

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
THIRTEENTH DAY

Charleston, West Virginia, Monday, February 20, 2017

The Senate met at 11 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by the Reverend Rick Swearingin, Madison United Methodist Church, Madison, West Virginia.

Nitro High School Air Force Junior ROTC from Nitro, West Virginia, proceeded in the posting of the Colors. The Honorable Robert D. Beach, a senator from the thirteenth district, then led the Senate in the recitation of the Pledge of Allegiance.

Pending the reading of the Journal of Friday, February 17, 2017,

At the request of Senator Blair, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 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; defining terms; clarifying when a driver may leave the scene of a crash for the purpose of rendering assistance to an injured person in the crash; clarifying the crime of leaving the scene of a crash that causes bodily injury; creating a felony crime of leaving the scene of a crash that proximately causes serious bodily injury and providing criminal penalties; and clarifying the crime of leaving the scene of a crash that causes death.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 182, Providing procedures that prevent disqualifying low bids for government construction contracts due to document technicalities.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 182 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1D-5 of said code; and to amend and reenact §21-11-11 of said code, all relating to the submission of bids for government construction contracts; information and documents required for the awarding of certain contracts; providing procedures for the required submission of a list of subcontractors who will perform more than \$25,000 of work on certain projects; providing procedures for the required submission of a drug-free workplace affidavit for any solicitation for a public improvement contract; and providing procedures for the required submission of a contractor's license number with certain bid documents.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 240, Creating crime of distribution of sexual images.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 240 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-28a, relating to creating the offenses of nonconsensual disclosure of privately taken images of a sexual nature causing or threatening the nonconsensual disclosure of such an image; defining terms; setting forth elements of the crime; and providing for criminal penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles and referred to the appropriate committees:

By Senator Blair:

Senate Bill 350—A Bill to amend and reenact §30-31-3, §30-31-6 and §30-31-11 of the Code of West Virginia, 1931, as amended, all relating to licenses, temporary permits and exemptions from licensure for professional counselors, marriage and family therapists.

Referred to the Committee on Government Organization.

By Senators Smith and Cline:

Senate Bill 351—A Bill to amend and reenact §16-4C-3, §16-4C-4, §16-4C-5 and §16-4C-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all relating to emergency medical services; continuing the Office of Emergency Medical Services as an independent office within the Department of Military Affairs and Public Safety; updating definitions; creating the positions of executive director, medical director and administrative director for the office; establishing and clarifying the powers and duties of the directors; establishing the Emergency Medical Services Commission with nine members; and requirements for the state medical protocols.

Referred to the Committee on Government Organization.

By Senators Smith, Cline and Rucker:

Senate Bill 352—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §46A-6-111, relating to permitting utility consumers to use the consumer protection laws when billing issues are in question; providing the Attorney General with the power to inquire about a billing issue; providing that the remedy is in addition to other remedies available from the West Virginia Public Service Commission; and providing that the powers and responsibilities of the commission are not affected.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Smith, Cline, Rucker, Sypolt and Boso:

Senate Bill 353—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2E-4, relating to third-party telecommunications services provided to residential and business consumers billed through the customer's telephone company or telecommunications service provider.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

By Senators Gaunch, Cline and Maroney:

Senate Bill 354—A Bill to amend and reenact §8-22-20 of the Code of West Virginia, 1931, as amended, relating to allowing certain municipalities with fully funded pension plans to not pay normal cost as determined by the actuarial report.

Referred to the Committee on Pensions; and then to the Committee on Finance.

By Senator Gaunch:

Senate Bill 355—A Bill to amend and reenact §5-10-27b of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-9b of said code; to amend and reenact §8-22A-11 of said code; to amend and reenact §15-2-45 of said code; to amend and reenact §15-2A-6b of said code; to amend and reenact §16-5V-13 of said code; to amend and reenact §18-7A-28b of said code; to amend and reenact §18-7B-12a of said code; and to amend and reenact §51-9-12b of said code, all relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board; clarifying treatment of benefits in the event of a member's death; and bringing code into conformity with federal law.

Referred to the Committee on Pensions; and then to the Committee on Finance.

By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):

Senate Bill 356—A Bill to amend and reenact §18-9D-8 of the Code of West Virginia, 1931, as amended, relating to allowing the School Building Authority to transfer funds allocated into the School Construction Fund to a special revenue account in the state Treasury.

Referred to the Committee on Education; and then to the Committee on Finance.

At the request of Senator Ojeda, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Gaunch, Jeffries, Plymale, Stollings and Boso offered the following resolution:

Senate Resolution 15—Recognizing the centennial year of the City of Nitro.

Whereas, The City of Nitro, West Virginia, was founded during World War I as a result of the Deficiency Appropriation Act of October 6, 1917, which authorized funds for the construction of United States Government explosives plants; and

Whereas, The City of Nitro was recognized as a "Living Memorial to World War I" on the floor of the 97th Congress of the United States Senate on September 29, 1982; and

Whereas, The citizens of the City of Nitro, in this, their one hundredth year, are working diligently towards dedicating the City of Nitro as a National Memorial to World War I; and

Whereas, The City of Nitro is celebrating its centennial throughout the year of 2017, with dedications, ceremonies, parades, fireworks and appropriate displays; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the centennial year of the City of Nitro; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials representing the City of Nitro.

At the request of Senator Gaunch, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with and adopted.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Gaunch regarding the adoption of Senate Resolution 15 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Takubo, Plymale, Stollings, Prezioso, Boso, Cline and Maroney offered the following resolution:

Senate Resolution 16—Designating June as West Virginia Post-Traumatic Stress Injury Awareness Month and June 27 as West Virginia Post-Traumatic Stress Injury Awareness Day.

Whereas, All citizens of the United States possess the basic human right to the preservation of personal dignity; and

Whereas, All citizens of the United States deserve the investment of every possible resource to ensure their lasting physical, mental and emotional well-being; and

Whereas, The brave men and women of the United States armed forces who proudly serve the United States risk their lives to protect our freedom; and

Whereas, The diagnosis now known as Post-Traumatic Stress Disorder was first defined by the American Psychiatric Association in 1980 to commonly and more accurately understand and treat veterans who had endured severe traumatic combat stress; and

Whereas, Combat stress has historically been viewed as a mental illness caused by a pre-existing flaw of character and/or ability and the word “disorder” carries a stigma that perpetuates this misconception; and

Whereas, Post-Traumatic Stress Injury can occur after experiencing a severely traumatic event to include, but not be exclusive to: Sexual assault, child abuse, high-impact collisions and crashes, natural disasters, acts of terrorism and military combat; and

Whereas, Post-Traumatic Stress Injury is a very common injury to the brain that is treatable and repairable; and

Whereas, Referring to the complications from post-traumatic stress as a disorder perpetuates the stigma of, and bias against, mental illness and this stigma can discourage the injured from seeking proper and timely medical treatment; and

Whereas, Making Post-Traumatic Stress Injury less stigmatizing and more honorable can favorably influence those affected and encourage them to seek help without fear of retribution or shame; and

Whereas, Proper and timely treatment can diminish suicide rates; and

Whereas, All citizens suffering from Post-Traumatic Stress Injury deserve our compassion and consideration. Those who have received these wounds in action against an enemy of the United States further deserve our tribute and acknowledgement: therefore, be it

Resolved by the Senate:

That the Senate hereby designates June as West Virginia Post-Traumatic Stress Injury Awareness Month and June 27 as West Virginia Post-Traumatic Stress Injury Awareness Day; and, be it

Further Resolved, The Senate respectfully urges our Bureau for Public Health, Department of Military Affairs and Public Safety and the Department of Veterans' Assistance to continue working to educate victims of abuse, crime and natural disaster, service members, veterans and their families, as well as the general public, about the causes, symptoms and treatment of Post-Traumatic Stress Injury and designate June as West Virginia Post-Traumatic Stress Injury Awareness Month; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Governor.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with and adopted.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 17, John Hancock Hall Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 116, Governor's Committee on Crime, Delinquency and Correction rule relating to law-enforcement training and certification standards.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mullins and Swope—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 116) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mullins and Swope—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 116) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Senate Bill 172, Eliminating salary for Water Development Authority board members.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Miller—1.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 172) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2017.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Miller—1.

Absent: Mullins—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 172) takes effect July 1, 2017.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Senate Bill 215, Allowing county commissions authority to amend proposed rates, fees and charges proposed by public service districts.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Ojeda—1.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 215) passed with its title.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for Senate Bill 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 247) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 247) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for Senate Bill 248, Clarifying composition and chairmanship of Commission on Special Investigations.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 248) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 248) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 134, Authorizing Bureau of Commerce to promulgate legislative rules.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 202, Relating to pawnbrokers generally.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 249, Relating to information required in abstract of judgment.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Senate Bill 188, Correcting definition of “telehealth” in medication-assisted treatment programs.

Com. Sub. for Com. Sub. for Senate Bill 222, Relating to disqualification for unemployment benefits.

Com. Sub. for Senate Bill 242, Relating to school calendars.

And,

Senate Bill 330, Relating to WV Workplace Freedom Act.

The Senate proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Ferns.

At the request of Senator Woelfel, and by unanimous consent, the Senate returned to the eleventh order of business and the introduction of guests.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Romano, unanimous consent being granted, it was ordered that the Journal show had Senator Romano been present in the chamber on Friday, February 17, 2017, he would have voted “yea” on the passage of Engrossed Committee Substitute for Senate Bill 127, Engrossed Committee Substitute for Senate Bill 230 and Engrossed Committee Substitute for Senate Bill 233 and “nay” on the passage of Engrossed Senate Bill 174.

At the request of Senator Rucker, the name of Senator Rucker was removed as a sponsor of **Senate Bill 335** (*Repealing consumers sales and service tax, use tax and personal income tax*).

On motion of Senator Ferns, a leave of absence for the day was granted Senator Mullins.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Tuesday, February 21, 2017, at 11 a.m.

SENATE CALENDAR

**Tuesday, February 21, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Thursday, March 09, 2017 – 11:00 AM

Consideration of executive nominations

THIRD READING

- Eng. Com. Sub. for S. B. 134 - Authorizing Bureau of Commerce to promulgate legislative rules (original similar to HB2231)
- Eng. Com. Sub. for S. B. 202 - Relating to pawnbrokers generally (original similar to HB2452)
- Eng. Com. Sub. for S. B. 249 - Relating to information required in abstract of judgment

SECOND READING

- S. B. 188 - Correcting definition of “telehealth” in medication-assisted treatment programs (original similar to HB2460)
- Com. Sub. for Com. Sub. for S. B. 222 - Relating to disqualification for unemployment benefits (original similar to HB2435, HB2582)
- Com. Sub. for S. B. 242 - Relating to school calendars (original similar to HB2412, HB2584)
- S. B. 330 - Relating to WV Workplace Freedom Act

FIRST READING

- Com. Sub. for S. B. 182 - Providing procedures that prevent disqualifying low bids for government construction contracts due to document technicalities
- Com. Sub. for S. B. 240 - Creating crime of nonconsensual distribution of sexual images

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Tuesday, February 21, 2017

10 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Military	(Room 208W)
1 p.m.	Health & Human Resources	(Room 451M)
1 p.m.	Energy, Industry & Mining	(Room 208W)
2 p.m.	Education	(Room 451M)
2 p.m.	Government Organization	(Room 208W)