

Interim Highlights

Education Subcommittee A - Higher Education

The Chancellor of the Council for Community and Technical College Education spoke on the reciprocity agreements that various community colleges around the state have with other neighboring states' community colleges. Many of the neighboring states community colleges offer programs in Radiologic Technology and other allied health fields that are not provided at West Virginia community colleges.

The Chancellor used Washington State Community College, Marietta, Ohio as an example of an allied health program in which West Virginia students are enrolled. West Virginia students enrolled in these allied health programs totaled 187 as of Fall 2003. The tuition for in-state students at Washington State was \$68 a credit hour and for out-of-state students it was \$136 for the 2003-04 year.

Further study of how to encourage West Virginia's community colleges to offer allied health programs will be presented during future interim meetings.

Education Subcommittee B - Public Education

The Assistant Superintendent for Administrative Services under the Department of Education spoke to the subcommittee regarding a transportation study which provided information on students who exceed recommended traveling times on buses and the estimated costs to reduce the number of students. Statewide, 8.8 percent of students are affected by the long distance ride. The potential cost for the reduction of the 8.8 percent to a lower 3.4 percent would be \$56,364,970 for the first year and an estimated \$27,292,089 for each year after that, according to the administrator.

Representatives from Kanawha County schools and Webster County schools also addressed the committee about this growing problem. In Webster County 13 percent of students exceeded the recommended travel time. However, of those, only a small percentage exceeded the travel time by a lengthy amount. In lieu of public transportation, Webster County paid some parents who live more than two miles from the bus route to bring their children to school and also hired contract drivers to go into areas not serviced by buses.

According to the representative, Kanawha County has been very fortunate to purchase routing and redistricting programs that are used for the routing of school buses. Out of 19,500 students using school bus transportation, 361 were exceeding the recommended travel time.

Equal Pay Commission

The Commission met to discuss pay equity adjustments in state employment. Members stated that to maintain consistent data, they have to take many factors, such as turnover rates, into consideration. They discussed focusing on specific job classes that could be improved in the future, rather than the previous approach of making across-the-board adjustments.

During the August meeting, members will look at job classes far below the average pay line, turnover rates and the associated costs, including training and the effect turnover rates have on clientele.

Finance Subcommittee A

The committee continued its discussion of SCR 99, which requests a study of sources of revenue to pay for the cost of cleanup sites insured by the Underground Storage Tank Insurance Fund.

Staff counsel told the committee there are 59 sites that need cleaning at a cost of around \$14 million. The state Environmental Protection Agency (EPA) has offered several ideas for possible funding sources to raise the money needed for the cleanup, including: an added surcharge on existing sites; an added fee on owners and operators of these sites; taking money from the Waste Tire Disposal Fund; and, moving the Solid Waste Management Board into the Department of Environmental Protection's Office of Waste Management. There has been an objection to combining the two offices by the Solid Waste Management Board.

This year, the Legislature passed HB 4541, which raised regulation fees from \$25 to \$65 for the Administration Fund, which is used to monitor maintenance of existing tanks. There is also an Emergency Fund for use in emergencies, but the fund is nearly empty.

Finance Subcommittee B

With the adoption of SCR 59 during the 2004 session, this committee is charged with studying property tax laws. As such, a representative from the Property Tax Division of the Tax Department addressed lawmakers regarding the Managed Timberland Program.

Among other documents, the representative provided information regarding whether managed timberland owners in Tucker and Wirt Counties pay income taxes and also supplied a copy of the most recent report given to the Joint Committee on Government and Finance regarding this program.

According to data reviewed during the meeting, taxpayers in Tucker County who own approximately 91.6 percent of the acreage in the Managed Timberland Program pay either Corporate Net or Personal Income Taxes. Taxpayers in Wirt County who own 98.4 percent of the managed timberland acreage also are paying either Corporate Net or Personal Income Taxes.

The meeting concluded with a brief presentation from an advocate of the two-tier property tax system, which has been in place in Pennsylvania since 1913. The spokesman is the President of Mountaineers United for Same Taxation (MUST) - a group dedicated to educating West Virginians about this tax system.

He believes this system should be phased in, allowing for enhanced economic development opportunities throughout the state. A resolution (SJR 7) was introduced, but not adopted, during the 2004 Regular Session that addressed this issue and the spokesman stated his group believes this legislation would be appropriate to consider again in the future.

Forest Management Review Commission

A representative from the state Agriculture Department's Plant Industries Division continued from last month a discussion regarding forest health.

The representative described several species of insects that are responsible for tree damage in West Virginia forests. The Hemlock Woolly Adelgid arrived in West Virginia in 1924 from China and has been attacking Eastern and Carolina Hemlocks in the state since it was discovered in 1992. It causes needle discoloration, needle loss and mortality among hemlocks it encounters.

To counteract these species, the state has imported a special beetle from Japan and is using it as a predator in a number of areas, including Pocahontas, Greenbrier, Fayette and Summers Counties.

The Gypsy Moth, which was first trapped in West Virginia in 1972, has prompted a multi-pronged attack, including a "slow the spread" tactic employed in Raleigh, Mercer and Summers Counties. The representative suggested that West Virginia's efforts to control the insect most likely aren't matched by any other state.

Another tack in fighting the moth entails special pheromones that confuse the male moths in the mating system.

In another matter, a representative from the Division of Forestry updated the panel on last winter's ice storm, saying it damaged 306,000 acres. The storm lashed mostly east-central counties February 16-17, knocking out power to thousands of homeowners. The representative said the storm is inspiring a special study with the US Forest Service to measure affected land in 14 hard-hit counties.

Government Organization Subcommittee A -1

The committee continued the discussion and study of the financial operation of senior centers.

A representative from the Bureau of Senior Services presented the committee with the Fiscal Year 2005 State Budget for the Bureau of Senior Services. The total operating budget is \$54.9 million, which includes monies from general revenue, lottery revenue, federal revenue and special revenue.

The representative also described for the committee West Virginia's elderly population and which citizens the Bureau for Senior Services serve. There are currently 362,795 citizens in West Virginia over the age of 60. West Virginia has the nation's highest median age at 38.9 years old and 20 percent of its citizens are age 60 or older, while the nation's average is 16 percent.

The expected Baby Boomer effect will hit West Virginia in 2006 with a projected annual increase in those turning 60 from 18,000 to 28,000. Over the Baby Boomers first wave of 2006 to 2015, this will add 296,000 new 60 years old and older individuals; the second wave from 2016 to 2024 will add another 246,000.

Some of the major services the Bureau provides include providing nutritional meals: Family Caregiver Support, which

includes many hours of in-home respite care; and, congregate respite care and Supportive Services, which include health screens, transportation services as well as adult day care.

The representative also stated that the contracts the Bureau requires the various councils on aging to sign have been modified to avoid financial abuses, which were seen in one or two county agencies on aging around the state. The representative said the Bureau would continue to examine ways to rein in the finances although the Bureau has no say as to how these agencies use federal Medicaid monies.

Government Organization Subcommittee A - 2

This committee continued the discussion of SCR 89, which requests a study of the structure, activities and board responsibilities of nonprofit and not-for-profit entities in this state that receive state and federal funds.

A representative from the state Tax Department responded to questions posed by staff of the committee. Some of the questions included asking which requirements are needed to qualify as a nonprofit corporation. An entity must be filed with the Secretary of State and must obtain a business license from the Tax Department.

There are also many different tax codes, the representative stated, that determine whether or not a nonprofit would receive certain exemptions, such as B&O taxes, real estate/property taxes and the corporate license tax.

The representative provided the committee with a detailed report highlighting his answers to the questions posed and briefly answered some committee questions.

Government Organization Subcommittee B

Subcommittee B of the Government Organization Joint Committee continued its discussion in July regarding HCR 47, which requests a study on providing limitations on nurse overtime policies in hospitals operated by state agencies within West Virginia.

Earlier this year during the 2004 Regular Session of the 76th Legislature, lawmakers passed a bill, SB 251, which among its provisions, provided requirements and limitations for mandatory nurse overtime in certain hospitals, limited the number of hours worked in a day and provided exceptions to overtime limitations

Since the Legislature has approved limitations on nurses' overtime in hospitals other than those operated by a state agency, this committee believes they have an interest in the quality of health care provided to patients in state-operated hospitals and in the health and fitness of the nurses on duty.

During the meeting, a representative from the Bureau of Behavioral Health and Health Facilities briefly touched on nurse overtime as it related to her organization. She told the committee that some facilities are using temporary employees, who are 90 day employees who cannot accumulate days off.

Also, during a nine-month period, she has found that in Behavioral Health Facilities, there has been more than 55,000 hours of accumulated mandatory and voluntary overtime. Regular employees who are working overtime are doing so at a cost of greater than \$1.5 million, while temporary employees are costing the state more than \$1.5 million as well. That represents an overall cost of just over \$3 million for overtime.

Government Organization Subcommittee C

The committee continued the previous months discussion regarding a study of the current administrative structure of Division of Personnel as requested by SCR 56.

A representative from the Division of Personnel presented the committee with a report stating the Division has 67 employees working in Charleston. He also stated that he could only think of eight agencies, departments, divisions, commissions, etc., that have their own separate personnel departments.

The representative also stated when an employee is hired, the employee receives specific training regarding interviewing procedures and the grievance process if they have responsibility in those particular areas. The Division of Personnel also maintains personnel files for all employees covered by the merit system standards (civil service). These files contain information regarding all personnel transactions that occurred during the employee's service.

The representative further stated personnel departments nationwide are generally structured in three broad groups: highly centralized, highly decentralized and those having a mix of both centralized and decentralized services and functions. The representative also stated he believed a shared services model, much like that of Massachusetts, would work best for West Virginia.

In its second meeting of the July Interims, Government Organization Subcommittee C had a discussion about SCR 68, which calls for a study of grievance boards and Administrative Law Judge systems. The grievance board has processed more than 9,550 grievances since 1985. As of July 1, 2001 the Administrative Law Judges have completed 1,240 grievances. Some of the claims processed vary from discrimination, favoritism, harassment and retaliation.

Many of the grievances involve compensation, such as merit pay, overtime pay and an equal amount of pay for work completed.

Another issue brought to the Subcommittee's attention was employees submitting grievances and receiving pay while attending grievance hearings. The Subcommittee requested further review concerning the amount of time allocated for hearings and lost wages due to the hearings. There also was a request made for the total number of grievances submitted under each level of the grievance form at a future interim meeting.

Joint Commission on Economic Development

The Joint Committee on Economic Development heard presentations from various members of the Film Industry of West Virginia. The Industry is requesting more funding in the amount of \$1.1 million to bring an internationally-known Hollywood producer who would bring a four-film production contract to West Virginia, and, for another film, which is being produced and is scheduled to begin filming next Spring.

There are other proposals currently taking place to bring more industry to the state. The Director of the Film Industry noted that state government is limited in the type of help it can provide.

A second presentation provided by from the Director of the Center for Business and Economic Development at Marshall University on the impact of the Goodwin Decision on West Virginia. There is currently a strong demand for production of Appalachian coal due to population, economic and electrical growth in the country. The region suffers a declining market, but SynFuels could make central and western coal more attractive. There is a great deal of regulatory uncertainty more pronounced in Appalachia.

Judge Goodwin's ruling means potentially increased permitting costs for a 404(a) permit. This permit would replace the old 404(e) permit provided by the federal government. There is a potential for uncertainty regarding underground mines

and preparation plants, increased regulatory uncertainty for surface mines and a difference in permit returns. Under the old 404(e) permit, they were reviewed and granted or denied in a time period of six to 18 months. With the new 404(a) permit, the turn-around time could be lengthened to two years.

The fiscal and economic impacts of this decision reviewed by the Director will increase permit costs affecting marginally profitable mines, permit delays which will cut production numbers as early as late fiscal year 2004 and increase the economic impact on West Virginia's most distressed counties. But, possibly the biggest concern is a window of feasibility for much of the state.

Judiciary Subcommittee A

In an effort to encourage voluntary reclamation of lands that have been adversely affected by mining and flooding activities, members of Judiciary Subcommittee A reviewed legislation that would establish the Environmental Good Samaritan Act. According to staff counsel, the proposed measure would look to reduce and abate water pollution resulting from abandoned and non-reclaimed mine sites by limiting the liability of volunteers and not-for-profit organizations when they conduct mine and stream restoration projects.

According to counsel, the bill states the existence of unreclaimed lands and polluted waters not only are a danger to the health, safety and welfare of the environment and its people, but also diminish the tax base and serve as serious impediments to the economic welfare of the state. In addition, the legislative findings of the bill state numerous landowners, citizens and watershed associations with no legal duty to reclaim lands are interested in assisting but are reluctant to engage in these activities because of potential liability.

The Morris Creek Watershed Association (MCWA) addressed the committee echoing sentiments of the proposed legislation. The grass roots organization, which took shape in early fall of 2001 and officially formed in March of 2002, is non-profit and is composed of more than 45 volunteer members. The group's mission is to improve the safety of the Morris Creek watershed while restoring its natural beauty and providing recreational opportunities to the citizens of the area.

Over the past two years, the MCWA has participated in several clean-up and restoration projects. The amount of solid waste that has been collected during this time period, from 2002 to 2004, has declined significantly. In 2002, 74.5 tons of waste was collected; in 2003, nine tons were collected; and,

in April of 2004, five tons were collected. The representative said the MCWA successfully implemented this solid waste removal program and, as such, has changed the culture of local citizens in their communities to be mindful of waste disposal and pollution. In addition to the clean-up projects, the MCWA acquired \$880,000 of funding to abate four acid mine drainage sites on Morris Creek, with construction planned to begin in late fall of 2004.

The major concern of the MCWA is the personal risk of its members, board of directors, officers and volunteers being sued for performing good deeds within their communities. The Good Samaritan Act addressed by the committee, according to the representative, would help relieve many of these concerns and allow for more volunteer participation within each community.

Judiciary Subcommittee B

The Joint Standing Committee on the Judiciary Subcommittee B heard a presentation from the Director of the Regional Jail Authority on the Day Reporting Centers. Felony convictions from 2002 are up from 47 total felonies to 67 in 2003. For 2004, there have already been 34 total felonies from January 1 to June 1.

The Lee Day Reporting Center's (Northern Panhandle) projected savings for 600 offenders is \$9 million dollars. State Day Reporting Centers projected the figures for total savings:

1 Day Reporting Center	\$6-9 million
3 Day Reporting Centers	\$18-27 million
5 Day Reporting Centers	\$30-45 million
7 Day Reporting Centers	\$42-63 million

The Centers also provide a substance abuse treatment program that is a 52 week program providing drug and alcohol education with a relapse prevention program. The substance program features rational cognitive therapy, life skills development, parenting program, educational assessment/counseling and job preparation/employment counseling.

The West Virginia Mental Health Court Trial (WV MHCT) operation has proven to be a positive alternative for the prevention of jailing of the mentally ill. The operation stabilizes offenders to prevent future re-offending criminal behavior attributable to mental illness. West Virginia had the second highest national rate of prison population increase from 1990 to 1998. Between 1993 and 2000 prison population grew an average of 252 inmates per year with West Virginia's overall population remaining relatively stable. An average of 19

percent of inmates have seen a psychiatrist over the last five years. Since January 2000, the correctional population in West Virginia has increased by an average of 25 inmates per month, i.e., 300 inmates per year with increases projected through 2010.

It is crucial for early identification of potential participants. Only offenders who fall under an Axis One mental illness qualify for the program. The program is completely voluntary and participants must be competent to sign various releases and waivers to participate. The offenders must be charged with a crime, whether a misdemeanor or felony. He or she cannot be referred if the charge is a sex crime or if a child was a victim. The goal of the program is to charge dismissal for all misdemeanor offenses or either charge dismissal or sentence reduction for felony offenses. Upon completion of the program the participant receives a certificate of successful completion.

Further updates on the Day Reporting Centers and the Mental Health Court Trial operations will be presented at upcoming interim meetings.

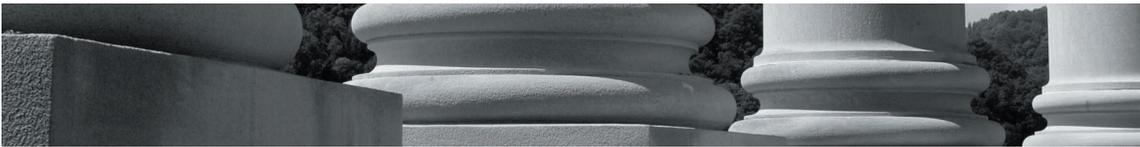
Judiciary Subcommittee C

Committee members met to receive a joint presentation from three representatives of the Northern Panhandle Community Corrections Program. Among other objectives, the program aims to provide opportunities for offenders to make restitution to victims; to provide sentencing alternatives to reduce recidivism; and, to promote accountability of offenders to communities.

The services provided by the program include probation supervision, day fines, community service programs, home incarceration, substance abuse treatment, sex offender containment, licensed domestic violence offender treatment, day reporting centers, educational/counseling programs and drug courts.

The Lee Day Reporting Center, which is an intermediate sanction that blends high levels of control with intense delivery of services needed by offenders, was also discussed. These services include supervision, random drug/alcohol testing, community service work and life skills development.

It also offers a voluntary mental health court to prevent jailing the mentally ill. This court only accepts offenders with an Axis One diagnosable mental illness. Upon graduation from the program, misdemeanor charges are dismissed and the case is closed. If a felony was committed, charges may be



Interim Highlights

dismissed and the case sealed, or the sentenced reduced and/or record expunged.

According to the representatives, for this program to be highly effective, it has to be implemented statewide.

Judiciary Subcommittee D

During the July meeting of Judiciary Subcommittee D, the committee heard and received reports from the three Judiciary subcommittees.

Also, a representative from the Division of Labor spoke to the committee regarding problems the Division would like to see addressed within the legislation passed last session to restrict mandatory overtime for nurses (SB 251).

According to the representative, the legislation does not shield whistle-blowers who report violations to the state Division of Labor. He suggested lawmakers adopt the sort of confidentiality provisions that were added to protect hourly wage violation whistle-blowers. Wage violation complaints tripled as a result, as did the amount of fines collected.

The new law also allows for forced overtime during such emergencies as a disease outbreak, terrorist attack or natural disaster. The representative stated that the term “unforeseen emergent situation” provision must be further defined.

Finally, the representative stated that an eight percent budget cut and a 20 percent reduction in staff has hampered the agency’s ability to enforce this new legislation.

Juvenile Foster Care, Detention and Placement Task Force

A representative from the Division of Juvenile Services gave a report to the Task Force on Day Reporting Centers. Juvenile Services is currently in the process of hiring the staff for the Manfred Holland Day Center. There are two new Day Reporting Centers being built in the Mount Hope and Barboursville areas.

The Task Force also heard from an employee of the Criminal Justice Services (CJS) who discussed the conflicting language in the West Virginia State Code concerning underage drinking. Definitions for such wording as “status offender” also were clarified during the meeting. A review of the various sections of the West Virginia Code will be conducted to ensure cohesiveness.

The final presentation was given by a representative of the West Virginia Alliance for Children on the Foster Care Recruitment Campaign regarding a plan to conduct a statewide campaign utilizing community groups, as well as state and local agencies through advertising. The goal was to gain an additional 100 foster beds by July 2004.

The campaign generated a much larger number of beds than the goal set by the planning organization. An additional 480 beds ready for placement were obtained and the campaign also impacted individuals who were considering becoming foster parents through heightened public awareness of the growing need for foster homes.

LOCEA

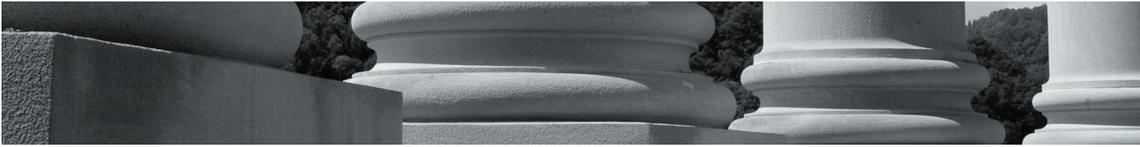
Continuing their charge to study and monitor West Virginia’s educational system, members of this Commission met to receive a monthly update from the State Superintendent of Schools. He spoke to lawmakers about various school improvement initiatives and the Department of Education’s reaction to legislation passed during the 2004 Regular Session.

With the passage of HB 4001, the department currently is working on electronic and online school improvement plans. In addition to this, required in the legislation, it also is working on and will post county improvement plans.

According to the Superintendent, approximately 2,000 teachers recently gathered in Charleston for a reading conference. Additionally, school maintenance and various other staff recently met in Charleston to discuss keeping schools safe and clean.

A representative from West Virginia Achieves then spoke to the Commission. She stated the two major goals for West Virginia’s school system should be to implement strategies to catch up students who currently are behind and build a system that prevents students from falling behind in the future - regardless of students’ background variables. She believes to accomplish this, the state must build a system different from the current one.

The spokeswoman then made a presentation outlining a “Framework for High Performing School Systems.” She stated that high-performing schools share three common components: strong core beliefs that shape the school system’s culture; comprehensive strategies that enhance curriculum, instruction, overall school effectiveness and student/parent support; and, the use of a systematic continuous improvement process to trigger change.



Interim Highlights

Legislators requested information on teachers' salaries relating to age/experience distribution to be compiled and presented during the August Interims.

In LOCEA's second meeting of the July Interims, a representative from the Promise Scholarship Program told lawmakers that the program itself has been very successful and more students are applying for the award. Even with the increased requirements implemented last year, more than 25 percent of high school seniors are receiving Promise Scholarship awards.

In addition, the representative stated that more students have accepted and used the award than in previous years and more students have retained the award after their first year than originally projected. According to the representative, the number of applicants has increased by more than 2,000 since 2002, with 8,185 students applying in 2004 alone.

In an attempt to control costs and continue raising the standards for students receiving the Promise Scholarship, the representative noted that in July of this year, the requirements for the minimum sub score on the ACT will be raised from 19 to 20, with the overall composite score remaining at 21. In addition, the representative stated that program officials have proposed an increase in the minimum grade point average (GPA) for a scholar at the end of his or her freshman year from 2.75 to 3.0.

Members of the Commission also were presented with an overview of the reciprocity agreements West Virginia has with surrounding states in regard to higher education. According to a representative from the West Virginia Council for Community and Technical College Education, the agreements between certain institutions of higher education are beneficial to these institutions and to the students who are able to attend a school without being charged the out-of-state tuition.

Commission members, however, questioned the ability of these agreements to maintain and improve the quality of programs offered by West Virginia institutions. When a student attends a school in Ohio, as explained by Commission members, because the program of study is not available in West Virginia, the state may lose those students when they receive their degree. Members expressed West Virginia's need to establish these programs throughout the state in order to retain these students in West Virginia after their graduation.

A representative from the West Virginia Development Office's Workforce West Virginia Systems presented LOCEA with data concerning credentialing and wage gains in West Virginia. According to the representative, those adults who are being served by One-Stops who attain credentialing reenter

the workforce at a higher wage. In addition, the representative noted that the credentialing process has positively impacted the rate at which individuals are hired and have retained employment, as well as having helped increase wages for unemployed and displaced workers.

LOCHHRA

With increased attention on West Virginia's health insurance problems, lawmakers met to receive information on uninsured citizens and discuss possible solutions. The President of the Health Care Authority Board opened the meeting by providing study findings on the uninsured and recommendations.

According to her, on any given day there are approximately 270,000 uninsured West Virginians. This number is up from approximately 250,000 in 2001. In addition, an estimated 7 percent of children in the state are uninsured.

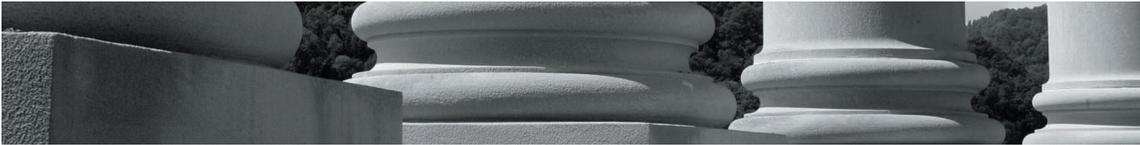
Access to prescription drugs for seniors also is a problem. In 2003, approximately 35 percent of West Virginians over 65 did not have prescription drug coverage. This increased from 32 percent in 2001.

She also provided data on the demographics of this problem. In 2001, 80 percent of uninsured men were age 19-44 and 60 percent were 19-34. During that same year, 76 percent of uninsured women were age 19-44 and 56 percent were 19-34. In 2003, the number of uninsured 19-25 year olds decreased by 9 percent and the number of uninsured 45-54 year olds increased by 7 percent.

According to information provided, uninsured individuals are more likely to postpone seeking medical care and cost is the number one reason for not getting care.

She also addressed employers' roles regarding insurance. Approximately 60 percent of employers in the state are in services or retail trade sectors and the majority of businesses employ less than 50 people. Small employers, those who have many part-time employees and those with a high number of low wage workers are less likely to offer insurance.

The Health Care Authority Board also researched the health care options people want. The results proved that citizens are looking for hospitalization, doctor/specialist visits, prescription drugs and lower deductibles and co-pays. The amount of money people are willing to pay is less clear than the services they desire. Approximately 50 percent of employers are willing to pay less than \$50 and 25 percent are willing to pay less than \$100.



Interim Highlights

The information she provided was drawn from a 2001 household survey that covered 16,000 homes, a 2003 update, a 2003 employer survey that covered 515 employers and feedback from various focus groups.

She stated steps have been taken in recent years that addressed these problems. During the 2004 Session, lawmakers passed SB 143, the Uninsured Small Group Health Benefit Plan, and SB 161, the West Virginia Health Insurance Plan. Additionally, the Children's Health Insurance Plan (CHIP) was expanded and a "Closing the Gap" initiative was implemented.

According to her, West Virginia still needs to implement new programs, gain a better understanding of what people want versus what they are willing to pay and look at the remaining populations - low wage groups and the 45-60 year old group. Additionally, she said the state should look at the role of safety net providers and learn from other states that have been in similar situations and yet succeeded in solving their problems.

West Virginia's Insurance Commissioner closed the meeting with a discussion on high-risk pool legislation and that office's responsibilities under SB 143. These duties include maintaining a list of providers who have chosen not to participate in the small employer group offering; promulgating emergency rules by the first of September 2004 to prevent manipulation of the eligibility criteria by small employers; and, appointing a Policy Advisory Committee to provide advice regarding the West Virginia's uninsured population.

LOCWIED

Legislators met to hear from various speakers interested in leveraging West Virginia's workforce to spur economic development throughout the state. The meeting began with a presentation from the Manager of the Energy Efficiency Office of the West Virginia Development Office regarding the FutureGen Project.

The ultimate goal of this \$1 billion government/industry project is to build a coal-fired electric and hydrogen production plant somewhere in the United States. The representative spoke to legislators regarding ways West Virginia can position itself to be competitive in vying for this nearly emission-free plant to be constructed here.

According to him, one way to become competitive is to garner support from neighboring states, including Kentucky and Ohio. Commission members requested the Development Office to begin contacting these states and addition-

ally, legislative staff will be working on a resolution outlining the Legislature's support of this project to possibly be up for consideration during an upcoming special session.

The Chancellor of the West Virginia Council for Community and Technical College Education then addressed the Commission and stated this Council could assist in the aforementioned project by developing specific programs and training. He also said they could possibly open the streams of communication between West Virginia's community and technical colleges and those in Kentucky and Ohio to further support this initiative.

A representative from the Middle College Program then provided lawmakers with a regular report and update on the program, which was implemented to prepare adults for post-secondary courses leading to high-demand jobs in allied health, business services and information technology.

The program has collaborated with Fayette County Adult Basic Education to establish a Learning Lab. Participants in the program work independently using texts and computer software programs and can attend two weekly classes - math refresher and basic computer.

The Director of the Governor's Workforce Investment Division provided legislators with a regular report. According to him, the West Virginia Workforce Investment Council currently is creating a strategic plan and updating a compliance plan. He also announced that it now has a website - www.wvic.org - that includes, among other components, policies, current events and initiatives.

Additionally, he stated that the Executive Committee met and approved the Region One local plan, but did not approve the Region Seven plan.

The meeting concluded with a brief discussion by the Acting Commissioner of the Bureau of Employment Programs. She said that the draft legislation requested by the Commission last year is ready and will be available for review prior to the August meetings.

Joint Standing Committee on Pensions & Retirement

A representative from the Treasurer's Office presented findings from a preliminary investigation on how to calculate the cost of living allowance under {W. Va. Code § 8-22-26} in light of the West Virginia Supreme Court of Appeals' recent decision in Board of Trustees of Firemen's Pension v. City of Fairmont, Appeal No. 31593 (2004).

In this case, the Board of Trustees of Firemen's Pension and Relief Fund of the City of Fairmont, West Virginia, appealed the finding by the Circuit Court of Marion County, under this Code the supplemental pension benefit provided is to be calculated on the amount of \$15,000 each year instead of \$15,000 plus accumulated supplemental pension benefits from previous years. The Supreme Court of Appeals reversed the circuit court decision, holding that the supplemental pension benefit provided to police and firemen is to be calculated on the allowable amount of the first \$15,000 of the total annual pension paid in addition to the accumulated supplemental pension from previous years.

The investigation was initiated to determine how to apply the Court's ruling in the calculation of supplemental pension benefits for the City of Fairmont Firemen's Pension Fund. The investigation interpreted the court decision as implying the compound cost of living increases should be applied to both the allowable amount of \$15,000 and the supplemental pension amounts for prior years.

The investigation compared the calculation of supplemental pension benefits under two scenarios. The first scenario assumes that the court decision will apply only on a prospective basis. That is, the granting of compound Cost of Living Allowance's (COLA) on the allowable amount would be applicable after the effective date. The second scenario assumes the Court decision would apply both prospectively and retrospectively. Under this approach, the 1991 plan is used as the starting point for the retrospective application. The one-time retroactive lump sum payment is assumed to be made during the 2004 plan year.

The investigation found that the two scenarios resulted in different increases in accrued liability amounts. Under the first scenario, the accrued liability increases to \$25,323 and under the second scenario the accrued liability is \$29,548. Further review of this issue will be presented during an upcoming interim meeting.

Select Committee A - Flooding & Railroad Issues

Charged with studying issues pertaining to flooding, members of Select Committee A reviewed the regulatory framework and state agencies' responsibilities in regard to detection, prevention and landowner participation. Representatives from the Department of Environmental Protection (DEP), the Division of Natural Resources (DNR), the United States Army Corps of Engineers and the West Virginia Conservation Agency presented their agencies' roles in dealing with flooding in West Virginia.

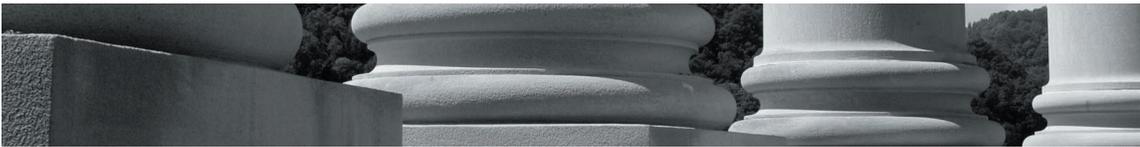
Much of the discussion between committee members and agency representatives revolved around landowner participation in flood relief and prevention. According to the representative from the West Virginia Conservation Agency, the development of a streamlined permitting process that allows landowners to maintain and clean streams has been successful in shifting the state's costs of flood maintenance to the landowner.

The representative stated that 1,500 applications have been received since 1998. Of those, more than 700 have led to landowner management plans developed by the US Army Corps of Engineers to prevent further flooding and help ensure the integrity of streams and rivers. Although the permitting process has been made uniform and simplified through the agency's stream access program, the Stream Review Team and the US Army Corps of Engineers must still obtain approval of these permits. The state's 14 soil conservation districts still serve as the initial contact source for landowners who wish to receive a stream access permit or a stream management plan, according to the representative.

A representative from the DNR's Public Land Corporation said landowners wishing to remove debris or flood related deposits within a stream might not necessarily need a permit to conduct such actions. The representative noted the DNR has been active in letting citizens know debris and deposits can be removed from the banks of the stream without having to enter the stream and such removal can be conducted without a permit.

The West Virginia Conservation Agency will also be finalizing its Statewide Flood Protection Plan, which is currently on its final comment phase. The document, according to the agency's representative, is a dynamic plan for the future of West Virginia, spelling out both long-term and short-term goals, strategies and implementation schedules to reduce the loss of life and damage to property associated with flooding. The plan also will help agency officials develop technical and administrative tools to manage flood loss reduction plans and promote legislative tools to reduce the excessive runoff from land conversion activities.

Along with the proposed statewide flood protection plan developed by the WV Conservation Agency, West Virginia is looking into an online flood warning system that will offer instant and current readings of stream and creek levels, as well as rain volume and stream flow. Representatives from the Office of Emergency Services said West Virginia has participated in the federal Integrated Flood Observing and Warning Systems (IFLOWS) since 1999, when state funding became available to install a system of gauges, meters and transmitters. The online system will provide information to



Interim Highlights

not only emergency and weather officials, but also to citizens across the state.

Although the detection system has provided valuable information and the new online additions will serve a great purpose, the representative said seven counties in the plan lack rain gauges, while only 16 have stream gauges. In addition, the representative said there are only two technicians hired to maintain this system with one of the technicians serving in Iraq. The representative said the system should have at least four technicians and; in turn, only 60 percent of the gauges and detectors are working at any given time.

Members of the committee were informed that during the August Interims, which will be held in Beckley, WV, they are scheduled to visit various sites in regard to streams and flooding problems relevant to the citizens of Raleigh County.

Select Committee B - Insurance

The Committee met in July to continue the discussion regarding SCR 66 and the study of West Virginia homeowners insurance.

A representative from the Insurance Commission presented the committee with a report entitled "A Financial Analysis of Homeowners Insurance" in West Virginia.

The report cited catastrophes involving hail, windstorms and other forces of nature as the principal driver of the recent rise in homeowner rates, not claims filed against insurers.

The report examined homeowner claims filed between 1997 and 2002, the latest year for available data. It further noted when taking out the year 1998, West Virginia's claims frequencies corresponded with the countrywide claim frequencies.

The report also singled out the year 1998 as well as 2002 as catastrophe years for state claims, primarily because of hail and windstorm damage. Natural disasters caused higher loss adjustment expenses in both years. When those disasters are not included, the intensity of claims filed in West Virginia compared fairly with national averages. Residents of 41 other states paid more than West Virginians for home insurance in 2001, the report said. However, even when adjusted for the state's low property values, its policy premiums were cheaper than the national average.

The major providers of home insurance in West Virginia have since increased their rates, in some cases repeatedly. State

Farm, the largest provider, and other insurers have stopped selling new policies altogether.

The representative also said policyholders in border counties now see differences between what they and their neighbors in surrounding states pay. For example, a \$75,000 home policy costs, on average, \$401 a year in Martinsburg, WV, while costing \$350 in Cumberland, MD and \$340 in Winchester, VA.

Also during the meeting, a representative from the West Virginia Trial Lawyers Association discussed some recommendations to tweak the current insurance climate in West Virginia. Included were: greater scrutiny of premiums, encouraging companies to take smaller increases and inspecting properties.

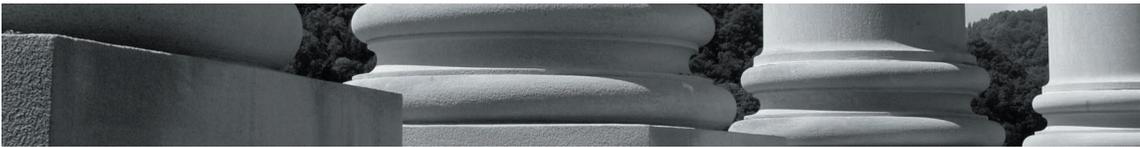
Select Committee C - Pharmaceutical Availability & Affordability

Members of Select Committee C on Pharmaceutical Availability and Affordability heard a report regarding certain pharmaceutical cost management ideas that could save the state several millions of dollars. A representative from the Department of Health and Human Resources' Pharmaceutical Cost Management Council said West Virginia could adopt pricing schedules similar to those in the country of Australia, saving the state \$13 million a year alone on its 10 highest prescribed drugs.

According to the representative, using the model established by the Australian Government would supply West Virginians with a greater savings than the Federal Supply Schedule (FSS), which was an option sought in legislation (HB 4084) adopted by the West Virginia Legislature last year. The representative said no final decisions have been made and the council has been looking at a broad range of options.

In addition to the Australian pricing schedule, the representative noted the council also is considering using federally qualified health clinics (FQHC) in West Virginia to obtain lower prices through the federally supported 340B program. According to the representative, individuals who are uninsured and are a patient of an FQHC receive prescription drugs at a special federal pricing schedule. There are 31 FQHC clinics in the state, but only 13 have met the requirements necessary to distribute the cheaper prescription drugs.

Also, the representative said other states, more specifically Texas, have used this pricing schedule for obtaining medications for prisoners, saving the state more than \$10 million a year. State entities that offer prescription drugs, such as cor-



rectional facilities, regional jails and public health programs, could use the 340B plan to lower the state's burden in regard to prescription drugs.

A representative from the West Virginia Pharmacy Association also addressed the committee in regard to the rising costs of prescription drugs in West Virginia. The representative said pharmacists' services could control and reduce the costs associated with prescription drugs through collaborative efforts with patients and physicians to offer better drug therapy and maximum utilization. According to the representative, pharmacy collaborative practice in West Virginia would allow pharmacists and physicians to enter into voluntary agreements to manage drug therapy and health outcomes involving many disease state management areas, such as anti-coagulation therapy, lipid management, hypertension, asthma and diabetes.

A new pilot program, Face to Face, conducted by the Public Employees' Insurance Agency (PEIA) promotes pharmacists working with patients and their physicians to improve outcomes for patients with diabetes. According to the representative, pharmacists monitor patients to ensure all of their care falls within the American Diabetes Association guidelines and improves hemoglobin A1C, an indicator of average blood glucose levels. The representative said in the short time this program has been in practice pharmacists have been able to identify many medication management problems related to duplicate, inadequate or inappropriate therapy. And, such management will save the state money in terms of prescription drug costs.

Another issue discussed by the representative was discount prescription drug cards. The representative said discount prescription drug cards, offered by West Virginia Golden Mountaineer Plan, the AARP or one of other plans advertised, are not subsidized by any drug manufacturer or prescription drug benefits manager. Instead, the representative said, the discount is given by the local pharmacy.

Adding to this loss of revenue, the representative said most clients have more than one discount card. It is the responsibility of the pharmacists to determine which card awards the best discount, which is a very time consuming process because there is no standardization between the discounts offered. Also, for the pharmacist to process these claims, a fee between 11 and 15 cents per claim is charged to the pharmacist.

According to the representative, prescription drug discount cards offer little substantial savings for patients while having a major fiscal impact on local community pharmacies. The representative added true cost savings for patients

and the state are found through collaborative agreements focused on disease and medication management. Across the country, according to the representative, 40 states already have established these collaborative agreements between physicians and pharmacists and West Virginia should follow their lead.

Select Committee D - Water Resources Protection

With the passage of an innovative piece of legislation calling for a survey of West Virginia's waters during the 2004 Session, this committee is charged with following the progress of the survey. During the July meeting, spokespersons from various affected entities addressed attending lawmakers.

The Cabinet Secretary of the Department of Environmental Protection (DEP) spoke to committee members about the Department's role in this legislation. She stated that this will be a multi-agency effort and the DEP plans to be a team leader. Additionally, she said the DEP wants this study to be thorough, scientific and helpful so the Legislature can make an informed decision.

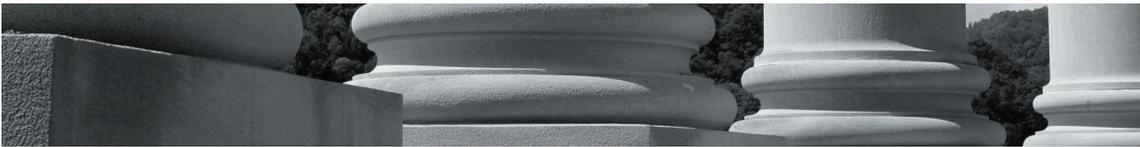
According to the Secretary, the DEP has been reviewing data entry and design options for the survey. It also has been in touch with the United States Geological Survey, Agriculture Department, West Virginia American Water, the Chamber of Commerce, the Farm Bureau and other impacted agencies.

The DEP's immediate goals are to complete the draft survey, continue to explore format options and review what other states have done. The committee requested this agency to include ideas on how to protect West Virginia's resources in future recommendations.

A joint presentation from representatives of Marshall and West Virginia University was then given to the committee regarding what they are trying to accomplish under this legislation. These two universities have been working on a draft proposal and will continue to work with the DEP and other stakeholders. They stated that possibly by late September, they will have a detailed proposal reflecting all stakeholders.

The Presidents of the West Virginia Coal Association and Manufacturers Association closed the meeting with a discussion on how to leverage the state's resources to enhance economic development.

When managing coal, according to the spokesman, they encounter a large amount of excess water and work to utilize



it in positive ways, including aquaculture development. In addition, they work to purify acid mine drainage to be used in the cooling process and mitigation projects provide for recreational opportunities, including pond fishing.

The Manufacturers Association President stated that water can be the “lifeblood” of a manufacturing facility and utilizing this resource can open the doors for aquaculture, tourism and the recreational industry.

The committee requested the Manufacturers Association to work with the DEP and the Development Office to derive ideas on how West Virginia can target and attract certain industries to the state.

Select Committee E - Racial Profiling

Committee counsel opened the meeting with an overview of legislation passed during the 2004 Regular Session that addressed disparities faced by West Virginia’s minorities. One of these, SB 573, provided that the Economic Development Authority is to promote policies that encourage minority participation in awarding contracts for goods and services.

The Director of the West Virginia Economic Development Authority then addressed lawmakers. According to him, the Authority will be moving forward with a marketing/outreach plan to spread the word about its programs. Additionally, as outlined under SB 573, the Authority has expanded its purposes to include reviewing state procurement policies, supporting small businesses, encouraging minority-owned small business development and encouraging the employment of African Americans in each sector.

A representative of the Small Business Division of the West Virginia Development Office then provided committee members with an overview of its recent initiatives in minority small business development. Among other services, the Division offers an online small business directory. Additionally, it has contacted the West Virginia University School of Law regarding a proposal to provide legal assistance for individuals interested in starting a business.

A spokesperson from the Division of Purchasing then spoke to lawmakers. According to her, new registration forms give the Division detailed information on its vendors. This could help to determine the number of minority-owned businesses throughout the state.

The President of the West Virginia Chapter of the National Black Chamber of Commerce closed the meeting with an overview of economic development programs and services. The Chamber’s goals include researching new business opportunities in areas that have high populations of African Americans and organizing community and economic development programs to empower citizens.

He also offered suggestions, including a request to the Division of Purchasing to have an enhanced monitoring system regarding the development of minority owned businesses.

View Interim Schedules and information on the the West Virginia Legislature’s website:
<http://www.legis.state.wv.us/legishp.html>

2004 - 2005 Interim Committee Meeting Dates	August 22-24 (Beckley)
	September 19-21
	October 10-12 (Shepherdstown)
	November 7-9
	December 5-7
	January 9-11-05
	February 6-8-05

Interim Highlights is a publication of:
The West Virginia Legislature’s Reference and Information Center
State Capitol Complex
Building 1, Room MB 27
Charleston, WV 25305
(304) 347-4836

Dave Martin Web Administrator	Randy Cain Assistant Web Administrator
Charlene Glagola Director	Dee Spelock Resource Manager
Drew Ross Jessica Stanton Bill Thomas Lee Ann Vecellio Information Representatives	Martin Valent Photographer
	John Tice Graphic Designer