

Agriculture & Agri-Business

Euthanizing Diseased Animals

In January's interim, committee counsel discussed proposed legislation relating to the euthanization of diseased animals.

The bill, if passed, would amend current code and update the language to eliminate confusion as to the procedures involved in the euthanization and disposal of diseased animals.

The Commissioner of the Department of Agriculture initially proposed the legislation and clarified to the committee that the new bill includes an in-depth section dealing with the disposal of dead poultry to separate it from other dead livestock disposal procedures.

The committee will vote on having the bill introduced during the regular session during next month's meeting.

Broadband - Select Committee E

West Virginia Tower Access Assistance Fund

The committee heard from staff counsel regarding legislation to increase the total amount of funding available for the West Virginia Tower Access Assistance Fund during January's interim meeting. The bill would increase the allocations from the wireless-enhanced 911 fee to subsidize the construction of more wireless towers.

Staff counsel explained that this is not a new tax, but an increase in annual allocations from \$1 million to \$2 million. Several pending applications to allow for the additional \$1 million were submitted in November.

The consensus is that the funds can be allocated but not until after the end of the fiscal year, June 30, 2009. Construction

Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature's Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



Snow Blankets The Capitol

Looking West from the intersection of Kanawha Boulevard and California Avenue the Capitol Dome glistens with midday sun following a break in snow showers. The Statue of Stonewall Jackson sits in the foreground on the Capitol grounds. Snow has blanketed the state recently including here in Charleston as the Legislature readies for the upcoming 2009 Regular Session of the 79th Legislature.

photo: Martin Valent

of the new towers would also not be able to get underway until that time.

Another option for allocating funds would be to develop partnerships with the private sector, which would benefit from the construction of new towers. Each tower's construction costs approximately \$300,000 but the state would not pay for the entire cost of the project.

Private telecommunications companies would have to pay rental fees to access these towers and those funds would go back into paying for additional towers. The towers range in size and cost depending on the terrain. Last year, 13 new towers were constructed in the state for \$2 million.

The committee voted and moved to report the bill out of committee.

Inc. Broadband Projects in WV Infrastructure Fund

In January's interim, lawmakers were presented proposed legislation to include broadband projects and infrastructure projects eligible for funding from the WV Infrastructure Fund. Twenty percent of infrastructure is set up for development projects amounting to \$1 million. The additional funding is needed to get some broadband projects into action.



A national Broadband Plan introduced by the President-elect was also discussed in relation to the state's broadband plan. The introduced federal plan would give tax breaks to companies that increase high-speed internet access or create new networks. This would offer an incentive to those companies interested in providing broadband services to West Virginia.

Counsel also addressed amendments made to the bill, which would remove the \$1 million limitation from the Infrastructure Road Improvement Fund.

Children, Juveniles & Other Issues, Select Committee A

Resolutions on Appropriations and More Meetings

The committee heard two proposed resolutions presented by a member of Senate Counsel.

The first resolution regarded the safety of employees and contractors in the Department of Health and Human Resources (DHHR) in West Virginia while they conduct home visits. The issue of safety arose in response to the recent murder of a contract employee for the DHHR. The articles of the resolution outlined a study to be paid for by legislative appropriations and to be reported to the Legislature in January of 2010. Lawmakers opposed the resolution citing that the matter was not under their jurisdiction and would be better solved by the DHHR.

The second resolution called for the reconstitution of the committee during the Interim period of the 79th Legislature. The committee members debated on topics like juvenile detention centers, a task force to deal with juvenile corrections and the safety of youth in correction facilities. Members approved a suggestion by counsel to submit a resolution to the 79th Legislature for continuation of the committee in 2009.

Economic Development, Joint Commission on

TechConnect WV - Tech-Based Economic Development

The Director of Economic Development at West Virginia University and the Senior Program Officer at the Benedum Foundation addressed the committee on the topic of tech-based economic development. The program surrounding this topic, TechConnect WV, was outlined and presented to the committee.

Similar programs have been instituted in other states, costing in the range of \$40 million to \$150 million. To get this initiative underway in West Virginia however, the project will require \$3 million in appropriations, a substantially lower difference than other states.

The aim of the initiative would be to improve and diversify West Virginia's economy through technology. Presented to the committee, the ways in which to achieve this include:

- Become competitive through research, tech transfer and commercialization
- Create wealth for all West Virginians by leveraging state's assets
- Provide support services infrastructure for innovation, talent and capital assets
- Develop strategic approach to growing this economic sector

Along with TechConnect WV, the WV Development Office and the Department of Commerce will be working together to implement the strategies necessary to successfully bring a tech-based economy to West Virginia.

The committee agreed the state would have to take an active role in the project to make the process go forward along with its need to work with more private sectors.

Intermodal Transportation

The Director and the Director of Research at the Rahall Appalachian Transportation Institute addressed the committee on the development of an intermodal transportation facility to promote economic development in southern West Virginia. The institute already receives federal funding but would need to have some of it matched if the proposed legislation goes through.

When dealing with economic development many of the initiatives fall victim to the "valley of death," the act between taking technology from the lab to the marketplace. With backing from the state the director feels that intermodal transportation will not fall victim to this.

Intermodal transportation would create affordable transportation from rural areas to areas of higher employment. The committee agreed to continue discussions in February.

LOCEA

Presentations on Accountability and Funding

The committee heard presentations from the Advisory Council of Students (ACS), Advisory Council of Faculty (ACF) and the Advisory Council of Classified Employees (ACCE). The committee also heard reports from the Office of Veterans' Education Programs, the Chancellor of Higher Education Policy Commission (HEPC) and the Chancellor of the West Virginia Council for Community and Technical College Education (CCTCE).

The Chair of the ACS gave a presentation citing the recession in the difficulty of college students affording textbooks. The Chair outlined several ways to keep textbooks affordable, including buying more textbooks for library use, having professors use older editions of textbooks, forming rental programs within the schools and putting textbooks online. The lawmakers agreed the rate for textbooks was too high, but it would take cooperation on several levels of the higher education system before such a goal was reached.

The Chair of the ACF gave a presentation explaining the need for an increase in state funding for higher education to retain faculty and to improve student access and retention. The Chair of the council also requested the amount of extra funding should bring the colleges and universities to the national average for better competition. Members also agreed the national average for college funding would be an unrealistic goal, which had thwarted legislation in the past because it was too high of a goal to reach. They said at least a 10 percent increase would be a more realistic goal. One member said raising the funding slowly would benefit the colleges and universities in the future, while still being frugal with governmental budget money.

During the same presentation, the ACF asked for higher education employees to become eligible to run for office. A member of the committee said higher education employees are not the only state employees who cannot run for office, and if they were given eligibility to vote, many other groups would have to be included.

The Chair of the ACCE gave a presentation explaining the need for more accountability and organization within a system of about 5,000 employees. Their vision is to establish an integrated human resources structure for West Virginia, which would reach those needs.

An administrator from the Office of Veterans' Education Programs gave a follow-up report on the progress of the new GI Bill. It is due to be published in May of 2009 but as of now the GI Bill has not changed as it is still in public comment stages. The main goal of the new GI Bill is to pay all expenses for veterans who want to enter a higher education program. The administrator outlined several issues in the passing of the bill including a question about who would pay first if the veteran were eligible for federal grants and the GI Bill. The administrator said students would reap the most benefits from the program if the proper amount of outreach and education were given to counselors on the intricacies of the GI Bill. Members of the committee voiced concerns about recruiting veterans for higher education programs, noting only half of veterans use their GI Bill to pay for school. The administrator agreed and said increased recruitment would be one of the office's top priorities.

The Chair of the HEPC gave a progress report on the HEPC's strategic plan, which outlines various projects the HEPC will use to grow West Virginia's science and engineering industries. This plan is designed to stimulate both business and academics in the state. It includes hiring more researchers and building more science and technology centers at Marshall University and West Virginia University. They also plan to develop in-state business in emerging technologies, involve students by increasing the amount of programs offered and increase retention rates of students. The HEPC wants to aid West Virginia in becoming an important competitor in the science and technology field.

The Chancellor of the West Virginia Council for Community and Technical College Education gave an enrollment report for 2008 and an annual report on appropriation requests for the 2010 fiscal year.

Education Subcommittee B - Higher Education

Impact of PROMISE Scholarship

The Chairman of the PROMISE Scholarship Ad-Hoc Advisory Committee presented counsel with a final report on the impact and effects of the PROMISE scholarship.

According to the report, the PROMISE scholarship has had a number of beneficial effects since its implementation. The chairman said it was still too soon for sufficient quantitative data to show whether the program is keeping graduates in



the state, as it has only been one to two years since the first generation of PROMISE Scholars has graduated.

The chairman said that support in West Virginia of student financial aid was very successful compared to the rest of the nation in the amount of financial aid supplied to students. West Virginia ranked 4th through 6th nationally over the past few years.

The chairman said that public higher education and students were on a three-pronged system of aid:

- Tuition
- Financial Aid
- State Appropriations

There was less financial support in state appropriations for higher education institutions according to the chairman. He said if this were increased then tuition would be lowered resulting in an additional form of scholarship to the benefit of West Virginia students.

The chairman spoke about the benefits of dual credits in high schools where high school students can take courses for college credit. Around 5,000 high school students in West Virginia have taken advantage of the program. The chairman said this was also a form of financial aid to students. Students in high school dual credit classes spent around \$160 per course while the same course in college cost around \$450.

The chairman addressed counsel on whether the PROMISE Scholarship was fulfilling the expectations it was given when the Legislature created it. He narrowed it down to four main goals:

1. Encourage high school students to improve academic achievement and work harder.
 - a. The chairman said this had been successful.
2. Access to higher education in West Virginia would improve.
 - a. The chairman said this too has been successful resulting in more students attending school in-state instead of out-of-state. He said the number of students imported from out-of-state had also risen.
3. Increase the percentage of West Virginia students going to college.
 - a. The chairman said this was not successful with

the number declining modestly over the past three years. In addition, fewer potential students from lower income families are attending college.

4. Has the PROMISE Scholarship contributed to improve academic achievement for college students?
 - a. The chairman said this goal had been achieved. College students in West Virginia have enrolled in more rigorous courses, advanced more quickly through college and maintain slightly higher GPAs than non-PROMISE Scholars.

Addressing whether PROMISE Scholar graduates remain in West Virginia, the chairman said that research could only consist of one to two years of data as the first generation of PROMISE Scholars begin to graduate.

With that data, the chairman said fewer PROMISE Scholar graduates are remaining in the state than non-PROMISE graduates. However, he said that more PROMISE Scholars are staying in the state to attend graduate courses. He said he believes there is insufficient data to confidently determine the effectiveness of retaining PROMISE Scholar graduates in the state's workforce at this time. One reason the chairman gave for students leaving was the nature of degrees they received—such as engineering or international affairs—that tend to draw students to other job markets.

Education Subcommittee C - Public School Finance

Teacher Salaries

Education Subcommittee C received several detailed reports during its January interim meeting. The Bureau of Business and Economic Research at West Virginia University added updates to the Public School Transportation National and Regional Perspectives report. Some of the new additions were regression analysis, accidents and injuries along with other student school bus statistics.

The Department of Education presented several pieces of data to the committee comparing county-by-county salary averages and summaries of county supplements and state equity.

During the previous meeting, lawmakers requested a presentation comparing West Virginia teacher salaries with comparable occupations and possible alternatives for



improvement. The addendum from the Center for Business and Economic Research at Marshall University included a comparable analysis of states to West Virginia as opposed to comparing border states.

The states were chosen using a simplistic methodology. Ten states were chosen with populations closest to West Virginia then ranked according to their population density, median age, poverty rate, state gross domestic product, per capita income and percentage of state budget expenditures on education. The report found that teacher salaries were low but not nearly as low when compared with contiguous states. The biggest disparity resided with more experienced teachers. In conclusion, the salaries in West Virginia are fairly comparable to the five states but remain slightly below the average.

Some methods suggested to lawmakers to increase teacher compensation include:

- Raising the state minimum salary scale used in the Public School Support Program (PSSP) to increase the required level of funding that school districts receive.
- Enacting a statewide excess levy on property, which would be designated exclusive for increasing teacher salaries.
- Designating a portion of an existing tax to pay the increased costs of raising teacher salaries.

In preparation for the next meeting lawmakers requested information on West Virginia's benefits in comparison with the other states and specific percentage comparisons. Formula technical corrections were presented and the committee will likely recommend these be made to the proposal.

The Bureau of Business and Economic Research at West Virginia University presented property tax adjustments for school financing. Since 2005, current rates in West Virginia have declined. The report includes potential sources for additional public education funding, which would involve increasing the current school rate back to its 2005 level or increasing the rate by 1 cent per \$100 assessed valuation each year until the maximum rate has been reached.

The report also addressed future issues relating to the existing school current rate such as: Property tax revenue limit, erosion of the property tax base and low state-local property taxes. According to the National Conference of State Legislatures (NCSL), West Virginia ranked 44th in total state local property taxes per capita in 2005. Per capita West Virginia had total state-local property tax level of \$555.88 while the

highest per capita state, New Jersey, had total state-local property tax per capita of \$2,205.71

Equal Pay Commission

Members of the Commission voted to send a letter to all Legislative members as well as the Governor informing them of the Commission's request for an increase in the Equal Pay Appropriation fund.

The Commission currently receives \$250,000 each year to increase the pay of certain state workers in order to bridge the equal pay gap in West Virginia. An appropriation amount increase of \$600,000 was asked for last year.

The Governor told the committee more information would need to be provided before he could agree to the increase. The Chairs, as well as the rest of the commission, stated that they believe sufficient information has been collected since the last request.

Finance Subcommittee B

State Road Fund

The committee heard a progress report from the Director of the WVU Bureau of Business and Economic Research on the West Virginia State Road Fund. The report outlined several viable options to raise funds for the rebuilding and maintenance of public roads in the state. Suggestions included raising the fuel tax or taxing citizens on miles driven, selling or leasing sections of roads to private entities and increasing or building more tolls on major roads. The recession has negatively affected the funding for roads, but more people are driving because gasoline has become so inexpensive, which increases the amount of wear on the roads.

The director suggested raising the gas tax, using an elective tax payment system per county or raising the statewide sales tax by a cent. Later in the report, the director also suggested charging a registration fees for green vehicles, citing that owners do not use as much gas, so equal amount of taxes is not paid toward maintenance of roads.

The committee decided that it was imperative to find ways to supplement the state road fund. However, the members



agreed to wait on the incoming Presidential administration to see how the federal stimulus package would apply to roads and infrastructure before taking any action.

Forest Management Review Commission

Forest Ecology

The committee heard from the Director of the Division of Forestry to discuss forest ecology in West Virginia. The discussion was centered on the subject of sustainability and the capacity of the Legislature to balance the timber industry with a stable ecosystem. Most of the state was timbered in the late 19th and early 20th centuries, making old-growth forests extinct. Because of citizen protestation in the last 50 years, the state has since tried to find a middle ground between the future of the natural resources industry and maintaining forests. Legislators have used state funds to pass laws and conduct studies toward preservation.

The director explained that site-specific management strategies are the key to the future of West Virginia's timber industry and forests. He stated that if West Virginia only uses a blanket plan for care and maintenance of forests, then the forests would not produce at an optimum capacity, as each region has different ecological qualities. The report recommended evaluation of each tract of land a year before any harvest takes place, which allows officials time to observe the features of the land to plan what species would best fit in the area.

Currently, the Division of Forestry is working on finding the best ways to make sustainability a part of every citizen's life. A committee member brought up the subject of super trees, which are genetically engineered to grow faster and become eligible to harvest much earlier than other trees. The director said that his committee would investigate it. Another issue that committee members pointed out was the issue of Green Forest Certification. A Green Forest Certification assesses the environmental impact a harvest has on its area. Some companies refuse to buy timber if it is not from a green-certified harvest.

The Division of Forestry expects to have a plan of action on sustainability by the end of 2009.

Government Organization - Joint Standing Com.

Prison Overpopulation

The Cabinet Secretary for the Department of Military Affairs and Public Safety (DMAPS) addressed committee members on the issue of prison overcrowding in the state during this month's interim meeting.

According to the Cabinet Secretary, West Virginia's prison population has continuously increased since 1990 when the population topped 1,575 prisoners. By the end of 2007, that number hit 6,056. West Virginia is forecasted to have shortfalls over the next five years.

A report from the Division of Corrections, passed out by the Cabinet Secretary, states that prison overpopulation is not a new problem for West Virginia. To compensate for the increase, more prison facilities were funded and built. However, at the time the facilities were being built other changes were being made in the justice system, such as sentencing enhancements, leading to a dramatic increase in offenders.

The Cabinet Secretary told the committee that the Criminal Justice Statistical Analysis Center released prison population projections in West Virginia since 2001 and have since then been revised and the numbers have been projected further upwards. By 2012, according to the current projections, the prison population in West Virginia will be 8,530. The current prison capacity in the state is 5,300.

One quick remedy would be to build a new prison facility, the Cabinet Secretary told committee members. Costs for a 1,200-bed facility would cost between \$150 million and \$200 million. He also told the committee that the continuous building of prison facilities was a quick fix but was not going to decrease the prison population.

Of the current prison population, 85 percent are incarcerated for non-violent crimes. The Cabinet Secretary told the committee that many of the inmates could be rehabilitated if there were sufficient treatment programs.

The Cabinet Secretary also informed the committee that prison overcrowding is an issue plaguing the entire nation. California, for example, has a prison overpopulation of 70,000. To tackle the problem head-on, states have held symposiums, including West Virginia.



Interim Highlights

West Virginia's symposium was held in November of last year. Members of all three branches of government were in attendance as well as other state departments. The purpose of the state's symposium was to provide recommendations as well as to come to a consensus on the correctional overpopulation dilemma within West Virginia. Five recommendations were made at the end of the symposium in order of their importance.

The first recommendation was the creation of a commission that includes members from all three branches of government. The commission's purpose is to develop a comprehensive Criminal Justice Plan. The Governor issued Executive Order 1-09, which officially created the commission earlier this month.

A comprehensive review of statutory sentencing provisions and practices was the second recommendation made during the symposium. Included in this recommendation is the following:

- Review of sentencing structure for possible reductions/changes.
- Implementing presumptive parole and/or statutory guidelines to encourage low risk offenders to be released as early as possible.
- Exploring the current good-time provisions and determine whether they should be enhanced for completion of goals while in prison.

The third recommendation was building to increase the Division of Corrections' capacity. This recommendation would begin the funding and building process for a correctional facility with a capacity of up to 1,800 inmates. Expansions of Mt. Olive and St. Mary's would also occur under this recommendation as well as the possible adult "Anthony Center" type program for special treatment need offenders.

Fund treatment and behavioral health programs statewide at all levels is recommendation number four. This would include:

- Expand drug and alcohol treatment programs in the community to serve citizens.
- Expand and create minimum standards for community corrections programs and halfway houses.
- Staff and fund DOC programs fully.
- Expand capacity of community mental health and substance abuse services throughout the state for offenders and also for non-offenders.

- Make smarter use of community corrections to divert low-level felons from prison sentences.

The final recommendation would fund and expand the use of research and data collection. Including under this recommendation is the following:

- Identify and fill data gaps that are hindering adoption of evidence-based practices in corrections.
- Speed the development and implementation of the Court data system.
- Hire and adequately fund data analysts and research.
- Increase current salaries of Statistical Analysis Center Staff.
- Increase the use of risk assessments by decision makers at all sentencing and correctional levels.

The newly ordered Commission will give their first report to the Governor on July 1 of this year.

Government Organization - Subcommittee A

School Building Authority & Green Building Standards

The committee heard a presentation on the adoption of Green Building Standards by the School Building Authority (SBA) of West Virginia to amend House Concurrent Resolution 87. The authority reported on plans to start building schools in West Virginia in accordance with the Leadership in Energy and Environmental Design (LEED) Building System. The system was developed by the U.S. Green Building Council to foster the creation of more high performance buildings in the country to reduce environmental impact. It includes considerations for sustainability, water efficiency, energy and atmosphere, local building materials, indoor air quality and innovative design process.

The SBA has designated Berkeley County as the location of the first Green School in the state, which will be to the silver standard, the second highest rank given by the U.S. Green Building Council. The SBA also adopted a new document setting new building standards for all schools the authority funds. It also plans to eliminate paper waste from its daily operations through a Web based project information system.

The State Fire Marshal was also in attendance to assure the committee that the state should now be operating accord-



ing to the 2009 Fire Code, which facilitates working toward making greener buildings across the state. He assured the committee that new building standards would lead to significant cost reductions.

Government Organization - Subcommittee B

Authority & Structure of Professional Regulatory Boards

During January’s interim meeting, counsel reiterated to the committee proposed legislation relating to authorizing a study of the authority and structure of professional regulatory boards.

Counsel presented a new draft of the legislation, which included amendments for changes in the professional licensing boards. The legislation was cleaned-up, but not as to change the law, but to make it more concise and easier to read and understand.

It was discussed among the committee to make it clear that it would be a conflict of interest for someone serving on a board to a professional organization to also hold an officer position as well.

The committee recommended the bill be introduced during the 2009 regular session.

Board of Barbers and Cosmetologists

Draft 4 of legislation relating to the Board of Barbers and Cosmetologists was presented to the committee by staff counsel for discussion only at January’s interim. Currently the board falls under the Department of Health and Human Resources and Public Health. This legislation would provide for the Board of Barbers and Cosmetologists to be its own entity.

Current discussions in the committee revolve heavily with licensing for professionals among these jobs. Whether to grant licenses to already licensed professionals from other states or countries is an issue that the committee wishes to discuss further and receive more information on.

Currently, professionals from other states only are required to take WV’s written and practical exams if they possess a document of training and required hours from the previous state. Residents of other countries, however, may be required to go through our state’s certification program, even though

they may have documentation from the country of origin. This issue is still being discussed in length.

The committee will meet again at February’s interim to discuss the issues surrounding the proposed legislation further.

Government Organization - Subcommittee C

Study of HCR 97 and Cable Company Oversight

The Executive Director of the West Virginia Prevention Resource center told the committee that drug abuse appears to be worse in the southern coalfields than any other region of West Virginia.

Shortly after the director addressed the lawmakers, the panel agreed to propose legislation that would codify the West Virginia Partnership to Promote Community Well-Being, an effort created in 2004 by executive order to cope with substance abuse problems in the state. This would allow the Legislature to have a hand in the direction of the prevention program, which administers some \$8 million annually in grants across the state.

Research conducted by the Partnership hasn’t shown exactly why there is a higher prevalence of drug abuse in the coalfields, but it has shown it is connected to poverty and domestic violence. A lawmaker who is a practicing physician in southern West Virginia noted that he sees evidence of drug abuse constantly in his area. The Partnership plans to continue to help in preventative measures to combat drug abuse in the southern coalfields while conducting further research to explain the proliferation of drug problems in the area.

In a separate matter, the panel deferred until February interims a request by a nonmember lawmaker, that the committee send a letter supporting the Federal Communications Commission’s inquiry into cable television programming.

The lawmaker told the panel that his service, provided by Comcast, recently dropped a number of channels, including C-Span, Hallmark, TV Guide, and EWTN, one that is popular among the Roman Catholic population, which has a large segment in the Northern Panhandle, where his district lies. Yet with fewer channels offered, the lawmaker’s bill raised \$3.



In closing, the panel couldn't agree on sending the FCC a letter of support after a lengthy discussion began on the technical difference between analog and digital and how that switch will affect things.

Government Organization - Subcommittee D

Discussion of HCR 73

The committee heard more discussion on HCR 73, requesting that the Joint Committee on Government and Finance authorize a study of the structure and organization of the West Virginia Racing Commission, Athletic Commission and Lottery.

The state Revenue Secretary told the committee that consolidating agencies that regulate the state Lottery, horse and dog racing, bingo, raffles and boxing into a single Gaming Commission could save the state nearly \$1 million a year in salaries. He told the committee that services such as licensing for all of the divisions could be handled at Lottery offices. The Lottery already has a system for licensing video lottery and table game workers.

Not everyone agrees this is a good idea. One dissenting lawmaker doesn't believe that a single agency should be in charge of regulating both state-sanctioned gambling as well as sporting events such as racing and boxing. The lawmaker said regulating live horse and dog racing is different than regulating other forms of gambling.

Currently, the state's racetracks are regulated by the Lottery Commission for video lottery and table games, by the Racing Commission for live racing, and by the state Athletic Commission if they host boxing events on site.

The Revenue Secretary said initially all employees of agencies consolidated into the Gaming Commission would be retained, and over time they would be cross-trained in all of their new responsibilities under the new commission.

Committee members got their first look at the nearly 150-page draft bill that would create a nine-member Gaming Commission, to be appointed by the Governor.

Interim Meeting Schedule & Agendas
Please visit West Virginia Legislature's Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>

Health, Select Committee D

Presentation of Final Report

A doctor that is a regular consultant on health care reform to the Legislature briefed lawmakers on the final recommendations from the West Virginia Roadmap to Health Project. He told the committee that although the recommendations have been finalized, this is only the beginning for the many lawmakers and doctors and board members that will work to implement these recommendations in the future.

The goal of this project was to come up with a list of recommendations to lawmakers and doctors alike that would address the following three issues: making health care less expensive to West Virginians, improving the quality of the health care in the state and giving more access to state natives in rural areas.

The project uncovered very daunting statistics regarding chronic illness, a condition that continues to plague the health care system in West Virginia. Currently, 75 percent of health care spending in this state is linked to chronic illness with a doubling of obesity since 1985 that accounts for a 15-25 percent increase in spending. The project found there has also been a huge increase in diabetes and that 80 percent of the health care spending in this state goes towards preventable diseases.

Many of the recommendations were based on a team approach for how services are delivered. They want to allow physicians to confer with community health teams. These major innovative teams would enhance capacity and would be implemented statewide. Community health teams would also implement plans for each patient and follow through on them. Some lawmakers suggested community health caravans to reach out to people in more rural areas.

Health (CON) - Select Committee D

Recommended Changes for CON Program

The director of the West Virginia Health Care Authority (WVHCA) presented a working draft of statutory changes to the Certificate of Need (CON) program to Select Committee D. The West Virginia Hospital Association (WVHA) outlined several recommendations to streamline the administrative



review of CON proposals and to reduce the number of health services subject to review.

The proposed modifications would require legislative changes to both the CON law and regulations. To ensure fair, cost-effective and timely consideration of CON matters several administration suggestions include:

- Refining the “affected person” status.
- Requiring “affected person” to demonstrate good cause when requesting a public hearing upon a CON application.
- Requiring agency accountability and compliance with regulatory time frames for CON review rulings, exemption requests and applications.
- Requiring any appeals of contested CON rulings, exemptions or applications to be taken to the Circuit Court of Kanawha County, or to the circuit court of the county in which the project is proposed.
- Capping all CON filing fees at no more than \$25,000.

The Health Care Authority’s goals are to control health care costs, improve the quality and efficiency of the health care system, encourage collaboration and develop a system of health care delivery that makes health services available to all residents of the State, according to its Web site: www.hcawv.org

Among administrative suggestions there were also proposals for eliminating CON review of specific services. The director told lawmakers there was no general consensus among stakeholders if the CON for dialysis should be eliminated. The WVHCA director suggested eliminating the CON review of dialysis services based on no elastic demand and Medicare being the largest payer. There is no issue in volume going up or cost. Also suggested for elimination are lithotripsy services. Lithotripsy is a technique for treating kidney stones. Instead of invasive surgery, lithotripsy incorporates high-energy shock waves that break the stones into small particles that can pass from the body along with urine.

The director presented a change to increase statutory review thresholds for capital expenditures and major medical equipment under CON from \$2 million (established in 1999) to an annual DRI inflation adjusted threshold; the threshold would be \$2.7 million in 2009; threshold will be adjusted thereafter. The director pointed out the Hospital Association was also in support of this measure suggesting it would likely be a benefit to facilities.

The WVHCA also suggested that the development or acquisition of any health care services or facilities outside of West Virginia by a West Virginia health care facility would be subject only to the regulatory process of the other state and would not be subject to review by the authority. Operating revenues and expenses related to services or facilities developed or acquired out of state would not be included in the disclosure and regulation of hospital rates by the Health Care Authority.

While the WVHA and WVHCA submitted details of their recommendations, lawmakers requested an itemized list of recommendations on which the board has formally voted.

Also during the meeting, the Bureau of Business and Economic Research at West Virginia University submitted a report to the WVHCA that was presented to committee members. The report included preliminary CON survey results based on firms responses to factors that affect expansion decisions. The majority of the 100 firms sampled (79 percent) identified patient need as affecting their decisions to a great degree. Reimbursement rates were also a key factor for most firms (52 percent). The WVHCA director noted that the response rate was 24 percent and that the agency wanted to start on a small scale so the analysis would be correct before expanding to a larger area.

LOCHHRA

Autism Insurance Coverage

The Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA) listened to proposed draft legislation that would add a new section to the West Virginia Code requiring health insurers to provide full autism spectrum disorder coverage.

The proposal defines “autism spectrum disorder” as a neurological condition that includes autism, Asperger syndrome, Retts syndrome or Pervasive Development Disorder. One in 150 children across the United States are affected by this developmental disability according to the Center for Disease Control.

Committee Counsel overviewed a bill from the 2007 Regular Session relating to insurance coverage for autism services and presented the new proposed law to the committee.



Specifically the bill would provide full coverage for hospital, surgical or medical care coverage for prevention, early detection, diagnosis and treatment regardless of whether the methods are research based or experimental.

The LOCHHRA members also listened to a cost analysis presentation pertaining to private insurance coverage for autism diagnosis and treatment. The likely maximum premium impact of the proposed legislation will be less than 1 percent amounting to approximately \$2.93 per member per month for single policy rates. Other states also confirm this finding. The Pennsylvania Insurance Department found that similar legislation will result in a rate impact of 1 percent or less. Reviews of similar legislation among other states found that average expenditures for people with autism can be expected to fall in the range consistent with the approximation for West Virginia. The analysis found that PEIA claims impact would be approximately 0.32 percent or \$1.60 per PEIA policyholder.

In closing the presentation, Counsel explained the considerable long-term savings West Virginia could receive (approximately \$1.08 million per capita during the autistic person's lifetime) in avoided human services costs if the proposed legislation would pass during the 2009 session.

Lawmakers received several written reports from the Department of Health and Human Resources (DHHR), which included: Bureau for Children and Families foster care placement as of November 2008 and Medicaid Report with October 2008 data. Other reports included: West Virginia Children's Health Insurance Program Annual Report, State Children's Health Insurance Program update, a report from the West Virginia Comprehensive Behavioral Health Commission and a follow-up report to the LOCHHRA from the West Virginia Center for End of Life Care.

The close of the meeting featured presentations from concerned citizens regarding their personal experiences with autism and specific issues. Staff problems amongst direct-care individuals were an area of concern. Turnover rate, lack of stability and adequate training contribute to the growing problem. The committee also received a folder with information regarding the Judevine Center for Autism, which provides training for families, professionals and other staff who administer direct service. The Behavior Analyst Certification Board's information was also included.

Infrastructure - Select Committee C

Transportation Infrastructure Bill

Staff counsel reiterated discussion from the December interim on the West Virginia Transportation Infrastructure Bill. The committee was presented with a draft of the bill that was amended to support both having qualified personnel on the board to be the governing body of the bank and to lower the amount of funds appropriated from the Division of Highways.

The governing body of the bank shall be a board consisting of seven members, including the Secretary of the Department of Transportation and six members appointed by the governor to four year staggered terms. The changes made require two of the members have experience in banking and finance, two in the construction and administration of eligible projects, and one in public finance. Four members of the board will constitute a quorum and a majority of those members present will be necessary for any action taken.

Before the amendments to the abstract, the funds appropriated were to be 5 percent of the Division of Highways' annual funds, which would have amounted to approximately \$125 million. The abstract now reads that the funds appropriated are not to exceed a maximum of \$10 million. The representative from the Division of Highways agreed with the changes, but indicated the Division would be coming before the Legislature during session to seek funds for the initial seed money for the bank.

The purpose of the bill is to utilize federal highway funds to give loans to government units for transportation infrastructure projects that are not in the state road system. Proceeds made from these loans will go back into the fund. Initial estimates are \$35 million in appropriations per year.

The committee will continue review of analysis, information, and the steps needed to be taken on the West Virginia Transportation Infrastructure Bill at next month's meeting.

Interim Meeting Schedule & Agendas
Please visit West Virginia Legislature's Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>

Judiciary Subcommittee A

Amendments to Surface Owner's Bill of Rights

Staff counsel addressed proposed changes to surface owners' rights regarding natural gas and oil drilling on their land. Counsel presented two pieces of proposed legislation, one drafted by an attorney representing state surface owners, and the other modeled after a New Mexico statute.

Counsel said the purpose of the bill is to enable more rights for the surface owner that will encourage an agreement between gas and oil well operators and surface owners. Several surface owner representatives spoke about infractions made on their land by various oil and natural gas well operators. Documentation and photos accompanied the personal testimonies.

No changes have been made in 25 years to surface owners' rights with regard to drilling on their property because they do not own the mineral rights. The proposed amendment states that many operators take advantage of access to more knowledge and years of experience compared to the surface owner. It continues to state that many operators fail to give regard to preferences of surface owners and do more than what is fairly necessary to the surface owner's land.

A representative from West Virginia Land & Mineral Owners Association said it was necessary to increase notification of drilling from 15 to 30 days along with a phone number or Web site containing informational material for the surface owners.

A representative speaking on behalf of the West Virginia Oil & Natural Gas Association said there was no factual evidence to support claims of wronged surface owners. The representative also said the industry was unaware of there being a problem as he claimed no contact had reached his office until two days before the subcommittee's meeting. The committee chair refuted the claim saying that both he and the staff attorney had made prior contact several months before with no response.

The industry representative said that the oil and natural gas industry in West Virginia employed 8,500 employees directly and 21,000 indirectly in approximately 50,000 active gas wells in the state. He said that the proposed amendments would drive up drilling costs, provide more for opportunities

for surface owners to sue operators and affect the livelihood of the benefactors.

The industry representative said the conflict was really about the rights of mineral owners versus the rights of surface owners and not about operators versus surface owners. He urged the committee not to make a decision on the bills until further research was conducted.

No action was pursued, as there was no quorum present to vote on the presented bills.

Select Committee on PEIA , Seniors & Long-term Care

80/20 Cost Sharing of Premium Payments

Counsel opened a discussion about the 80/20 cost-sharing program of premium payments with regard to PEIA. In 80/20, the state employer pays for 80 percent of the premium while the employee pays 20 percent. A representative for PEIA spoke to the counsel about how PEIA is structured on a tier system. Families on the lowest tier making less than \$20,000 per year pay premiums of \$90 and a deductible of \$200. Families on the highest tier making more than \$120,000 per year pay premiums of \$601 and a deductible of \$1,200.

Long-Term Care

The committee staff attorney discussed proposed draft legislation on a partnership policy with regard to long-term care insurance, long-term care referring to the many services beyond medical and nursing care used by people who have disabilities or chronic illnesses.

The proposed legislation dealt with a public-private partnership between states and private insurance companies with the intention to reduce Medicaid expenditures.

The PEIA representative said there were close to 20,000 PEIA members eligible for Medicaid out of the 80,000 members in West Virginia. Counsel advised the committee to research more fully before legislation was written.

The committee staff attorney also suggested the possibility of a line-item budget shift of 5 percent to help senior citizen centers in the case of emergencies or unexpected participation.



Discussion was also held on providing a hybrid medical daycare in the state, which would include both medical and social applications for senior citizens.

- Employers may offer match
- Trust created
- Treasurer creates and manages program

Pensions & Retirement, Joint Standing Committee on

Public Employees Retirement System

A representative from the West Virginia Consolidated Public Retirement Board proposed a set of revisions before counsel to convert the provisions for free military service under the Public Employees Retirement System and the Teachers Retirement System.

Voluntary Employee Retirement Accounts

A representative from the West Virginia State Treasurer’s Office addressed the committee on the state of voluntary retirement accounts. The representative said the national savings rate is 0.5%, and few small businesses don’t offer retirement, making it a major problem in West Virginia, as citizens often have to depend on social security as their primary source of income after retirement.

Small businesses cited top reasons for not supplying retirement such as costs being too high and a large proportion of those funds were allocated to short-term employees. The representative said the role of the state is to provide financial literacy education, improve worker savings rates and increase access to alternative retirement plans.

The State Treasurer told counsel this will be an uphill battle but he believes it will be successful. He said states that have implemented similar programs have only done so recently and the results are unclear.

Counsel said a potential problem to the program would be younger people uninterested in investing money for the future because they need it now. The State Treasurer said it would take one-on-one education to make the program effective.

The State Treasurer said his department would be willing to provide the \$2 million estimated cost of starting the program if the Legislature would be willing to draft it into legislation.

The proposed legislation included:

- Optional participation by employers
- Employers may require employee participation

Regional Jail & Correctional Facility Authority, Legislative Oversight Committee on

Proposed Legislation

Numerous pieces of proposed legislation were introduced to the Regional Jail Committee during January’s interim meeting.

The first proposed bill would add information pertaining to the operation, staffing, equipping or escape and emergency contingency plans at any jail or correctional facility. The committee voted to pass the bill onto the regular session where it will be introduced.

Another bill would allow disclosure of the recordings of inmates’ telephone calls to law-enforcement agencies when disclosure is necessary for investigation prevention or prosecution of a crime. This draft bill will also be introduced during the regular session.

Other bills that were passed by the committee and will be introduced during session include:

- Authorizing the Regional Jail and Correctional Facility Authority to grant time off the sentence for certain convicted inmates in a regional jail for completion of education and rehabilitation programs.
- Any inmate who engages in sexual intercourse or sexual intrusion with another inmate and inflicts serious bodily injury, uses a deadly weapon, uses forcible compulsion, or commits such an act with a person who is physically helpless, is guilty of a felony which carries a sentence of 15 to 35 years.
- Permitting a reasonable co-payment to be deducted directly from an inmate’s trustee account for non-emergency medical treatment.

Interim Committee Information
 For information on all Interim Committees, please visit West Virginia Legislature’s Web site: <http://www.legis.state.wv.us> and select the “Joint” link.

Veterans' Issues - Select Committee B

Mental Health

During January's interim meeting, university professors from the fields of psychology and rural health addressed the committee with their recommendations for improving and treating the mental health issues plaguing returning soldiers.

According to statistics:

- 47% of returning soldiers show signs of depression and/or Post Traumatic Stress Disorder (PTSD).
- 20-30% of those experiencing symptoms are accessing primary care and mental health practitioners.
- 50% have been in contact with the V.A. but these numbers include those who have been in contact to enroll, not necessarily for health-related issues.

Recommendations that were made would have colleges and universities taking an active interest in their veterans, increasing access to care in the state and issuing public service announcements to make veterans aware of what is available to them. The recommendations made before the committee not only would make veterans more aware of what services were available to them, but also would increase the amount and type of care throughout the state.

By increasing military-friendly colleges and universities in West Virginia, veterans would not only have more resources available such as veteran coordinators and veterans' groups, but also have a greater opportunity to go to school. Recommendations made were to grant in-state tuition for vets and college credit for military service. A suggestion was made to review legislation from other states along with statistics to see which programs are most efficient.

Accessing care has become an issue among veterans, especially in rural areas of the state. To increase access to care it was recommended that a post-deployment health certification program be developed for primary care providers, as well as an increase in Tri-Care (military health insurance) coverage in WV among providers.

Another issue is to make returning soldiers aware of what services are available to them through both local providers and the VA. One recommendation for this was to issue public service announcements through print, radio, and television, that would make veterans and their families aware of the availability of relevant mental health services, suicide preven-

tion, employment education and health care.

In February's interim, the committee will discuss and vote on whether to draft legislation or regulations on these issues.

Volunteer Fire Departments - Select Com. F

Recruitment and Retention

Select Committee F heard from the State Fire Marshall during its January interim meeting. The Fire Marshall clarified definitions to the committee regarding the types of volunteer firefighters. Active members are defined as those who fight fires and respond to calls. Auxiliary members include those who cook and fund raise, while honorary members might have aged and can't physically fight fires but still want to be of service to the department.

The State Fire Marshall presented responses he received from 193 volunteer fire departments and 4,715 are active members. There are 419 volunteer departments in West Virginia, which suggests the actual state figure for active members to be around 10,000.

Issues brought to lawmakers' attention included recruitment and retention problems. The State Fire Marshall proposed the Length of Service and Awards Program (LOSAP) as one way to gain better recruitment and retention for volunteer firefighters. The purpose of LOSAP is to reward the volunteers for their service to the community. The president of the West Virginia State Firemen's Association believes the issue is crucial and also urged lawmakers to consider the LOSAP program.

The LOSAP proposal approximates a \$5 million cost for the state to enact. It was proposed that funds come from fire and casualty insurance. In preparation for the next meeting, lawmakers requested insurance premium figures for fire and casualty insurance. The figure for paid fire service for the entire state was also requested.

LOCWIED

Community and Technical Colleges

The committee heard from the Chancellor of the Community and Technical College System (CTCS) of West Virginia in regard to an update on workforce development initiatives related to



House Bill 3009. It was first enacted to establish, maintain and improve the education given to students of the West Virginian community and technical colleges and to help institutions better respond to the needs of employers through partnerships and alliances. The goal of this bill was to stimulate the growth of the state workforce and maintain workforce development centers as a permanent fixture to each respective institution.

The Chancellor outlined several ways to utilize funds from HB 3009, the first of which was to create a more consistent curriculum throughout the state. The Chancellor also said there was a need to create more partnership and apprenticeship programs within the CTCS, extending an invitation to other companies in the state. He explained it would benefit the students with real job training, it would keep students in West Virginia after they graduate and would provide employers with well-trained individuals. The Chancellor planned to have customized programs for each respective employer that partnered with the CTCS.

To implement these initiatives, the Chancellor proposed a creation of more programs within the CTCS. He explained that more new and diverse programs would attract more students. He also explained that a current lack of facilities was also an obstacle for the CTCS. The report contains a \$250,000 budget request for the 2010 fiscal year. The Chancellor explained that it was for funding marketing, coordination and extra courses.

The Chancellor also proposed a Learn and Earn Program, in which the CTCS would partner with a company to create a co-op program for students. The student would be able to attend classes while working part time with a company. The cost of the salary paid to the student would be split by the specific college and company involved. The Chancellor said that all parties involved would experience the benefits of such a program.

Lastly, the Chancellor proposed the Advanced Technical Workforce Scholarship, which rewards students seeking a highly skilled work environment within the state.

When asked if enrollment would expand, the Chancellor explained that the tough economy would provide more students, some of who are previous workers who were laid off. To attract students, the CTCS plans to work with companies to refer unqualified applicants and workers in need of continued education, to target specific majors through advertising and recruiting and to keep the programs sustainable. ■

Interim Committee Meetings

February 8 - 10, 2009

Dates are subject to change.

Interim Committee Information

For information on all Interim Committees, please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Joint" link.

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