



# Legislative Report

Weekly Legislative e-Newsletter of the  
**WEST VIRGINIA CHAMBER OF COMMERCE**

*The Voice of Business in West Virginia*

Monday, April 11, 2005

## 2005 LEGISLATIVE OVERVIEW

### **‘Meaningful’ Civil Justice, Insurance Reform Bills Enacted**

Thanks to the leadership from Governor Joe Manchin and bipartisan support in both houses, the West Virginia Legislature has passed meaningful reforms in the areas of insurance and civil justice. “The bills enacted by the Legislature dealing with insurance and civil justice represent very positive changes,” said Steve Roberts, Chamber President. “West Virginia has moved further down the road to being ‘open for business’,” he noted.

The 60-day regular session of the West Virginia Legislature ended at midnight on April 9, and this year’s session is being praised as being a very productive and positive one. Among the key insurance and civil justice bills enacted by lawmakers are:

**(NOTE: links to bills may not reflect final language)**

Third-Party Disputes – [S.B. 418](#)

Joint and Several Liability – [S.B. 421](#)

Deliberate Intent – [S.B. 744](#)

Right To Cure – [S.B. 456](#)

Commercial Insurance Reforms – [S.B. 30](#)

Innocent Prescriber -- [H.B. 2011](#)

Physician Dialogue Provision - [H.B. 3174](#) (provides that expressions of apology, responsibility, sympathy, condolence or a general sense of benevolence made by a health care provider to a patient shall be made inadmissible as evidence of admission of liability)

[\(Provided is a recap of key insurance and civil justice bills that was prepared by The State Journal.\)](#)

“These bills are significant accomplishments both for employers across West Virginia and for consumers,” Roberts noted. In particular, he said these bills should help provide relief for businesses who have been facing a crisis regarding the availability and affordability of commercial insurance. “These bills should help to stem lawsuit abuses and provide greater competition in the insurance marketplace, which could provide more coverage options for businesses, stabilize rates and possibly lead to rate relief.”

“On behalf of the state’s employer community, I applaud Governor Manchin and the West Virginia Legislature – Republicans and Democrats, senators and delegates, for showing the leadership to tackle these difficult issues and to improve our great state,” Roberts added.

“I also want to thank the Chamber’s lobbying team, lead by Brenda Nichols Harper, and the Government Relations Committee for their tireless efforts in communicating with legislators and advocating for these important changes. It truly was a team effort,” he continued.

Additional credit for the success of this effort goes to the united business effort at the Capitol, which included nearly all of the state’s business organizations, the insurance industry and many of the local chambers of

commerce. “The successes achieved so far in 2005 demonstrate yet again the importance of a united business community and having strong leadership from our elected officials,” Roberts said.

While many would have liked to have seen other civil justice reform issues addressed, West Virginia has taken a major first start by ending third-party bad faith lawsuits, clarifying deliberate intent actions and providing some aspect of joint and several liability, Roberts noted.

## **Legislative Session A Success: Money Put in Taxpayer Pockets**

*By: Governor Joe Manchin*

This year’s legislative session has now come to a close, and I am happy to report that the citizens of West Virginia came out on top. With the passage of significant civil justice reforms, it is the first time in a very long time, if ever, that a regular legislative session ended by putting money back into the pockets of our state’s taxpayers - not by taking money out of them. You have my word that I will now take personal responsibility for following through on the hard work of the legislature with regard to these reforms and hold insurance companies accountable for lowering the state’s insurance rates as quickly as possible.

I also want to applaud the members of the legislature, especially Senate President Earl Ray Tomblin, Speaker of the House Bob Kiss and their committee chairs, for their efforts on many other issues important to the people of West Virginia. I asked during my State of the State address that they tackle the growing problem of meth labs in this state – and they did. I asked that they take steps to help our schoolchildren lead healthier lives – and they did. I asked that they give local communities more flexibility and the ability to better compete with our surrounding states– and they did.

I asked that they allow our institutions of higher education to try new ways to increase their financial stability and viability – and they did. I asked that they grant me the ability to continue to re-organize state government in a way that maximizes managerial efficiency and allows for greater accountability – and they did. I asked that they consolidate our state’s revitalization and clean-up efforts into one comprehensive program, REAP, in honor of my late uncle, A. James Manchin – and they did. And, I asked that they work to close the loopholes in our state employees’ pension systems so that our citizens can be confident when they vote on June 25 for the Pension Bond Amendment that we will never let these systems get upside down again – and they did.

Put all of these major accomplishments together with the work done by the legislature during the special session in January to tackle our workers comp problems (putting \$160 million back into our economy starting Jan. 1, 2006 through premium reductions) and ethics reform, and it’s been a truly historic and remarkable 2 ½ months in which a total of at least \$210 million is being returned to the state’s taxpayers.

No one could ever have imagined that so much progress could be achieved in so little time, but that’s exactly what has happened. And it’s just the beginning. As long as we continue to put our individual interests aside and work together as a team, West Virginia’s potential as a state will be unlimited – and our future, and the future of our children, will emerge brighter than ever before. That is my pledge to you.

### **Bills Enacted**

**(NOTE: links to bills may not reflect final language)**

[S.B. 147](#) – places controls and restrictions on substances – that can be used in the production of methamphetamine

[S.B. 154](#) -- requires the West Virginia DEP to promulgate rules that identify the beneficial uses of sludges created by water treatment plants that process drinking water as well as prescribes proper disposal methods for qualifying material.

[S.B.198](#) -- exempts inns with up to six rooms - or 12 guests - from the stricter fire rules applied to hotels and motels. The legislation also bans indoor smoking.

[S.B. 237](#) - allows city councils the option of increasing the hotel-motel taxes from the current 3 percent rate up to 6 percent.

[S.B. 287](#) -- transfers rule-making authority from the Environmental Quality Board to the West Virginia Department of Environmental Protection. The EQB will continue to hear appeals of DEP decisions involving water and waste regulations.

[S.B. 419](#) – lawmakers scaled back Governor Manchin’s proposed pilot project to relieve counties and their municipalities of state regulations and new taxing powers. The bill would provide a procedure by which county commissions, municipalities and county boards of education may apply for waiver of a policy, rule or regulation the commission, municipality or board believes is preventing it from carrying out its duties and responsibilities in the most cost efficient, effective and timely manner.

[S.B. 455](#) – will set up a funding mechanism involving West Virginia consumers to help pay for the cost of installing environmental controls at power plants owned by certain utilities.

[S.B. 514](#) -- gives pay increases to Supreme Court justices, circuit judges and members of the Board of Public Works

[S.B. 558](#) -- restores the power of the state's Treasurer to oversee and invest public funds.

[S.B. 603](#) – will provide West Virginia and Marshall universities with greater power and flexibility to set their tuition rates, fees, purchasing policies and finances.

[S.B. 666](#)- limits the exemptions insurance companies and companies that pay the surcharge imposed by W.Va. Code §23-2C-3(f) have from Business Franchise Tax and Corporation Net Income Tax to the portion of the tax base which is based on income subject to a tax upon premiums

[S.B. 684](#) – will reduce the severance tax rate on future natural gas wells and change the tax rate on coalbed methane wells.

[S.B. 700](#) -- will speed up permits for wastewater treatment plants. The bill would transfer oversight from the Public Service Commission to the Department of Environmental Protection.

[S.B. 746](#) – will reduce the severance tax rate on future severing of timber.

[H.B. 2163](#) – allows people to offset Social Security benefits from unemployment compensation benefits.

[H.B. 2777](#) – makes technical changes concerning High-Tech research zones, parks and technology centers and tax incentives relating thereto.

[H.B. 2816](#) – Governor Manchin’s Healthy Start proposal.

[H.B. 2891](#) – restructures and reorganizes several executive agencies (including the West Virginia Educational Broadcasting Authority), creates an Office of Technology and restructures the state’s IT systems

[H.B. 2984](#) -- will put into place reforms in the state’s public employee pension systems, will close the newer of the state’s two teacher retirement plans and will allow the targeted plan’s existing enrollees to vote on merging into the Teachers’ Retirement System.

[H.B. 3208](#) – raises the monthly 911 service improvement charge on cell phones from \$1.48 to \$3 and increases the share collected by all but four counties

## **Failed**

**Pharmaceutical Advocate** (H.B. 2852) – the Governor’s Pharmaceutical Advocate Bill –The bill, after being amended by the House, would have imposed price controls on prescription medicines sold to State programs. The measure implements recommendations of the W.Va. Pharmaceutical Cost Council.

**Independent Campaign Expenditures** (S.B. 245) – would have required 527 groups and other persons and organizations making independent campaign expenditures to disclose within 24 hours any spending on “electioneering” in excess of \$5,000.

**Judgment Interest** (H.B. 2775) – would have amended Section 56-6-31 so as to trim the judgment interest rate to 3 points above the 5th district Federal Reserve rate. The current judgment interest is set by statute in West Virginia at 10 percent.

**Employer’s Reference Immunity** – H.B. 2015

## **West Virginia Legislature Bill Status**

The following links will allow you to search for bills and determine the status of legislation during the 2005 session of the West Virginia Legislature. The site is maintained by the West Virginia Legislative Reference & Information Center.

Bill Status - [http://www.legis.state.wv.us/bill\\_status/bstatmenux/bstatfrm.cfm](http://www.legis.state.wv.us/bill_status/bstatmenux/bstatfrm.cfm)

Bill Tracking - [http://www.legis.state.wv.us/billstatus\\_personalized/persbills\\_login.cfm](http://www.legis.state.wv.us/billstatus_personalized/persbills_login.cfm)

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