



WEST VIRGINIA CHAMBER

Summaries Of Key Bills In 2010 Session

2/26/2010

SJR 11/HJR 101 - proposes a constitutional amendment to give the Legislature flexibility in determining whether commercial and industrial machinery, equipment and inventory should be exempt from ad valorem taxation.

H.B. 4001 - would require the W.Va. DEP to develop specific standards to control levels of total dissolved solids in the state's rivers and streams, set certain reporting requirements of the oil & gas industry with respect to water withdrawals and other water management requirements related to the use of fracturing liquids.

H.B. 4010 – (right to inspect personnel file) would give all (public and private) employees the right to review and copy their personnel files during regular business hours upon written request by the employee not more than twice a year, unless employee has been involuntarily terminated.. Employer may charge 10 cents per page for copying file and may require to take place in presence of a designated official.

Com. Sub. for H.B. 4016 - would strengthen the Ethics Act financial disclosure filing requirements - requires the spouses of public officials' income to be provided and prohibits a government employee from lobbying for a private company for one year after separation from government employment. (Passed House)

H.B. 4035 - Electronic filing of tax returns and fund transfers provided for a consistent threshold of \$10,000 tax liability to require taxpayers to file electronically; require taxpayers to pay by electronic transfer; require any tax preparer of 25 returns or more to file returns electronically; requires employers with 50 or more employees to file withholding electronically.

H.B. 4036 – would establish a Judicial Advisory Commission to assist the Governor in filling judicial vacancies. The Commission would consist of eight appointed members who would be appointed by the Governor to six-year terms, four of which would be attorneys chosen from a list of names submitted by the Governing Board of the West Virginia State Bar and four of which would be lay members. The Governor, the President of the West Virginia State Bar, and the Dean of the West Virginia University College of Law would be ex officio members. The bill would require the commission to establish procedures for considering potential judicial appointees and require the submission of a list of no more than five nor less than two names of best qualified persons to the Governor.

H.B. 4038 - statutory lien on fire insurance in event of property loss (municipal rule) establishes a statutory lien on proceeds of fire insurance for cities and counties to clean up property.

H.B. 4040 (S.B. 228) – would permit county school boards to set the start and end date of the school calendar and provide for 180 days of instruction. **Signed by Governor**

H.B. 4191 – would eliminate the Insurance Commission exemption from rulemaking for workers compensation insurance on July 1, 2010. This would require that all workers compensation rules follow the procedures of the Administrative Procedures rulemaking approval.

H.B. 4192 – would create the West Virginia Ski Industry Commission and create a public/ private commission to encourage development of more ski resorts and report to Joint Committee on Government and Finance in October 2011.

H.B. 4214 – Requiring review and approval of final settlements of WC awards within the office of judges as a compromise settlement division to review each settlement subject to approval and to issue a recommendation to the chief administrative law judge.

H.B. 4266 – would related to verifying legal employment of workers and would require all employers in West Virginia to verify legal employment status of workers by requiring employers to register with and utilize the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208, Division C, Section 403(a); 8 U.S.C. Section 1324a, and operated by the United States Department of Homeland Security, known as the E-Verify Program. The bill provides new definitions and also provides dates by which employers are to meet the verification requirements.

H.B. 4294 – would require banks to provide bonds/securities to secure county deposits only where the amount of the deposits exceeds federal deposit insurance limits.

H.B. 4307 - would require a 5-cent tax on each plastic shopping bag given to a consumer by grocery stores, drug stores and convenience stores equal to five cents for each plastic shopping bag given to customers. The tax may not be passed on to customers.

H.B. 4313 - Referendum disclosure – would require parties advocating passage or defeat of a public question be subject to reporting disclosure requirements.

H.B. 4332 – would permit part-time employees, victims of domestic violence and those needing to care for family to be eligible for unemployment compensation benefits

H.B. 4343 – would establish the Labor History Week Act, which would require the establishment of the week of Labor Day as Labor History Week; mandate that Labor history be taught in school curriculum.

H.B. 4350 – would change the function of the purchasing director and change purchasing laws of the state for the acquisition of goods and services the requirements of the procurement process, the documentation of state inventory, and the transportation of state surplus property.

H.B. 4352 – would authorize the West Virginia Supreme Court of Appeals to create a Business Court Division within certain circuit court districts.

H.B. 4387 – would establish the Flexible Leave Act allowing for the use of earned leave with pay for an illness in an employee's immediate family.

H.B. 4408/SB529 - "Surface Owners' Rights Recognition Act" – would protects the rights of surface owners of property where oil or gas wells are to be located.. The bill also would require operators to give notice of planned work, its impact upon the property before entry is made and would set forth what is required in that notice. The bill also would provide exceptions, prohibits waivers, except when specifically provided for and would set forth civil penalties and requires the posting of bonds.

H.B. 4409 – would create the Workers' Lifetime Total Disability Fund, which operates to continue the payment of workers' compensation permanent total disability benefits to injured workers older than seventy years, to create the Supplemental Personal Needs Allowance Fund which operates to increase the monthly personal needs allowance for Medicaid recipients who are residents of nursing homes or personal care homes to \$75 per month, and to fund both of these funds by requiring financial institutions operating within the state to remit to the state seventy-five percent of fees assessed against accounts for overdraft.

H.B. 4418- would require lobbyists to disclose compensation agreements for each registered employer.

H.B. 4459/S.B. 582 – would increase the time (from one year to three years) in which a dependent may apply for workers' compensation benefits where occupational pneumoconiosis (black lung) is determined to be cause of death.

H.B. 4646/S.B. 692 – would require corporations that use corporate general treasury funds for political expenditures, to clearly report those expenditures to shareholders and further require shareholder authorize the use of corporate general treasury funds for political expenditures.

H.B. 4647/S.B. 693 -- would change certain requirements related to election campaign expenditures. The bill would modify the definition of "express advocacy" to make it consistent with recent U.S. Supreme Court holdings. The bill also would increase the number of persons who must receive a broadcast or nonbroadcast communication naming a clearly identified candidate before it can be considered as an electioneering communication. Finally, consistent with recent U.S. Supreme Court precedent, the bill would repeal the ban on corporate independent expenditures.

S.B. 82 (H.B. 2363) – would require a jobs impact statement to be completed by the West Virginia Development Office for certain proposed legislation that may impact both short-term and long-term jobs in this state.

S.B. 96 – (State Labor Relations Act) would allow collective bargaining for public employees; “to promote orderly and constructive employment relations between the state and its employees; Granting to state employees the right to associate with others in organizing and choosing representatives for the purpose of collective bargaining; requiring the state to recognize, negotiate and bargain with employee organizations representing state employees and to enter into written agreements evidencing the result of bargaining; and encouraging labor peace through the establishment of standards and procedures which protect the rights of the state, the state employee and the citizens of this state.”

S.B. 142 and S.B. 161 – (Asbestos Transparency Disclosure) would establish a procedure that requires a claimant that files an asbestos case after the effective date of this bill to provide information to all defendants about all claims filed or anticipated to be filed by that claimant against asbestos bankruptcy trusts, a mechanism for the defendant to challenge those claims, a procedure for sanctions by the court, and for set-offs for those claims. (Note: these bills are from prior sessions and are not what is anticipated to be worked this session)

S.B. 195 – (non-partisan election of justices to the state Supreme Court) would allow Supreme Court justices to be elected on a nonpartisan ballot in 2012.

S.B. 198 – (joint and several liability) would attempt to properly apportion the percentage of fault to all defendants whose conduct caused an incident, injury or damages at issue in a case.

S.B. 200 – would amend portions of the current statute to clarify deliberate intention litigation, and to add new provisions to the statute, including positive intoxication tests creates a rebuttable presumption of cause of accident, updating definitions. This bill would provide needed corrections to deal with deliberate intent lawsuits. The W.Va. Chamber supports.

S.B. 201 – would provide for punitive damages standards and limitations through legislative findings and defining terms; setting punitive damage pleading requirements; creating a procedure for award of punitive damages; proof required for punitive damages; punitive damage limitations.

S.B. 233(H.B. 4130) – (State Supreme Court of Appeals Public Campaign Financing) would provide alternative campaign financing options for candidates for the West Virginia Supreme Court of Appeals in 2012 through public funds funded through attorney fees, special court fees, and funds from the Treasurer's Unclaimed Property Trust Fund. Candidates participating in the Pilot Project would be required to raise a certain amount of campaign funds to qualify for the program and receive public funds. Candidates accepting public funds are thereafter prohibited from raising or spending money from private sources.

S.B. 345/H.B. 4183 – would require a telecommunications tax study and mandate that the Tax Commissioner undertake a study of the telecommunications industry for the purpose of making recommendations with respect to amendments to the state telecommunications tax. The bill would authorize the Tax Commissioner to order the disclosure of certain information by persons engaged in the telecommunications service business or a related business and includes confidentiality protections for any information so disclosed

S.B. 346 – would establish a single statewide credentialing verification organization and the improvement of the credentialing process, including creation of a credentialing verification organization and a uniform recredentialing calendar.

S.B. 401 – would make changes to the state's property tax appraisal and appeals process.

S.B. 402 - would require Supreme Court Justices election by division

S.B. 437 – would create the West Virginia Voluntary Employee Retirement Accounts Program, a voluntary tax-deferred retirement program for nongovernmental employers and employees in the State of West Virginia who are without a retirement plan. Participation by employers and employees is voluntary. All federal requirements must be met before operations begin. A trust and an administration account are established. The bill provides for initial start-up and operations funding of \$1 million from the Unclaimed Property Trust Fund, subject to appropriation, and provides for repayment of the amount. The Treasurer is authorized to create and administer the program, apply for and receive grants and collect fees from accounts for operations. The bill specifically provides that no debt or obligation is created on the state or the Treasurer and that the state and the Treasurer are not liable for any investment gains, losses or change in value. Information of a personal nature gathered for participation in the program is confidential and not subject to a Freedom of Information Act request.

SB 460 – Business Registration Tax-clarify that the West Virginia Code §11-12-3 requirements, exemptions and exceptions apply with relation to the business registration tax and business registration certificate, and to clarify that, subject to the requirements, exemptions and exceptions of West Virginia Code §11-12-3, the tax is imposed for each and every issuance, reissuance or reinstatement of a business registration certificate.

SB-461 - W.Va. Code §11-15B-1, *et seq.*, "Sales and Use Tax Administration," updating provisions to conform to the Streamlined Sales Tax Agreement.

S.B. 476 – would create the W.Va. Innovation and Development Act to attract and support capital investment in innovation-driven enterprises in West Virginia through a combination of direct annual investment by the state in seed capital, venture capital and other equity and debt investments in West Virginia; technical support and assistance to entrepreneurs in the state; and recoverable revenue credits to private investors to encourage private investment in seed capital, venture capital and other private equity funds, such program to be run and such funding to be awarded through a competitive selection process to be managed by the West Virginia Economic Development Authority.

S.B. 486/H.B. 4420 - Creating Asbestos Claims Transparency Act - would provide for the disclosure of claims made against Asbestos Trust Funds by establishing a procedure that requires a claimant that files an asbestos case after the effective date of this bill to provide information to all defendants about all claims filed or anticipated to be filed by that claimant against asbestos bankruptcy trusts, a mechanism for the defendant to challenge those claims, a procedure for sanctions by the court, and for set-offs for those claims.

S.B. 487 – would require twenty consecutive minutes for meal breaks and rest periods of fifteen minutes for each four hours of work.

S.B. 488 – would authorize the state’s Marketing and Communications Office to promote and sell state- related items.

S.B. 493 - would enact the West Virginia Economic Development Act of 2010 consisting of the Twenty-first Century Business Technologies Property Valuation Act and the Twenty- First Century Tax Credit Act, the purpose of which is to encourage the development and use of emerging technologies to create good jobs and grow West Virginia's economy.

S.B. 496 – would allow the Environmental Protection Advisory Council to review, adopt, and eliminate rules exceeding applicable federal standards promulgated pursuant to this article, and otherwise grant this council mandatory rule-making authority.

S.B. 497- would create the West Virginia Small Business Assistance Program Act" to promote improvement of competitiveness of the state's small business community and to encourage entrepreneurial development.

S.B. 507/H.B. 4503 – would allow for a tax credit for coal companies that purchase innovative safety technology that is compiled by the Mine Safety Technology Task Force and approved by the Director of the West Virginia Office of Miners' Health, Safety and Training.

S.B. 589 – would create an Intermediate Court of Appeals with an appeal of right for all cases from circuit courts final determinations.

S.B. 652 – would allow payment of workers compensation benefits for mental illness when a person becomes ill after being a victim of a crime.

S.B. 656/H.B. 4665 – would provide for special rates for energy intensive industrial consumers of electric power. The bill would set forth legislative findings on energy intensive industrial consumers of electric power and defines certain terms. The bill would authorize the Public Service Commission to establish special rates for energy intensive industrial consumers of electric power. The bill would set forth factors that the Public Service Commission may take into consideration in establishing special rates for energy intensive industrial consumers of electric power, in addition to factors that may already be considered by the Public Service Commission in its rate setting process and authorizes the commission to adopt mechanisms reasonably designed to assure appropriate flexibility and predictability of special rates. The bill would establish procedures for application to the Public Service Commission for a special rate, sets forth data and information to be included in an application for a special rate and establishes qualifications for eligibility for a special rate.

S.B. 672 – would eliminate rate review from the Health Care Authority powers and duties and would create the position of Executive Director of the Health Care Authority to act as the administrative head of the agency. The bill also would change the number and make-up of the board of directors and clarify their powers and duties.

S.B. 674 – would provide a rebuttable presumption that a professional fire fighter who developed leukemia, lymphoma or multiple myeloma arising out of and in the course of employment as a firefighter provided that the

firefighter completed certain cancer screening, the firefighter worked in West Virginia as a firefighter for at least 5 years, the firefighter has not used tobacco products for 10 years and is not over 65 years old.

S.B. 686 – would establish a charter school system in West Virginia

Prepared by W.Va. Chamber's Lobbying Team.