



2014 LEGISLATIVE SESSION WRAP-UP –March 19, 2014

The 2014 Regular, Special and Budget sessions of the Legislature have now completed and below is a brief summary of action taken by lawmakers.

Regular Session

A total of **201 Bills** (105 House Bills, 96 Senate Bills) completed legislative action during the Regular Session and have now either been signed by the Governor or await his signature. We're in the process of reviewing language as it pertains to bills of interest to WVHA and will provide a more complete and comprehensive summary soon. All bills that have completed legislative action are available here:

http://www.legis.state.wv.us/Bill_Status/Bills_all_pass.cfm?year=2014&sessiontype=rs&btype=bill

Some bills of interest to WVHA:

- **HOSPITAL UPL PROGRAM** - [SB 456](#) -Continuation of the Hospital Upper Payment Limit (UPL) Program. Provisions continue the Program for Fiscal Year 2015 (FY) July 1, 2014 thru June 30, 2015 and includes a hospital tax rate of 0.62%;
- **SANE** - [HB 108](#) - Creating Sexual Assault Forensic Examination Commission. Does not have the mandate provision for hospitals to have SANE coverage 24/7, but rather creates a Commission within the Governor's Office of Crime and Delinquency with WVHA representation. The bill further authorizes the creation of sexual assault forensic examination boards throughout the state with community hospital and stakeholder representation to evaluate the needs of each county (or region) in order to develop a plan to determine where examination services will be available for victims of sexual assault. The bill, which was originally passed as [HB 4236](#), was immediately vetoed by the Governor due to a minor technical error in the title of the bill. The bill was placed on the special session "call" since it was a small fix and passed during the special session virtually unchanged from the bill that passed during the Regular.
- **NAME TAG** - [SB 602](#) – Requiring health care providers wear ID badges. As passed, the bill includes an exemption for hospitals and other providers that already utilize name tags. It also includes an exemption for behavioral health providers and those working in other patient care areas.
- **MEDICAL RECORDS** - [HB 4560](#) - Relating to the reimbursement for copies of medical records. WVHA and various health care provider groups including the WV Health Care Association (nursing homes) worked extensively to manage this bill throughout the session. The bill was

modified significantly in the Senate Judiciary Committee earlier this week where WVHA and others advocated the use of alternative language mirroring the federal HITECH HIPPA rules recently implemented in Sept. 2013 which outlines the scope of "reasonable fees" that can be charged for both paper and electronic copies under **164.524(c)(4)**. The cost-based fee includes the costs of copying, the cost of supplies and labor for copying and postage (if mailed). There was some legislative interest to place a cap in the bill but **only** on the hourly labor rate. Following research and communication with some WVHA members, and in working with the Senate Judiciary Committee Chair and other Committee members, the hourly rate was established to be \$25 per hour, applied to the number of hours necessary to prepare the requested records. Further, the rate would be inflated annually by the CPI medical index. This is the language that was adopted by the Senate Judiciary Committee and later approved by the full Senate. The bill was subsequently sent to the House to concur with Senate actions shortly before midnight which they did.

- **PATIENT INJURY COMPENSATION FUND APPROPRIATION - HB 4621** - This bill moves \$2 million in expiring funds from the Department of Administration's Board of Risk and Insurance Management Medical Liability Fund to BRIM's Patient Injury Compensation Fund for the fiscal year ending June 30. The PICF was created in 2004 and allows patients to seek compensation for economic damages over and above the \$500,000 cap on medical liability claims. Prior to the passage of the bill, the Fund had about \$225,000.

As noted, we're in the process of reviewing other bills of interest to WVHA and will provide a more comprehensive summary soon. In the meantime, if you have any questions regarding the legislation identified above or are interested in bills not featured, please do not hesitate to contact me at tgregory@wvha.org

Special Session

Along with the SANE bill correction noted above, several other bills were passed during a brief special session of the Legislature. Among them include the following:

- A pay raise bill, which would provide up to a 12 percent increase for officeholders including prosecutors, assessors, county and circuit clerks. The individual county's finances would have to be certified by the state Auditor before the pay raise would be made available. The county commission would submit the information to the auditor. The money would come from county funds not state funds.
- A bill that deals with waste from the Marcellus shale drilling process. The bill, proposed by the state DEP, would make additional space in landfills available for the waste.
- A bill dealing with lottery distributions, also called the "bucket bill" or "haircut bill," to save \$20 million that will go back into the Rainy Day Fund.
- A bill addressing local shares in county school systems within Lincoln, Monongalia and Wyoming counties since there have been penalties tied to improperly assessed properties.
- A proposal that deals with a land account within the state Department of Agriculture.

- Legislation that would correct problems with the Chesapeake Bay bond issue.
- Supplemental appropriations bills for the current budget year totaling \$121.21 million. One of the supplemental bills was amended to include an additional \$57,000 to the WV Poison Control Center to help it operate for the full year since funding was cut in the FY 2015 budget.

FY 2015 Budget

The Senate voted 25-9 and the House of Delegates voted 77-18 to pass next year's FY 2015 budget which begins July 1 2014 – thru- June 30, 2015. The total operating budget for the state of \$22.2 billion includes \$4.25 billion from tax revenue; \$7.96 billion from Lottery revenues, special revenue from various fees, and the state Road Fund; and \$10 billion of special revenue and federal funds not subject to legislative appropriation.

Legislative leaders confirmed revenue growth is approximately 1.5 percent while state spending is growing about 7 percent a year. Gov. Tomblin has required a 7.5 percent budget cut for many state agencies during the past two years but there is 65 percent of the budget that is exempt from the cuts including Medicaid.

In order to balance the general revenue budget, budget conferees took \$147.5 million out of the state's Rainy Day emergency funds, about \$63.67 million more than the governor had proposed using. However, passage of the special-session legislation to reduce Lottery subsidies (*the lottery "haircut" bill described above*) will allow the state to put about \$21 million back into the Rainy Day fund. Balance in the Fund is somewhere around \$900 million.

Legislators noted that in order to fully fund Medicaid and avoid cuts to the Program, they had to dip into the Fund. It was also noted during discussions that the Budget includes between \$11-17 million for administrative costs as a result of the ACA and Medicaid expansion. It's been reported that the state's costs for expansion will be around \$375.5 million from fiscal year 2014 through fiscal year 2023, and will mean an additional \$5.2 billion in federal funding for the same time period, according to an actuarial study.

WVHA staff will take a closer look at the FY 2015 Budget, but for now other features include the following notations:

- State Medicaid Funding is dependent primarily on four funding sources: General Revenue, Lottery, Medical Services Trust Fund and Provider tax. State Medicaid appropriated funding has increased from approximately \$334 million in 1995 to \$991 million in 2015;
- Appropriated budget line items that support the Enhanced Payment Program remain fully funded for FY 2015 including the PEIA Transfer; and Rural and Safety providers; and
- The Sexual Assault Forensic Examination Commission as part of the Division of Justice and Community Services was budgeted \$150,000 after passage of HB 108 SANE bill described above.
- The budget adds \$5 million for the Aged and Disabled Waiver Program - a Medicaid program that offers seniors in-home care. It also strips \$9 million from the attorney general's consumer protection program;

- Increases in spending in the new state budget include \$47 million for teacher; school service personnel, state worker and State Police Crime Lab pay raises. The plan includes \$1,000 across-the-board raises for teachers, 2 percent raises for school service personnel and \$504 raises for public employees;

Moving forward, lawmakers will continue to face a variety of struggles to make the budget numbers work. Revenue from dog and horse track casinos has dipped because of competition from surrounding states. Taxes on the booming natural gas industry haven't offset the struggles of coal, the state's longtime staple product.

Other problems are self-inflicted, lawmakers say. A recent cut on grocery taxes, tax credit on alternative fuel vehicles and a drop in the corporate income tax have eliminated millions of dollars in revenue. Officials say the alternative fuel credit for cars could cost the state \$100 million.

UPCOMING LEGISLATIVE INTERIMS – STUDIES OF INTEREST

Several health-related study resolutions were introduced during the Legislative Session -in lieu of legislation that was not acted on. Legislators frequently introduce study resolutions with the goal of further reviewing issues during the Legislature's upcoming interim period, set to begin sometime in May, likely after the May 13th Primary Election.

Some notable health care resolutions introduced that will be considered by the Senate President and House Speaker for further study during the upcoming interim period:

SCR 38 - comprehensive early childhood program

SCR 49 - responsibilities for child protection and care

HCR 57 - licensing of adult day health centers that implement a hybrid model of care

HCR 58 - growing needs for in-home care and personal services for West Virginia's aging population

SCR 64 - elimination of extraneous boards, commissions, etc.

*SCR 65 - organization of DHHR

HCR 67 - additional cuts to the funding for higher educational institutions would be detrimental to the growth and the financial well-being of West Virginia.

*SCR 69 - nurse staffing in health care facilities

*SCR 70 - certified professional midwives' licensing

*HCR 80 - allocation of emergency room spending on oral health and ancillary costs

HCR 103 - establishing policies and procedures for requiring criminal history records checks of applicants for professional or occupational licensing

HCR 104 - information that should be made available on professional and occupational licensing board websites

HCR 108 - repealing unnecessary or obsolete boards, councils, committees, panels, task forces and commissions

HCR 114 - whether to create a statutory option for persons with health coverage to fill prescriptions through any pharmacy

HCR 117 -continuing the Office of Emergency Medical Services as independent office within the Department of Military Affairs and Public Safety

HCR 118 - allocation of behavioral health spending on community-based support services

HCR 120 - feasibility of moving CHIP from the Department of Administration

HCR 121 - possible effects of insurance billing

HCR 122 - feasibility of changes to the regulatory requirements of advanced practice registered nurses

HCR 135 - Requesting Joint Committee on Government and Finance study on requiring instruction in CPR

HCR 137 - methods for improving overall student health in WV

HCR 139 - benefits of recognizing Certified Professional Midwives in WV

Additionally, we anticipate that other health-care topics may be assigned for study including further review of Medical Liability Reforms and perhaps other areas associated with the MPLA. WVHA staff will report back on which study topics have been assigned.

If you have any questions regarding legislative issues/activity, please do not hesitate to contact me.
Thanks.

Tony

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