



**FROM THE DOME**

*Distributed Sunday, March 13, 2011*

**2011 REGULAR SESSION COMPLETED**

The 2011 60-day Regular Session of the Legislature ended Saturday, March 12 at midnight, with the passage of 190 bills (*102 House Bills, 88 Senate Bills*). Please find below a brief summary and small sampling of:

- Bills of interest that completed legislative action;
- Bills receiving **no** legislative action (dead); and
- Brief description of the State FY 2012 Budget

**BILLS COMPLETED LEGISLATIVE ACTION**

Below is a sampling of the health care related/social services/business community bills that completed legislative action. A more comprehensive summary will be developed and provided in the days ahead.

<u>SB</u> <u>219</u>	Relating to maintaining solvency of Unemployment Compensation Fund ( <i>allows the State to borrow up to \$20 million to keep the fund from going insolvent at any point in the year</i> ).
<u>SB</u> <u>254</u>	Making supplementary appropriation of federal funds to Development Office and Division of Human Services
<u>SB</u> <u>255</u>	Making supplementary appropriation of un-appropriated moneys to various accounts
<u>SB</u> <u>285</u>	Extending time frame practitioners must write prescriptions on official tamper-resistant paper
<u>SB</u> <u>295</u>	Authorizing DHHR promulgate legislative rules ( <i>contains a series of health-related legislative rules including the Health Care Authority's rules related to certificate of need and the definition of "private office practice."</i> )

<u>SB</u> <u>408</u>	Creating WV Health Benefit Exchange Act ( <i>1 of 2 bills proposed by the Insurance Commission to enact federal health reform in WV. The other bill SB 407 - did not pass</i> ).
<u>SB</u> <u>474</u>	Relating to manufacturer's liability for prescription drug warning or instruction
<u>SB</u> <u>488</u>	Revising HIV testing statute to conform with most recent recommendations from CDC
<u>SB</u> <u>492</u>	Relating to maximizing federal funding for state Medicaid program ( <i>WVHA LEGISLATIVE AGENDA ITEM</i> ) <i>The legislation is necessary to improve hospitals' financial strength and stability. On average, Medicaid reimburses only 72% of the costs of hospital care; hospitals lose approximately \$212 million caring for Medicaid patients; and the uncompensated care burden is shifted to private insurance. Furthermore, health reform implementation includes the expansion of Medicaid enrollment in 2014. Unless payment rates are improved for hospitals, the growth of Medicaid enrollment will further challenge the financial health of hospitals. It is enabling legislation that authorizes the Department of Tax and Revenue to collect an additional voluntary tax from 28 eligible acute care hospitals – through a Medicaid Upper Payment Limit Program – so that Medicaid rates can be increased, contingent upon federal approval. The voluntary incremental tax on hospitals will be approximately \$28 million, potentially generating nearly \$80 million in new payments to hospitals.</i>
<u>SB</u> <u>532</u>	Relating to fraud and abuse in Medicaid program
<u>SB</u> <u>560</u>	Relating to confidentiality of Health Care Authority's rate-setting model
<u>SB</u> <u>570</u>	Creating Volunteer for Nonprofit Youth Organizations Act
<u>SB</u> <u>617</u>	Making supplementary appropriation of federal funds to Department of Education and Arts and DHHR
<u>SB</u> <u>619</u>	Making supplementary appropriation of un-appropriated moneys to various accounts

<u>SB</u> <u>620</u>	Making supplementary appropriation to various executive accounts
<u>HB</u> <u>2013</u>	Requiring the West Virginia Enhanced 911 Council to propose Emergency Medical Dispatch procedures
<u>HB</u> <u>2345</u>	Changing the membership of the PEIA Financial Board
<u>HB</u> <u>2362</u>	Increasing penalties for financial exploitation of an elderly person or incapacitated adult
<u>HB</u> <u>2451</u>	Relating to victim impact statements
<u>HB</u> <u>2464</u>	Adding additional requirements to the Ethics Act
<u>HB</u> <u>2479</u>	Relating to dental anesthesia
<u>HB</u> <u>2498</u>	Relating to the practice of dentistry
<u>HB</u> <u>2505</u>	Adding synthetic cannabinoids and hallucinogens and stimulants to the Schedule I list of controlled substances (K2)
<u>HB</u> <u>2522</u>	Relating to nursing home administrative appeals
<u>HB</u> <u>2525</u>	Relating to the practice of social work
<u>HB</u> <u>2562</u>	Relating to the State Athletic Commission ( <i>contains Mixed Martial Arts Regulation</i> )
<u>HB</u> <u>2639</u>	Authorizing miscellaneous boards and agencies to promulgate legislative rules ( <i>contains a series of health-related board and agency legislative rules including rules for the boards of Pharmacy, Physical Therapy, and Optometry</i> ).
<u>HB</u> <u>2693</u>	Requiring insurance coverage for autism spectrum disorders ( <i>requires the state Public Employees Insurance Agency, the Children's Health Insurance Program and health insurance plans for companies with 25 or more employees to provide coverage for children ages 3 to 18 diagnosed with autism spectrum disorder</i> ).

<u>HB</u> <u>2696</u>	Authorizing the county commission of Boone County to transfer its title and interests in the Boone Memorial Hospital
<u>HB</u> <u>2745</u>	Providing that certain information provided by insurance companies to the Insurance Commissioner is confidential ( <i>contains provision to create an All Payer Database</i> ).
<u>HB</u> <u>2763</u>	Prohibiting the Executive Director of Workforce West Virginia from billing a reimbursable employer under the unemployment compensation law for overpaid amounts of benefits paid to a claimant
<u>HB</u> <u>2853</u>	Providing for a special primary and general election to fill a vacancy in the office of Governor
<u>HB</u> <u>2876</u>	Expanding eligibility for subsidies to enrollees in the model health plan ( <i>contains provisions which permit the Access WV Board to extend the offer of premium subsidies to eligible applicants whose household income does not exceed 400% of the federal poverty level</i> ).
<u>HB</u> <u>2879</u>	Providing a one-time, non-base building, supplemental salary increase for all eligible state employees ( <i>this is the "pay raise bill" which gives \$1,488 raises to teachers, 2 percent increases for state employees and school service personnel, \$970 raises for State Police troopers and \$835 for Division of Natural Resources officers. The bill also includes a pay-raise package for judicial salaries, ranging from \$7,500 for magistrates to \$15,000 for Supreme Court justices. The bill also gives the National Guard's adjutant general a \$32,500 raise, to \$125,000 a year</i> ).
<u>HB</u> <u>2885</u>	Allowing a guardian or conservator to be employed or in an employment contract with a behavioral health provider
<u>HB</u> <u>2969</u>	Requiring the disclosure of the number of stamps by brand name that have been purchased from a nonparticipating tobacco product manufacturer
<u>HB</u> <u>2971</u>	Relating to the definition of the term "durable medical equipment" ( <i>provisions in the bill added late in the legislative process also provide for a 1 cent reduction on the food tax from .cents to .2 cents beginning January 1, 2012</i> ).

<u>HB</u> <u>2981</u>	Clarifying payment for trade certifications and allowing use of tuition assistance for West Virginia National Guard members enrolled in a doctor of medicine or osteopathic medicine program
<u>HB</u> <u>3021</u>	Adding two new members to the Comprehensive Behavioral Health Commission
<u>HB</u> <u>3028</u>	Expanding the responsibilities of the Maternal Mortality Review Team
<u>HB</u> <u>3054</u>	Relating to DNA data collection
<u>HB</u> <u>3075</u>	Increasing the time period in the hold-harmless provision when distributing state aid to local health departments
<u>HB</u> <u>3094</u>	Requiring the Secretary of the Department of Health and Human Services to use existing department funds to develop a program to compensate employees for personal property loss
<u>HB</u> <u>3114</u>	Allowing the development and operation of a nursing home on the grounds of a critical access hospital meeting certain restrictions ( <i>"local bill" intended that paves the way for Main Street Hinton, a registered 501(c) entity, to take over the 20 beds on the third floor of the Summers County ARH critical access hospital</i> ).
<u>HB</u> <u>3137</u>	Providing for additional circumstances giving rise to "state 'on' indicators" for purposes of extended unemployment compensation
<u>HB</u> <u>3163</u>	Relating to workers' compensation programs of state government entities
<u>HB</u> <u>3196</u>	Establishing a program and procedure for certifying medications assistive persons in the health industry

## **BILLS RECEIVING NO LEGISLATIVE ACTION (DEAD)**

A series of bills being followed throughout the session did not receive any further legislative action, and below is a brief sampling of some of the bills:

### **Nurse Staffing Ratios**

HB 3005 - Ensuring Patient Safety Act- Nurse Staffing Ratio bill #11; and HB 3010 - Ensuring Patient Safety Act- Nurse Staffing Ratio bill #2

### **Tobacco Tax**

HB 2973 - Increasing the excise tax on cigarettes and all other tobacco products. The bill would raise the cigarette tax \$1 a pack -- from 55 cents to \$1.55. It would raise the tax on other tobacco products from 7 percent of the wholesale price to 50 percent. Half the money collected, up to \$60 million, would go into a new West Virginia Healthy Futures Fund for tobacco prevention and cessation programs, public health and substance abuse programs and health care. The rest goes into the state's General Fund.

SB 362 – Increasing the current 55-cent cigarette tax to \$1.55 per pack. The bill also increases the tax on chewing and smokeless tobacco products from the current seven percent of the wholesale price to 50 percent. The Senate bill is very specific in the way the state would divide up the extra dollars generated by the tax each year:

- \$50 million for the state's retiree health benefit fund, for the next decade.
- \$40 million for the state Medicaid program, for the next decade
- \$ 6 million for tobacco control programs
- \$1 million for West Virginia University's proposed School of Public Health, for the next five years.
- Other health programs funded by the revenues would include: oral health improvement, substance abuse treatment and prevention; in-home care services for the elderly, and early childhood development programs.

### **Pharmacy/Prescription Drugs**

SB 526 - Allowing certain emergency service providers possess Naloxone to administer in suspected overdoses

SB 614 – Permitting specific law enforcement officials access to certain confidential pharmaceutical information

HB 2513 - Relating to the practice of pharmacy

HB 2946– Requiring the issuance of a lawful prescription for dispensing drug products containing chemical precursors of meth

## **Health Insurance Reform**

SB 407 - Incorporating federal health insurance reforms into insurance code. The purpose of this bill is to incorporate the federal Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 into the insurance code.

## **Business/Other Issues of Note**

SB 307 – Creating Intermediate Court of Appeals

SB 616 – Relating to post-employment benefits generally

HB 2555 - Establishing the offense of operating a motor vehicle while sending, reading or receiving a text message (contains provisions that would make failure to wear seat belts a primary offense).

## **FY 2012 BUDGET ACTIVITY**

The Legislature approved the State fiscal year (SFY) budget for July 1, 2011 to June 30, 2012. The total budget for SFY 2012 is \$11.4 billion, a 1.7% decrease from SFY 2011. SFY 2012 excludes ARRA funding which supplemented SFY 2011.

## **Medicaid Budget**

The general revenues devoted to the Medicaid budget for next year have been reduced by \$10 million from the SFY 2011 budget and a cumulative \$40.1 million from SFY 2010.

The legislature re-appropriated the anticipated SFY 2011 surplus to SFY 2012, currently projected to exceed \$220 million at June 30, 2011. The budget provides currently level funding for the Medicaid Enhanced Payment Program (EPP) at \$6,356,000 for the tertiary/teaching hospitals; \$2,596,000 for rural hospitals under 150 beds and \$6.8 million transfer from PEIA to EPP.

Total provider taxes are budgeted to increase \$17.5 million in SFY 2012 due to inflation and improved tax management utilizing the Tax Department's new GenTax IT system.

## **Other Health-Related Budget Items of Note**

The legislature approved increases for the MRDD and Senior waiver programs totaling \$3,087,500, and adding funding of \$800,000 for a Traumatic Brain Injury waiver which is pending CMS approval. The budget authorizes fund transfers from the Health Care Authority (HCA) to the Health Information Network (WVHIN) totaling \$5.5 million. HCA may transfer \$4 million from the Loan Fund (W. Va. Code §16-29I-1 et seq) and \$1.5 million from operations to assist the WVHIN.