

# UNDER the DOME



MARCH 13, 2017

## The Week in Review

This issue of Under the Dome provides a review of the fourth week of the regular West Virginia legislative session. Bills and actions that pertain to WVU, higher education and the State budget are highlighted.

## Institutional Flexibility (HB 2542 and SB 274)

On February 27, **HB 2542** was amended on second reading to add language requiring institutions to provide 30 days' written notice to the Staff Council and Faculty Senate when a new rule would be proposed. The following day, the bill passed the House 61-38 with one member absent.

On Thursday, Senate Education considered the bill. It passed on a voice vote. It now goes to the full Senate. The bill will likely be up for passage on Tuesday, March 14 or Wednesday, March 15. Details follow on final pages.

## The Budget

Last week, Governor Justice unveiled new revenue proposals to fix the estimated \$497 million budget deficit for FY 2018. The governor added a 1 cent per ounce increase on sugary drinks for an additional \$85 million and a 50 cents per pack increase on cigarettes for an additional \$48 million. He also proposed a "Wealthy West Virginians for West Virginia" tax on incomes above \$200,000, which would raise \$8 million.

The governor proposed applying a four-year average (or "smoothing") to debt payments for the State's teacher's retirement system, which would generate approximately \$40 million. Additionally, he decreased his "Save Our State" proposal by \$35 million and decreased his proposed "Businesses for Better West Virginia" tax and consumer sales tax increase.

To view the governor's new revenue proposal, please visit [www.governor.wv.gov/News/press-releases/2017/Documents/02272017-BudgetDocuments.pdf](http://www.governor.wv.gov/News/press-releases/2017/Documents/02272017-BudgetDocuments.pdf).

In addition, Governor Justice identified \$120 million in special revenue and unused money to fill the estimated \$123 million budget deficit for FY 2017 — \$60 million would come from special revenue accounts across State government, while another \$60 million would be in reappropriated funds (unspent money) from the last five years. It is expected that the remaining \$3 million would come from the State's Rainy Day Fund. The governor stated that he did not wish to "raid the Rainy Day Fund" and risk a further decrease in the State's bond rating.

To read the governor's statement, please visit [www.governor.wv.gov/News/press-releases/2017/Pages/Justice-Identifies-\\$120-Million-and-Proposes-Using-It-For-FY-2017-Deficit.aspx](http://www.governor.wv.gov/News/press-releases/2017/Pages/Justice-Identifies-$120-Million-and-Proposes-Using-It-For-FY-2017-Deficit.aspx).

## SB 511

Last Friday, Governor Justice introduced Senate Bill 511 to give West Virginia University, Marshall University and the West Virginia School of Osteopathic Medicine further freedom from governance of the Higher Education Policy Commission.

To view language of the bill, please visit [www.wvlegislature.gov/Bill\\_Text\\_HTML/2017\\_SESSIONS/RS/bills/sb511%20intr.pdf](http://www.wvlegislature.gov/Bill_Text_HTML/2017_SESSIONS/RS/bills/sb511%20intr.pdf).

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

## Legislation Introduced

1,474 bills have been introduced so far in the House of Delegates and the State Senate. Bills relating to higher education and higher-profile bills include:

**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, SB 420** and **HB 2711** – 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, SB 367** and **HB 2004, HB 2492** and **HB 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** and **SB 537** – 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 418** – Governor’s Comprehensive Substance Use Reduction Act

**SB 420** – Governor’s Education Reform Bill

**SB 446** and **HB 2879** – Authorizing the Governor to Furlough State Employees

**SB 511** – Governor’s Higher Education Governance Bill

**SB 555** – Dissolving PEIA

**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

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**HB 2559, HB 2713 and HB 2835** – 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

**HB 2904** – Reorganizing the WV Health Care Authority

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](http://www.wvlegislature.gov/Bill_Status/Bills_all_bills.cfm?year=2017&sessiontype=RS&btype=bill).

## Legislative Calendar

- Last Day to Introduce Bills in the House of Delegates – Tuesday, March 14, 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
- 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](mailto:tmolloh1@mail.wvu.edu)) or Rocco Fucillo ([rsfucillo@mail.wvu.edu](mailto: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](http://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

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.

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## 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:

- 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);

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## 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 shall be based on documented job performance, skill set, seniority, 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.

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## 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, Marshall and the WVSOM are authorized to develop their own classification and compensation system, after consultation with the Staff Council; any other institution may only do so after notifying HEPC.

/ An institution may develop rules for faculty hiring practices, after consultation with the Faculty Senate, 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.