



INTERIM HIGHLIGHTS

CITIZEN'S GUIDE TO INTERIM COMMITTEE MEETINGS OF THE WEST VIRGINIA LEGISLATURE

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July 29, 2011

Agriculture & Agri-business Committee

Representatives from the West Virginia Agriculture Commissioner provided lawmakers with an update on the Chesapeake Bay Watershed initiative.

On December 29, 2010 the U.S. Environmental Protection Agency (EPA) released the Chesapeake Bay Total Maximum Daily Load (TMDL), a historic and comprehensive “pollution diet” to restore clean water in the Chesapeake Bay and the region’s streams and rivers. The TMDL, the largest ever developed by EPA, identified the necessary pollution reductions of nitrogen, phosphorus, and sediment across Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia to meet applicable water quality standards in the Bay.

West Virginia submitted its Phase I Watershed Implementation Plan (WIP) in November of 2010. The WIP incorporated many changes that, for the most part, satisfied EPA and eliminated the need for all but one of the federal backstops. The targeted federal backstop that remains for West Virginia is in the agriculture sector. EPA shifted 75 percent of West Virginia’s animal feeding operation load into the part of the TMDL reserved for regulated pollution sources, and assumed implementation of certain practices on these operations. The shift signals that any of these operations could potentially be subject to state or federal permits as necessary to protect water quality.

EPA also described enhanced oversight of the agriculture, stormwater, and wastewater sectors, to ensure the load

Interim Committee Meetings

2011/ 2012

- August 1 - 3, 2011
- September 12 - 14, 2011
- October 11 - 13, 2011
- November 14 - 16, 2011
- December 12 - 14, 2011
- January 8 - 10, 2012

reductions outlined in West Virginia’s WIP are on track. EPA will carefully review West Virginia’s progress toward its two-year milestones and will remain involved with the state during EPA’s refinement of the TMDL in 2012 and 2017.

In order to develop a Phase II Watershed Implementation Plan during 2011, WV will be drafting local pollution reduction targets and seeking more input from local governments, watershed groups, farmers, and other stakeholders.

Joint Commission on Economic Development

Gas Cracker Facility

Odds that West Virginia will land a billion-dollar natural gas cracker plant have improved from perhaps 500-1 a year ago to a coin flip chance now according to the executive director of the Chemical Alliance Zone.

The director told the committee that the state stands about a 50-50 chance to get a facility and that the tipping point was when the Bayer sites became available.



Interim Highlights

Earlier this year, Bayer proposed its plant sites in Institute and New Martinsville as locations for the cracker plant, a massive facility that would convert ethane -- a byproduct of natural gas production -- into ethylene. Ethylene is the base chemical used to produce a variety of products, including plastic bottles and containers, clothing, paints and flooring.

Attracting a cracker plant would not only bring \$1 billion to \$3 billion in direct investment, but also would create hundreds of good-paying jobs, and attract ancillary chemical processing facilities, the director said.

One key issue is whether there are sufficient underground storage facilities near the sites to store ethane awaiting conversion to ethylene. The State Commerce Secretary said that the state Development Office has commissioned a survey by the engineering consulting firm of Parsons Brinkerhoff to catalog available storage space.

He said an initial report should be available in 45 days.

The Secretary said he believes West Virginia has great chance as it competes with Pennsylvania and Ohio to land at least one cracker plant.

He believes our state has the best infrastructure, the best sites, and the best work force. He noted that we also have a balanced budget, a surplus and lowered taxes.

Despite running a massive budget deficit, the state of Ohio is offering \$1.4 billion in incentives in hopes of attracting a cracker plant.

The Commerce Secretary noted that the state of New

York similarly offered significant financial incentives to try to get Macy's to locate a \$150 million distribution center there -- but that facility is under construction near Martinsburg. He believes that determination was due to assessment of long-term costs and he thinks a similar conclusion may well be met with regard to the location of a cracking facility.

Also, during the 2011 regular session, the Legislature passed a tax-incentive package in hopes of attracting a cracker plant, including a provision to allow the plant facilities to be assessed at salvage value for property taxes

Development of the Marcellus Shale gas field makes the region viable for cracker plants.

While there has been considerable debate over the potential adverse environmental impact of Marcellus Shale drilling, the director said cracker plants involve a relatively benign chemical process.

The process, which involves heating ethane under high pressure to more than 750 degrees Celsius to convert it to ethylene, releases carbon dioxide and water as byproducts.

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

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.



LOCEA

SLED

The West Virginia Higher Education Policy Commission has been awarded one-time funding to develop a P-20 Statewide Longitudinal Education Data System (SLED).

The priority of the SLED project is to implement a P-20 data warehouse that is compliant with the WEST VIRGINIA CODE §18B-1D-10.

The mission of the SLED team is to link P-12 with postsecondary and workforce data in order to create a statewide longitudinal data system, enabling policymakers and administrators as well as teachers, parents, and students to gather and use information in order to enhance West Virginia’s supply of human capital.

The goals for the SLED program are as follows:

1. Establish a P-20 longitudinal data system providing student data from birth through P-12 to postsecondary education and workforce to inform education policy, practice and research.
2. Improve data accuracy and integrity.
3. Provide easily generated data for continuous school improvement and student achievement.

Other Benefits to SLED include:

- For agencies that don’t have their own system and reporting tools, it is less expensive to bring their data into the P-20 structure and use our licenses than build their own “silos.”

- Linked data show a more complete picture that allows us to look at the broader impact of policies across agency boundaries.

- Provides analysts and researchers to support multiple agencies in their use of the system.

- Coordinate agreed upon metrics and terms instead of every office developing their own definition of things like college readiness and student success.

- Cut down on duplicate efforts to collect and maintain data.

**Children, Juveniles
and Other Issues**

In-Home Family Education Programs in West Virginia

The Executive Director of TEAM for West Virginia Children, Inc gave a presentation to the committee regarding in-home family education programs in West Virginia.

In-Home Family Education is a program that provides help to families with young children in their home. Parents can participate at no cost, and the staff will come to the home, or wherever the parent feels most comfortable. In-Home Family Education provides caring and supportive programs to families in almost half of all West Virginia counties. The goal is to improve child health, increase school readiness and give parents the information and support they need to make parenting decisions.

In-Home Family Education is a powerful strategy



to support parents and promote positive childhood experiences. These programs build “protective factors” which enable families to deal more successfully with whatever challenges arise and help families avoid or cope with negative experiences that could otherwise lead to poor outcomes for their children.

Early childhood experiences determine a child’s early brain development and lay the foundation for the emotional and intellectual development of a child. In-Home Family Education encourages parents to maximize opportunities for optimum brain development. These programs reduce the need for more costly services, such as special education, unintended pregnancies, hospitalizations, and emergency room visits

Educators are from the community they serve and offer families a nonjudgmental listening ear. They help parents understand their role as their child’s first and most important teacher. Educators emphasize each family’s strengths and assist the family in reaching their goals.

In-Home Family Education services promote prenatal and child health by helping families access prenatal care, well-baby care and immunizations. Healthy lifestyles are encouraged. Parenting skills, knowledge and behavior are improved by sharing child development information and conducting developmental screenings. Parents receive information and support for various parenting challenges, such as discipline and potty training. Educators also link families to a wide array of resources in their community.

In the state of West Virginia, program models include Healthy Families America, Maternal Infant Health

Outreach Worker (MIHOW) and Parents As Teachers. Families are offered services regardless of income level. Home visits are at least monthly and depending on the program, services are provided for either three or five years. Families also have the opportunity to participate in group activities and experience socialization.

According to several studies presented, these programs have been proven to reduce child abuse by as much as 40 percent.

\$1.5 billion in federal funding will be allocated to these programs nationwide over the next five years. West Virginia received almost \$900,000 last year for its in-home family education programs this year and are set to receive over \$1 million next year.

These programs currently operate in 23 West Virginia counties with current plans for implementation in five additional counties. The goal is for this program to eventually be available to every household that needs these services in West Virginia.

Education Subcommittee A

Digital Learning and Global 21

A representative with West Virginia’s Department of Education (DOE) discussed plans relating to digital learning and Global 21 including its planned phases of implementation and cost during July’s interim meeting.

During this year’s regular session, Senate Bill 516 was introduced that would have required the State Board of Education to promulgate a rule to establish a high quality



digital learning program and to create ten elements of the program, adopted by the State Board’s Digital Learning Council. The ten elements in the program are:

1. Student eligibility-All Students are digital learners.
2. Student access-All students have access to high quality digital content and on-line courses.
3. Personalized learning-All students can customize their education using digital content.
4. Advancement-Students progress based on demonstrated competency
5. Content-Digital content, instructional material and online and blended learning courses are high quality.
6. Instruction-Digital instruction and teachers are high quality.
7. Digital learning providers- All students have access to multiple high quality digital learning providers.
8. Assessment and accountability- Student learning is one method of evaluating the quality of content and instruction.
9. Funding-Funding creates incentives for performance, options and innovation.
10. Delivery-Infrastructure supports digital learning.

The representative passed out a handout to the committee members showing them what implementations would have occurred had Senate Bill 516 passed. For example, for the student access element, all students would have access to high quality digital content and on-line courses and the DOE could only limit access based solely on capacity. Students would have also been required to take high quality online college or career prep courses as a condition to earning their high school diploma.

Senate Bill 516 did not pass during the session but

the representative reiterated that learning powered by technology is essential to meet the State Board’s Global 21 goal and the State Superintendent’s educational priorities.

The cost for bringing these new elements to K-12 students is approximately \$271 million, with the state paying 65 percent of the cost, the federal government paying 10 percent and local funds paying 25 percent. This cost includes, bandwidth increase, Internet access, professional development, notebook computer for each teacher, mobile student device for each student, and increased wireless capacity.

Senate Bill 516 would have also recognized the State Board of Education’s Middle School Global 21 initiative and would need state funding for the initiative.

The Middle School Global 21 Initiative’s proposed initiatives include:

- The development of career exploration modules for elementary and middle school students.
- Redesign the middle level Technology Education program to incorporate career exploration modules that incorporate career knowledge, awareness and reinforces academic skills.
- Development of a Global 21 Mi Learning Community for all students that incorporates many things including career exploration and planning, goal setting, personal skill development, real-world career-relevant experiences, and online collaborative learning space.

The cost for the initiative would be \$1.85 million, \$1.5 million of that going to the development of the online platform yearly for five years, and \$350,000 going to



the development of career exploration modules for elementary and middle school students.

Education Subcommittee B

Statewide Assessments

Committee members heard from a representative with the West Virginia Department of Education (DOE) regarding the statewide assessment system during July’s interim meetings.

The representative stated how the school calendar change would benefit school districts in scheduling the WESTEST2, proposed changes in No Child Left Behind, and the transition to a “growth model” assessment and pilot program.

According to the representative, school districts will have flexibility this year with the testing dates of the WESTEST2 because of legislation passed last year that made changes to the school calendar. The legislation did require 180 days of instruction time but it also gave flexibility to the school districts in how they setup their testing schedules. Counties are given 10 consecutive days for the testing instead of cramming the entire test into two days.

The representative also touched on the proposed changes for No Child Left Behind (NCLB), created in 2002. President Obama stated earlier this year that current requirements and standards in NCLB are showing 82 percent of students are failing at the end of each school year. NCLB is said to be too sensitive and with no room to grow for students. One of the possible changes in the assessment and standards placed within NCLB is

lowering the passage point to 33 percent the first year and then raising the passage percentage yearly until by 2014 all schools must hit 100 percent.

West Virginia’s DOE is creating a “Growth Model” assessment pilot program this school year in some school districts in order to track students’ performances of tests from year to year and what their projected testing level will be.

Education Subcommittee C

Retaining Future Health Care Professionals

Committee members heard from the Higher Education Policy Commission and West Virginia Council for Community and Technical College Education’s Vice Chancellor for Health Sciences regarding the state’s problem of retaining future health care professionals.

The committee was assigned House Concurrent Resolution 85, which requires the study on effective methods of attracting to and retaining in West Virginia additional practicing health care professionals. The Vice Chancellor was invited to provide the committee with current data on where West Virginia stands on keeping these students in the state after they graduate.

According to the Vice Chancellor, more will be known seven years from now when medical students in West Virginia’s colleges will complete their education. He did point out that more and more students enrolling in West Virginia schools are from out-of-state with a greater chance of leaving West Virginia when they graduate.



One area of concern the Vice Chancellor mentioned was filling positions in primary care throughout the state because of the increased debt in finishing medical school. Many doctors and nurses and other medical professionals feel that they cannot afford to take on these types of positions because of the amount of debt they incurred while in school.

Also weighing on the state's medical professionals are those located in rural areas where drug abuse problems are wearing out the staff to the point that they leave.

The Vice Chancellor told the committee that there should be more focus on graduate education where more residency programs are offered and to also give supplemental funding for primary care residencies in order to attract more staffing in those areas most needed. It has been showed that those offered a residency are more likely to stay in-state.

New models of care are promising, but the Vice Chancellor told the committee trying to deal with these problems would be very difficult.

Finance Subcommittee B

State Taxation of Natural Gas

According to the state's Deputy Revenue Secretary, West Virginia's natural gas tax collections could more than double in the next five years as the industry continues grow rapidly in West Virginia.

The Secretary gave legislators a primer on the tax revenues state and local governments reap from natural

gas drilling throughout the state.

He said officials expect a fairly significant increase in production in coming years, and that will result in higher severance tax collections.

Last year the state collected just over \$50 million in severance taxes from natural gas operations. By 2016, the state should take in over \$118 million as revenues rise by an annual rate of 17.6 percent over the coming years.

The state already has seen significant growth over the past decade.

Between 2004 and 2009, natural gas production rose by 22 percent in the state, compared to an 11 percent growth rate nationwide.

Coupled with significant increases in coal prices, the mining industry as a whole has helped make West Virginia one of the fastest growing states in the country during a time of economic sluggishness.

While natural gas prices have bounced between \$3 and \$8 per million BTUs in the past decade, economists are projecting prices will stabilize between \$4 and \$5 through 2015.

The state maintains a 5 percent severance tax rate on well-head gross receipts, though there are a few exceptions and tax credits.

While that tax is set to price, the state also imposes a severance tax of 4.7 cents per 1,000 cubic feet of gas produced to generate revenue for the workers'



compensation fund.

Because that tax is strictly tied to production, revenues from it have risen from about \$9 million in 2008 to just over \$10 million last fiscal year. Revenues are projected to rise above \$16 million by fiscal year 2016.

Marcellus Shale gas wells still account for only a small portion of the total gas wells in the state, but the number is rising.

Between 2008 and 2009, the number of Marcellus Shale wells increased from 2 to 8 percent of total gas wells — rising from 242 to 622.

Finance Subcommittee C

This committee met in July to begin discussion of SB 616 from the 2011 Regular Session, which related to other post-employment benefits generally (OPEB). Near the end of the last session members were close to a compromise bill dealing with OPEB but lawmakers simply ran out of time.

Funding sources were not agreed upon and need to be figured out. Funding sources need determined. Language regarding funding in draft legislation needs disregarded as is out of date and needs updated, all other facets had been agreed upon.

Committee members were told that increasing health-care costs, coupled with a surge in retirements of Baby Boomers, means the current pay-as-you-go plan will quickly grow from the current \$110 million a year to

more than \$600 million a year in less than 10 years.

The committee chair also stated it was his desire that if an agreement can be worked out and finalized that this issues could be dealt with in a special session in the fall ahead of the 2012 Regular Session.

There are currently a few sources of unappropriated funds that could become available as an initial funding source for this issue. That included a nearly \$70 million surplus from the previous year budget and money accrued from the bidding for the 2011-21 Limited Video Lottery licenses, which brought in nearly double the Lottery’s goal of \$36 million.

Forest Management Review Commission

Timber Industry

A State Forester painted a grim portrait of the hardwood business, pointing out a 50 percent decline in lumber production since the peak year of 2005.

In that ultra successful 2005 year, there were 87 mills operating in the state with at least 10 employees, but the number fell to 63 in the first quarter of this year - a negative change of more than 21 percent.

Six years ago, the state had 3,276 employees in the state’s woodlands, but now that figure has plunged to 1,964, or a decline of 40 percent.

The Forester told lawmakers he hasn’t discussed the situation with the Governor but plans to work hand-



in-hand with the Economic Development Office to see about reversing the trend.

In the six years following 2005, he noted, 14 mills have been sold, and the equipment was removed. Thirteen others closed with their future uncertain. Another 31 curtailed their schedules, while 32 mills haven't altered theirs.

Timber licenses issued hit a peak of 1,459 in 2005, and as of last year, the number slipped to 964.

And the number of certified loggers went from a high of 1,754 to 1,310 a year ago.

The Forester attributed the six-year decline to the general state of an anemic economy that has worsened the past two years.

**Joint Committee on
Government Organization /
Government Operations**

This joint committee heard several reports over the course of the July interim meetings from the Performance Evaluation and Research Division of the West Virginia Legislature.

First, the committee heard that the Division of Water and Waste Management of the Department of Environmental Protection has complied with recommendations made in a 2002 Performance Review. The 2002 report recommended that Division should develop a program which will analyze data and provide quarterly violators of

the fecal coliform standard, should ensure that all minor facilities submit reviews as required, and be reviewed for compliance before renewal, and, should implement a procedure in which minor permittees are notified when reviews have not been submitted and indicate to permittees that the permit will not be renewed unless they are submitted.

Next the committee heard a regulatory board review for the West Virginia Board of Dental Examiners. The review found that the licensure of dentists and dental hygienists by the West Virginia Board of Dental Examiners is necessary to protect the public. The West Virginia Board of Dental Examiners is in compliance with the general provisions of Chapter 30, although the Legislative Auditor found that improvements could be made in the areas of public accessibility and financial solvency.

Areas of concern highlighted by the report included that the complaint form on the Board's website is located in the "forms" ink rather than on the front page and could be difficult to find for a user unfamiliar with the page. Multiple file formats for the licensure verification function on the Board's website would increase its accessibility to the public. Also, regarding the Board' financial solvency, the Legislative Auditor noted that although it was self sufficient, steadily increasing expenses exceeded a stagnant revenue level in 2010.

The Legislative Auditor had three recommendations for the Board. The Legislative Auditor recommended that the West Virginia Board of Dental Examiners consider providing direct access to the complaint form on the main page of the website to improve public accessibility.



The Legislative Auditor recommends that the Board improve the public accessibility of its web based license verification to make it more user friendly. And, the Legislative Auditor recommends that the Board conduct a review of its financial situation and take necessary steps toward ensuring that the Board remains financially self-sufficient.

Finally, the committee heard a special report on the use of state directed funds by the Horseman’s Benevolent and protective Associations (HBPA). The report revealed that state funds intended to defray medical costs for workers at the state’s two horse tracks have been used to pay for legislative lobbyists, advertising, legal fees, donations to charities and other expenses.

Under state horse racing law, up to 2 percent of purse funds are allocated to each track’s nonprofit Horsemen’s Benevolent and Protective Association to pay medical expenses for track “backstretch” personnel, and for association administrative costs. Backstretch personnel include exercise riders, trainers, groomers and stable hands, who are employees of the thoroughbred owners, not the tracks.

The audit noted that current state racing laws are overly vague regarding allocation of the purse funds. It suggests using Pennsylvania’s racing law as a model, where no more than 15 percent of state funds can be used for the benevolent associations’ administrative costs.

It also recommends that the state Racing Commission come up with strict rules for use of state funds for administrative costs. Those rules should explicitly prohibit the use of purse funds for lobbying, legislative

travel, charitable donations, and other expenses that are clearly outside administering the medical trust funds for backstretch personnel.

Representatives for the two HBPA’s asked to be allowed to respond to the audit at next month’s joint meeting of the Joint Committees on Government Operations and Government Organization.

Government Organization Subcommittee A

Representatives of Volunteer Fire Fighters in West Virginia presented some information to this committee as they continue studying volunteer fire fighting retention issues.

Currently there are 410 Volunteer Fire Departments (VFD) in the state of West Virginia. There are also 20 partial paid departments and 13 paid departments. At any given time there are between 10,000 and 11,000 volunteer firefighters in the state. While the entire state of West Virginia is covered by fire coverage the majority of that coverage is being provided by volunteers.

Volunteer firefighters may be reimbursed for their expenses or paid for responding to fire calls, if the corporation allows it. Workers’ Compensation Premiums are paid for each firefighter based upon their hourly participation in the department. The rate is the same whether the fire fighter is sitting in the station or actively fighting a fire. This includes boot drives, cookouts, playing pool in the station, watching TV, etc. The overwhelming number of claims filed are for fire fighting related duties however.



West Virginia Extension Service offers a Junior Fire Fighter School every year. Traditionally, the school is well attended but the majority of the 125 students come from out of state. This year, however, 81 campers came from West Virginia with the remaining 34 coming from other states. West Virginia Wesleyan College offers half direct costs scholarships for children or grandchildren of volunteer firefighters. This pays for tuition, room, board and fees for four years at approximately \$16,172 per year. Also, the state allows for a tax credit for donation of professional and medical services. Volunteering for firefighting is eligible for this credit under that statute.

The committee will continue to discuss retention of volunteer firefighters in future meetings.

Government Organization Subcommittee B

This subcommittee conducted a discussion of Senate Concurrent Resolution 65, which requested a study on the creation of a Fiscal and Policy Division under Joint Committee of Government and Finance.

A representative from the Performance Evaluation and Research Division of the Legislature stated that this issue was brought up during session. The idea was that the office would report strictly to legislature with fiscal notes prepared by request.

Other tasks the office would handle included writing economic outlook reports, fiscal notes, fiscal effects of legislation and comprehensive analysis of budgets. A cost estimate was provided based on similar offices around

the country and came in at approximately \$720,000. The office would be a non-partisan office and housed within the Legislative Auditor’s office.

The representative stated that there is a lot of value in having an independent fiscal office for West Virginia Legislature but nonetheless, you will always have some problems getting up to date, correct fiscal notes on complex issues. The legislative process itself will always cause some issues, such as an amendment on the 60th day on the floor.

Next, a representative from the West Virginia Center for Budget and Policy also spoke in favor of the creation of this office. He stated that the legislature must make budgetary decisions based on projections and fiscal impacts created by the executive branch that oftentimes can be incorrect or misleading.

He also cited the cost to actuaries as a rationale for creating this office and stated it would help leverage and empower the Legislature. He noted a cost savings could be achieved through this process, and by making it non-partisan, members from each party could get access to the office.

Further stated that the current system has many holes, around 2,000 bills are introduced each year, many with no fiscal notes and this office could help provide fiscal notes tracking the various changes throughout the bill process. As an example, the Marcellus Shale bill last session had no fiscal impact attached to it.

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



Government Organization Subcommittee C

This subcommittee took up discussion of Senate Concurrent Resolution 54, which asks for a study of the scope of practice of health care professions

A panel of representatives who lobby on behalf of health care professionals and specialists spoke about what they see as needed reform for scope of practice legislation moving forward.

Most of the panel agreed that some kind of sunrise applications reform is needed. They also stated that it is the responsibility of lawmakers to learn these issues and work out problems internally and not set up another commission that would have to report back to legislature in the end.

They also commented that there are currently rules and laws in place which need to be enforced regarding applications for scope of practice reviews and suggested that the committee consider modifying sunset rules simply by putting in the last six “whereas” proponents included in the study resolution.

Health

Substance Abuse Problem

Committee members heard from a number of speakers focusing on the issue of the state’s growing substance abuse problem during July’s interim meeting.

The Legislative Director for the Governor’s Office updated the committee on the Governor’s six roundtable

meetings that took place in various locations throughout the state. Those attending these committees were local police, organizations, and concerned citizens. The Legislative Director told the committee that these meetings were conducted in order to hear the input from local governments and citizens. Also mentioned was the Governor’s creation of a Substance Abuse Task Force.

Executive Director of the Controlled Substances Advisory Board briefly updated the committee on the Board’s work and the readiness to work with the other groups and agencies in combating this ongoing substance abuse problem.

Committee members also heard a presentation from a new physician in Wirt County titled “Preventing Drug Abuse A Call To Action.”

The Chairs of the Health committee also informed members that since they want to cover such broad and important topics they have decided to create two Health subcommittees, one focusing on health care reform and the second focusing on substance abuse issues. Each subcommittee will report to the Health committee with their findings and recommendations.

Select Committee on Infrastructure

Commissioner of the West Virginia Division of Motor Vehicles spoke to the committee regarding the consolidation of state government services and enforcement of laws pertaining to the motor carrier industry (One Stop Shop).



He stated that this would bring motor carrier information and filing station under one roof, something that many other states have already done including neighboring Kentucky. The division is currently looking at best practices from around the country as they examine this idea. He also noted that oversize, overweight permitting would not be an issue for one-stop shops, which remains with engineers.

The Division also gave an update on various information technology programs and initiatives in the Division of Motor Vehicles. He stated that West Virginia is instituting a new driver’s licensing system that improves security and allows motorists to review information that’s displayed before their licenses are issued. The new system became operational at the agency’s regional office in Charleston’s Kanawha City neighborhood this past month. The system is expected to have been implemented at all 23 regional offices in the state by July 28.

Security features will include micro-printing that can’t be seen by the naked eye on each license or identification card. The system also will be in full compliance with the federal REAL ID Act

Judiciary Subcommittee A

Prison Overcrowding

Lawmakers were told by lawyers, judges and correction officials there no easy solution to deal with the state’s inmate population that is close to 1,800 prisoners over the maximum capacity. Spokespersons before the committee included judges, lawyers and corrections officials.

Currently, 1,730 Division of Corrections inmates are housed in the state’s 10 regional jails, causing severe overcrowding at those facilities, according to the Commissioner of the West Virginia Division of Corrections.

From 2000 to 2007, the state prison population grew at a rate of 8.1 percent a year. In the past two years, that rate has slowed to between 5 percent and 6 percent, and is projected to drop to a 4.6 percent annual rate over the next decade. Those numbers work out to 305 additional prison inmates each year, with the inmate population projected to exceed 8,200 inmates by 2015. Eighty-five percent of the population have been incarcerated because of direct or indirect substance abuse, the commissioner told lawmakers.

While hesitant to endorse building a new state prison, at a cost of at least \$120 million, he indicated concern that overcrowding issues could reach a boiling point and alluded to the history of the 1985 riots at the old state penitentiary in Moundsville that left three inmates dead.

In addition, the corrections commissioner believes that community corrections and other alternative sentencing programs are not having a significant impact to reduce prison populations. He told lawmakers the inmates he gets have thumbed their noses at home confinement or community corrections.

On the flip side, a circuit judge from the Northern Panhandle disagreed, saying alternative sentencing has been effective in his circuit. The judge told lawmakers that the Legislature should look at more sensible sentencing standards. He noted that under current



law, a single criminal act could bring multiple criminal charges, punishable by multiple prison terms that can run consecutively. For example, people who commit serious crime, should get serious time but a person who writes 20 bad checks shouldn't have each check count as a single offense, stacking the sentence 19 more times and resulting in a sentence from 20-200 years.

All inmates other than those serving life without mercy should be eligible for parole hearings after serving 20 years. Inmates who have served 20 or more years are of very little threat to the populace, the judge told lawmakers.

Another circuit judge, from Greenbrier County, remarking on alternative sentences, said judges face the same risk any time they put someone on home confinement. He believes the judicial association would welcome working with prosecutors and the correctional centers to determine a difference between smart sentencing and stiff sentencing.

In addition, the Greenbrier County circuit judge told lawmakers with the inevitable drug or alcohol programs, he believes intervention programs should start in elementary school.

Many families are dysfunctional and early problems might start with truancy. Another suggestion made was to find ways to blood test children early on. According to the judge, the biggest fear kids have is being drug tested in elementary school and public schools.

The ultimate solution to prison overcrowding could be intervention programs to help juveniles deal with drug

abuse problems that eventually lead them to criminal activity.

While officials addressing the committee offered a variety of suggestions, no conclusive arrangement on prison overpopulation was provided.

Lawmakers would like input from the judicial association regarding sentencing standards because the Legislature would be very wary of reducing sentencing standards unless it has the full support of judges and prosecutors statewide.

Having some community buildings renovated to house and recidivate inmates was discussed. Work is being conducted by the Department of Health and Human Resources regarding mental health care for some inmates. And, while community based support...centers, beds, counseling...was suggested, the corrections commissioner does not believe that be enough and is not a catch all or cure all. Bottom line for the commissioner is that viable alternatives for drug addiction is needed and treatment beds should be made available.

Marcellus Shale

The Select Committee on Marcellus Shale conducted two hearings during the July Interim meetings designed to clearly open discussions relative to hydraulic fracturing technology.

Providing a scientific and educational background on the horizontal drilling to the committee were two professors from the Petroleum and Natural Gas Engineering



Department at West Virginia University. The presentation included the history of gas drilling in the state and the scientific findings relative to the shale’s chemistry and overall existence within the Appalachian corridor.

West Virginia’s Deputy Tax Commissioner presented a projected impact on state and local tax revenues. Noting that the mining industry was a key to economic growth in 2010 increasing by four percent, natural gas production trends have also increased. Materials provided indicated the total regular state severance tax collections show an annual growth of 2.1 percent.

Also appearing before the Select Committee was the Deputy Mayor and City Council Member from Morgantown who explained the reasoning behind that city’s council crafting an ordinance that would ban horizontal drilling with fracking within city limits and within one mile of city limits. Presently, Morgantown is being sued by the driller and mineral owner and the case is pending in the Circuit Court of Monongalia County.

A spokesperson from the West Virginia Environmental Council provided “visuals” regarding the sights and sounds and effects of placement of drilling pads already existing in the state.

And, a spokesman representing the WV Surface Owners’ Rights Organization addressed the committee with the organization’s perspectives.

Lawmakers plan to continue hearing from affected parties during the August interim meetings to hear all concerns regarding the process of drilling for Marcellus shale.

A copy of a draft proposal can be reviewed at:

http://www.legis.state.wv.us/marcellus_shale/proposed_legislation.pdf

A detailed abstract can be reviewed at:

http://www.legis.state.wv.us/marcellus_shale/abstract_marcellus_draft.pdf

A brief summary can be reviewed at:

http://www.legis.state.wv.us/marcellus_shale/brief_summary.pdf

Minority Issues

West Virginia Human Rights Commission

The Committee on Minority Issues heard from two speakers regarding the West Virginia Human Rights Commission (WVHRC) during July’s interim meeting.

First to address the committee was a Housing Complaint Specialist/Investigator with the WVHRC who explained the WVHRC’s housing complaint process in general.

The Amended Fair Housing Act, which passed Congress in 1988, allowed the U.S. Housing and Urban Development (HUD) to examine Human Rights laws around the country. It was discovered that West Virginia’s human rights laws did not reflect those of the federal human right laws. Today, the WVHRC has a working relationship with HUD. When a case is filed with the WVHRC is filed, it is also filed with HUD. In addition, HUD helps fund the services the WVHRC’s housing division provides. Generally, the WVHRC investigates complaints of discrimination in housing through authority granted under the WV Fair Housing Act involving race, sex, disability, religion, color, ancestry, national origin, blindness, and familial status. The WVHRC commission



investigates complaints under housing involving, the rental and or sale of property and in the application and granting of loans by individual and institutional financing. The WVHRC also investigates instances of discrimination involving accessibility for the persons with disabilities.

In order to file a complaint, the complainant must be able to be placed into one or more of the protected classes, have a belief that they have been a victim of an illegal act of discrimination and properly file the complaint within 365 days of the discriminatory act. The investigator, with all facts in hand, makes a recommendation either stating that there isn't sufficient evidence to support the allegation or that there is reason to believe that discrimination did occur. Next, if it is proven that discrimination did occur, the Commission or the complainant may agree to a settlement. If no agreement is reached, a public hearing is then held where an administrative law judge will conduct the hearing.

According to the investigator, WVHRC handles around 45-50 a year, with only three investigators handling these cases statewide. The number of complaints has stabilized and each investigator tries to obtain a resolution for each complainant in 100 days after the complaint is first filed. When asked by a committee member what the WVHRC needs with regards to the housing complaint process, the investigator stated that more investigators would be beneficial so that cases can be handled in a timelier manner.

The last speaker to address the committee was the President of the NAACP's Charleston Branch who told the committee that since its creation the state's Human

Rights Commission was given lots of authority but unfortunately the Executive Director of the Commission holds most of that power. He also informed the committee that the WVHRC is supposed to have monthly meetings and that no record of a meeting being held can be found for all of last year. Also noted is that the Executive Director of the Human Rights Commission is appointed by the Governor. Six years of reports showed that 90 percent of the complaints filed have no probable cause and most of the cases filed between 2002-2004 were race related. He concluded by saying that the WVHRC needs to change some things within the organization and they need to follow their own Human Rights Act in order to serve more West Virginians.

PEIA, Seniors, and Long Term Care

In-Home Direct Care Workers

Committee members heard from the Executive Director of Hancock County Senior Citizens, Inc., and the Vice President of Economic and Workforce Development at West Virginia Northern Community College, regarding West Virginia's in-home direct care workforce.

In-home direct care workers provide personal care and homemaking services to the elderly and disabled. Their tasks are vital to serving these individuals but the workers often lack formal training and are at or near the bottom of most pay scales. This profession represents one of the fastest growing professions nationwide.

The Executive Director told the committee that there is a large turnover rate in this profession mainly because



of the low pay scale. The median wage for in-direct care workers is \$10.58 nationwide and \$8 in West Virginia. He also said that some see the profession as a dead end job with no room to advance. The Executive Director also told the committee that many of these workers do not receive any sort of formal training. Hancock County, however, requires all in-home direct care workers employed in the county to take 43-hour Certified Direct Care Course developed by West Virginia Northern Community College.

The Vice President of Economic and Workforce Development at Northern Community College told the committee that the Executive Director of Hancock County Senior Citizens came to him to see if there was a possibility to create a certification program that in-home direct care workers could take. A 43-hour certification course was created that includes a clinical component. The course also allows those interested in applying their hours to another health related program to do so such as CNA.

Committee members also received a report from the In-Home Direct Care Worker Database Working Group that believes West Virginia must have a system of tracking individuals working as in-home direct care workers. The database would provide employers with a worker's background and work history information before hiring them. The statistical information collected would be vital to the delivery of premier in-home services to the elderly and disabled throughout the state.

Recommendations in the report include:

-Identifying a state agency with the capability of housing and maintaining the In-Home Direct Care Worker Database

-Work with the West Virginia Legislature to secure current and future funding for the development and maintenance of the database.

-Develop a state-approved training and certification for all workers

Pensions and Retirement

Municipal Firefighters Plan

The actuary for the Consolidated Public Retirement Board (CPRB) addressed the committee concerning the Municipal Police and Fire Retirement System (MPFRS) considerations regarding the 2014 merger date with the existing Office of Emergency Medical Services' Retirement System (EMSRS).

According to material provided by the CPRS actuary, the MPFRS membership study was based on a three-year historic hiring analysis for the cities of Charleston, Huntington and Wheeling. The merger to go through MPFRS was expected to attain 100 or more new hires no later than calendar year 2013. According to paperwork provided, "100 or more members were expected in MPFRS as of January 1, 2014. The target and EMSRS merger provisions were adopted to assure that MPFRS would have sufficient membership to operate effectively as an independent retirement plan. As an independent cost sharing multiple employer plan, membership must be sufficient to minimize experience gains or losses through sufficient membership exposure."

But, of the three cities in the original study, when economic times were better, only Huntington joined MPFRS at the effective date. As additional issues were



worked out legislatively, Charleston joined MPFRS in 2011. Certain smaller cities have also joined. Due to the delay for Charleston and the failure of Wheeling to join MPFRS, the actuary believes it is unlikely for the 100 membership level to be obtained by January 1, 2014 EMSRS default merger date.

As background, the materials provided by the WV Consolidated Public Retirement Board Actuary included a summary for the basis for membership level and consideration for delay:

“The membership target was adopted to assure the MPFRS would have sufficient membership to operate as an independent statewide cost sharing plan. There is no immediate financial impact resulting from a legislative delay in the Jan. 1, 2014 target date.

“If plan membership is felt to be insufficient to grow to at least 100 members by 2017, then MPFRS should be merged with EMSRS. Disability and death benefit exposure commences on Jan. 1, 2013.

“MPFRS has a contribution rate of 8.5% for members and employers. MPFRS is a new hire plan so that there are little to no unfunded actuarial accrued liabilities. EMSRS has a 10.5% employer contribution rate due to past service funding requirements. EMSRS has a further funding target of 70% or more on or after July 1, 2012. If that funding target is not met, the CPRB may increase the member contribution rate to not more than 10.5% until the 70% funded level is reached.

“Since EMSRS is a cost sharing plan, the merged prior MPFRS will be subject to the increased contribution

rates in EMSRS if they are ever needed.”

Regional Jails

Department of Agriculture Presentation

Committee members heard from two representatives with the West Virginia Department of Agriculture (WVDA) regarding the use of prison inmates working on state owned farmland.

Throughout West Virginia, there is a total of 9,800 acres of farmland maintained, supervised, and operated by the WVDA. The West Virginia Legislature established in 1994 the Land Division and gave the WVDA three major goals in order to utilize the farm land:

- Produce supplemental livestock and agriculture products for public institutions operated by DHHR, Division of Corrections and Juvenile Services.
- Provide a working environment for inmates to facilitate farm operations.
- Maintain land for additional possible applications.

Since 2005, the WVDA has worked with the state’s Division of Corrections to utilize the inmate population in order to assist with a number of activities on all state-owned farmlands. It was made clear during the presentation that only acceptable inmates have been given the opportunity to work on these farms. Some of the activities performed by the inmates on the state-owned farms include:

- Renovation of 300 head feedlot at Huttonsville that included a new roof, feed system and a manure handling system.
- Construction of five new livestock handling facilities



- Harvest of about 1,000 acres of hay/corn and 8-10 acres of potatoes each year.
- Assist in the vaccination and feed management program of approximately 1,500 head beef operation each year.

The wholesale value of the work of the inmates on these farms last year alone totaled \$657,497. That included working with 483 cattle, 391 hogs, and the harvest of 45,000 pounds of potatoes. 25,000 pounds of the potatoes harvested were sold as surplus. A total of 72 inmates worked the farms working a total of 17,742 hours last year.

The WVDA representatives told the committee that it is the hope that through this work experience, these inmates will develop skills that will assist in their successful reentry into society.

Agency Updates

The Regional Jail Committee also received agency reports and asked questions from the Regional Jail Authority, the Division of Corrections, and Juvenile Services.

Executive Director of the Regional Jail Authority told committee members that there are, as of July 7, 223 inmates in the state’s 10 regional jails are currently sleeping on three-inch thick mattresses on cell floors due to the overcrowding problem plaguing West Virginia. As of July 7, 1,778 Division of Corrections inmates are in the system. West Virginia has the second fastest growing prison population in the nations.

The Executive Director also told the committee that overcrowding is also causing more violent altercations. From July 2010 to June 2011, there were 695 reported

incidents of inmate on inmate, up 40 percent from 2009-2010. Inmate on staff violence has risen 87 percent from 2009-2010. In the past year, a total of 58 correctional officers were injured either by inmates or by trying to break up a fight between inmates. Part of the problem, according to the Executive Director, is that jails are so overcrowded there is no way to enforce disciplinary action because prisoners know they will be written up but otherwise will receive no further punishment. He also added that the Regional Jail Authority has tapped out their ability to double-bunk in the jails and in order for the jails to operate normally more than 900 of the 1,800 Division of Corrections prisoners would need to be moved to state prisons, which are also at maximum capacity.

Commissioner of the Division of Corrections (DOC) reiterated what the Regional Jail Executive Director said since both agencies are facing the same overcrowding problems. The Commissioner added that the DOC is taking steps that were brought forth in last year’s prison overcrowding report. In order to house more inmates, the DOC has completed expansion on the fourth floor of the Jackie Withrow Hospital in Beckley, and has purchased the old Holiday Inn in Parkersburg for a work release program that will house 150 inmates. Even with these additions, the Commissioner told the committee that he believes that West Virginia’s prisons are at crisis stage.

A representative with Juvenile Services briefly answered questions regarding the investigation, initiated by the West Virginia Supreme Court, of a 19 year old resident who was found dead in his cell a few years ago. The representative told the committee that the Division of Juvenile Services has been very transparent and is open to the investigation that is occurring.

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WorkForce WV Overview

The Interim Director for WorkForce West Virginia gave an overview of Workforce West Virginia for the Commission's new members and also provided an update on the solvency of the Unemployment Compensation Fund during July's interim meeting.

WorkForce West Virginia has 13 one stop career centers and seven satellite sites scattered throughout the state that provides work force services including:

- Employer services
- Job seeker services
- Unemployment Compensation
- Labor market information

This year, WorkForce West Virginia has received 11,607 new job orders from employers that actually created 27,000 job openings as some of the work orders are requesting more than one employee. This is a 21 percent increase from last year's numbers.

WorkForce West Virginia has the largest online database of job seekers and job openings in the state with their website, www.workforcewv.org, averaging more than 200,000 page views per month. The Interim Director told the Commission members that the website has been worked on during the past two to three years in order to provide as many online services to employees and employers. Current services provided on their website include:

- Job seekers can enroll and apply for jobs online
- Employers can post job orders and look for qualified applicants in the database 24/7
- Unemployment compensation claimants can file for direct deposit of their benefits and file for additional

weeks online as well.

-Employers can file their quarterly unemployment compensation insurance reports and pay contributions online.

The Interim Director told the Commission that 6,000 individuals participated in the Workforce Investment Act/Trade Adjustment Assistance Training (WIA/TAA) since 2008. Of those, 4,243 had been unemployment recipients and 1,763 participants attended a community college. The average age of the participants was 42.4 years. The training programs help those who have been laid off or cannot find a job learn new skills for increased job placement prospects. The most popular training programs were health professions and other related sciences.

WorkForce WV is a member of the Work Force Planning Council, which meets monthly to ensure good communication among workforce development efforts. Other members of the Council are the Higher Education Policy Commission, Community and Technical College System, Development Office, and the Secretary for Education and the Arts. The Interim Director told the Commission that WorkForce West Virginia works with the community and technical colleges in order to relay information on job prospects and openings.

The Interim Director updated the Commission on the Unemployment Compensation Fund, which he said has changed many times in the last three years but looks to be back on track.

The first 26 weeks of unemployment benefits are paid by quarterly employer tax payments that are placed in the state's unemployment compensation trust fund. Benefits



paid after 26 weeks are paid by the federal government. The state issues the benefits to eligible workers who can receive a maximum of \$424 per week. West Virginia’s employers pay tax on the first \$12,000 in wages each employee earns in a calendar year. The employer tax rates range from 1.5 percent to 8.5 percent. Last year the average employer tax rate was 2.5 percent. The average length eligible workers received unemployment benefits last year was 18 weeks.

deposit, a prepaid card or a check. Second, WorkForce West Virginia provides online filing for employer quarterly reports and contributions for unemployment insurance. Lastly, West Virginia ranks first in the country for timeliness in the adjudication of non-monetary unemployment compensation claims related to quits and discharge last year. ▲

The Interim Director told the committee that West Virginia is one of only a few states that has not borrowed money from the federal government in order to pay for their unemployment benefits. The current debt borrowed by 30 states to pay for these benefits is \$41.78 billion. West Virginia has not had to borrow because:

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.

- The Unemployment Trust Fund received a \$40 million cash infusion from the Insurance Commission in 2009.
- The State raised taxable wage base in 2009 from \$8,000 to \$12,000.
- Benefit rates were frozen at 2008 levels until the trust fund has a year ending balance of \$220 million.
- Passage of legislation that provides a loan up to \$20 million from the state’s rainy day fund should the trust fund falls below a level of \$20 million. The Interim Director informed the Commission that at this point it does not look like the loan will be necessary for this year.
- WorkForce West Virginia has a collection rate of 98.47 percent from the state’s employers.

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WorkForce West Virginia is leading the nation in three areas. First, West Virginia is the only state that offers claimants all three benefit payment options of direct