informal process and defining the standard of proof which a taxpayer must meet to be no greater than a preponderance of the evidence; expanding the jurisdiction of the Office of Tax Appeals to include property tax valuation, classification, and taxability; providing that if an assessor rejects a petition, the petitioner may appeal to the county Board of Equalization and Review or the Office of Tax Appeals; allowing for certain appeals from decisions of the Tax Commissioner and Board of Equalization and Review to the Office of Tax Appeals; repealing and eliminating the Board of Assessment Appeals; providing for an increase in the number of administrative law judges and staff attorneys within the Office of Tax Appeals; providing for effective dates; and making technical changes"; to the Committee on Energy and Manufacturing then Finance.

By Delegate Fluharty:

H. B. 2583 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1-12, relating to authorizing student athletes to be compensated for use of their name, image, or likeness; prohibiting state institutions of higher education from preventing a student athlete from use of the student's name, image or likeness when the student is not engaged in official team activities; prohibiting athletic associations or other similar groups from preventing student athlete earning compensation for use of his or her name, image, or likeness; prohibiting athletic associations or other similar groups from preventing a state institution of higher education from allowing a student athlete earning compensation from the use of his or her name, image, or likeness; allowing the student athlete to obtain approved professional representation; and requiring the student athlete to disclose certain information to the state institution of higher education"; to the Committee on Education then the Judiciary.

By Delegate Fluharty:

H. B. 2584 - "A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating to prohibiting the home schooling of children in certain circumstances; and prohibiting home schooling when a custodial parent or the person instructing the child is suspected or convicted of child abuse or neglect; and when either custodial parent or a person instructing the child has been convicted of domestic violence. This act shall be known as 'Raylee's Law'"; to the Committee on Education then the Judiciary.

By Delegate Pushkin:

H. B. 2585 - "A Bill to repeal §60A-7-704, §60A-7-705a, §60A-7-706, §60A-7-707, and §60A-7-708 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §60A-7-702a; to amend and reenact §60A-7-703 of said code; to amend said code by adding thereto two new sections, designated §60A-7-703a and §60A-7-703b; to amend and reenact §60A-7-705 of said code; and to amend said code by adding thereto nine new sections, designated §60A-7-709, §60A-7-710, §60A-7-711, §60A-7-712, §60A-7-713, §60A-7-714, §60A-7-715, §60A-7-716, and §60A-7-717, all relating generally to forfeiture of contraband; establishing criminal forfeiture and the items and property subject to forfeiture; setting forth additional procedures for forfeiture; establishing dates; permitting a court to waive a conviction requirement; protecting innocent owners; permitting seizure of personal property with and without process; providing that there are no additional remedies and no joint and severable liability; establishing title; setting forth the disposition of forfeited property and proceeds; establishing prohibition on retaining property; establishing sales restrictions, return of property, damages, and costs; permitting the transfer of forfeited property to the federal government; providing for preemption; and defining terms"; to the Committee on the Judiciary.

By Delegate Fluharty:

H. B. 2586 - "A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to expanding the amount of PROMISE scholarship funds awarded to persons majoring in science, technology, engineering and mathematics fields"; to the Committee on Education then Finance.

By Delegate Fluharty:

H. B. 2587 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-2A-5a, relating to drug testing of legislators"; to the Committee on the Judiciary then Finance.

By Delegates Hansen, Fleischauer, Young and Doyle:

H. B. 2588 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated as §24-2I-1, §24-2I-2, §24-2I-3, §24-2I-4, §24-2I-5, and §24-2I-6, relating to establishing the West Virginia Energy Efficiency Jobs Creation Act; creating short title; establishing findings and purpose; defining terms; requiring electric utilities to develop and implement energy efficiency programs; establishing duties of the Public Service Commission; establishing certain requirements that the commission is to impose on electric utilities; providing requirements of electric utilities; requiring the commission to make reports to the Legislature; providing a self-direct option for an energy efficiency plan for eligible primary or secondary electric customers; establishing eligibility requirements; establishing duties of the commission; establishing requirements for self-directed energy efficiency plans; requiring electric providers to provide an annual report to the commission that includes certain information on the implementation of self-directed energy optimization plans; and requiring the commission to order certain participating customers that fail to meet the minimum energy efficiency goals of the self-directed plan to repay to the provider certain charges the customer avoided"; to the Committee on Energy and Manufacturing then the Judiciary.

By Delegates Hansen, Evans and Young:

H. B. 2589 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §22-10A-1, §22-10A-2, §22-10A-3, §22-10A-4, §22-10A-5, §22-10A-6, §22-10A-7, §22-10A-8, §22-10A-9, and §22-10A-10, all relating to the creation of the Orphan Oil and Gas Well Prevention Act of 2021; preventing oil and gas wells from being orphaned on surface owner's land with no responsible driller or operator with the resources to plug the well; the procedures for prevention of orphaned wells; and requiring plugging money set aside as escrow in the office of the State Treasurer"; to the Committee on Energy and Manufacturing then Finance.

Special Calendar**Third Reading**

Com. Sub. for H. B. 2011, Eliminating any time requirements for part time personnel to work during a working year; 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. 22**), and there were—yeas 99, nays none, absent and not voting 1, with absent and not voting being as follows:

Absent and Not Voting: Linville

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2011) passed.

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

H. B. 2019, Elevating Economic Development and Tourism Departments; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin was addressing the House when Delegate Hardy arose to a point of order, regarding the content of the Gentleman's remarks. The Speaker sustained the point of order and reminded Members to speak to the bill before the House.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 23**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Dean, Diserio, Fluharty, Gearheart, Jeffries, J., Kimble, McGeehan, Paynter, Phillips, Pushkin, Rowe and G. Ward.

Absent and Not Voting: Linville

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2019) 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. 2263, Update the regulation of pharmacy benefit managers; on third reading, coming up in regular order, was read a third time.

Delegates Reed and Griffith requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 24**), and there were—yeas 99, nays none, absent and not voting 1, with absent and not voting being as follows:

Absent and Not Voting: Linville

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2263) 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. 2002, Relating to Broadband; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Summers and by unanimous consent, the bill was committed to the Committee on Technology and Infrastructure.

Com. Sub. for H. B. 2007, Provide for occupational licenses or other authorization to practice by recognition for qualified applicants from other states; on second reading, coming up in regular order, was read a second time.

Delegate Diserio moved to amend the bill on page 1, following the enacting clause, by inserting the following new section:

“CHAPTER 11. TAXATION.

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-5ee. Disclosure of certain tax information to Boards and Agencies.

Notwithstanding any provision of this article to the contrary, the Tax Commissioner shall enter into a written agreement with any State Agency or Board of this state regulated by Chapter 21, Chapter 29 or Chapter 30 and the Agency or Board shall request and the Commissioner shall provide to the agency or board or to designated employees of such Agency or Board certain tax information, including but not limited to:

(1) Whether an applicant for issuance or renewal of an occupational license has filed a resident tax return for the most recent year; and

(2) Whether an applicant for issuance or renewal of an occupational license is in arrears for prior years state taxes and whether the applicant is subject to any enforcement or other action by the state Tax Commissioner for failure to report or pay any state taxes.”

Delegate Foster arose to inquire of the Chair regarding the germaneness of the amendment to the bill.

The Speaker replied, ruling that the amendment was germane.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 25**), and there were—yeas 30, nays 68, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Barrett, Boggs, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Reynolds, Rowe, Skaff, Storch, Thompson, Toney, Walker, Ward, G, Williams, Young and Zukoff.

Absent and Not Voting: Bridges and Linville

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegate Diserio moved to amend the bill on page 6, following the period on line 2 of section 13, by inserting a new section to read as follows:

On page 6, following the period on line 2 of Section 13, by inserting a new section to read as follows:

“§21-17-14. Penalties relating to failure to obtain a license.

(1) It shall be unlawful for any person:

(1) To act as a business or regulate profession without having obtained and possessing a valid license;

(2) To make any false statement in an application for a license; or

(3) To fail to submit satisfactory proof to the agency or board, under penalty of perjury, of the applicant's substantially equivalent experience or credentials, as required by this article.

(b) The applicant is ineligible for a license if he or she has committed an act that would be grounds for disciplinary action under the law governing the applicable profession or occupation."

And,

On page 11 following the period on line 2 of Section 13, by inserting a new section to read as follows:

“§29-33-14. Penalties relating to failure to obtain a license.

(a) It shall be unlawful for any person:

(1) To act as a business or regulate profession without having obtained and possessing a valid license;

(2) To make any false statement in an application for a license; or

(3) To fail to submit satisfactory proof to the agency or board, under penalty of perjury, of the applicant's substantially equivalent experience or credentials, as required by this article.

(b) The applicant is ineligible for a license if he or she has committed an act that would be grounds for disciplinary action under the law governing the applicable profession or occupation."

And,

On page 16 following the period on line 2 of Section 13, by inserting a new section to read as follows:

“§30-1F-14. Penalties relating to failure to obtain a license.

(a) It shall be unlawful for any person:

(1) To act as a business or regulate profession without having obtained and possessing a valid license;

(2) To make any false statement in an application for a license; or

(3) To fail to submit satisfactory proof to the agency or board, under penalty of perjury, of the applicant's substantially equivalent experience or credentials, as required by this article.

(b) The applicant is ineligible for a license if he or she has committed an act that would be grounds for disciplinary action under the law governing the applicable profession or occupation."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 26**), and there were—yeas 26, nays 72, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Ward, G, Williams, Young and Zukoff.

Absent and Not Voting: Higginbotham and Linville

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegate Diserio moved to amend the bill on page 4, section 3, line 25, following the words “is resolved,” , by striking out the word “and”.

And,

On page 4, section 3, line 27, following the words “this state” , by striking out the period, inserting a semi colon and the following:

“and

(11) The board in this state has determined the applicant qualifies for employment under the E-Verify program administered by the United States Department of Homeland Security and the United States Social Security Administration.

And,

On page 9, Section 3, line 27, following the words “this state” by striking out the period, inserting a semi colon and the following:

“and

(11) The board in this state has determined the applicant qualifies for employment under the E-Verify program administered by the United States Department of Homeland Security and the United States Social Security Administration.”

The yeas and nays having been ordered, they were taken (**Roll No. 27**), and there were—yeas 32, nays 66, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Jeffries, J., Lovejoy, Maynard, McGeehan, Paynter, Pethtel, Pushkin, Rohrbach, Rowe, Skaff, Storch, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Higginbotham and Linville

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Pushkin and Fleischauer moved to amend the bill on page 3, section 3, line 9, following the semicolon, by inserting a new subdivision (4) to read as follows:

“(4) The person is not licensed by the Massage Therapy Licensing Board pursuant to the provisions of §30-37-1 et seq. of this code. Massage Therapy is continued as a lawful occupation exempted from the provisions of this article and the provisions of §29-33-1 et seq. of the code;” and renumbering subsequent subdivisions of this subsection accordingly.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 28**), and there were—yeas 25, nays 73, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Ward, G, Williams, Young and Zukoff.

Absent and Not Voting: Higginbotham and Linville

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Foster and Steele moved to amend the bill on page twelve, section one, line three, after the phrase “§30-2-1 et seq.” by inserting the following “§30-3-1 et seq., §30-3E-1 et seq., §30-14-1 et seq., §30-14E-1 et seq., §30-18-1 et seq.”

The question before the House being the adoption of the amendment, the same was put and prevailed.

There being no further amendments, the bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2013, Relating to the Hope Scholarship Program; on second reading, coming up in regular order, was read a second time.

Delegate Burkhammer moved to amend the bill on page eleven, section two, line seventeen, following the word “code”, by inserting the words “*Provided*, That effective July 1, 2026, a child is considered to meet the requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program or public elementary or secondary school program in this state at the time of application”.

The question being on the adoption of the amendment, the same was put and prevailed.

Delegates Hornbuckle, Evans, Thompson and Walker moved to amend the bill on page 9, section 25, lines 5 and 6, by striking out the words “the greater of an amount not less than two percent of net public school enrollment adjusted for state aid purposes or” and inserting in lieu thereof, the words “no more than 2,500 of”.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 29**), and there were—yeas 25, nays 69, absent and not voting 6, with the yeas and absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Fluharty, Foster, Gearheart, Higginbotham, Linville and Westfall

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Doyle, Thompson, Rowe, Walker and Pushkin moved to amend the bill on page 24, section 11, line 10, following the number "1981", by inserting a comma and the words "or on the basis of race, sex, sexual orientation, gender identification, religion or disability".

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 30**), and there were—yeas 21, nays 72, absent and not voting 7, with the yeas and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Diserio, Doyle, Evans, Fleischauer, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Fluharty, Gearheart, Higginbotham, Kelly, J., Linville, Toney and Westfall.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

An amendment offered by Delegate Rowe, was reported by the Clerk, on page 10, section 2, line 15, by striking out the word "Is" and inserting in lieu thereof the words "Has been" and on line 15, following the words "in this state" by striking out the word "at" and by inserting in lieu thereof the words "at least one full semester immediately prior to".

Whereupon,

Delegate Rowe obtained unanimous consent that the amendment be withdrawn.

Delegates Hornbuckle, Evans, Thompson and Walker moved to amend the bill on page 10, section 2, line 14, by striking out the word "and" and on line 17 of section 2, following the semi-colon, by inserting the following:

"and

(c) The household income for the household of the recipient does not exceed \$50,000 for persons filing a single return or \$100,000 for persons filing a joint return."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 31**), and there were—yeas 22, nays 73, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Fluharty, Gearheart, Higginbotham, Linville and Westfall

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

On motion of Delegate Ellington, the bill was amended on page 15, section 6, line 4, after the word "with", by striking out "§18-9A-10(a)(6)" and inserting in lieu thereof "§18-9A-25".

And

On page 16, section 6, line 14, after the word "to", by striking out "§18-9A-10(a)(6)" and inserting in lieu thereof "§18-9A-25".

There being no further amendments, the bill was then 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. 2009, Relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities,

Com. Sub. for H. B. 2325, Removing the requirement of continuing education for barbers and cosmetologists,

And,

H. B. 2366, Requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Linville.

Miscellaneous Business

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 2035: Delegate Mallow;

H. B. 2048: Delegate Brown;

H. B. 2049: Delegate Walker;

H. B. 2051: Delegate Brown;

H. B. 2052: Delegate Brown;

H. B. 2077: Delegate Pritt;

H. B. 2147: Delegate Walker;

H. B. 2150: Delegate Walker;

H. B. 2221: Delegates Barnhart, Capito, Espinosa, Hott, J. Jeffries, Keaton, L. Pack, Pritt, Reed and Williams;

H. B. 2223: Delegate Walker;

H. B. 2239: Delegates Longanacre and Mallow;

H. B. 2248: Delegate Mallow;

H. B. 2256: Delegate Hanna;

H. B. 2270: Delegate Mallow;

H. B. 2275: Delegate Mallow;

H. B. 2500: Delegates J. Jeffries and Mandt;

H. B. 2532: Delegate Walker;

H. B. 2539: Delegate Walker;

H. B. 2540: Delegate Walker;

H. B. 2542: Delegate Walker;

H. B. 2550: Delegate Walker;

H. B. 2560: Delegate Walker;

H. B. 2566: Delegate Brown;

H. J. R. 3: Delegate Reynolds;

And,

H. J. R. 12: Delegates Pushkin, Walker and Williams.

Pursuant to House Rule 65, Delegate Bates requested the Chamber for Remarks by Members of the House at **4:30 on February 24, 2021**. The Speaker replied that remarks by members would be scheduled as close as possible to that time.

At 1:29 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 18, 2021.

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

SPECIAL CALENDAR

Thursday, February 18, 2021

9th Day

11:00 A. M.

THIRD READING

- Com. Sub. for H. B. 2007 - Provide for occupational licenses or other authorization to practice by recognition for qualified applicants from other states (STEELE) (REGULAR)
- Com. Sub. for H. B. 2013 - Relating to the Hope Scholarship Program (HOUSEHOLDER) (REGULAR)

SECOND READING

- Com. Sub. for H. B. 2003 - Relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2009 - Relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2325 - Removing the requirement of continuing education for barbers and cosmetologists (STEELE) (REGULAR)
- H. B. 2366 - Requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note (STEELE) (REGULAR)

FIRST READING

- Com. Sub. for H. B. 2008 - Amending requirements for licensure relating to elevator mechanics, crane operators, HVAC, electricians, and plumbers (STEELE) (REGULAR)
- H. B. 2253 - Relating to forgery and other crimes concerning lottery tickets (CAPITO) (REGULAR)

HOUSE CALENDAR

Thursday, February 18, 2021

9th Day

11:00 A. M.

SECOND READING

- Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2014 - Relating to role of the Legislature in appropriating federal funds (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)
- H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)

FIRST READING

- H. J. R. 2 - Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate (CAPITO)
- H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

THURSDAY, FEBRUARY 18, 2021

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 215 E**

**COMMITTEE ON FINANCE
9:00 A.M. – HOUSE CHAMBER**

**COMMITTEE ON RULES
10:45 A.M. – ROOM 418 M**

**COMMITTEE ON EDUCATION
1:00 P.M. – HOUSE CHAMBER**

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