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Office of Reference & Information

Interim Highlights

2010 1st Special Session

The 2010 First Special Session called on May 13th concluded on May 19th. Charged with reviewing measures designed to reform the state's education system possibly to draw down \$75 million in federal dollars, lawmakers affirmed the comprehensive and complex bills could not be addressed in the limited time of the special session.



House Education Committee (05/13/10)

A special committee appointed by the President of the Senate and the Speaker of the House of Delegates continues to work with representatives of the State Board of Education and teacher organizations to iron out the various concerns of all interested parties.

A return to the Capitol for the Second Special Session has been scheduled for July 19th.

A number of supplemental appropriation bills were taken up and passed during the May Session. Supplemental appropriation bills move excess money from the General, Lottery and Excess Lottery Funds to other areas of need. Supplemental appropriations also approve spending authority for agencies that operate with special or federal revenues. Of the 11 appropriation bills, SB 1024 addressed specific projects.



Senate Education Committee (05/14/10)

For instance, \$1.8 million was provided for the administration of the new Fleet Management Office, which was created during the 2010 session with the passage of SB 219. This office will manage all motor vehicles and aircraft owned or possessed by the state or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities.

Another appropriation included \$100,000 to the Development Office's Youth Build Program, which offers a comprehensive curriculum to prepare young adults for GED, leadership skills, vocational training and on-the-job pre-apprenticeship training in the construction industry

The Development Office also received \$650,000 for 4-H Camp improvements.

Several provisions in SB 1024 went for educational programs. One hundred thousand was provided to fully fund the 2011 annual fee for GED testing required by the American Council on Education. Another \$100,000 went

Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature's Web site:

<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



Interim Highlights

to Education and the Arts Globaloria Program to enrich existing educational strategies with the latest technology and innovative learning opportunities.

The Higher Education Policy Commission also received \$600,000 for special projects.

The appropriation bill covered needs within the Historic Preservation Fund, the Library Commission, Health Rite Free Clinics, the At Risk Youth Program and for domestic violence funding on a statewide basis.

The bill also added \$5.5 million for AD Waivers for Title XIX Seniors. This home-based care for the aged and disabled diverts individuals from entering nursing facilities.

Other supplemental appropriation bills were passed to assist a variety of state agencies.

Also passed during the Special Session were four measures approved during the Regular Session but were vetoed for technical errors. These include one which changes the name of any Division of Natural Resources Conservation Officer to Natural Resources Police Officer; another changes terms in state law to “intellectually challenged persons” from “mentally retarded”; another expands criminal offenses and penalties regarding firearms and ammunition sales; and, the Behavioral Mental Health Services Fund has been established.

Children, Juveniles & Other Issues, Select Comm.

Safe Reduction Initiative Program

The committee heard a presentation by a representative from the Bureau of Children and Families regarding Safe Reduction Initiative Participation. The spokesperson outlined the goal the Bureau has for reducing the number of out-of-state placements for foster care children. The goal is to place no more than 10 percent of West Virginia foster care youths out-of-state. The Bureau tracks statistics for their placements in each month and over the last year, the monthly percentage of foster care placements out-of-state has ranged from 10.7 percent to 11.2 percent.

The Bureau is also looking at ways to reduce the number of foster children placed in group residential care. This is a 24-hour group care setting for children that may be having difficulty in school, home, or community settings that are in need of a highly structured program with formalized behavioral programs and therapeutic interventions.

In an effort to reduce these placements, the Bureau is streamlining its staff to be more efficient and effective while bringing all stakeholders together to develop partnerships to reduce these rates.

Lawmakers asked if the Bureau is looking at programs that would provide for more extended family placements and kinship care. Many lawmakers said they preferred these options for foster care placements where possible. They contend that staying with extended family provides for a much more seamless transition for foster children. The spokesperson emphasized that they use these programs much more than in the past and that they look to place foster children with extended family whenever that scenario is plausible.

Economic Development , Joint Commission on

2010 Study Assignments

In its initial meeting for 2010, Economic Development members were provided with a listing of studies they would be reviewing during the remainder of the year. It will be studying the benefits of supporting the development of renewable energy resources, evaluating job creation and retention incentives, creating a matching grant pilot program to foster innovation planning strategies to develop and expand communities, and looking at green public policy initiatives.

Another resolution for study was assigned to the committee regarding a study of the state’s tourist industry and lawmakers will be looking into a report from the legislative division on performance review. It also heard from a Delegate regarding the initiation of a study to further enhance the ski industry in the state. The lawmaker had been talking with representatives of the industry and believes the state could lure more skiers if resorts could add more 2,000-foot verti-



cal drops. Presently, only two runs at one resort offer skiers that challenge.

Education Accountability, Legis. Oversight Comm. on

Math & Language Arts Standards

Lawmakers heard from the State Board of Education (BOE) regarding “common core” standards versus “state standards” in areas of math and language arts.

The national Council of Chief State School Officers (CCSSO) and the National Governors Association Center for Best Practices (NGA Center) in partnership with Achieve, Inc., ACT, and the College Board have initiated a state-led process of developing and adopting a common core of state standards (Common Core State Standards Initiative). While the concept is noted to ensure students throughout the nation meet equitable standards of reading and math skills, some believe the initiative to be an invasion into “state’s rights.”

According to the Assistant Superintendent’s Office, in some instances the national “common core” standards are less rigorous than the state standards being used in school classrooms today.

Members of the committee are seeking a “side by side” comparison of the standards to review the supposition.

For instance, one lawmakers suggested that adding, multiplying, dividing, fractions and decimals should be the common core for math. The BOE noted it had fewer standards but its objectives were deeper for the subject. Since not all math students were studying to be engineers, the state board indicated two pathways should be made available: simple arithmetic or trigonometry, algebra, etc.

According to the BOE spokesperson, elementary math should be basic. One legislator said that having the ability to multiply “got people to the moon” in decades past. Understanding the “times tables” was better than learning how to use a calculator, said a committee member.

The committee reiterated to the BOE that it would like an official listing of the common core standards beside the existing West Virginia standards.

Also appearing before the committee was a presenter from the Department of Education who addressed Policy 2422.7 (Basic and Specialized Health Care Procedures. The spokeswoman told lawmakers there should be a school nurse needs assessment. Currently medical technology is sent to the school on an order of a physician and the school nurse creates a health plan for the student. The speaker said an intervention guide should be created for the purpose of student privacy. Also, LPNs should be classified along with new health policies to address new methodologies of providing health care to certain students.

Education Subcommittee B - Higher Education

2010 Interim Study Topics

The committee looked at the three study topics that they are charged with examining during the 2010 interim period. The topics are as follows:

SCR 23 - Requesting the Joint Committee on Government and Finance study reducing school dropouts.

HCR 57 - Requesting a study on improving the efficiency, focus and fairness of the system for holding school systems accountable for preparing students for the 21st Century economy.

HCR 77 - Requesting the Joint Committee on Government & Finance conduct a study on the care and prevention of concussion injuries in sports regulated by Secondary Schools.

Lawmakers brainstormed ideas for reducing the dropout rates. They plan to look at career and technical school options as they try to get to the crux of why so many students are dropping out of high school in West Virginia. They may also look at the GED alternative and how that can be used as a tool to curb the problem. As part of this effort, they also plan to help oversee the implementation of HB 4593, which passed during the 2010 regular session. This bill relates to high school graduation improvement.



With regard to HCR 77, several lawmakers expressed concern that kids are coming back from concussions too soon and that when they are allowed to do that, it greatly increases the risk for a serious injury. Lawmakers requested any statewide statistics that have been compiled to show what is happening in West Virginia high school sports with regard to head injuries. Other lawmakers voiced concern over the type of safety equipment being used, emphasizing the need for the most modern protective gear. They were in favor of crafting a policy for how long a player must sit out after a head injury and for holding high school athletic directors accountable for the most modern safety equipment.

imperative to prepare students to compete for college admission and jobs in the 21st century.

With regard to the state's substance abuse addiction problem, one lawmaker noted that while it will likely prove difficult to fully and accurately account for exactly how much this costs the state, it is one of the biggest problems facing West Virginia. Lawmakers noted that not only does this problem cost the state in terms of increased crime and treatment programs, but it also contributes to a declining work force, which costs the state tax revenue.

Equal Pay Commission

House Bill 4623

The Commission met briefly to discuss House Bill 4623, which was passed during the 2010 regular session. The bill adds 6 members to the commission three from the House and three from the Senate, while also removing the sunset provision.

Finance Subcommittee A

2010 Interim Study Topics

Lawmakers briefly reviewed the two study topics they are charged with in 2010. They are as follows:

HCR 130 - Requesting a study on flexibility for local schools and school systems to acquire and employ technology to improve student performance and progress.

A Study of the financial burden to the State of West Virginia as a result of the substance abuse addiction problem.

Lawmakers briefly discussed these issues. The general consensus was that HCR 130 would be addressed in the upcoming special session as part of the educational initiatives expected to be on the governor's agenda. Lawmakers agreed that access to the newest technologies for students and the ability to effectively implement them in schools is

Finance Subcommittee B

2010 Interim Study Topics

The committee discussed the two interim study topics they have been assigned for the year. They include:

HCR 135 - Requesting a study of the Homestead Exemption for seniors and people with disabilities.

SCR 22 - Requesting that the Joint Committee on Government and Finance study coal industry tax burden.

With regard to HCR 135, lawmakers discussed that the Homestead Exemption has not been amended since 1982. Lawmakers requested accurate numbers associated with the exemption. They want to know precisely how many people utilize this and what it costs the state, as well as the effect it has on the state's general revenue.

Concerning SCR22, lawmakers plan to compare our coal industry with other major coal producing states. They will look at the total tax structure of these states with regard to their coal industry and see where West Virginia can make improvements. The states that were brought up include: Kentucky, Ohio, Pennsylvania, Illinois and Wyoming. Lawmakers plan to invite representatives from these states to speak to the committee.

One lawmaker suggested that they also look into the coal industry's cost to the state in terms of the impact it has on the environment and the healthcare costs for its workers.

Finance Subcommittee C

PEIA & OPEB Liabilities

Met for first time this interim period. Staff gave an explanation of HCR 88, which requests a study of the Public Employees Insurance Agency (PEIA), and a review of Other Post Employment Benefit (OPEB) liabilities.

The West Virginia Public Employees Insurance Agency estimated the actuarial accrued liability for other post employment benefits to be over \$7 billion on June 30, 2009 and projects the actuarial accrued liability to be \$7.8 billion and \$8.7 billion for State Fiscal Years 2010 and 2011. As was projected the PEIA chief financial officer gave the committee provided an update on the current liability of \$8 billion and added future projections to grow to about \$600 million per year.

This liability is shared by all employers participating in the Public Employees Insurance Agency insurance pool, including state agencies, state colleges and universities, county school boards and many non-state employers.

This liability is chiefly comprised of the expected costs of perpetuating retiree healthcare subsidies and providing for the conversion of unused, accrued annual and sick leave into prepaid insurance premiums upon retirement. Active plan participants also share in the cost of subsidizing retirees and leave conversion benefits, with differential or no leave conversion benefits and uncertain subsidy benefits for themselves.

Healthcare spending continues to grow much faster than the overall economy, with healthcare spending representing just 7.2% of Gross Domestic Product in 1965, 16% today and a projected 20% by 2016.

In addition, county boards of education have initiated legal action regarding the determination of their rightful portions of the liability.

The committee heard that while actuarial information concerning these other post employment benefits is enlightening, it is also incomplete especially with respect to the

many major policy options made by PEIA's Finance Board that are currently going to go into effect for new hires by July 1, 2010.

The committee is expected to report its findings to legislative leadership prior to the Regular Session of the Legislature in 2011. The report is to include conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

Forest Management Review Committee

Forest Industries

Representatives from the West Virginia Division of Forestry were on hand to discuss the Division of Forestry and Forest Industries.

The representative reminded the committee that West Virginia is dominated by hardwood forests, and remains the third most heavily forested state in the nation. West Virginia's forests are increasing in volume and maturing, with 70 percent of timberland in the largest diameter size class.

The wood products industry has been an engine of growth during the last 25 years when other major goods-producing industries were declining in the state. West Virginia's has the resources and is poised for even more growth in the future.

While the large economic impact of the state's wood products industry is well documented, West Virginia's forest-based activities generate billions of dollars annually. These activities include wildlife-associated recreation (hunting, fishing, wildlife watching), forest-related recreation (hiking, biking, sightseeing, etc.), and the gathering and selling of specialty forest products (ginseng, Christmas trees, nurseries, mushrooms, nuts, berries, etc.). West Virginia's forests also provide millions of dollars of benefits in improved air and water quality along with improved quality of life for West Virginia residents.

Next month the committee will continue discussions and hear a report from the Division of Forestry regarding the Strategic Plan on the Sustainability of WV Forests.

Joint Meeting - Gov. Operations/ Gov. Organization

Depts. Of Revenue & Commerce

On the first of two meetings of the Joint Government Operation/Government Organizations Committee members heard department presentations from the Department of Revenue and the Department of Commerce.

Representatives from the Department of Revenue stated that the administration plans to introduce legislation in the 2011 regular session to transfer regulation of charitable bingo and raffles from the Tax Division to the Lottery Commission.

In 2009, the Legislature denied a proposed plan to consolidate the Lottery Commission, bingo and raffles, the Racing Commission, and the Alcohol Beverage Control Administration into a single Gaming and Alcohol Control Commission. The representative told the committee members that it is currently inefficient to require the Tax Division to regulate bingo and raffle operations around the state. As gaming operations, it would make more sense to put them under the Lottery's control.

A representative from the Department of Commerce discussed a performance review of each Division and agency under the purview of the Commerce Department and recommended whether or not each agency should be continued, consolidated or terminated. Those agencies include: West Virginia Development Office; Division of Energy; Division of Forestry; Geological and Economic Survey; Division of Labor; Office of Miners' Health, Safety & Training; Division of Natural Resources; Division of Tourism; and Work-Force West Virginia.

In the report it was determined that all of these agencies should be continued.

In the second of two meetings held over the May interim period, members heard a compliance review audit regarding the 2004 Performance Evaluation of the Division of Tourism presented by the Performance Evaluation and Research Division of the Legislature.

The audit found that the Division of Tourism was in full compliance with all recommendations of the 2004 performance review. In response to that review the Division of Tourism promulgated Legislative Rules for the disbursement of direct advertising grants from the tourism Promotion Fund. Also, the Division has developed a plan for funding projects under a reduced revenue scenario and maintains records of grant funding decisions as required by the Records Management and Preservation Act. Finally, the Division of Tourism has made the recommended changes to the audit process in order to ensure compliance and accountability.

Joint Standing Committee on Gov. Organization

2010 Interim Study Topics

Staff counsel provided a list of the 19 study topics the committee is charged with this year. The study topics are as follows:

HCR 85 - Requesting a study on the utility of transferring licensing authority of private investigative and security services.

HCR 91 - Requesting a study of the authority and structure of professional and occupational licensing boards.

HCR 92 - Requesting a study of the advisability and feasibility of the creation of an administrative unit of state government to assist professional licensing boards.

HCR 93 - Requesting a study of the Board of Examiners of Psychologists and the scope of practice of psychologists and school psychologists.

HCR 9 and 94 - Requesting the Joint Committee of Government and Finance authorize a study of the law governing the West Virginia Board of Examiners for Speech-Language Pathology and Audiology.

HCR 95 - Requesting a study of the law governing the West Virginia Board of Medicine

HCR 6 and 96 - Requesting that the Joint Committee on



Government and Finance authorize a study of the law governing the West Virginia Board of Hearing Aid Dealers and Fitters.

HCR 97 - Requesting a study of the policies and procedures for awarding vendor preferences in state purchasing contracts.

HCR 98 - Requesting a study of the powers and duties regarding real estate acquisition and services for real estate held by the state of West Virginia.

HCR 99 - Requesting a study of the powers and duties of the Division of Criminal Justice Services.

HCR 101 - Requesting a study of the law governing the West Virginia Board of Dental Examiners.

HCR 109 - Requesting a study of the law governing the West Virginia State Board of Pharmacy.

SCR 51 - Requesting the Joint Committee on Government and Finance study state Occupational, Safety and Health Act.

SCR 81 - Requesting the Joint Committee on Government and Finance study emergency dispatch center training.

SCR 84 - Requesting the Joint Committee on Government and Finance study creating a uniform set of statutory provisions for chapter thirty boards.

SCR 85 - Requesting the Joint Committee on Government and Finance study updating article one provisions for chapter thirty boards.

A study of the Division of Personnel.

Health, Select Committee on

Scope of Practice Issues

Brief explanations were provided to the committee regarding the study resolutions HCR 117 and SCR 54 by legisla-

tive health counsel during its inaugural meeting in May.

House Concurrent Resolution 117 calls for a study on the establishment of a commission to make recommendations to the Legislature on the scope of practice of health care professions. The scope of practice issues for health care delivery is a complex and often contentious process and factors such as fluctuations in the health care workforce and specific health specialties, geographic and economic disparities in access to health care services, economic incentives for health care professionals and consumer demand influence the decision making regarding the scope of practice across all health care disciplines.

The committee plans to seek advice from within the health care industry when making decisions regarding the scope of practice of health care professions on issues such as education levels, skills training, adequate evidence supporting a modification and sufficient regulation. Input provided will be from an equal representation of medical professions (such as but not limited to physicians, physician assistants, nurses, community health providers, representatives of health policy and administration, dentists and dental hygienists).

Senate Concurrent Resolution 54 is similar to HCR 117.

In other areas, committee members also will be looking at the Governor's Office of Health Enhancement and Lifestyle Planning (GO HELP) regarding its efficiency, its structure and its oversight of federal health care reform. In 2009, lawmakers created GO HELP to pursue ways to improve and expand West Virginia's health care system, while coordinating with existing programs and services.

Another issue of interest to the committee will be substance abuse treatment options. Before the Legislature in 2010, bills addressing the matter failed to pass, possibly because of certain drug prescription distribution.

Also appearing before the Select Committee on Health was a spokesperson from the Department of Health and Human Resources who provided some key provisions on the federal Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010.



GO HELP

During its second meeting of the May Interims, the committee heard from the director of the Governor’s Office of Health Enhancement and Lifestyle Planning (GO HELP), who provided a brief explanation of the office’s start up and current performance. As was mentioned in an earlier meeting, in 2009, lawmakers created GO HELP to pursue ways to improve and expand West Virginia’s health care system, while coordinating with existing programs and services.

Presently, the director indicated the office was looking into the recently enacted federal laws, the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010. She said the massive health care laws have proven challenging and complex.

They contain various effect dates regarding some provisions and include over 100 sets of regulations.

Numerous summaries of the bills have been provided to the office by stakeholders as well as the National Conference of State Legislatures (NCSL).

According to the director, there will be a variety of costs in implementing the health care changes including money for mental health parity costs.

By July 1, 2010, the Department of Health and Human Services had to devise a web portal for information. The overall state plan is due in January or 2013 and health care coverage has to be implemented by January 2014. When the overall plan is put into play, the director believes state hospitals will save \$1.2 billion in 10 years. Other savings have also been projected but deadlines must be met before further conjecture.

Judiciary Subcommittee A

2010 Study Assignments

Members meeting for the first full interim sessions of the year heard from staff counsel regarding a summary of study topics that will be discussed for the upcoming year.

Topics which were presented for upcoming discussion included: redefining deep and shallow wells; establishing forced pooling requirements for all oil and gas drilling/or Marcellus Shale strata; transportation of materials, equipment and supplies for oil and gas drilling (SB643); effects of water withdrawal for Marcellus Shale drilling; surface owner rights; economic impact of oil and gas capture rule (SCR66); coal slurry (SCR46); Chesapeake Bay nutrient removal requirements (SCR17); and coal miner safety.

Also, a representative from the Water and Waste Management Division of the WV DEP discussed a study and recommendation on sources to fund installation of nutrient removal technology.

Judiciary Subcommittee B

2010 Study Assignments

This month, committee members were updated by staff counsel on the topics that were assigned to them to study throughout the year. Study assignments for the committee include:

- Review of criminal statutes relating to technology crimes and other related privacy issues.
- Review the utility of transferring the licensing authority of private investigative and security services from the Secretary of State to the Division of Criminal Justice Services.
- Efficiency and effectiveness of forensic services in the state and to determine what options may be available to provide accurate and impartial forensic evidence support services.
- Expanding law enforcement training subcommittee responsibilities
- Review of child pornography investigative processes as well as criminal and civil forfeiture statutes.
- Prison and regional jail overcrowding issues

Judiciary Subcommittee C

Magistrates

During this month’s meeting, committee members were



Interim Highlights

given a review of study topics for the year by staff including Workers' Compensation and insurance coverage for autism. Another topic to be studied by the committee is the magistrate court system.

Various speakers were in attendance to discuss the magistrate court system. First to speak was the West Virginia Supreme Court of Appeals Administrative Director who provided more of an overview of what the duties of a magistrate are.

There are 158 magistrates in West Virginia. Most counties have at least two magistrates with the largest county having 10. Magistrates issue arrest and search warrants, hear misdemeanor cases, conduct preliminary examinations in felony cases, and hear civil cases with \$5,000 or less in dispute. Magistrates also issue emergency protective orders in cases involving domestic violence.

Magistrates are elected by divisions, which makes running for the office somewhat of a popularity contest. Those running are constantly at war with each other. Draft legislation was passed in the Senate during last year's regular session that would have provided that magistrates of a county run for election in numbered divisions similar to the election of circuit judges. The bill, however, was not taken up in the House.

Another issue regarding the magistrate court system is the education requirements needed to be elected to the position. Current law states that an individual with a high school education can be elected to the magistrate position. Draft legislation during this year's regular session would have changed the law to require that an individual must have a college degree. The bill passed the House but was not considered in the Senate. The Administrative Director for the WV Supreme Court told the committee that although state law currently requires all magistrates to attend an education conference each year, a change in the education requirement of magistrates is not a bad idea. The education requirement for magistrates has not been changed since 1931. Of West Virginia's bordering states, only Kentucky requires no college education. The Administrative Director also informed the committee that most magistrates currently serving do have college educations.

Another big issue relating to the magistrate court system is equal pay of magistrates. There are currently two pay levels for magistrates for small and large counties. Those magistrates in small counties make \$43,000 while those in large counties make \$55,000. The Supreme Court has not weighed in on this issue because it is not one that is completely agreed upon by all magistrates.

Other smaller issues relating to magistrates are the ability to carry handguns to work and whether to wear robes or not.

Next to address the committees was the President of the West Virginia Magistrate Association who provided the association's stance on these issues. According to the President, the association supports changes to the division's elections as well as the ability to carry a handgun to work. As for the change of education requirements, the association is not against it. The bill passed by the House that would change the requirements was supported by 70 percent of the state's magistrates.

Last to address the committee was the Director of Magistrate Court Services who has served as a magistrate in Kanawha County. She informed the committee that magistrates are the only public officials who are tested yearly. She also told the committee that magistrates have a hard job with the demanding hours and sometimes dangerous situations they are faced with. She also thanked the legislature, especially the committee, for finally considering and studying the issues of the magistrate court system.

WV Law Institute

Criminal Sentencing Reform

Counsel also presented the committee with recommendations from the West Virginia Law Institute regarding criminal sentencing reform.

An official charge was given to the West Virginia Law Institute through a report from the Governor's Commission on prison overcrowding. The Law Institute was to collect and review information regarding shortcomings in West Virginia criminal sentencing.



The West Virginia Law Institute found through researching the State Code that, there is a critical need to undertake a complete rewrite of the state's criminal code, in order to modernize, clarify, and rationalize West Virginia's criminal laws and sentencing provisions.

Specific crimes mentioned in the report that needs to be updated in the State Code include:

- Amending the robbery statute, forgery and uttering law, and arson provisions.
- Eliminate the double penalty for abduction and kidnapping in order to clarify and rationalize the kidnapping section.
- Eliminate the felony-murder rule: Currently, the felony murder rule treats accidental deaths in the commission of certain felonies as first-degree murder. The rule also applies in the absence of premeditation or malice and even in the absence of malice. The felony murder rule also applies to everyone involved in the specified felony, even if they were not the ones who actually caused the death.
- Amend the second-degree murder statute by eliminating the 10-year minimum requirement and to allow for a five-year minimum sentence.

The West Virginia Law Institute also provided recommendations for general sentencing and changes such as:

- Repealing or making less rigid the penalties for second and third felony convictions
- Change the presumption for consecutive sentences to a presumption for concurrent sentences.
- Create objective criteria for alternative sentencing and for setting bonds.
- Establish presumptive parole
- Amend the juvenile transfer statute so that judges have discretion to decide whether to transfer a juvenile to the adult criminal system.

Aside from the recommendations of updating the State Code, the West Virginia Law Institute also recommended additional strategies for reducing prison overcrowding including expanding support for pre and post-release programs.

Another possible option for the State to consider is requiring counties to develop community corrections programs and provide funding for them to implement the programs. Currently 40 counties have a community corrections program, but they vary widely in the number and level of services.

Lastly, mentioned in the report, is the cost of incarceration for one prisoner based on their years spent in prison. West Virginia taxpayers pay approximately \$28,000 a year to house one prisoner. A prisoner serving a 40-year sentence costs \$1.12 million.

Minority Issues, Select Committee on

Recommended Legislation

Members met briefly to hear a staff review of the prior year's final report and to hear a report on the outcome of legislation recommended by the committee.

Staff presented three bills that were recommended for passage by the Minority Issues Committee. The first bill, Senate Bill 351, requiring mandatory training regarding racial profiling for law enforcement officials, did not pass as a stand-alone bill but was inserted into another bill, the Anti-Street Gang Act, and did pass as a provision of that measure.

The second bill, Senate Bill 649, was passed by both bodies and related to searches of motor vehicles and establishes guidelines for when searches are appropriate.

The third bill, Senate Bill 349, would have established the Herbert Henderson Office of Minority Affairs within the office of the Governor. The bill passed as introduced from the House of Delegates but later died in Senate Committees.

The committee expressed frustration at the inability for this measure to move forward and discussed meeting with House and Senate leadership to formulate a plan to move certain agenda items further along in the legislative process.

Parks, Recreation & Natural Resources Subcommittee

DNR Trout Tagging and Angler Survey

A representative from the Wildlife Resources Division within the West Virginia Division of Natural Resources (WVDNR) provided a review of the Trout Tagging and Angler Survey to the committee.

The representative stated that since 2006, WVDNR biologists have conducted studies on stocked trout. The goal of this study was three-fold: 1) To determine angler success, 2) To determine stocking success, and 3) To determine angler opinions about trout stocking and fishing.

In 2006, three water bodies were studied: Spruce Knob Lake (Randolph County), North Fork of the South Branch of the Potomac River (Grant and Pendleton Counties), and Mountwood Lake (Wood County).

This increased to five water bodies in 2007: South Branch of the Potomac River (Smoke Hole Section-Pendleton County), North Fork of Cherry River (Greenbrier and Nicholas Counties), Panther Creek (McDowell County), Coopers Rock Lake (Monongalia County), and Jimmy Lewis Lake (Mercer County).

In 2008, WVDNR tagged and stocked trout into Krodel Lake (Mason County), Summersville Lake Tailwaters (Nicholas County), and the Blackwater River (Tucker County).

The study produced some interesting results according to the representative. WVDNR biologists have tagged and stocked 6,461 rainbow, brook, brown, and golden trout.

Overall, 48 percent (3,090 of 6,461) of the tagged-trout were reported caught. This ranged from 40 percent on the North Fork of the South Branch of the Potomac River, to 65 percent at Jimmy Lewis Lake.

Anglers caught a greater percent of stocked trout in lakes (56 percent) as compared to rivers (45 percent).

Anglers kept 92 percent of trout they caught.

Based on study results, greater than 65 percent of the stocked trout were still available for anglers to catch one week after stocking.

Anglers reported catching tagged-trout as long as 1 year following stocking.

Based on 919 angler-submitted surveys, 73 percent of the anglers were satisfied, 12 percent neutral, and 15 percent dissatisfied with their trout fishing experience.

West Virginia anglers represented 89 percent of those who returned tags; non-resident anglers reported being from 15 states.

Next month representatives from the State Parks Department will be on hand to discuss Droop Mountain state park and the Battle of Droop Mountain.

PEIA, Seniors & Long Term Care, Select Committee on

In-Home Care

During the committee meeting lawmakers questioned the Department of Health and Human Resources' plans for a program that lets elderly and disabled West Virginians receive in-home care. Some legislators asked why the department recently told federal officials that it would cut the number of elderly West Virginians who can receive such services over the next five years, even as the state's aging population is growing.

Between 2011 and 2015, DHHR intends to reduce by 28 percent the number of aged and disabled people receiving the services, according to plans submitted to the federal Centers for Medicare & Medicaid Services.

Lawmakers told the DHHR spokesman and a spokesman for the state Bureau for Medical Services that officials are making projections based on revenue projections, rather than need for services.

Legislators asserted that to properly budget, demand for services must be known. They would prefer that the DHHR



calculate their projections based on need rather than dollar amount.

According to U.S. Census figures presented, West Virginia's elderly population will swell over the next 20 years. Lawmakers fear as demand goes up, money for services will go down.

The DHHR spokesman told the committee that the plans are "a roadmap" and can be changed in the future. He contends that the figures are fiscally realistic.

He said that if they projected higher numbers out into the future, they might be putting future governors and lawmakers in a precarious position. He also assured lawmakers that he would provide the need-based figures they requested at a future meeting.

One lawmaker also questioned DHHR's plans for an in-home care program for mentally retarded and developmentally disabled West Virginians.

This year, legislators gave the program a \$7.5 million boost to help ease its 350-person waiting list, but according to the lawmaker, DHHR's plans don't reflect those funds.

About 4,334 people participate in that program, according to DHHR figures. The department plans to increase that number by 150 in the coming year, and another 150 in 2015.

Regional Jail & Correctional Facility Authority

Status Reports

During the first interim meeting after the regular session, members of the Regional Jail committee were presented with updates from the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juveniles.

The Executive Director of the Regional Jail and Correctional Facility Authority informed the committee that there are currently 4,126 inmates in the state's regional jails. In his report was also an update on the Governor's highways work crew. Since 2007 the facilities have collected approximately 158,900 bags of trash from West Virginia's highways.

Also in the report was the status of the current construction project, which is the installation of more bunks in regional and correctional facilities throughout the state. The current number of additional bunks stands at 892.

The Commissioner of the Division of Corrections (DOC) provided the committee informed the committee that the DOC is currently operating at capacity with over 1,400 prisoners being held in regional jails waiting for bed space to become available. If the current trend continues, West Virginia is facing a jail backlog of 3,500 inmates by the end of 2012.

In the DOC report were also updates on the Huttonsville pipeline and the Beckley Correctional Center. The DOC has received an energy grant to have a natural gas line installed at Huttonsville. The gas line, which began construction on April 19, will travel approximately seven miles. The project is scheduled to be completed by October 31. The Beckley Correctional Center is being expanded by an additional 72 inmates. Construction of the expansion began in January. The project is scheduled to be completed September 30.

A representative with the Division of Juveniles told committee members that things have been running smoothly. He also told the committee that youth reporting centers are one of the positive things right now within the Division of Juveniles. Youth reporting centers are community based, nonresidential, intermediate sanction strategies, as well as, an intervention program that provides consequences to youth offenders at risk of out of home placement and/or part of their reintegration into the community from placement.

Veterans' Affairs, Select Committee on

WV National Guard Update

During this month's interim meeting, the Adjutant General for the West Virginia National Guard briefed the committee on the status of the West Virginia National Guard as well as how five bills passed during the regular session have been helpful in funding the National Guard.

There are around 40 units in the West Virginia National Guard stationed in 26 countries. About 170 members of the West



Virginia Army National Guard's 115th Engineer Company returned home last month after serving a year in Iraq. The Adjutant General told the committee that aside from the deployments overseas, the West Virginia National Guard wants to play a prominent role without leaving the state when West Virginians are in need of their help. There are currently 3,000 guardsmen working full time.

The Adjutant General was happy to report for the 13th straight year, West Virginia is one of the top states in recruiting and retention.

The Adjutant General also informed the committee that West Virginia would be hosting the Enlisted Association of the National Guard of the United States (EANGUS) next year. According to its website, EANGU is a non-profit organization dedicated to promoting the status, welfare and professionalism of Enlisted members of the National Guard by supporting legislation that provides adequate staffing, pay, benefits, entitlements, equipment and installations for the National Guard.

Veterans Affairs Updates

The division's Director also updated committee members on various projects within the Division of Veterans' Affairs, including the state veterans' cemetery. The state veterans' cemetery will be 350 acres, with contracts being sent out on the construction of the cemetery this month with the ground-breaking in September. When the cemetery is opened, there will be 650 burials per year.

The Director informed the committee the Veterans' nursing home in Clarksburg now has 73 patients and is still taking in two patients per week. An Alzheimer's Unit director has also been hired to cover the 20 bed unit, which will be filled last.

The Veterans home in Barboursville has had a rule change to allow West Virginia veterans who have had less than one year now only have to have 30 days residency to be eligible for admission. There are currently 101 residents in the facility. Maximum occupancy at the home is 150.

Before adjourning, the Co-Chair of the committee informed the members that during July's interims they would be able to go and tour the location of the new veterans' cemetery.

LOCWIED

Studies Update

Committee members reviewed subjects that were studied last year including a possible apprenticeship program for high school students through community and technical colleges.

LOCWIED members were also updated on the condition of the unemployment fund. The current total in the fund stands at \$114 million. It was anticipated the fund would be smaller, revealing that the state is in better financial condition than expected. However, the number of claims filed so far this year, although less than this time last year, are still more than two years ago. Committee members were told the upswing in the last nine weeks lends the state more time to deal with the situation. It was also reported the state's unemployment rate dropped from 10.1 percent to 9.8 percent. ■

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