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Legislative Wrap-Up -- March 15, 2011

The 80th Legislative Session has come to a close. This session 190 bills were passed of which 102 originated in the House of Delegates, and 88 in the Senate. Tonkin Management Group, a firm that has been providing government relations and association management for over thirty years, is pleased to provide this legislative wrap-up.

Click on the bill number to read the bill in its entirety.

GENERAL INTEREST LEGISLATION

[HB 2012](#) and [SB 70](#) - Budget Bills - Budget Conference Committee to meet the week of March 14th

[HB 2464](#) - revises state's ethics act to require more detail financial disclosure and prevents elected officials and key aids from being registered lobbyists for one year after leaving public office.

[HB 2562](#) - permitting mixed martial arts competition in the state.

[HB 2879](#) - provides a one time, non-base building, supplemental salary increase for all eligible state employees.

[HB 2939](#) - clarifies the definition of compensation for purposes of calculating required contributions to the public employee's retirement system.

[HB 2971](#) - The bill was amended to include a reduction in the sales tax on food from 3% to 2%.

[HB 3144](#) - creating a criminal offense and adding misdemeanor criminal penalties for picketing or disrupting funerals to stop the displays of anti homosexuality by the Midwest church group.

[HB 3145](#) - provides a one time bonus to certain annuitants of the Public Employees Retirement System and the State Teachers Retirement System.

[SB 243](#) - Neighborhood Investment Recovery Act. The bill increases the amount of total aggregate tax credit certified each year from \$2 million to \$3 million and will increase the amount of total aggregate tax credit allowed each year from \$2.5 million to \$3 million. Encourages additional donations to non-profits.

[SB 550](#) - relates to gaming at licensed racetracks and historic resort hotels. The bill provides a total of \$10 million a year for the facilities from an existing lottery fund. They will have to spend their own money to draw down the new money. The new money will be available for 10 years.

Bills of general interest that did not pass include: Unemployment modernization, regulation of Marcellus Shale, financing of the state's \$8 billion unfunded liability of OPEB benefits, establishment of a state fiscal office and creating an

Office of Minority Affairs

ELECTION LEGISLATION

HB 2853 - will provide for a primary and special election to fill the vacancy in the office of the Governor. The bill would call for the primary election to be held on May 14 and the general election to be held on Oct. 4.

HB 3100 - permits the sale of liquor on Election Day.

SB 342 - appropriation of \$8 million to finance the special elections to fill a vacancy in the office of Governor.

SB 581 - changes the beginning date for early voting; allowing Saturday early voting.

ARCHITECTURE/DESIGN LEGISLATION

HB 2709 - will permit county school boards to enter into energy-saving contracts, in which the contracts are allowed to extend 15 years.

SB 247 - exempts certain construction contractor purchases from consumer sales, service and use tax.

SB 282 - continues the Highway Design to Build Pilot Program.

SB 373 - requires the School Building Authority allocate and expend certain moneys for vocational programs at comprehensive middle schools.

ARCHITECTURE/DESIGN RESOLUTION OF INTEREST

HCR 162 - requests a study of the feasibility of an energy efficiency resource standard for West Virginia.

Architecture/Design bills that did not pass include: the Energy Efficient Building Act which would have provided a tax credit that was the greater of \$1.00 per square foot or 1.5% of eligible expenditures if the residential or non-residential building was built to renovated to the Energy Star Standard, requiring public agencies or projects receiving state funds to be built to the 2009 International Code Council standard, other measures supporting green building standards and legislation removing the qualification-based selection process for architectural and engineering services for higher education

FAMILY/CHILD WELFARE AND DOMESTIC VIOLENCE

SB 35 - increases the nonfamily adoption tax credit from \$2,000 to \$4,000.

SB 60 - will clarify that probation officers are authorized to supervise sex-offenders. This supervision will only apply until a multi-judicial officer is available in the probation officer's area.

SB 61 - will authorize the Supreme Court to appoint hearing officers for juvenile drug court officials. These hearing officers shall be limited to current or senior-status circuit or family court judges.

SB 186 - establishes the West Virginia State Police as the entity which is authorized to issue administrative subpoenas to Internet service providers in cases of suspected child pornography.

SB 216 - will modify the definition of "imminent danger" to the physical well-being of a child. This will specify the definition in regards to child neglect or abuse to include alcohol and substance abuse by the parent, guardian or custodian.

[SB 228](#) - creates the Local Solution Dropout Prevention pilot program to reduce the number of high schools dropouts in the state. The Department of Education will develop a comprehensive statewide individual student profile system that will include early warning indicators for students at risk of not completing high school and an assessment system to quantify intellectual abilities and performance indicators.

[SB 256](#) - will require sex-offenders to verify e-mail and online identities in the same way they register their physical address. All registered sex-offenders will have to verify these identities to the State Police Department.

[SB 461](#) - establishes a criminal penalty for a violation of a restraining order entered upon a conviction for stalking or harassment.

[HB 2475](#) - will include certain records of the Division of Juvenile Services in the exemptions from Freedom of Information Act requests. Records include design of corrections, jail and detention facilities owned or operated by the agency and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents.

[HB 2520](#) - applies to someone who has not reached their twenty-third birthday at the time of the indictment or information upon which the imposition of sentence is being suspended and committed to the custody of the Division of Corrections to be assigned to a youthful offender center. Additionally, no one over the age of twenty-five may be committed to a youthful offender center.

[HB 2525](#) - social work scope of practice rules.

[HB 2613](#) - promulgates rules for on law enforcement's response to domestic violence.

[HB 2648](#) - will increase the faculty senate allotment for classroom teachers and librarians from \$50 to \$100 to be spent on academic materials, supplies or equipment to enhance instruction.

[HB 2750](#) - will make the act of sexual assault or abuse an additional consideration when a judge may issue an order to temporarily or permanently remove a child from the home.

[HB 2860](#) - requires law enforcement to establish specific rules and procedures for child abuse and neglect investigations.

[HB 2864](#) - "Celena's Law" relates to the creation of a misdemeanor crime of unlawful restraint in the first and second degree for domestic violence.

[HB 2876](#) - will expand the eligibility for financial aid to enrollees in the model health plan for uninsurable individuals to enrollees with an annual average household income at or below 400 percent of the federal poverty level.

[HB 3134](#) - relates to child support enforcement. The bill would require employers to notify the Bureau of Child Support Enforcement prior to issuing a bonus to its employees.

[HB 3205](#) - will give any individual convicted of a criminal offense who is housed in a regional jail a reduction in his/her sentence after completing an education or rehabilitation program. The bill will also provide certain enrollment fees for the programs.

[HB 3225](#) - adds electronic forms to the definition of harassment, intimidation and bullying to protect students - includes but is not limited to one which is administered via telephone, wireless phone, computer, pager or any electronic or wireless device.

CHILD WELFARE STUDY RESOLUTION OF INTEREST

HCR 84 - requests a study on the measures available to schools to address poor performance.

Child welfare and domestic violence bills that did not pass include: making child neglect substantial risk of bodily harm a misdemeanor; establishing an independent Child Advocacy office, creating a Foster Parents Bill of Rights, requiring CPS to investigate school absences, creating a state-income earned tax credit, providing protective orders for non family/household members and extending the maximum length of protective orders in domestic violence

HEALTH CARE LEGISLATION

HB 2013 - requires the West Virginia Enhanced 911 Council to propose Emergency Medical Dispatch procedures.

HB 2502 - adds synthetic cannabinoids and hallucinogens and stimulants to the Schedule I list of controlled substances (K2)

HB 2522 - adding an independent informal dispute resolution process for nursing homes by the Office of Health Facility Licensure and Certification (OHFLAC).

HB 3028 - expanding the responsibilities of the Maternal Mortality Review Team to also investigate infant deaths.

HB 3114 - will allow for the development and operation of a nursing home on the grounds of a critical access hospital meeting certain limitations and exemptions from nursing home suspension and certificate of need requirements. This will allow the sale of the long term care beds at Summers Memorial Hospital to another company due to their closing.

HB 3196 - establishes a pilot program and procedures for monitoring the practice of unlicensed personnel administering medication in nursing homes. The program will be conducted by the West Virginia Board of Examiners for Registered Personnel Nurses.

SB 408 - creates the WV Health Benefit Exchange Act.

SB 428 - increases fees charges by the clerk of the circuit court for medical professional liability actions.

SB 488 - revising HIV testing statute to conform to most recent recommendations from CDC.

SB 492 - will maximize federal funding for Medicaid by establishing a hospital Medicaid upper-level payment program for two-year period. This will draw down additional funds for certain hospitals. The voluntary incremental tax on hospitals will be approximately \$28 million, potentially generating nearly \$80 million in new payments to hospitals.

SB 532 - relates to fraud and abuse in the Medicaid program.

SB 560 - relates to the confidentiality of the Health Care Authority's rate-setting model.

SB 570 - creates the Volunteer for Nonprofit Youth Organization Act. In preparation of the national Boy Scout jubilee, volunteer licenses can be granted for physicians and physical therapists.

HB 2639 - authorizes miscellaneous boards and agencies to promulgate rules. This bill includes physical therapy, athletic trainers and optometry rules.

HB 2693 - requires insurance coverage for autism spectrum disorders by PEIA, CHIP and health insurance plans for companies with 25 or more employees.

HB 2745 - provides that certain information provided by insurance companies to the Insurance Commissioner remain confidential.

HB 2885 - allows a guardian or conservator to provide care to a person with disabilities to be employed or in an employment contract with a behavioral health provider.

HB 3105 - provides immunity from civil or criminal liability for first responders who use forced entry into a residence.

HB 3021 - adds 2 new members to the Behavioral Health Commission (member from the Alliance of Children and a physician specializing in child psychiatry) and extends the commission until 2015.

HEALTH CARE STUDY RESOLUTIONS OF INTEREST

HCR 85 - requests a study on retaining in West Virginia additional practicing health care professionals.

HCR124 - requests a study on the possible need to regulate the rental network PPO market.

HCR125 - requests a study relating to requiring direct payment by health insurance companies and health maintenance organizations to out-of-network health care providers.

HCR 136 - requests a study of the rural health initiative to determine the most effective manner to provide rural health opportunities in the state.

HCR143 - requests a study on combining the state health care programs into a single agency.

HCR 144 - would study the feasibility of requiring the WV DHHR to annually review rates its various programs pay to health care providers.

SCR 54 - requests a study of scope of practice of health care professions.

Health care bills that did not pass include: a bill that would have required Pseudoephedrine to become prescription only, legislation that would increase the tax on tobacco by \$1.00 and dedicating the revenue to prevention and health care, Child's Right to Nurse, expansion of the Prescription Fairness Act to cover dependent minor children, increasing the tax on beer to fund substance abuse prevention programming, requiring public notice and comment on Medicaid State plan and waiver programs, allowing police and other emergency service providers to possess and administer Naloxone in suspected overdoses, analysis of the RHEP program, establishment of an Unintentional Pharmaceutical Drug Overdose Fatality Review Team, removing the Commissioner of the Bureau of Public Health from several licensing boards, requiring DHHR to annually review rates of its various programs paid to health care providers

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