

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Third Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



February 14, 2017
SEVENTH DAY

Tuesday, February 14, 2017

SEVENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

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

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

The Clerk proceeded to read the Journal of Monday, February 13, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2205, Exempting heating oil for residential use from the Motor Fuel Excise Tax,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2205) was referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 2007, Eliminating courtesy patrol programs,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2007) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2099, Defining the act of leaving the scene of a crash involving death or serious bodily injury as a felony; Erin's Law,

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

Com. Sub. for H. B. 2099 – “A Bill to amend and reenact §17C-4-1 of the Code of West Virginia, 1931, as amended, relating to crashes involving death or personal injuries; creating a crime of knowingly leaving the scene of a crash; creating a crime of knowingly leaving the scene of a crash that is the proximate cause of serious bodily injury; establishing definitions to be used in the application of this section for bodily injury and seriously bodily injury; and providing criminal penalties,”

With the recommendation that the committee substitute do pass.

Resolutions Introduced

On motion for leave, a Joint Resolution was introduced, read by its title, and referred as follows:

By Delegates Howell, Mr. Speaker (Mr. Armstead), Espinosa, Frich, Cooper and Blair:

H. J. R. 15 – “Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article ten thereof, relating to ad valorem property tax rates for citizens of the age of sixty-five or older; locking the value of a homestead property, for the purpose of calculating property taxes, at the assessed value when the owner-occupier turned sixty-five or purchased the property, whichever occurred later”; to the Committee on Finance then the Judiciary.

Bills Introduced

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

By Delegates C. Lane, Sobonya, Moore, Kessinger, N. Foster and Householder:

H. B. 2001 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-10f; and to amend and reenact §6B-2-1, §6B-2-2, §6B-2-2a, §6B-2-3a, §6B-2-4, §6B-2-5, §6B-2-6 and §6B-2-10 of said code, all relating to ethics and transparency in government generally; providing for the disclosure of interested parties to a government contract; defining terms; prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; requiring submission of supplemental disclosure within thirty days of completion or termination of the contract; providing exceptions to the disclosure requirement for certain contracts; requiring the Ethics Commission create disclosure form; specifying contents to be included in the disclosure form; requiring state agencies to submit completed forms to the Ethics Commission; requiring the Ethics Commission to make disclosures publicly available; requiring the Ethics Commission to post disclosures on the commission website when technologically able; authorizing members of the Ethics Commission and members of the Probable Cause Review Board to participate and vote via video conferencing; clarifying and expanding the violations in which a complaint may be referred to the Probable Cause Review Board; clarifying that the Probable Cause Review Board conducts investigations and not hearings to determine probable cause; clarifying and expanding the violations in which a complaint may be initiated by the Ethics Commission; clarifying that the Probable Cause Review Board is the entity to receive evidence bearing on the issue of probable cause; clarifying that the commission and review board may ask a respondent to disclose specific amounts received from a source and request other detailed information; clarifying that both the Ethics Commission and the Probable Cause Review Board have subpoena power; clarifying that confidentiality provisions apply to both the commission and the review board; specifying that at least five members of the commission approve of a decision on the truth or falsity of the charges against a respondent and a decision to impose sanctions; clarifying and expanding the violations in which sanctions may be imposed by the Ethics Commission; prohibiting a public official or public employee from knowingly and intentionally influencing, attempting to influence, showing favoritism or granting

patronage in the employment or working conditions of his or her relative or a person with whom he or she resides; eliminating the voting prohibition on personnel matters involving a public official's spouse or relative; prohibiting public officials, except certain members of the Legislature, from voting on the employment or working conditions of the public official's relative or person with whom the public official resides; prohibiting public officials, except certain members of the Legislature, from voting on the appropriation of moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by or an officer or board member of the nonprofit, whether compensated or not; clarifying the timeframe in which a candidate for public office must file a financial disclosure statement and providing an exception to filing such a financial disclosure statement if the candidate has previously filed a statement for the previous calendar year; and amending statutory cross-references to reflect proper reference to other statutes"; to the Committee on the Judiciary.

By Delegates Upson, Espinosa, Householder, Longstreth, Robinson, Sobonya, Phillips, Hill, Ellington and Higginbotham:

H. B. 2419 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3C-14c, relating to defining and establishing the crime of cyberbullying; imposing penalties"; to the Committee on the Judiciary.

By Delegates Westfall, Statler, White and Atkinson:

H. B. 2420 - "A Bill amend and reenact §18-2-5b of the Code of West Virginia, 1931, as amended, relating to the State Board of Education and Medicaid eligible children; and providing that the state board may delegate its provider status and subsequent reimbursement to regional educational service agencies or county boards subject to the county board determining that there is a net benefit and no detracting from the educational program of the county"; to the Committee on Education then Health and Human Resources.

By Delegates Overington, Frich, G. Foster, Wilson, Householder, Upson, Deem, N. Foster, Butler, Folk and Phillips:

H. B. 2421 - "A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to required courses of school instruction generally; requiring the accumulation of one and one-half years of instruction in the study of the Declaration of Independence and other founding American historical documents including the Bill of Rights and requiring study of the historical, political and social environments at the time these documents were generated before high school graduation"; to the Committee on Education then the Judiciary.

By Delegates Robinson, Storch, Sobonya, Pushkin, Hornbuckle, Upson, Blair, Boggs, Lovejoy, Ellington and Isner:

H. B. 2422 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2A-1, §16-2A-2, §16-2A-3 and §16-2A-4, all relating to creating the Ryan Brown Addiction Prevention and Recovery Fund Act; providing legislative findings, purpose, rules proposed by the Director of the West Virginia Department of Health and Human Resources; and establishing the Ryan Brown Addiction Prevention and Recovery Fund to be administered by the West Virginia Department of Health and Human Resources"; to the Committee on Prevention and Treatment of Substance Abuse then Finance.

By Delegates Howell, Arvon, Summers, Rohrbach, Ellington, Shott, Ward, Hamrick, Dean, Wilson and Atkinson:

H. B. 2423 - "A Bill to amend and reenact §61-8-31 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of therapeutic deception; and including medical doctors and doctors of osteopathy as medical professionals who are subject to the prohibition against therapeutic deception"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Howell, Hamrick, Arvon, Storch, Wilson, Ward, Ellington, Dean, Atkinson, Fast and Gearheart:

H. B. 2424 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-2-8a; and to amend and reenact §61-7-4 of said code, all relating to requiring that voter registration information appear on certain state issued identification cards by January 1, 2019; requiring the Secretary of State and the Commissioner of Motor Vehicles to collaborate to ensure that certain voter registration information appears on all driver’s licenses and identification cards issued by the Division of Motor Vehicles and requiring the Secretary of State and county sheriffs to collaborate to ensure that certain voter registration information appear on all licenses to carry a deadly weapon issued by a county sheriff”; to the Committee on the Judiciary.

By Delegates Walters, Howell, Rohrbach, Lewis, Frich, Blair, Hamrick, Kelly, Anderson and Gearheart:

H. B. 2425 - “A Bill to amend and reenact §11-16-6b of the Code of West Virginia, 1931, as amended, relating to authorizing licensees authorized to sell growlers of nonintoxicating beer to offer complimentary samples to patrons from their licensed premises”; to the Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Marcum, Phillips, C. Miller, Rodighiero, Sobonya, Rohrbach, Lovejoy, Maynard, Hamrick, Westfall and Overington:

H. B. 2426 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-6-21a, relating to requiring a minimum criminal penalty of life imprisonment upon conviction of first degree murder, second degree murder, or voluntary manslaughter if the convicted individual selected the victim of such crime based on the victim’s actual or perceived employment as a law-enforcement officer”; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Atkinson, Blair, Hamrick, Hartman, Lynch and Ferro:

H. B. 2427 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-5, relating to requiring agencies listed in the online state phone directory to update certain employee information by July 1, 2017 or provide that information to the Office of Technology; requiring agencies to update directory information within 30 days of a personnel action or event, or provide that information to the Office of Technology; and requiring the Office of Technology to update directory information within 30 days of receipt of information from an agency”; to the Committee on Government Organization.

By Delegates Kelly, Anderson, Criss, Higginbotham, Ambler, Hollen, Wagner, Ward, C. Romine, Cooper and Atkinson:

H. B. 2428 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-53-1, §16-53-2 and §16-53-3, all relating to the establishment of additional substance abuse treatment facilities; offering legislative findings; requiring an additional 600 treatment beds be made available by July 1, 2018; requiring 100 treatment beds be located in Wood County, West Virginia; requiring the Secretary of DHHR to determine how best to effectuate the purposes of the article; creating a Substance Abuse Treatment Fund to support the facilities established pursuant to this article”; to the Committee on Prevention and Treatment of Substance Abuse then Finance.

By Delegates Overington, Wilson, Paynter, Frich, N. Foster, C. Lane, Butler, Sobonya, Folk, Fast and Higginbotham:

H. B. 2429 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-24a, relating to granting tax credits for parents and legal guardians whose children are in a home schooling program or private school; and providing rule-making authority”; to the Committee on Education then Finance.

By Delegates Howell, Hamrick, Frich, Hamilton and Blair:

H. B. 2430 - "A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-7-4b, all relating to endorsements to licenses to carry a concealed deadly weapon in order to authorize the grantee of an endorsement to carry a concealed pistol or revolver onto the grounds of the state Capitol Complex; providing an exception to the crime of carrying a deadly weapon onto the Capitol Complex; describing the effect and scope of an endorsement; establishing a process for application and investigation of applications; setting a fee for application; specifying grounds for the denial or revocation of an endorsement; providing for judicial review of the denial or revocation of an endorsement; and creating a special revenue account to be used to meet the costs of administering the program"; to the Committee on the Judiciary.

By Delegates Ellington and Rohrbach:

H. B. 2431 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4a, relating to allowing influenza immunizations to be offered to patients and residents of specified facilities on a voluntary basis based upon recommendations of the Center for Disease Control"; to the Committee on Health and Human Resources.

By Delegates Rowan, R. Romine, Overington, Hamilton, Phillips, Moye, Kelly, Pethtel, Rohrbach, Lynch and Ferro:

H. B. 2432 - "A Bill to amend and reenact §36-1-20 of the Code of West Virginia, 1931, as amended; and to amend and reenact §42-4-2 of said code, all relating generally to barring persons who are convicted of certain criminal offenses from acquiring property from their victims through joint tenancy or inheritance; and creating exceptions"; to the Committee on the Judiciary.

By Delegates Walters, Blair, Hamrick and Gearheart:

H. B. 2433 - "A Bill to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating to authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises if purchased and consumed at a licensed Class A private club operating on the premises of the distillery or mini-distillery; and allowing distilleries and mini-distilleries to sell and serve alcohol beginning at 10:00 a.m. on Sundays"; to the Committee on Small Business, Entrepreneurship and Economic Development then the Judiciary.

By Delegates Howell, Mr. Speaker (Mr. Armstead), Fast, Hanshaw, Kessinger, Hill, O'Neal, Lynch and Ambler:

H. B. 2434 - "A Bill to amend and reenact §11-4-5 of the Code of West Virginia, 1931, as amended, relating to reevaluation of land damaged as a result of natural disaster"; to the Committee on Political Subdivisions then Finance.

By Delegate Walters:

H. B. 2435 - "A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to the disqualification of an employee for unemployment benefits for any week, or portion of a week, in which he or she left or lost his or her job as a result of a strike"; to the Committee on Industry and Labor then the Judiciary.

By Delegates Gearheart, Householder, Storch, Butler, Folk, Howell and Ellington:

H. B. 2436 - "A Bill to amend and reenact §18-9B-5 of the Code of West Virginia, 1931, as amended, relating to suspending the implementation of the school aid formula until the year 2021; requiring that all school systems be funded at the level established by the 2016-2017 budget; and providing that the Legislature develop a new funding formula to be implemented for the budget year 2021-2022"; to the Committee on Education then Finance.

By Delegates Hamrick, Sypolt, Cooper, C. Miller, Overington, Hamilton, Moore, Zatezalo, Frich, Atkinson and Ward:

H. B. 2437 - "A Bill to amend and reenact §30-10-17 of the Code of West Virginia, 1931, as amended, relating to exempting persons practicing animal husbandry from provisions requiring licensing of veterinarians; animal husbandry defined"; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates Westfall and Cooper:

H. B. 2438 - "A Bill to amend and reenact §18-2-26 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-5-13 of said code, all relating to allowing county boards of education and regional educational service agencies to purchase computer technology from other than a state-wide contract if certain conditions are met"; to the Committee on Education then Government Organization.

By Delegates Westfall, White and Frich:

H. B. 2439 - "A Bill to amend and reenact §33-11-4 of the Code of West Virginia, 1931, as amended, relating to insurance and unfair claim settlement practices; and providing that any civil or administrative action authorized or contemplated by this section may only be maintained against an insurer and not against any individual"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Westfall, White, Boggs, Hartman, Frich and Hamrick:

H. B. 2440 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating generally to guaranteed asset protection waivers; providing short title, scope and legislative intent of section; defining certain terms; specifying requirements for offering guaranteed asset protection waivers; requiring contractual liability or other insurance policies; providing for disclosures and cancellation; exempting commercial transactions; excluding waivers from consumers sales and service tax; specifying effective date of section and providing for section to apply to guaranteed asset protection waivers issued on and after specified date"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Wilson, Moore, McGeehan, Maynard, Paynter, Dean, Martin, Ward, Atkinson and Ambler:

H. B. 2441 - "A Bill to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to permitting honorably discharged veterans to hunt, trap or fish in this state without first obtaining a license"; to the Committee on Veterans' Affairs and Homeland Security then Finance.

By Delegates Howell, Eldridge and Hamilton:

H. B. 2442 - "A Bill to amend and reenact §18-2-6 and of the Code of West Virginia, 1931, as amended, relating to requiring that, in order to graduate from high school or obtain a General Educational Development (GED) diploma, a pupil must correctly answer at least sixty of the one hundred questions listed on a test that is identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services; and requiring a school to document on the pupil's transcript that the pupil has passed the test"; to the Committee on Education.

By Delegates Folk, McGeehan, Butler, Upson, Hamrick, Wilson, Paynter, Phillips, Higginbotham, Blair and Martin:

H. B. 2443 - "A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to establishing academic standards and assessment methods"; to the Committee on Education then Finance.

By Delegates Howell, Atkinson, Blair, Hamrick and Lynch:

H. B. 2444 - "A Bill to amend and reenact §7-1-3rr of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §8-39-1, all relating to requiring county commissions to maintain websites with specific information; requiring county commissions to provide website information to the Secretary of State; requiring Class I and Class II municipalities to maintain websites with specific information; and to allow Class III and IV municipalities to maintain websites provided they contain specific information"; to the Committee on Political Subdivisions then Government Organization.

By Delegates Howell, Hamrick, Westfall and White:

H. B. 2445 - "A Bill to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17A-4-10 of said code, all relating to allowing automobile auctions to obtain title to abandoned vehicles"; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Howell, Arvon, Atkinson, Blair, Hamrick, Hartman, Lynch and Ferro:

H. B. 2446 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-5, relating to the requirement that all executive branch agencies maintain a website that contains specific information"; to the Committee on Government Organization.

House Calendar**Second Reading**

Com. Sub. for H. B. 2006, Increasing the penalties for violating the Whistle-blower Law; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Remarks by Members

Delegate Hill asked and obtained unanimous consent that the remarks of Delegate Upson regarding Black History Month be printed in the Appendix to the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Moye regarding honorable elections be printed in the Appendix to the Journal.

Delegate Folk asked and obtained unanimous consent that the remarks of Delegate McGeehan regarding legalizing marijuana be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Paynter filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2303 and H. B. 2369.

Delegate Westfall filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2333 and H. B. 2388.

Delegate Wilson filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2369.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2419.

On February 10, 2017, Mr. Speaker (Mr. Armstead), and Delegates Hanshaw, Sobonya, Atkinson, Hill, Fleischauer, Pushkin, Lovejoy and Canestraro filed forms with the Clerk's Office per House Rule 94b to be added as cosponsors of H. B. 2006.

At 11:57 a.m., the House of Delegates adjourned until 11:00 a.m. Wednesday, February 15, 2017.

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

HOUSE CALENDAR

Wednesday, February 15, 2017

8th Day

11:00 A. M.

THIRD READING

Com. Sub. for H. B. 2006 - Increasing the penalties for violating the Whistle-blower Law
(SHOTT) (REGULAR)

FIRST READING

Com. Sub. for H. B. 2099 - Defining the act of leaving the scene of a crash involving death or
serious bodily injury as a felony; Erin's Law (SHOTT) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

WEDNESDAY, FEBRUARY 15, 2017

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON GOVERNMENT ORGANIZATION
9:00 A.M. – ROOM 215E**

**COMMITTEE ON JUDICIARY
9:00 A.M. – ROOM 418M**

**COMMITTEE ON FINANCE
9:00 A.M. & 2:00 P.M. – ROOM 464M**

**COMMITTEE ON VETERANS' AFFAIRS AND HOMELAND SECURITY
1:00 P.M. – ROOM 434M**

**COMMITTEE ON EDUCATION
2:30 P.M. – ROOM 434M**

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