

UNDER the DOME



MARCH 31, 2015

Welcome

Under the Dome is a weekly update on actions and activities of the West Virginia Legislature, provided during the legislative session for West Virginia University faculty and staff by WVU's Office of State, Local and Corporate Relations. This issue provides a wrap-up of bills and actions during the session.

2015 Legislative Session – An Overview

The first session of the 82nd Legislature finished on March 14, 2015. During this session, leadership in both the Senate and the House of Delegates changed from Democratic control to Republican control. This session saw the passage of a number of high-profile pieces of legislation, many of which were themed around pro-jobs, pro-economic development, pro-education and legal reform. Higher education institutions saw several pieces of legislation pass that provide them with increased flexibility and address issues that have caused problems on campus.

To search any bill addressed during this legislative session, please feel free to contact the State, Corporate and Local Relations Team or access the West Virginia Legislature database at www.legis.state.wv.us. You can also access actions made on bills by Governor Tomblin at <http://www.governor.wv.gov/media/Bill%20Status/Pages/default.aspx>.

Budget

In his original budget, West Virginia Governor Earl Ray Tomblin proposed an across-the-board 1.415 percent cut for all institutions of higher education and additionally reduced all dedicated lines of funding by 80 percent. This resulted in a proposed reduction of approximately \$7.2 million for WVU.

The budget passed by the Legislature restored \$3.5 million of those dollars. The Governor, using his line-item veto power, eliminated approximately \$600,000 from that \$3.5 million restoration.

Accordingly, WVU's State appropriations for FY 2016 will be approximately \$4.3 million less than the current fiscal year. All told, the Governor and the Legislature used approximately \$14.5 million to balance the budget for FY 2016.

WVU administration leadership is analyzing the impact of these cuts and various alternatives to address them in the next budget. More details will follow.

High-Priority Bills for WVU/Higher Education

SB 425 provides WVU, Marshall University and the West Virginia School of Osteopathic Medicine more authority to invest their assets through their respective foundations. Prior to this legislation, there were caps on the amount of funds that could be invested. This bill eliminates those caps and allows WVU to invest all of its moneys, other than general revenues appropriated by the State and lottery revenues, in its foundation.

SB 439 relates to higher education personnel; it was supported by all member institutions of the Higher Education Policy Commission (HEPC). This bill eliminates relative market equity, provides greater flexibility relating to non-classified staff and eliminates the requirement that HEPC develop salary schedules for faculty and non-classified staff, returning power back to the institutions. The bill also streamlines efforts relating to determining appropriate compensation levels and classifications for classified staff.

SB 454 criminalizes trademark counterfeiting and will help WVU protect its valuable brand. Currently, the only recourse available against someone who is counterfeiting trademarked merchandise is costly litigation, asking for the voluntary forfeiture of the merchandise or a fine if they lack a proper business permit. The passage of this legislation allows criminal recourse (fines and/or confinement) and will create a deterrent for this ongoing problem on our campus and beyond. This bill has been signed into law by Governor Tomblin.

SB 455 relates to public higher education procurement and payment of expenses. The procurement and payment bill addresses several unnecessary and bureaucratic items currently found in the State Code that impact institutions of higher education and allows for more flexibility while insuring certain standards are met. Additionally, the bill greatly improves how the University will procure goods and services for the institution. This bill has been signed into law by Governor Tomblin.

SB 532 provides immunity to clinical practice plans and medical and dental school personnel, directors, officers, employees and agents, given the substantial and compelling state interests being served by these entities. It requires the state's medical and dental schools to maintain a level of medical professional liability insurance, through the State's Board of Risk and Insurance Management (BRIM), to adequately and fairly compensate patients who suffer medical injury or death.

HB 2780 allows the WVU Police Department (and other higher education institution police departments) to apply for certain grants previously restricted to law enforcement agencies and allows the Department to include reimbursement clauses in contracts for officers sent to training. In essence, if the WVU Police Department sends an officer to the State Police Academy for training, the Department now has the ability to require a proportional repayment of expenses incurred if the employee does not remain employed for one year.

Other High-Profile Bills (All Have Completed Legislative Action)

Legal/Judicial

SB 3 – Premises Liability – this bill codifies existing common law relating to property owners not being held liable for injuries or death of a person trespassing on their property. This bill has been signed into law.

SB 13 – Open and Obvious Risk – this bill raises the legal standard for suing a property owner when someone is injured by an open and obvious risk. This bill has been signed into law.

SB 37 – Creating Revised Uniform Arbitration Act – this legislation aligns State law with federal arbitration law and provides more complete procedures to meet modern needs.

SB 415 – Relating to Circuit Court Judges – this bill adds additional judges in high-caseload areas. Monongalia County is considered a high-caseload area.

SB 421 – Relating to Punitive Damages in Civil Actions – SB 421 will limit punitive damages to four times compensatory damages, or \$500,000, whichever is greater.

SB 479 – Relating to Family Court Judges – this bill adds additional family court judges (Monongalia County included).

HB 2011 – Deliberate Intent – this bill revises the current deliberate intent statute to return this cause of action to its original purpose by clarifying certain issues that arise commonly in litigation.

HB 2002 – Comparative Fault (Joint and Several Liability) – this bill ensures defendants will only be held responsible for the share of damages a jury decides was their fault.

For questions or more information, contact Sarah Smith, WVU's associate vice president for state, corporate and local relations, email: ssmith13@mail.wvu.edu; phone: 304-400-4963

Election Law

SB 249 – Prohibits straight ticket voting.

HB 2010 – Provides for the Nonpartisan Election of Judges – this bill requires that justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan.

Business

SB 273 – Relating to Brewer, Resident Brewer and Brew Pub Licensing Operations – Eases the number of regulatory and financial burdens on the state's craft brewers. It provides for on-premise samples to patrons (10 complimentary 2 oz. samples to any one patron per day). It increases the limits on growlers from two to four. It implements a gradual licensing fee. Currently, all brewers pay a flat fee of \$1,500. This bill changes that fee schedule to \$500, \$1,000 and \$1,500, based on the size and production of the facility.

SB 361 – Prevailing Wage – this bill has been approved by Governor Tomblin and changes the way West Virginia's prevailing wage rate will be calculated. The rates will be formulated by WorkForce West Virginia with assistance from economists at WVU and Marshall. Under the new law, projects of \$500,000 or below will be exempted from prevailing wage. The law goes into effect on April 13, 2015.

HB 2878 – Creating a One-Stop Electronic Business Portal – This legislation streamlines State forms and licensing into a State-run website. Businesses will be able to log in to this one-stop portal to access forms and apply for business licenses, pay sales and user taxes and workers' compensation premiums. Forms from the State Tax Department, WorkForce West Virginia, the Insurance Commission, the Division of Labor and the Secretary of State will be available. It also will allow electronic filing of documents by local governments.

Education

HB 2005 – Alternative Certification of Teachers – this bill permits alternative certification programs for teacher education and will assist in providing teachers in areas of the state where a critical need exists. There are more than 700 teaching vacancies in West Virginia.

HB 2674 – Makes home school students eligible for a PROMISE scholarship without taking the GED test.

HB 2867 – Course Credit Transfer – this bill calls for the Higher Education Policy Commission and the Council for Community and Technical Colleges (CTC) to jointly develop recommendations for implementing course credit transfer for both private and public higher education institutions. The recommendations for public institutions are due to the Legislative Oversight Commission on Education Accountability (LOCEA) by December 1, 2015, and by December 1, 2017, for private institutions.

Juvenile Justice

SB 393 – Reforming the Juvenile Justice System – In 2014, Governor Tomblin appointed a bipartisan group to reform the State's juvenile justice system. This bill is the result of their work. Passed unanimously in the Senate and House, this bill aims to keep first-time juvenile offenders out of the State-run system by monitoring them in family- and community-based systems. Research has shown that this will greatly reduce recidivism by having agencies focus more on active case planning and following up with offenders once they leave the system. It is also estimated to save taxpayers almost \$50 million over five years.

Government

SB 488 – Creating the Broadband Enhancement Council – Formerly known as the Broadband Deployment Council, this bill reconstitutes those duties as the Broadband Enhancement Council. The council will have 13 voting members, including the Secretary of Commerce or designee; the State’s Chief Technology Officer or designee; HEPC’s Vice Chancellor for Administration or designee; the State Superintendent of Schools or designee; and nine public members appointed by the Governor with advice and consent of the Senate. Those nine public members will include: one member from each congressional district representing rural business users; one member from each congressional district representing rural residential users; one member representing users of large amounts of broadband services; one member representing urban business users; and one member representing urban residential users. Additionally, the President of the Senate shall name two senators, one from each party, and the Speaker of the House shall name two delegates, one from each party, to serve in the capacity of ex-officio/non-voting advisory members. The council is tasked with exploring ways to expand broadband services; gather data regarding various speeds provided to consumers; explore the potential for increased use of services for the purposes of education, career readiness, workforce preparation and alternative career training; expanding distance and electronic educational services; consult with development of broadband projects; promote awareness of public facilities that have community based access; advise on e-government portals; hire consultants to advise on projects; and receive and dispense funds for projects.

SB 559 – Relating to Social Work Licensing Exemptions – as introduced, this bill provided that employees of the Department of Health and Human Resources (DHHR) would be exempt from obtaining a license to do social work if they go through training within DHHR. After lengthy negotiation (and with the help of our professionals from the WVU School of Social Work), a compromise bill was adopted. The passed bill authorizes the Secretary of DHHR to promulgate emergency legislative rules to address the training of provisionally licensed social workers and requires it must be completed with the advice of the HEPC, the WVU School of Social Work and the Marshall University Department of Social Work. This bill also provides a pathway for a provisionally licensed social worker to become a licensed social worker.

SB 581 – Relating to the Courtesy Patrol Program – this bill moves the Courtesy Patrol program to the Division of Highways from the Division of Tourism to allow for additional funds to be spent on the tourism promotion program.

Health

SB 523 – Creating the Alcohol and Drug Overdoses Prevention and Clemency Act – this bill was requested by the Governor. It grants clemency from criminal prosecution to any person, whether victim or companion of a victim, who seeks emergency medical assistance or care for someone 21 years of age or older who is believed to be suffering from a drug or alcohol overdose. A companion must remain with the victim, identify themselves to emergency medical assistance personnel or law enforcement and cooperate with the treatment.

HB 2535 – Jamie’s Law – this legislation requires public middle and high school administrators to distribute information and make available opportunities to discuss suicide prevention awareness. Additionally, this bill requires each public and private higher education institution to develop and implement a policy to advise students and staff on suicide prevention programs available on and off campus, to provide incoming students with information about depression and suicide prevention resources available and requires the posting of that information on the institution’s website.

HB 2880 – Addiction Pilot Program – This legislation extends the addiction treatment pilot program to include extended release naltrexone. This program provides medication-based treatments to drug offenders who are currently incarcerated, on parole or in work release programs. Currently, suboxone and methadone are allowed for use. This bill adds naltrexone, which is a once-a-month injection that is cheaper, less habit forming, and works better, according to the bill’s original sponsor.

Energy

SB 357 – The Coal Jobs and Safety Act of 2015 – this bill contains major enhancements in mine safety and environmental law that will generally cause West Virginia’s laws to be more reflective of actual conditions and practices in modern coal mines. The bill also will bring West Virginia more in line with federal laws and regulations, as well as with laws/regulations/practices in other coal-producing states. Specifically, there are five mine safety provisions and six environmental provisions contained in the bill. This bill has been signed into law.

HB 2001 – Repeals the Alternative and Renewable Energy Portfolio Act. This bill has been signed into law.

High-Profile Bills Not Completing Legislative Action

SB 14 – Creating the Charter School Act of 2014 (died in Senate).

SB 291 – Clarifying power of Attorney General to contract for outside legal services (died in House of Delegates).

SB 347 – The Firearms Act of 2015 – this bill is also known as the “constitutional carry” bill. It allows for the concealed carry of a firearm without the requirement of a license. This bill was the source of much controversy and was amended in Senate Judiciary to keep out “campus carry” language, which preserves the right of a higher education institution to prohibit firearms on its property. The bill was further amended in House Judiciary to increase the permissible age to carry from 18 to 21 (vetoed by the Governor).

HB 2688 – Providing for the unitization of interests in drilling units in connection with all horizontal oil or gas wells (rejected on the floor of the House of Delegates).

HB 2934 – Repealing Common Core (died in Senate).