



News from Inside the Capitol

Volume 10 - Session Summary

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Session Summary

The 60-day regular session of 2008 Legislature concluded at midnight on March 8. Lawmakers are still working to complete work on the state's FY08-09 budget, and there will be a special session to take up a teacher pension bill that did not make it through both houses. There could also be special items on the 'Governor's Call' as well.

Below is a summary of some bills that passed that are pertinent to WVMTA Members. The summaries are based on information and details that we have at this point. Final versions of all passed bills, with specific language and provisions, will be posted on the Legislature's web site in coming weeks. We will also update you with any major changes once the reviews have been done.

Taxation

Com. Sub. for S.B. 680 – provides for **combined reporting** technical corrections; **Corporate Net Income Tax rate reductions** (from 8.75% to 6.5% by 2015); **Business Franchise Tax** rate reductions (from .55% to zero by 2015); trigger mechanism to delay CNIT reductions if Rainy Day Fund drops below certain level; manufacturing credits; manufacturing inventory valuation; financial institution BFT liability

The schedule for **Corporate Net Income Tax Relief** is as follows:

- ◇ 1/1/09 8.5%
- ◇ 1/1/12 7.75%
- ◇ 1/1/14 6.5%

The schedule for the **Business Franchise Tax** cuts is as follows:

- ◇ 1/1/09 - .48%
- ◇ 1/1/10 - .41%
- ◇ 1/1/11 - .34%
- ◇ 1/1/12 - .27%
- ◇ 1/1/13 - .21%
- ◇ 1/1/14 - 10%
- ◇ 1/1/15 - No tax

NOTE: CNIT rate reduction shall be suspended if Rainy Day Fund drops below 10% of general revenue budget as of preceding June 30. Suspension (and any subsequent suspension) continues until RDF exceeds the 10%, then all suspended reductions kick in the next January 1.

S.B. 474 – will provide a state **sales tax holiday program on purchases of energy-efficient appliances**. The holiday will be during a one-week period in September, for three years.

H.B. 4017 - Updating terms used in **Corporate Net Income Tax** statutes based on changes in federal law.

Com. Sub. for H.B. 4421 - **Repealing corporate license tax** and creating corporate license tax replacement fees. Office of the Secretary of State by creating a new one-time \$100 filing fee, and by permitting the Secretary of State to keep all of the \$25 annual attorney-in-fact fees paid by corporations and limited partnerships.

Com. Sub. for S.B. 596 - Updating **Streamlined Sales and Use Tax Agreement**. The purpose of this bill is to conform the provisions of the West Virginia Streamlined Sales and Use Tax statute, West Virginia Code §11-15B, to the current provisions of the Streamlined Sales and Use Tax Agreement as amended, to provide certain definitions of terms and to make certain technical and typographical corrections.

Com. Sub. for S.B. 545 - Relating to **tax administration efficiency**. The purpose of this bill is to require electronic filing of tax returns for taxpayers that satisfy the threshold requirements; to authorize the combining of tax assessments resulting from one audit; to authorize the Tax Commissioner to promulgate rules to determine the application of partial tax payments; to apply the statute of limitations separately to all taxes in a combined assessment; to authorize the recordation of one lien for all taxes in a combined assessment, to authorize health care providers to assert the exemption from consumers sales and service tax for purchases of drugs, durable medical goods, mobility enhancing equipment, prosthetic devices and insulin for use in providing professional or personal services through direct pay permits; to eliminate the periodic biennial renewal requirement for business registration certificates granted on or after the first day of July, two thousand ten; to impose a penalty for the involuntary cancellation, revocation or suspension of such certificates for any cause specified by statute, payable upon reinstatement, or issuance of a business registration certificate after the involuntary cancellation; revocation or suspension of a prior business registration certificate; to require the Tax Commissioner to design a new tax return form that combines the reporting of both Consumers Sales and Service Tax and Use Tax, and to require taxpayers to use the form required by the Tax Commissioner, and to simplify the annual West Virginia Withholding Tax imposed under the code by adopting the federal schedule and procedures.

HB 4465 - Relating to **fees charged by the Secretary of State**. The bill provides statutory authority for the Secretary of State to utilize a pre-paid account for business customers that request services of the Secretary's office.

Development/Government

Com. Sub. for H.B. 4637 – establishes a state **Broadband Development Council**, which, among other things will provide for the development of a strategy and mechanism to be employed in extending broadband access to every West Virginian by stimulating demand for those services and by constructing the necessary infrastructure to meet that demand and undertake a mapping of broadband infrastructure in the state.

H.B. 4018 – renews the **small business linked deposit loan program** for small, for-profit employers with less than 50 employees and gross annual receipts of \$5 million or less. These state employers may apply for a linked deposit loan at 3 percent less than current market interest rates up to \$250,000. The total fund established by the state treasurer is capped at \$20 million fund. The loan is to be used to retain existing jobs or create new ones. This will be continued to 2013.

Workers' Compensation

Com. Sub. for H.B. 4381 - this bill deals with the establishment of a workers' compensation residual **risk pool and a new guaranty association**. These are two more steps to the road to totally privatize West Virginia's workers compensation system. As more insurance companies come to the marketplace this year, there will be businesses with high risk that may need to be placed in a residual risk pool.

H.B. 4636 - this bill sets forth that an **employer in default of workers compensation will be prohibited from doing business with the state**. It also sets a cap (5.5 percent surcharge) on all policies to fund the operation of Office of Insurance Commissioners (OIC) for workers comp; sets forth that the OIC will establish rules for 3rd party administrators to function in the state; sets forth parameters for protests; sets forth a cap of \$110,000 for the salaries for the board of review; and removes unnecessary language that was in code for a monopolistic system.

Civil Justice

SB 238 - Relating to increasing the **monetary limit required to file a suit in circuit court**. The purpose of this bill is to increase the jurisdictional limit for filing suits in circuit court from \$300 to \$1,000.

HB 4019 - Relating to **civil actions filed in the courts** of the state. The purpose of this bill is to modify certain statutory venue provisions in a manner consistent with the common law doctrine of forum non conveniens.

HB 4120 - Prohibiting inclusion of **specific dollar amounts or figures related to damages in complaints for personal injury or wrongful death actions**. In any action to recover damages for personal injury or wrongful death, no specific dollar amount or figure relating to damages being sought may be included in the complaint. However, the complaint may include a statement reciting that the amount in controversy satisfies the minimum jurisdictional amount established for filing the action. Further, any party defendant may at any time request a written statement setting forth the nature and amount of damages sought. The request shall be served upon the plaintiff who shall serve a responsive statement as to the nature and amount of damages sought within thirty days thereafter. If no response is served within thirty days after receipt of service by the plaintiff, the party defendant requesting the statement may petition the court in which the action is pending to order the plaintiff to serve a responsive statement upon the requesting party defendant. This section applies only to causes of action which accrue on or after the first day of July, two thousand eight.

Highways

Com. Sub. for H.B. 4476 – will allow for **private/public funding and tolls for highway construction** projects, with legislative oversight. This legislation will give DOH another tool in their toolbox in their efforts to construct new highways in WV. Under the legislation the department would have to solicit bids for proposed projects. Some of those might be Route 35, and Highways 9 and 522. DOH will have to bring the proposal of the private company, which would include the user fee/toll that they will be collecting back to the legislature and then to the Governor for approval. The tool will only be available until 2013 when the legislation sunsets. Governor Manchin and DOH have given their word that if a public/private project comes into being that legislation will be passed so that motor carriers will NOT be double taxed.

HB 4712 - Supplementary **appropriation to the Department of Transportation-Division of Motor Vehicles**. This bill makes a supplementary appropriation of federal funds out of the treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending the thirtieth day of June, two thousand eight, to the Department of Transportation - Division of Motor Vehicles.

HB 4715 - Making a supplementary **appropriation to the Department of Transportation**. This bill will add \$75 million to the paving fund.

Miscellaneous

Com. Sub. For SB 340 - Requiring consumers' notification of information **security breach**. This bill provides for notice to consumers when there is a breach of a secure data system; it sets forth a procedure to notify consumers when the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of personal information has occurred. Civil penalties and other remedies are provided for violations of this article.

HB 4389 - Removing requirement that **resident violators of traffic laws be required to sign citations**. The purpose of this is so that officers can use the internet/email to transmit information to the department.

Bills That Failed to Pass

There were a total of 2,143 bills introduced during this session. Only 243 of those bills or 11% made it through the legislative process.

As is customary, much of our effort is focused on keeping legislation from passing that would cause our industries harm. Following are the key issues that we were opposed to and focused our greatest efforts toward defeating:

- ◇ **Captive Audience.** This bill would have prohibited employers from mandated captive meetings with their employees on political or religious matters. The bill provided a prohibition on these meetings and allowed employees to recover damages for any adverse actions taken against them for refusal to participate in such meetings.

- ◇ **Legislative Auditor.** This bill would have revised certain powers and duties of the Legislative Auditor. It authorized audits of state funds, including funds derived from a state controlled function, provides legislative intent as to proposals for regulating professions and occupations, allowed reports to be conducted by the Legislative Auditor by request, provided recommendations the Legislative Auditor may make in reports and expanded the time during which legislation may be considered before reapplication for regulation of a profession or occupation.
- ◇ **Personnel Records.** This bill would have allowed every employee, whether public or private, the right to inspect his or her personnel file, if the file exists. Inspection would have taken place during regular business hours at a location at or reasonably near the employee's place of employment. It would have required the employer, within a reasonable time after receipt of a written request from an employee, to provide the employee with a copy of all or any requested portion of his or her personnel file, provided the request reasonably identifies the materials to be copied. The employer would have been allowed to charge a fee for copying the file or any part of the file. The employer may not have been required to provide a copy of an employee's personnel file more than two times in a calendar year, unless the employee requesting the personnel file has been terminated involuntary. In that circumstance, upon written request of the employee after notice of the involuntary termination, the employer would have had to provide another opportunity to review or request a copy of the personnel file.
- ◇ **Mandated Sick Benefits.** The purpose of this bill is to grant a minimum amount of paid sick leave to almost all employees working within the State of West Virginia. Employers would have been required to provide each employee with not less than seven days of paid sick leave annually for employees working thirty hours or more per week; or a pro rata amount of paid sick leave annually for employees working less than thirty hours per week or less than one thousand sixty hours per year. Sick leave would have begun to accumulate immediately, but no employer was required to grant accrued sick leave before ninety days from the commencement of employment.

Interim Studies

Although these resolutions were not adopted, these items may receive study during the Legislature's 2008 interim meetings:

- ◇ Senate Concurrent Resolution 74 - Study of **property tax assessment and appeals process**
- ◇ House Concurrent Resolution 20 - Study of establishing a **chancery court system** in West Virginia
- ◇ Judicial selection/campaign funding for **judges**

Thanks

For those of you who attended public hearings, made phone calls or sent letters to your representatives, WVMTA would like to thank you on behalf of all our industries. Grassroots efforts really work!

A special thanks to our Legislative Committee members, including Chairman Fred Burns, Tim Jenkins, Paul "Skeeter" Laskody, Bernie Young, Winston McHenry, Buck Thompson, Winston McHenry, Ralph Walker, Timmy Nelson, Tony Woods and Chuck Bradley.

The Future

There is no time like the present to think about next year's legislative session. Think now about legislation that you would like to have passed to aid you in running an efficient business and communicate those to the WVMTA office.

WVMTA PAC

Please consider donation to the WVMTA PAC. The WVMTA PAC is a political action committed funded by voluntary contributions from the members of WVMTA. WVMTA PAC assists those candidates for political office who are supportive of the goals and objectives of our industries.