



News from Inside the Capitol

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Issues

On Monday, HB 4629 modifying the **check cashing service fee** was introduced by Delegate Williams at our request. The purpose of this bill is to modify the check cashing service fee making it consistent with the national average which is 3%-government, 5%-payroll and 10% for personal checks of the face value of the check cashed. As it stands now, retailers may only charge 1% of the value of the check or \$1, whichever is greater. This bill is now in House Judiciary. We have written a letter to Chairman Webster asking her to place this bill on the committee's agenda. We have also written letters to all members of the committee in support of this legislation.

On Monday, HB 4706 providing **mandatory carding** for all purchases of alcoholic liquor and nonintoxicating beer from a retailer was introduced at our request. Sponsors of that bill are Delegates Palumbo, Browning and Williams. The purpose of this bill is to provide mandatory carding for all purchases of alcoholic liquor and nonintoxicating beer from a retailer. The bill additionally provides protection from criminal and civil liability for retailers that install transaction scan devices and require their agents, employees and servants to enforce mandatory carding. This bill is now in House Judiciary.

HB 4132, which is the **Captive Audience** legislation, passed out of Judiciary Sub Committee A on February 18th and has now gone to the full Judiciary Committee. Delegate Pino has called for a public hearing on the issue. The hearing was held today at 2:30 p.m. All issues relating to prayer and casual meetings have been removed from the bill, so only those relating to labor remain.

Governor Manchin has requested a meeting with Jan Vineyard, representing OMEGA, Larry Swann, representing the WV Soft Drink Association, Bridget Lambert, representing the WV Retailers Association, and Jim Casey, representing the Beer Wholesalers, regarding the **bottle bill**. This meeting will be held on the afternoon of February 27th.

The Administration's version of a **combined tax reporting bills** were introduced Friday in both houses—S.B. 680/H.B. 4587. The bills are designed to address and make "technical corrections" to the mandatory combined tax reporting requirements passed in Senate Bill 749 in 2007. The bills also contain a plan to provide for a phased reduction in the state's Corporate Net Income Tax, which would lower the tax rate over a five-year period to 6.5 percent on Jan. 1, 2014. Implementation of a combined tax reporting system would make West Virginia the 21st state to require this type of tax reporting, and it could have major implications on the tax liabilities owed by large, multinational businesses. We expect either the Senate or the House to take up their version of this bill this week. We support these bills as written.

SB 685 was introduced on Monday to require **settlement proceeds** to be appropriated by the Legislature, and to require the attorney involved to inform the Legislature and others both at the beginning and end of the case. The bill has been referred to Judiciary, then Finance. The sponsors of this bill are Senators McCabe, Helmick, Plymale, Bailey, Prezioso, Love, Edgell, Unger, Boley, Facemyer, Guills and Sypolt. It appears from the list of sponsors that it was designed to go to the Finance Committee, as all of the sponsors are on that Committee; in fact, since they are 12 in number, they would constitute a clear majority of that 17-member Committee. Because Senators can serve on only Finance or Judiciary, none of the sponsors is on Judiciary. The determination to send the bill to the Judiciary Committee first was made by the Senate President. The bill comes amid a growing feud between some lawmakers and Attorney General Darrell McGraw over his spending of proceeds from a \$10 million lawsuit settlement. But Sen. Brooks McCabe, the bill's lead sponsor, said the bill is intended to make a point in an inoffensive and non-combative way. "What we're basically saying is that it's a constitutional issue that the Legislature, one of our primary roles, if not the single most important thing we do, is appropriate revenues," McCabe said. "And we're just making that clear that that's the way it's going to be."

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House Speaker Rick Thompson has introduced House Concurrent Resolution 20 calling for a study of establishing a **Chancery Court** in the state. Such a court originated in England and has been adopted in a number of states (most notably Delaware) to handle complex business cases. Some members of the Chamber have called for such a court in West Virginia for some time.

A number of legislative proposals have been introduced in the 2008 session, and many of these are related to the ongoing privatization of **Workers' Compensation**. Some of the bills, if enacted, would provide the Legislature with reporting authority, and, thereby, might complicate efforts to entice private carriers to offer Workers' Compensation coverage. One of these is (S.B. 472/H.B. 4381), which would provide for the development of a plan by the Insurance Commissioner to provide workers' compensation coverage to employers who are unable to procure coverage in the voluntary market and to include workers' compensation insurance under the Guaranty Association Act in order to provide a means of paying claims when an workers' compensation insurer becomes insolvent. The state's workers' compensation market is scheduled to be open for full private-sector competition on July 1, 2008. BIC and the Chamber are reviewing the proposals and will monitor and report on developments.

Senators delayed action Tuesday on a Manchin-administration supported bill SB 465 to phase the **business franchise tax** out of existence by 2016 to see if a compromise can be reached with those who want to eliminate the unpopular tax immediately. Advocates of an immediate elimination of the tax - led by Senate Minority Leader Don Caruth - R-Mercer - contend that the gradual phase-out of the tax on companies net worth will force West Virginia to continue to struggle to compete with neighboring states that do not impose the tax. However, the Senator Brooks McCabe - D-Kanawha - who brokered the compromise to eliminate the tax in 2015, said eliminating the tax immediately would create an \$80 million-plus funding hole in the state budget—which would preclude doing any other tax cuts this session. The tax is often singled out as the most unfair business tax in the state, because it is imposed on all companies regardless of whether they have profits or losses for the year.

Jan Vineyard and Kent Hartsog, representing BIC and Steve Roberts, representing the WV Chamber, met with the Governor and staff, as well as labor representatives, on Monday regarding **deliberate intent**. An agreement for each side to supply additional information regarding their opinion of the statute was reached. It appears that legislation will go no farther during this session.

SB 632 creating **Healthy Lifestyles Restaurant Calorie Posting Program** was on the Senate Finance Committee's agenda earlier in the week, but has still not been addressed. It appears that there is not enough interest in the bill to do so.

SB 519 **extending Hazardous Waste Material Management Fee Fund** sunset provision should pass out of the Senate today. We will need to watch in the House and make sure that the agreement to leave the fees in for an additional 2 years until an audit is completed remains in tact.

Monday, February 18th, was the last day to introduce bills this session and there were many bills introduced during two floor sessions that day. We are still reviewing these bills as they become available. Below are some bills that are pertinent to our membership.

Senate

<u>Bill #</u>	<u>Description</u>	<u>Comm. Assignment</u>
SB 683	Authorizing certain Alcohol Beverage Control employees arrest powers and to carry concealed weapons by Senator Bowman	Judiciary
SB 725	Relating to beverage sales in schools by Senators Foster and Stollings The purpose of this bill is regulate the sale of beverages in schools. It requires the State Board of Education to establish nutrition standards for such sales. It further provides that proceeds from sales from federally funded nutrition programs accrue to the benefit of those programs. Finally, the bill strikes the definitions of "school day" and "healthy beverage".	Health then Education

SB 739	Redefining " nonintoxicating beer " to include craft beer by Senator Chafin	Judiciary
SB 741	Relating to Tax Increment Financing by Senators McCabe and Plymale The purpose of this bill is to bring the West Virginia Tax Increment Financing Act up to current regulations and provide for financing regulations for development of infrastructure.	Finance
SB 753	Relating to permitting the sale of nonintoxicating beer within three hundred feet from a church that consents to the sale by Senator Yoder	Judiciary
SB 760	Relating to Municipal Home Rule Pilot Program by Senator Sypolt The purpose of this bill is to clarify that pilot municipalities or metro governments may not pass ordinances contrary to the provisions of Chapter 5G of the West Virginia Code, relating to procurement of architect or engineering services.	Gov. Org.

House

<u>Bill #</u>	<u>Description</u>	<u>Comm. Assignment</u>
HB 4636	Making changes to workers' compensation insurance by Delegate Kominar The purpose of this bill is to make changes to the workers' compensation code to reflect the transition from a monopolistic system. The bill would prohibit government contracts with employers in default of certain compensation-related payments and permit the Insurance Commissioner to employ certain enforcement procedures to such employers. It also sets certain rates for surcharges on insured employers and makes various revisions to the litigation system for compensation claims. It would also increase the salaries of the members of the Board of Review.	Judiciary
HB 4650	Electing all justices to the West Virginia Supreme Court of Appeals and all circuit court judges on a nonpartisan basis by Delegates Palumbo, Craig, Michael and Doyle	Judiciary
HB 4652	Insuring that tobacco products are not sold in any packaging other than original by Delegates Schoen and Perdue	Judiciary
HB 4653	Permitting the sale of nonintoxicating beer within three hundred feet from a church that consents to the sale by Delegate Doyle	Judiciary
HB 4673	Jobs Impact Statement by Delegates Armstead and Carmichael The purpose of this bill is to require a jobs impact statement to be completed by the West Virginia Development Office for certain proposed legislation which may cause an impact on the West Virginia economy.	Judiciary
HB 4675	Abolishing joint liability and establishing comparative fault by Delegates Overington, Anderson and Armstead The purpose of this bill is to abolish joint liability and establish the principle of comparative fault by which each defendant is liable for damages according to the percentage of fault attributed by a judge or jury.	Judiciary

- HB 4679 Making changes to the **Municipal Home Rule Board** by Delegates Shook and Beach Judiciary
- The purpose of this bill is to change the composition of the Municipal Home Rule Board and change the timetable and responsibilities for the Municipal Home Rule Pilot Program.
- HB 4682 Increasing the fine for **littering** from fifty dollars to one hundred dollars by Delegates Palumbo and Higgins Judiciary
- HB 4706 Providing **mandatory carding** for all purchases of alcoholic liquor and nonintoxicating beer from a retailer by Delegates Palumbo, Browning and Williams Judiciary
- The purpose of this bill is to provide mandatory carding for all purchases of alcoholic liquor and nonintoxicating beer from a retailer. The bill additionally provides protection from criminal and civil liability for retailers that install transaction scan devices and require their agents, employees and servants to enforce mandatory carding.
- HB 4707 Bringing the **West Virginia Tax Increment Financing Act** up to current regulations by Delegates White, Boggs, Kominar and Campbell Finance
- The purpose of this bill is the same as SB 641.

From the *Charleston Gazette* ... **Congress hopes its \$168 billion stimulus plan will ward off a nationwide recession, but it could also pull nearly \$44 million in revenue out of West Virginia's budget over three years.** State budget analysts believe most of the money will be made up in increased sales tax collections and other offsets, but a public-policy watchdog group warns that extra revenue may not appear. The danger is that in difficult economic times, what the federal government does to help might actually harm West Virginia and 22 other states. The Center on Budget and Policy Priorities draws attention to a part of the stimulus package Congress approved this month called "bonus depreciation." Essentially, it's a way for businesses to speed up the tax breaks they'll get for buying new equipment in 2008. The plan allows them to deduct up to 50 percent of the cost of new equipment from their taxes in 2008, a considerable savings. This affects states like West Virginia where the state tax codes are based on federal law. When the federal code changes, the state tax changes with them, so businesses in West Virginia will get an additional tax break if the state follows past practice and amends its laws. Overall, the center estimates that 23 states face a total revenue loss of \$1.7 billion. "When they put together a long-term budget plan, this could put a damper on things," said Ted Boettner, executive director of the West Virginia Center on Budget and Policy. Boettner wants the Legislature to refrain from "coupling" state tax laws to the federal changes, to preserve that revenue. That may not be necessary, according to Mark Muchow, deputy secretary of the Department of Revenue. Muchow estimates that from fiscal year 2008 through fiscal year 2010, the "bonus depreciation" change along with other, smaller tax breaks, could cost the state \$43.8 million, mostly concentrated in the fiscal years 2009 and 2010. But the state projects sales tax revenues—spurred by tax rebates dispatched by the federal government in June as part of the stimulus—will be up by about \$18 million, essentially eliminating the projected loss in the 2009 fiscal year. Muchow also projects increased tax revenues in the two fiscal years following 2010, so that when it comes to the state's long-term budget planning, "we come out pretty well neutral," he said. West Virginia was one of 13 states that experienced a dip in revenue when Congress passed similar stimulus legislation following the terrorist attacks of Sept. 11. Muchow said in that instance, new revenue growth largely offset the money that was lost.

If you have any questions during the session or would like to express your opinion on issues, please contact Jan Vineyard at Jan@omegawv.com or call the association office at (304) 345-2800.