

Fourth Special Session Covers Municipal Firefighter and Police Pension Plans

A measure to shore up West Virginia municipal police and firefighters' pension plans was passed during the Fourth Special Session of the 79th Legislature, among nine other bills which transfer agency monies, authorize the use of federal stimulus dollars, address credits awarded under the Alternative and Renewable Energy Portfolio Act, continue the motor fuel excise tax freeze, address Uniformed Services and Overseas Voter Pilot Program, clarify expungement orders, and make technical corrections relative to the IRS Code.



Photo: Martin Valent, WVLRIC

Many West Virginia municipalities have created pension plans for their police and firefighters. Currently, those existing plans have a steadily increasing combined unfunded liability well in excess of \$600 million. Cities throughout the state are obligated to pay increasingly larger contributions to the plans each year which are straining their operating budgets significantly - some to the point of bankruptcy.

To provide them with much needed assistance and financial security, **Senate Bill 4007** would allow these cities to continue their existing pension plans for current members but provide the option of placing all their future police and firefighters in a new pension plan administered by the state's Consolidated Public Retirement Board.

Each city will decide separately whether to use the new pension plan, which is similar to the state's recently created Emergency Medical Services Retirement System. The state assumes no liability for the obligations of the new plan.

Currently, most existing pension plans for police officers and firefighters are

SEE 4TH SPECIAL SESSION, PG. 2

Senator Byrd's Congressional Tenure Celebrated at Capitol



Already the longest serving U.S. Senator, on Nov. 18, 2009 the Honorable Robert C. Byrd became the longest-serving member of the United States Congress with 56 years, 320 days of continuous service, surpassing Senator Carl Hayden of Arizona.

SEE BYRD, PG. 3

4th Special Session - FROM PG. 1

not on a definite amortization schedule which is the cause for the ever increasing larger contributions yearly. Those choosing to participate in the new system will be on an amortization schedule to pay off unfunded liabilities in 40 years or less.

The bill does not impose any additional tax but reallocates one tenth of one percent of premium tax money previously diverted from the existing plans to pay unfunded liabilities of the Teachers Retirement System.

The new plan will go into effect January 1, 2010. No member of the new plan may retire until January 1, 2013. Cities will be required to buy disability and death benefit coverage under private insurance to cover employee claims arising before Jan. 1, 2013.

Two supplemental appropriations bills were also passed.

House Bill 410 moves \$2.5 million from the general revenue fund to the Bureau of Senior Services. These dollars are directed at supporting aged and disabled programs.

House Bill 411 moves The remaining \$27 million from the State Road Fund to the Division of Highways. The Division will use the money to repair secondary roads in the state.

Approximately \$25 million in federal funding has been authorized for agency expenditures with the passage of **House Bill 409**. The Department of Health and Human Resources will receive \$13 million. That department continues to make timely payments but people with special needs continue to remain on a waiting list and do not receive help for years. Agencies receiving money provided by the federal American Recovery and Reinvestment Act (ARRA) are now authorized to apply it to services they render.

The purpose of **Senate Bill 4002** enables West Virginia counties to use the federal allocation of recovery zone bonds also authorized by the ARRA.

Recovery zone bonds are split into two separate categories of bonds: recovery zone economic development bonds and recovery zone facility bonds.

Recovery zone economic development bonds are a type of taxable Build America Bond that allow state and local governments to obtain lower borrowing costs through a new direct federal payment subsidy, for 45% of the interest, to finance a broad range of qualified economic development projects.

Recovery Zone Facility Bonds are a type of traditional tax-exempt private activity bond that may be used by private businesses in designated recovery zones to finance a broad range of depreciable capital projects. These bonds may be used in "recovery zones," which include any area that has been designated by the bond issuer as having significant poverty, unemployment, home foreclosure or general distress, or any area affected by military realignment, or any area that has been designated as an empowerment zone or a renewal community.

West Virginia has been allocated a bond limitation of \$90,000,000 for recovery zone economic development bonds and \$135,000,000 for recovery zone facility bonds. These bond limitations, or volume caps, must be reallocated to certain West Virginia counties, based on their decrease in employment compared to the state's decrease in employment.

Counties need not use their volume cap, and may waive their allocation. The bill provides that counties may also sub-allocate their volume cap to other eligible bond issuers.

This bill also provides a procedure to certify to the Governor that counties are using, or sub-allocating, their bond allocation. In accordance with IRS guidance issued regarding recovery bonds, any bond allocation that is waived by counties may be reallocated by the state. This bill provides that the Economic Development Authority will develop a procedure to reallocate such waived allocations. Roads and transportation projects are also on the list.

House Bill 408 amends a definition in the Alternative and Renewable Energy Portfolio Act, to permit the Public Service Commission (PSC) to utilize an independent and industry-recognized alternative and renewable energy re-



[Redacted]

source credit tracking system, and to permit the PSC to utilize an independent, industry recognized entity to verify and certify greenhouse gas emission reduction or offset projects, among other provisions.

Senate Bill 4004 eliminates the reduction of the flat rate portion of the motor fuel excise tax in 2013. The flat rate will continue to be assessed which will freeze the state’s gas tax at 32.2 cents per gallon.

Under current law the gas tax was scheduled to decrease 1.7 cents per gallon on Jan. 1, 2010 and another five cents in 2013. This law will change that, freezing the gas tax at it’s current 32.2 cent per gallon level through December 2010. This action will allow West Virginia’s communities to benefit from millions of dollars in additional funding for roadway paving. This will especially help with secondary roadways that are ineligible for federal stimulus road funds.

The bill terminates the Motor Fuel Excise Tax Shortfall State Road Fund and transfers all moneys remaining in the fund (\$27 million) to the State Road Fund for the purpose of paving secondary roads. (See **House Bill 411** mentioned above)

House Bill 406 creates the Uniformed Services and Overseas Voter Pilot Program which authorizes pilot projects allowing the use of certain voting systems by members of the military and citizens residing outside the United States voting in the May 11, 2010, primary and general elections.

Counties that meet minimum requirements are permitted to participate in the pilot program and will be selected by the Secretary of State who will evaluate the pilot programs. She then must submit reports to Legislature.

Senate Bill 4001 is technical in nature in that it clarifies that records of the Governor, the Legislature and the Secretary of State pertaining to a grant of pardon are not subject to an order of expungement.

And, the tenth bill passed, **House Bill 4003**, makes technical changes in West Virginia’s eight retirement plans to be qualified under the IRS Code. No changes to the plans occurred.

BYRD - FROM PG. 1

House and Senate Resolutions were adopted by the respective chambers honoring Senator Byrd as a distinguished public servant and dedicated statesman, and designating November 18, 2009 as “The Honorable Robert C. Byrd Day.” A celebration was held on Nov. 18th in front of Senator Byrd’s statue in the Capitol Rotunda. In addition to various speakers, the ceremony featured a live bald eagle and exhibited photos and memorabilia from throughout the senator’s career - including his beloved fiddle.

Speaker Richard Thompson was on hand for the event. “Senator Byrd’s roots in public service are here in these halls, in our very own House chamber - where he first came to serve after his mountain music touched the hearts of so many in Southern West Virginia,” Thompson said. “His beginnings are humble and inspirational, his knowledge is vast and unmatched, and his service is faithful and historic. I congratulate him on this extraordinary milestone.”

Though Byrd himself was not in attendance, hundreds of lawmakers and citizens turned out in support of the state’s senior Senator. Many fondly recounted their past involvement with the 9-term Senator.

Among them was Senate President and Lieutenant Governor Earl Ray Tomblin, who said, “It has been one of my greatest honors to work with Senator Byrd throughout my legislative career. An impassioned defender of the Constitution and fighter for West Virginia, his contributions to both the nation and our Mountain State are simply unrivaled - and forever exemplary. I believe we, as a state, will always be better because of his service. And I wish him, our West Virginian of the 20th Century, the very best on this historic day.”

The event ended with the Governor issuing an executive proclamation marking each Nov. 18th as “The Honorable Robert C. Byrd Day”.

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

Children, Juveniles & Other Issues, Select Comm.

Private Sector Foster Care

The Senior Director of the West Virginia Foster Family-Based Treatment Association (WV FFTA) addressed the committee on the state's private sector foster care program and the problems it is facing during November's interim meeting.

Specialized foster family care is the cheapest and most economical way to care for children who are in the custody of the state, according to the Director. Private agencies operating foster programs receive \$50 per day for each child by the state who in turn use the money to pay foster parents.



Select Comm. on Children Juveniles & Other Issues

The Director told the committee that there has not been a rate increase since 2003. She told the committee that the \$50 per diem rate the state paid was sufficient years ago because agencies were able to bill Medicaid for treatment of the children. In 2003, Medicaid would pay \$27 per child. Now, Medicaid will only pay \$9, which puts an added strain on the agencies and the foster parents.

“The time accessing Medicaid funding can also be time consuming, time that could have been spent with children and their families,” the Director said. The Director told the committee that the \$50 per day is inadequate in assuring the implementation of a best practice model. The current rates do not cover costs associated with the recruitment, retention and training of foster parents, non-Medicaid reimbursable casework activities and the administration of

the private agencies' programs. For these reasons, the WV FFTA is submitting a proposal to increase the daily per diem rate by \$15 per day, which would move the daily rate from \$50 to \$65.

The Director told the committee that if the \$15 increment were granted, it would allow private foster care agencies the potential to serve an additional 250 children by July of next year. Private foster care agencies, currently serves around 900 children. The Director also told the committee that if private agencies were able to serve more children, who would otherwise be placed in public foster care, the state could save as much as \$10.8 million a year.

With regards to the foster families, the Director told the committee that each family goes through extensive training. After a child has been placed with a family a case-worker visits them at least two times a month in order to provide one-on-one efforts for the child.

Economic Development , Joint Commission on

Gray Energy Technologies

Business leaders addressed the committee regarding their insight into Senate Concurrent Resolution 4 (SCR 4). The resolution inquires as to how WV can be positioned as a national leader in the research, innovation, and commercialization of gray energy technologies, products and processes.

These technologies encompass new cost-effective equipment, processes and strategies that reduce energy costs, cut CO2 emissions, are competitive and available to date, such as energy recycling (waste heat recovery and use) and co-firing/co-gasification of biomass with coal, to name two explained to the committee.

The American Clean Energy and Security Act passed by Congress mandates a 17 percent reduction in carbon emission by 2020 and 80 percent by 2050. Twenty-nine states and Washington, D.C. have alternative and renewable energy portfolios, including West Virginia.

According to material provided to lawmakers, “West Virginia’s recently passed Alternative and Renewable Energy Portfolio Standard defines biomass energy as “...a technology by which electricity is produced from a nonhazardous organic material that is available on a renewable or recurring basis, including paper mill sludge.



Joint Commission on Economic Development

“West Virginia’s portfolio standards awards two tradable emissions credits to a utility for each megawatt-hour of electricity generated or purchased from a renewable energy resource facility meeting certain conditions. Furthermore, biomass energy is awarded three emissions credits for each megawatt-hour of electricity of the generating facility is sited on a reclaimed strip mine.

“Individual utility companies have many methods for accumulating emissions credits including 10 different alternative energy technologies, 10 different renewable energy technologies, CO2 reduction or offset projects, energy efficiency, and demand side management. However, biomass energy should be especially attractive because of West Virginia’s extensive forest resources, wood products industries and sources of wood residue.”

To emphasize West Virginia’s green opportunities, the Senior Vice President of Recycled Energy Development in Alloy, WV, explained how the combination of electricity, coal and wood chips could melt quartz in a large furnace at a temperature of 3000F degrees results in the production of silicon. He noted that recycles exhaust into 65 megawatts of clean power, will allow for a more efficient plant in Alloy, and expand production and jobs by 20%. He declared the state could take silicon manufacturing back from China.

The presentation by the business leaders emphasized how West Virginia could be a national leader in gray energy technologies.

Education Accountability, Legis. Oversight Comm. on

Higher Education Enrollment

Members of the Legislative Oversight Commission on Education Accountability were told that a record number of students are enrolled in state colleges and universities this fall. A speaker from the Higher Education Policy Commission stated that for the first time in state history more than 90,000 students are enrolled in four- and two-year colleges around the state.

The reasons, the Commission was told, may relate back to West Virginians who have lost their jobs amidst the downturn in the national economy and are returning to schools of higher learning to better make themselves marketable for potential employers.

Enrollment at four-year institutions reached 68,229, up 3.4 percent from 2008, while enrollment in two-year colleges jumped 16.7 percent, to 25,483. Among state colleges, West Virginia State University saw the largest percentage increase, with enrollment up by around 33 percent, to 4,003 for the fall semester, compared to Fall 2008. Two other schools, Blue Ridge in Martinsburg and Bridgemont in Montgomery, both community and technical schools, also saw increases in enrollment over 30 percent this fall.

The Commission was further told that this increase in enrollment is not unique to West Virginia and is part of a national trend with higher education enrollment around the country soaring to new levels. However, even with those increased enrollment numbers, the rates for graduation remain low.

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.



Interim Highlights

The representative related that in West Virginia, only 48 percent of students who enroll in four-year colleges earn a bachelor's degree within six years, and only West Virginia University has a graduation rate above 50 percent, at 59 percent. At the low end, almost 21 percent of West Virginia State students earn a degree within six years, followed by Bluefield State College, at just over 22 percent.

The representative emphasized the fact that West Virginia colleges must focus on retaining and graduating students and in turn, the Higher Education Policy Commission has proposed changing institutional funding formulas to reward colleges and universities with higher retention and graduation rates.

WV Leadership Development & Support Collaborative

During its second meeting of the November Interims, LOCEA members heard a presentation on the work of the West Virginia Leadership Development and Support Collaborative. They were offered a draft of a master plan for improving leadership in West Virginia schools and school systems.

The report offered 15 recommendations for the committee on ways to improve leadership in West Virginia schools. The recommendations are as follows:

- 1.) Encourage and support districts in the development of leadership recruitment and succession planning to ensure that quality administrative candidates are available to assume school leadership positions.
- 2.) Assure that all higher education preparation programs in the area of school administration undergo National Council for Accreditation of Teacher Education (NCATE) accreditation in partnership with the West Virginia Department of Education review.
- 3.) Assure that all higher education leadership development programs are redesigned based on the West Virginia school leadership standards and program characteristics of highly effective leadership preparation programs.
- 4.) Revise the existing licensure process in ways that improve the overall quality of entry level leaders and ensure

continual personal professional growth related to the new West Virginia Global 21 standards for school leaders.

- 5.) Fund full-year structured internships for candidates in master's degree school leadership programs that prepare candidates for initial certification in school administration.
- 6.) Revise and restructure the current induction program for new school administrators to provide coordinated experiences in a beginning academy with a well coordinated and high quality mentoring process.
- 7.) Charge the WV Department of Education, the Center for Professional Development and the RESAs with the development and implementation of a coherent, productive differentiated system for professional development of school leaders.
- 8.) Develop a digital-based evaluation process for school administrators to assess skill level on the Global 21 leadership standards, promote professional growth, focus on value added to student outcomes and to determine progress on achieving aims in the school strategic plan.
- 9.) Revise code and WVBE Policy to strengthen the control of principals over operations at the school that affect student learning.
- 10.) Create an effective school calendar and school governance infrastructure to enhance professional development, teacher collaboration and teacher leadership.
- 11.) Ensure that pre-service teacher preparation programs address teacher responsibilities for collaboration and leadership.
- 12.) Develop a statewide plan for aligning, designing and delivering teacher leadership/teacher collaboration professional development to support collegial school improvement efforts.
- 13.) Support innovative school models that employ collaborative teacher leadership processes to improve student achievement.



14.) Create a single, multi-institutional program for superintendent certification, using all appropriate resources from the state in a cohesive manner.

15.) Design, fund and implement a system of professional growth for superintendent and RESA directors that differentiates curriculum according to individual and district needs.

These recommendations were detailed and broken down into specifics in the report. The recommendations were designed to be a framework that lawmakers could draw from as they look at legislation to improve the state's education system during the 2010 regular session.

Forest Management Review Commission

State Hardwood Industry

According to an United States Forestry Service (USFS) spokesman, the hardwood industry, not only in West Virginia but also across the nation, is in its worst market since the Great Depression. His presentation to the committee was an overview on the state of the hardwood industry in the world market.

In the last 18 months, the state has lost 25 percent of its hardwood industry's production capacity. The reasons listed include changes in market demand, changes in lumber production, changes in log and stumpage prices.

Data provided to the Forest Management Review Commission (FMRC) covered the years from 1977 through 2009 regarding a variety of factors.

The industry consumption in 1977 basically addressed construction usage, i.e. lumber, cabinets, millwork and flooring. While the housing market exploded in the peak lumber year of 2005, foreign competition and the national economy saw the hardwood market spiraling downward to its existing condition.

The two biggest providers of hardwood are the Chinese and the Amish. In fact, in the U.S. the Amish make up 1/4 of the hardwood industry.

In 2009, there was a crash in the kitchen cabinet industry. While Oak used to be the big export, yellow poplar sales are taking off - with China and Vietnam being the biggest importers.

Demand for hardwoods may pick up in the short-run because of the amount of existing inventory on hand. But, in the long run, if lumber prices go up too quickly, then substitute material will be found because of the rising costs.

Residual markets continue to be strong. Some power generators are using round wood or pellet mill. However, because of costs surrounding the transporting and harvesting trees for power, coal continues to be a better feasibility. If lawmakers are looking at timbering for power supplies, the US forestry spokesman warned them of "unintended consequences" such as unemployment and economic impact.

Also appearing before the committee was the State Forester of the WV Division of Forestry. He provided lawmakers with material regarding the Strategic Plan that has been a blueprint for management of the state's forests and is designed to sustain quality production and maintain an overall ecology which is environmentally intact. He reminded lawmakers that the State's #1 crop (trees) must be grown professionally and not haphazardly if the trees are to be sustained and certified as quality timber.

Joint Meeting - Government Org. / Government Operations

Audit of WVU Tech Athletics

Members of this Joint Committee heard an audit report from the Legislative Auditor focusing on the Athletic Department at West Virginia University (WVU) of Technology in Montgomery, WV. The report found a \$1.4 million deficit in the department which related to no consistency in leadership as athletic directors came and went, high travel costs related to it's athletic conference affiliation and poor performances on the field, among other things.

In its findings, the Performance Evaluation and Research Division (PERD) said WVU Tech abandoned the NCAA and



West Virginia Conference with for the NAIA and the Mid-South Conference with the hopes that the switch would bring more prestige and enhance its programs, but the report alludes to an ulterior motive that was to avoid impending sanctions in its former leagues.

One part of the report showed that since the 2006 switch in conference affiliations, travel costs alone have risen 240 percent and have constituted a “financial drain” on the University.

The report recommends that WVU Tech petition to return to the NCAA and West Virginia Conference, a conference it was a member of for 81 years before leaving in 2006.

However, getting back into the WVC would require that the WVC approve and a \$10,000 entrance fee. Last spring, the school paid \$1,000 toward that fee. Rejoining the NCAA would cost an additional \$25,000.

In a response to the Auditor the school stated that the university has begun taking positive steps well in advance of the formal report. School officials stated that WVU Tech is currently managing and administering the athletic department in an appropriate manner to bring maximum benefit to the student athletes, the general student body and to the greater community.

The instability that the report spoke to related to the school having 14 different athletic directors since 1989, including four over a 15-month span from 2002 to 2004. In the past 20 years, the school has gone through 11 head football coaches. One other problem reported by a former athletic director was the failure to monitor spending. In the 2005-06 school year, the athletic department lost \$366,605. The next two years, the deficits were \$1,191,749 and \$1,417,105, respectively.

The report also focused on WVU Tech’s football record, noting it had an aggregate won-loss record of 2-31 for three seasons ending in 2008 and only one winning season since 1989.

The report said 39 of the 138 football players were ineligible to play but continued to practice in the 2007 season. An

earlier study found that 24.5 percent of the student athletes left WVU Tech in their first or second semester.

The report also faulted Tech for issuing housing waivers to 50 percent of students in residence halls, compared to 4 percent at such institutions as West Virginia and Marshall universities.

Discounted housing denied the school some \$1.5 million in a two-year period.

Government Organization - Subcommittee A

HCR 72

Committee members heard from the Executive Director and Counsel for the West Virginia Board of Pharmacy regarding the Board’s plans to introduce legislation during the 2011 regular session regarding any appropriate and necessary revisions to the laws and rules governing pharmacy in West Virginia.

The Executive Director told the committee that the current code is a bit “hodge podge” but doesn’t want to present possible legislation until the Board has worked with all of the stakeholders.

Committee Counsel also presented draft legislation that would make various provisions for various Boards in the state. Committee members voted to hold the proposed legislation over for a future meeting.

Government Organization - Subcommittee B

Grievance Board

The members on this interim subcommittee heard from representatives of the Public Employees Grievance Board during November meetings. Lawmakers created the West Virginia Public Employees Grievance Board two years ago to replace the former grievance system under the West Virginia Education and State Employees Grievance Board.



When the Legislature changed the grievance system they reduced a four-level process, which gave employees three chances for appeals, to a three-level system with only two chances to appeal.

When a grievance is first filed it goes to the agency chiefs or their designees to handle. On the first appeal, called a level-two grievance, the state now requires mediation. Under the old system mediation was only optional.

Members were told that public employees filed almost 1,700 grievances last year, and the average grievance cost the state about \$3,384 in legal time and damages before it was resolved.

More than half the nearly 1,700 grievances filed came from college and public school employees, while county school systems generated some 592 grievances.

West Virginia state government employees filed 817 grievances. The state agencies with the most grievances filed were the Department of Health and Human Resources, with 262 grievance filings, the Department of Transportation, with 237 grievances, and the Department of Military Affairs and Public Safety, with 167 grievances.

However, members were informed that while the figures are incomplete they offer a glimpse of grievances filed in each state agency. One presenting official stated there is no mandatory reporting requirement for agencies - something he hopes can be changed in future legislative sessions.

Also, representatives spoke about one drawback to the new system. The changes have increased the board's paperwork by 700 percent. The board has been working extremely hard to catch up and deal with a backlog of cases that formed under the old system.

Also included in the report was a breakdown of the grievances by what they involved and what the employee was alleging. In the report, 567 grievances involved complaints about how employees were paid or classified, 104 involved allegations of discrimination, 68 involved alleged harassment, 196 involved employee selection, and 294 alleged violations of federal, state or agency rules.

The report concluded that in 2009, 440 grievances were resolved at the first level, 192 in level-two mediation and 246 at a level-three hearing.

Joint Meeting - LOCHHRA, Health, Minority Issues

Health Care Access

The Health Research Director for the Centers for Disease Control and Prevention spoke to a joint meeting of LOCHHRA, the Select Committee on Health and the Select Committee on Minority Issues in the House Chamber, telling lawmakers that access to health care is largely dependent on race, background, education level and social standing.

The chairman of the House Health and Human Resources Committee invited the speaker to address the Legislature after hearing her speak at a CDC conference in Atlanta.



LOCHHRA, Select Comm. on Health, Select Comm. on Minority Issues

The chairman said even though West Virginia is small with a perceived homogeneous population, the research points to the source of many of the state's problems. He said that if you substitute the word 'hillbilly' or 'redneck' for the words 'black' or 'Hispanic' (in the presentation), you would see that these disparities exist here. He says we need to fight those inequities as a state and as a people.

The researcher said that President Barack Obama's election has not done enough to keep the issue of racism in the spotlight and that the ongoing debate in Congress over



providing health care to all Americans is only part of the solution and will not eliminate the disparities that exist.

This presentation came just one day after a report was released on issues facing black residents in Kanawha County. The study by the Partnership of African American Churches found the poverty rate for African Americans in the state's largest county stands at 31.4 percent, compared to a 13.2 percent poverty rate for Caucasians. It also found that a total of 28 percent of blacks living in Kanawha County do not have health care coverage, compared to 22.7 percent of whites.

The researcher said a lot of people say, "why bother" but that is precisely why the disparities exist. She believe if you ignore this small percentage of the population, you're not improving the health of the population overall.

The researcher noted that this is the first time she has been invited by members of a state Legislature to share her findings. Typically she is asked to speak to health professionals in various areas of the country.

She hopes that people walk away feeling these big problems are not insurmountable. She believes we need to have a sense of collective efficacy to understand that what hurts one of us, hurts all of us.

Health, Select Committee on

Oral Health Study

House Concurrent Resolution 89, adopted during the 2009 Regular Session, calls for a study on the status of oral health in West Virginia's rural communities. A survey for the West Virginia State Oral Heal Plan was developed for use at nine regional forums conducted throughout the state beginning in August of 2009 by staff from the WV School Health TA & Evaluation Center at Marshall University.

Dentists from the Department of Health and Human Resources and the Primary Care Association Oral Health program attended the evening meeting of the Select Committee on Health to distribute material relative to and answer questions regarding the regional oral health survey.

Some of the findings included a listing of dental health priorities ranked by participants:

1. disease treatment and prevention
2. social marketing of the importance of good oral health
3. services provided at a school or related site
4. oral health promotion across the life span from perinatal through seniors
5. insurance coverage, Medicaid, PEIA, as well as federal funding opportunities
6. workforce - scope of practice, shortage of dental providers, recruitment and retention
7. water fluoridation and fluoride programs
8. data collection and surveillance of the status of oral health in West Virginia
9. burden of disease regarding oral health and its documentation in West Virginia

A summary of "additional comments" was also provided to lawmakers regarding the survey.

While all were significant, some comments included the low numbers of dentists accepting Medicaid patients and the need to adequately compensate them; suggested more involvement of non-dental providers and caregivers targeting the Medicaid population regarding good oral practices; requested better dietary choices in school vending machines (fruit drinks are loaded with sugar); and, among other comments, asked for more loan repayment to graduates who work in rural areas.

The Select Committee on Health will continue its fact finding in the remaining weeks before the 2010 Regular Session.

Judiciary Subcommittee B

HCR 123

Committee members heard from various speakers regarding House Concurrent Resolution 123, which requests the legislature to study the workers' compensation system and also to determine what actions on the part of the legislature is necessary to address any problems



Interim Highlights

First to address the committee was a claimant attorney who told the committee that many of her workers' compensation clients are having difficulty retrieving treatment from doctors because only a number of doctors will treat workers' compensation patients. One possible reason for this is workers' compensation gives treatment authorizations that they could accept or refuse even with the doctor's recommendations so a doctor may or may not be paid for services and treatment since the current system has the insurer directly paying the doctor.

The attorney also provided recommendations for the legislature to consider including changing the standard of denials since the current standard is simply not workable. Also recommended was paying physicians for services, time and the paperwork so that more may be willing to treat workers' compensation patients.

Next to address the committee was the West Virginia Chamber of Commerce President who told the committee that since the Insurance Commission took over workers' compensation claims, the system appears to be working.

The President told the committee that insurance costs have went down and claim protests have dropped by nearly 70 percent. He also said that rates have become more predictable as well. "Increasing workers' compensation is a worry," he said. The President also wanted to be cautious on this subject since Congress is, under the proposed new health care bill, considering including workers' compensation and making it federally run.

A psychologist from Wheeling was next to speak to the committee. According to her, there are currently no psychiatrists located in the northern panhandle, which makes it difficult for workers' compensation patients needing the services of a physician or psychiatrist to locate one. The psychologist also told the committee that delays or denial in treatment for these patients is costly and gives the patients a sense of lost hope, frustration and anxiety.

The psychologist also told the committee that case managers are not qualified to deny health treatment and shouldn't be able to overpower providers or even administrative judges, but that is currently happening in West Virginia.

A claimant shared his problems receiving treatment from workers' compensation, which began in 2007 when he hurt his back on the job. The claimant has been denied a surgery that he needs on his back because workers' compensation has denied his claim.

General Counsel for the West Virginia Insurance Commission told the committee that the Insurance Commission is being very cautious on how they create processes, especially with regards to settlements.

Last to address the committee was Counsel for the AFL-CIO who stated that one of the problems with workers' compensation is that there is no longer legislative oversight.

A critical issue is the denial of medical issues, the AFL-CIO Counsel said. If a particular disease is not specified in Rule 20, then a claimant is denied and not by a doctor but by a clerk. Rule 20 is currently over 100 pages long and five people promulgate the rules in this book.

Another problem with workers' compensation, according to the AFL-CIO is the wage amount they are paid while they are out of work. Wage rates are a minimum of \$200 and up to \$698. However, 48 percent of claimants are paid at minimum because the employer is not putting wages correctly on the form.

The AFL-CIO Counsel suggested that a carrier should be allowed to create their own legalities, positive changes needed to be made to Rule 20 and there needs to be a change in oversight.

Pensions & Retirement, Joint Standing Comm. on

Emergency Medical Service Retirement System

A proposed bill addressed by the Committee will allow the purchase of service credit for those emergency service officers who transferred from the Public Employees Retirement System (PERS) without having purchased this prior service was moved for consideration during the 2010 Regular Session.



Interim Highlights

According to the bill's abstract, "Similar to the provisions for those EMS officers who transferred from plans other than PERS, service may be purchased for 60 percent of the actuarial accrued liabilities. Service must be purchased in one-year increments. Payment must be made in either a lump sum by Dec. 31, 2010, or in regular monthly installments over 60 months, but beginning on or before Dec. 31, 2010.

"The interest rater applicable to regular installment payments is the actuarial interest rate assumption as approved by the Consolidated Retirement Board, compounded annually. Once payments begin, selection of the period of service being purchased may not be amended and service will be credited only upon receipt by the Board of all payments due."

The measure is expected to affect eight to-10 EMS personnel.

Regional Jail & Correctional Facility Authority

WV Law Institute Study

The Regional Jails committee was updated by the President of the West Virginia Law Institute regarding the Institute's study on current criminal procedure for the Governor's commission on prison overcrowding. The Law Institute has held a meeting each month focusing on various aspects of criminal procedure, including the number of non-violent and property offenders that are currently imprisoned as well as the effectiveness of the state's current parole system.



Legislative Oversight Comm. on Regional Jail & Correctional Facility Authority

Also being looked at is the possible expansion of community work release programs as well as an information sharing mechanism in order to help with pre-sentencing reports that have been a problem in the past.

The Law Institute's study is expected to be completed by next month which the President of the Law Institute promised committee members that he would distribute a copy of this study to committee members. The study will include findings and recommendations on how to best handle the prison-overcrowding problem in the state.

Committee members also heard from a former warden regarding a non-profit organization known as "Family Connections" and how this type of program could be beneficial to West Virginia.

Family Connections' purpose is to keep families affected by incarceration together and to help inmates maintain a strong family connection. The warden told the committee that it has been proven that a strong family connection reduces recidivism rates in prisons. West Virginia's current recidivism rate is 80 percent.

Joint Meeting - Veterans Issues, Education Sub. B

A Joint meeting of the Select Committee on Veterans' Affairs and Education Sub-Committee B involved West Virginia University's (WVU) Veterans' Advocate and the Administrator of the Office of Veterans Education and Training Program of the Higher Education Policy Commission (HEPC). The two service and national guard advocates outlined existing educational opportunities available to veterans and national guardsman.

The recently hired full-time veterans' advocate at WVU was exceedingly pleased to be selected to serve in the position. Prior to his hiring in 2004, there was a 35 percent decrease in the number of enrolled vets/military over a six-year period.

The development of the new position, assisted in its creation by an education liaison representative from the Regional Office of Veterans Affairs and HEPC's Veterans State



Approving Agent, allowed for a one stop shop, a central point of contact, a campus advocate for veterans who would assist with the recruitment of veterans while educating the campus community about veterans' issues.

In 2009, the advocate has maintained an open door policy with no waiting for veterans. He had developed veteran support program and is educating the campus and outside community of veterans' needs and situations.

Located in WVU's Financial Aid Office, Advocate Terry D. Miller can be reached at 304-293-8262 or via email tdmiller@mail.wvu.edu for advice and support.

Information provided to the joint committees by the HEPC Administrator of Veterans Education and Training Programs listed some of the following benefit programs for veterans and servicepersons who are seeking assistance for education or training:

- **Post-9/11 Gi Bill (Chapter 33)** - For individuals with at least 90 days of aggregate active duty service since September 10, 2001 or individuals discharged with a service-connected disability after 30 days. Transfer of entitlement is also available under this Chapter.
- **Montgomery GI Bill - Active Duty (Chapter 30)** - For individuals who have been honorably discharged typically served three years of active duty or two years of active duty and an additional four years in the Selected Reserve, and contributed \$1,2000 towards the program.
- **Montgomery GI Bill - Selected Reserve (Chapter 1606)** - For individuals who have committed to a six-year obligation, completed IADT, and are currently serving in good standing with a Reserve or Guard component. Eligibility for benefits under this program is determined by the Reserve or Guard component.
- **Reserve Educational Assistance Program (REAP) (Chapter 1607)** - For individuals who have served active duty at least 90 consecutive days after Sept. 11, 2002, in specific operations. The Secretaries of each military service, Department of Defense, and Department of Homeland Security (Coast Guard) will determine eligibility.

- **Survivors' and Dependents' Educational Assistance Program (Chapter 35)** - For the spouse of children (between the ages of 18 and 26) of a veteran who is permanently and totally disabled as the result of a service-connected disability; or was killed in the line of duty or died as a result of the service-connected disability.

Veterans are encouraged seek more information on these benefit programs or apply at www.gibill.va.gov

Water Resources, Joint Legislative Oversight Commission on

New Water Recycling Plant

The president of AOP Clearwater discussed the company's new water recycling plant, which is now accepting Marcellus wastewater. AOP has recently opened its first water recycling plant in the Appalachian Basin, located in Marion County. The current and future exploration of the Marcellus Shale by the oil & gas industry in West Virginia and throughout the basin requires new solutions for water management issues created by this exploration activity.

Committee members were told that AOP disposes of bi-products through a distillation/crystallization process that removes salt and metals from water. Most of the water (blow back) is being recycled, diluted, and re-injected. In the past this water was taken to a salt plant in Ohio, the company executive said. He said the company's objective is to make the water environmentally friendly.

The recycling plant is still in the development stage. The process will produce distilled water for use in Natural Gas well drilling and development. The source water used will be from Natural Gas well development and production. The source water will be pretreated at the facility to remove various elements and suspended solids. Following pre-treatment, the water will be processed to remove dissolved solids to a concentration of less than five hundred (500) mg/l. Salt cake is also a product of this process. They hope to be able to sell the salt that comes off as road salt while the sludge will be disposed of in a landfill.



The Program Manager for the West Virginia Department of Environmental Protection gave the committee his annual report on the State Water Resources Management Plan. He is required to have a statewide water management plan in place by 2013.

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WorkForce West Virginia Reports

The acting director of WorkForce West Virginia submitted the comprehensive State of the One Stop and Funding Stream Report for 2008-2009. In addition, in accordance with the passage of HB 4083 in 2002, a copy of the 2009-2010 memorandum of understanding for the workforce Interagency Collaborative Team was submitted.

According to the director, WorkForce West Virginia has in the past two years received two national awards. The U.S. Department of Labor recognized the West Virginia Unemployment Compensation program with the 2008 Pinnacle Award, for the highest achievement in performance nationwide.

Also, the American Institute for Full Employment awarded the 2009 Full Employment Performance Award to WorkForce West Virginia for its re-employment programs. The director explained “re-employment services help individuals receiving unemployment compensation return to work as early as possible, receive a high wage and work with them to retain their new employment opportunity.

He also emphasized the success of the WorkKeys programs and noted the commerce division has entered into a partnership with the WV Department of Education to provide training and remediation through KeyTrain online to job seekers throughout the state.

According to information provided by the director, “Workforce Development is a generic term reflecting the purpose and intent of the Workforce Investment Act (WIA) of 1998. The purpose of the Title 1 is to provide workforce investment activities that increase employment, retention and earnings of participants.....”

Thirty-three programs either directly or indirectly impact Workforce Development in WV. Twelve of the 16 programs required to participate in a One-Stop system receive federal funding under strict requirements.

West Virginia’s WorkForce Development receives approximately \$104 million, of which 80% is in federal dollars, 14 percent state and 6 percent coming from grants.

Recently, there has been a reduction of federal funding and the seven regional One-Stop systems are seeking creative ways in which to share the dollars, which are equally divided among the seven areas. Some regions are running out of the federal dollars because of a variety of factors: high unemployment, long lists of people seeking training, etc. Others have fewer job losses in their regions and have remaining federal dollars.

The director is seeking ways to allow regions that have stagnant monies to move the dollars into regions that need the funds for training programs.

The U.S. Department of Labor has talked about national emergency grants (NEG) that essentially would accept requests for training money based on pockets of need. The WorkForce director would like to see if some regions would like to “de-obligate” their funds. If those regions choose not to, then the U.S. labor department will not issue NEG.

However, the director said the division is totally reliant on federal monies for re-training dislocated workers and would like lawmakers to come up with another approach, suggesting types of PROMISE scholarship for a two-year period.

In another area, the WorkForce Investment Council has devised a list of recommendations for consideration of the Chief Executive which cover mentoring programs, better communication and planning between education and business, promote technical colleges, develop drug-testing and wellness programs, utilize the WorkKeys System and provide better marketing of the different career paths and the value of training and education, among others. ■



Interim Committee Meetings

2009/ 2010

December 7-9

January 10-12, 2010

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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