



Volume 10

April 11, 2017

The 2017 Regular Session of the West Virginia Legislature adjourned sine die on Sunday, April 9th. There were 1,702 bills introduced this Session. 132 House bills passed this session and 130 Senate bills.

Both chambers of the Legislature passed a \$4.1 billion budget bill. Highlights are:

- Maintains its balance in part by using \$90 million out of the Rainy Day Fund
- \$140 million cut to the medical services line in DHHR; the medical services line item is reduced from \$490 million to \$350 million.
- Higher education is cut of just under \$30 million. Most state colleges have a 4-percent across-the-board cut. West Virginia and Marshall universities have an 8.5 percent cut.
- Public education is relatively unchanged from current funding.
- No money in this budget for the governor's Save Our State fund for infrastructure and economic development.
- No money for a classroom teacher pay raises or for pay raises for any state employees.
- No tax increases.

The House passed the budget by a vote of 63-37 and the Senate by 22-12.

Late Saturday night, the Governor held a press conference indicating that he and Senate President Mitch Carmichael were very close to a deal on the budget, but with only a few hours remaining in the session, language from their agreement did not pass. The House was not included in the negotiations of a deal.

There does appear to be a few problems with the budget bill (HB 2018) that passed. It's about \$31 million out of balance because some areas lawmakers thought they would gain some revenue, greyhounds and racetrack modernization fund, didn't happen. There's also an apparent issue about the effective date. There weren't enough votes to make the measure "effective from passage" so now the bill won't take effect until 90 days from passage which is July 8, which is a week after the new fiscal year begins.

At this time, we are uncertain whether or not the Governor will veto, sign or allow the budget to become law without signing.

His proposed budget included tax increases estimated to raise \$450 million in revenue:

- **New Commercial Activities Tax, which would charge two-tenths of a percent on gross business revenues.** The proposed tax would raise an estimated \$214 million in new revenue.
- **Raising the Consumer Sales Tax by one-half of a percent, taking it up to 6.5 percent.** This increase would raise an estimated \$92.7 million.
- **Eliminating the current tax exemptions for professional services (i.e. legal, accounting, advertising, etc.).** The elimination of this exemption would generate approximately \$87 million in new revenue.
- **Raising the state's gasoline tax by ten (10) cents per gallon,** raising an estimated \$150 million in new revenue.
- **Increasing DMV fees for motor vehicle titles and licenses from \$30 up to \$50.** This increase is estimated to generate \$33 million in new revenue.
- **Increasing WV Turnpike tolls from \$2 to \$3 per toll booth.**
- **Raising the beer barrel tax from \$5.50 up to \$8,** and raise the wholesale liquor markup from 28 percent to 32 percent. These increases will generate an estimated \$5.6 million in new revenue.
- **Ending subsidies from the General Revenue Fund to the State Road Fund,** which is an estimated \$11.7 million per year.
- **Repealing the WV Film Tax Credit,** saving roughly \$3 million per year
- **Withholding a scheduled payment to the state's Workers' Compensation Fund,** saving approximately \$38 million in the General Revenue Fund

The Governor made numerous changes to his proposal over the course of the 60-day session.

A special session could be in our future depending on what the Governor does with the budget.

Industry Specific Legislation Passed:

[SB 338 - Relating to medical professional liability.](#) The purpose of this bill is to amend the Medical Professional Liability Act by adding a definition for “occurrence,” providing for a preference of venue, establishing an attorney’s fees schedule based upon the amount recovered, establishing the effective date and providing for severability.

[HB 2119 - Repealing West Virginia Health Benefit Exchange Act.](#)

[HB 2683 - Relating to West Virginia Insurance Guaranty Association Act - The purpose of this bill is to update the West Virginia Guaranty Association Act.](#) The bill modifies the scope and construction of the act. It adds and amends definitions; clarifies and adds powers, duties and rights of association. The bill modifies provisions concerning effect of paid claims, exhaustion of coverage, prevention of insolvencies and stay of proceedings. It changes due date of annual financial report and limits covered claims. The bill expands association’s right to recover and be reimbursed. The bill provides for confidentiality of financial information and exempts certain reports and recommendations from Freedom of Information Act.

General

Business

Legislation

Passed:

SB 222- Relating to disqualification for unemployment benefits. The purpose of this bill is to provide that an individual is disqualified for 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. The bill clarifies that a lockout is not a strike.

SB 239 - Limiting use of wages by employers and labor organizations for political activities. The purpose of this bill is to protect an employee's wages or salaries from being withheld or diverted for political activities without the express, written authorization of the employee.

SB 330 - Relating to WV Workplace Freedom Act. The purpose of this bill is to provide technical corrections to the definitions of the West Virginia Workplace Freedom Act and to repeal provisions relating to the statutory construction of the act. This legislation was vetoed by the Governor on March 28th. The Senate and House both voted to override the Governor's veto and the legislation completed action on April 7th.

SB 365 - Maintaining solvency of Unemployment Compensation Fund. The purpose of this bill is to maintain the solvency of the Unemployment Compensation Fund; and extending the time period for borrowing funds from the Revenue Shortfall Reserve Fund for the Unemployment Compensation Fund to September 1, 2018.

SB 433 - Permitting counties increase excise tax on privilege of transferring real property. The purpose of this bill is to permit counties to increase the excise tax on the privilege of transferring real property.

SB 441- Establishing Municipal Home Rule Pilot Program - The purpose of this bill is to establish the municipal home rule pilot program as a permanent program, allow all municipalities to participate in the program, and allow municipalities who institute sales and use tax pursuant to the program to administer and collect the tax through their own municipal collector's offices.

HB 2678 - Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions. Current law regarding judgment interest provides for compound interest to be calculated at a rate 3 points about the Fifth Federal Reserve discount rate. This legislation reduces that rate down to 2 points (instead of 3 points) above the Fifth Federal Reserve discount rate, and further provides that simple interest shall be calculated (instead of compound interest). This legislation also establishes new statutory minimum and maximum interest rates. The current statutory minimum rate is 7 percent, which has been in effect continuously since 2009. HB 2678 reduces the statutory minimum down to 4 percent. The bill also reduces the statutory maximum rate from the current 11 percent down to 9 percent.

HB 2857 West Virginia Safer Workplaces Act. The purpose of this bill is to create the West Virginia Safer Workplaces Act. The bill permits employers to test employees and prospective employees for drugs and alcohol. The bill defines terms. The bill declares public policy. The bill determines a collection of samples, scheduling of tests and testing procedures. The bill sets forth testing policy requirements. The bill provides for disciplinary procedures. The bill provides for sensitive employees. The bill provides for preemption. The bill provides protection from liability. The bill establishes causes of action. The bill provides exceptions. The bill provides for confidentiality. The bill provides for termination of employment. The bill provides for forfeiture of certain benefits. The bill requires employers to have drug and alcohol testing policies and procedures when implementing.

Session Highlight:

One of our biggest highlights during the session were our 2017 Insurance Day, which was held on March 1st. We co-hosted with the WV Insurance Federation. We had a wonderful where we were addressed by **Acting Insurance Commissioner Andrew Pauley**, **Incoming Insurance Commissioner Allan McVey** and **Governor Justice's Legislative Director, Bob Ashley**. We also had a great panel discussion with **Senate Banking & Insurance Committee Chairman Ed Gaunch** and **Vice Chairman Mike Azinger**, as well as **House Banking & Insurance Committee Chairman Steve Westfall** and **Vice Chairman Brad White**.

The other was having SR 26, read on the Senate floor, which recognized **Holly Boggs** as our 2016 Earle S. Dillard Agent of the Year.

As always, there were unfavorable bills introduced that would have harmed our industry. We were able to defeat several of those. We also ended the 2017 Session without any additional taxes or surcharges on insurance premiums.

We will continue to keep you informed regarding the budget and also should a Special Session be called.

If you have any questions, please feel free to call the Association Office at 304.342.2440.