

UNDER the DOME



FEBRUARY 27, 2017

Welcome

Under the Dome is an update on actions and activities of the West Virginia Legislature, provided during the regular legislative session, interim sessions and special sessions for West Virginia University faculty and staff by WVU's Office of State and Local Relations. This issue provides a review of the third full week of the regular legislative session.

Institutional Flexibility (HB 2542 and SB 274)

HB 2542 passed the House Education Committee on Wednesday with minor changes. The bill will be read a third time and up for a vote on Tuesday, February 28. A companion bill, **SB 274**, was introduced two weeks ago in the State Senate. Details follow on final pages.

Tax Reform

Following the governor's State of the State address, detailing his plan to increase tax revenue and eventually eliminate the State's income tax, the State Senate introduced a bill (**SB 335**) to overhaul and reform the State's tax system.

The measure would repeal the State's personal income tax, the use tax and the consumer sales and service tax. It would enact a broader general consumption tax of 8%, a temporary single-rate income tax, and phase out and repeal the corporate net income tax. The general consumption tax would apply to certain professionals (like law firms, accounting firms, engineers, architects and advertisers) who are exempted under current law.

Dr. John Deskins, associate dean of the WVU College of Business and Economics and director of the Bureau for Business and Economic Research, spoke on February 17 to the Senate Select Committee on Tax Reform. While not endorsing or opposing the plan, he provided three points that the Legislature should consider in this debate.

1. A broader general consumption tax could encourage more savings – Deskins stated that a consumption-style tax does not tax savings. It taxes only the amount you spend on goods or services. Under an income tax system, you pay taxes on your entire income whether it is spent or saved.
2. A broader tax base is desirable – Deskins stated that broadening the sales tax base is more efficient. If you tax everything at a correspondingly lower rate, then you have a better system than a system with many exemptions, deductions and credits.
3. Be cautious with revenue estimates – Deskins cautioned, if the Legislature enacts this change, they would need to be careful with future revenue estimates. His research suggests that evasion could be higher on services as compared to goods. He stated that revenue projections should be conservative going forward, due to this potential problem.

Introduction of Legislation

So far, 885 bills have been introduced in the House of Delegates and the State Senate. Bills relating to higher education and higher-profile bills include:

For questions or more information, contact Travis Mollohan, director, State and Local Relations, email: tmolloh1@mail.wvu.edu; phone: 304-400-4963

SJR 6 – Governor’s Constitutional Amendment to Finance \$1.6 billion in Road Bonds, called the “Roads to Prosperity Act”

SB 7 and **HB 2124** – Requiring House of Delegates Members Be Elected by Single Member Districts

SB 18 – Requiring ACT and ACT Aspire Be Used as Comprehensive Statewide Student Assessment

SB 32 – Increasing Higher Education Student Success

SB 75 – Creating the Small Business Regulatory Review Board

SB 76 and **HB 2107** – Creating the WV Second Chance for Employment Act

SB 181 – Abolishing Regional Education Service Agencies

SB 184 – Transitioning the WV School of Osteopathic Medicine to Nonprofit Corporation

SB 188 – Correcting Definition of Telehealth in Medication-Assisted Treatment Programs

SB 199 and **HB 2018** – Budget Bill

SB 244 – Gas Co-Tenancy and Lease Integration

SB 246 and **HB 2506** – Related to Water Quality Standards

SB 266/367 and **HB 2004/2492/2622** – Relating to State Vehicle Fleet Management Program

SB 274 and **2542** – Relating to Higher Education Personnel (details on final pages)

SB 277 – Creation of an Intermediate Appellate Court

SB 335 – Tax Reform

SB 359 – Allowing Exemptions from Mandated Immunizations

SB 385 – Related to Tax on Bottled Soft Drinks

SB 408 – Eliminates Civil Service System for Public Employees Excluding Higher Education Personnel

SB 409 – Modifying Exemptions for Consumer Sales and Service Tax

SB 415 – State Severance Tax Tiers

SB 420 – Governor’s Education Reform Bill

HB 2071 – Allowing the Medical Use of Cannabis-Based Pharmaceutical Products

HB 2079 – Abolishing the Higher Education Policy Commission

HB 2144 – Relating to Relocation or Closure of State Higher Education Institution

HB 2159 – Healthy and Safe Workplace Act

HB 2194 – Reducing Personnel Employed by the WV Department of Education

HB 2212 – West Virginia Firearms Freedom Act

HB 2335 – Protecting Academic Freedom in Higher Education

HB 2559 – Permitting Concealed Carry on Higher Education Campuses

HB 2572 – Public Charter Schools

HB 2623 and **HB 2670** – Prohibiting Discrimination Based upon Age or Sexual Orientation

HB 2686 – Independent Evaluation of State’s Revenue Estimates by WVU and Marshall Business Colleges

To view all bills introduced, visit the “Bill Status” page of the West Virginia Legislature’s website at www.wvlegislature.gov/Bill_Status/Bills_all_bills.cfm?year=2017&sessiontype=RS&btype=bill.

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Legislative Calendar

- 30th Day of Legislative Session (halfway point) – Thursday, March 9, 2017
- Higher Education Day at the Capitol – Wednesday, March 15, 2017
- Innovation and Entrepreneurship Day at the Capitol – Thursday, March 16, 2017
- Last Day to Introduce Bills in the State Senate – Monday, March 20, 2017
- Last Day to Introduce Bills in the House of Delegates – Tuesday, March 21, 2017
- Monongalia County and Preston County Day at the Capitol – Tuesday, March 21, 2017
- Bills Due out of Chamber Committee of Origin – Sunday, March 26, 2017
- WVU and WVU Extension Day at the Capitol – Tuesday, March 28, 2017
- Last Day to Consider Bills on Third Reading (Final Passage) – Wednesday, March 29, 2017
- Nurses Unity Day – Wednesday, April 8, 2017
- Last Day of Regular Legislative Session – Saturday, April 8, 2017

WVU at the State Capitol

Travis Mollohan and Rocco Fucillo, both from WVU's State and Local Relations, represent WVU at the State Capitol during the legislative session. They can answer questions about any issues addressed by the Legislature.

Contact info: Travis Mollohan (tmolloh1@mail.wvu.edu) or Rocco Fucillo (rsfucillo@mail.wvu.edu).

More Information

To learn more about the Legislature, including district maps, bill tracking, committee assignments and a summary of legislative activities, please visit www.legis.state.wv.us/index.cfm.

To learn more about WVU's legislative initiatives, please visit <http://staterelations.wvu.edu>.

Summary of Proposed Changes to Human Resource Legislation (HB 2542 and SB 274)

The changes are designed to empower institutions with more authority relating to personnel decisions on their campuses and to facilitate the implementation of contemporary programs and practices to reward and incentivize performance and enhance employee engagement.

Non-Classified and Classified Employees

Under current law, an institution may only have 25% of its employees designated as non-classified. The classification of employees should not be dictated by a negotiated ratio in State Code but rather based on the needs of the institutions and the nature of the work performed. The proposed change would eliminate any statutory ratio and would instead indicate that, for new employees, the standard would be based primarily on the definitions of exempt and non-exempt employees of the Federal Fair Labor Standards Act.

For employees hired on or before July 1, 2017, provides that classified employees are full-time non-faculty employees of an institution, unless the employee:

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- Is in a policy-making position
- Is critical to the institution
- Is a direct report to the President
- Is involved in an IT job

For employees hired after July 1, 2017:

- Classified employees are those who are non-exempt for purposes of the Fair Labor Standard Act (hourly);
- Non-classified employees are those who are exempt for purposes of the Fair Labor Standards Act (salaried).

Bumping and Recall Rights

In this era of budget reductions, layoffs are becoming a reality. The commonly referred to bumping rights in State Code are counterproductive and not an efficient way to address workforce issues.

Institutions are to develop policies for reductions in workforce and reductions may be based on documented job performance, skill set, longevity, or other factors appropriate.

- If an institution lays off a more senior employee, the institution may provide a severance package for that employee
- Provisions relating to “bumping” and recall rights based on seniority are eliminated

Institutional Flexibility

Once again, in this era of budget reductions, institutions need more flexibility and to avoid being put into a one-size fits all approach. Some institutions benefit from central practices and assistance from the HEPC. Other schools, however, with full HR staffs, have and want the ability to develop a system more closely aligned with the needs of the particular institution.

WVU and Marshall are authorized to develop their own classification and compensation system; any other institution may only do so with the approval of the HEPC.

An institution may develop rules for faculty hiring practices that are different from HEPC rules; HEPC rules are applicable to the extent an institution does not develop a rule.

Mandatory statutory provisions dictating hiring of individuals at the HEPC is eliminated; code provisions are amended to clarify HEPC duties and institutional duties relating to human resources, including other changes described herein (HEPC retains authority to hire as it desires within its budget – the statutory mandates are removed).

Obsolete code provisions are eliminated.