Today is the 41st day of the legislative session. As such, it’s the last date to introduce bills in the Senate, although rules do allow a bill to be originated if the need arises. All bills must pass their house of origin by the 50th day, February 27.

At the Capitol last week, the omnibus education bill continued to dominate the 60-day regular session, as the House of Delegates met in marathon floor sessions Wednesday and Thursday to ultimately advance a version of the bill that is markedly different from what was passed in the Senate (SB 451).

The House version eliminates or dramatically scales back some of the more controversial provisions of the Senate bill, eliminating Educational Savings Accounts, scaling back charter schools to a maximum of two schools, as well as eliminating several measures some considered retaliatory against teachers who took part in a nine-day walkout last year.

The House version also eliminates a non-severability clause, that would have meant that if any portion of the legislation were overturned in court, the entire package – including pay raises for teachers – would be nullified.

The bill passed the House by a significant 71-29 margin. It goes back to the Senate, which on Friday, opted not to take up the House message, with two Republican senators absent. (The bill originally passed the Senate on a narrow 18-16 margin.) Senate President Mitch Carmichael, R-Jackson, said the Senate will begin work Monday to attempt to reconcile the two versions of the legislation.

**RANDY’S DREAM FOR HIGHWAYS COMES WITH COSTS**

Thursday’s enthusiasm over the concept of Randy’s Dream was tempered Friday as The Senate Transportation and Infrastructure Committee Friday took up SB 522, a bill by Senator Randy Smith, R-Tucker, to provide funding for West Virginia’s highway maintenance program. Members learned that a drafting error led to a substantial underestimation of how much money the bill would draw from the General Fund. And they heard that the bill could harm the state’s bond ratings.
The Randy’s Dream bill, SB 522, creates the Special Road Repair Fund from two sources. It makes a one-time, $200 million draw from the Rainy Day Fund. And as drafted, it would devote 2 percent of the state severance taxes collected on coal, oil, gas and other products to the fund. The money would be used for road maintenance, particularly core maintenance: ditching, mowing and snow and ice removal.

Each Division of Highways district would be required to develop a maintenance plan and complete 90 percent of its maintenance projects. If it falls short, the district would have to solicit bids for outside contractors to conduct the work. Based on the bill as drafted, the state Tax and Revenue Department estimated that the new fund would produce $9.5 million to $10 million per year for the fund.

The severance tax rate is 5 percent and Sen. Chandler Swope, R-Mercer, told members that bill sponsor’s intent was to take two-fifths of the total revenue. Based on the most recent figures, Deputy Revenue Secretary Mark Muchow told the members that this would put about $190 million in the fund. The total projected severance tax take for this year is $476 million, but part of that is already dedicated, so about $418 million will go into the general fund.

Sending the $190 million to the Special Road Repair Fund would leave about $228 million for the General Fund. Muchow said counties and cities that receive shares of the various severance taxes would see their shares reduced, too. Muchow also pointed out the potential repercussions of taking $200 million to form the Rainy Day Fund. There are actually two funds, A and B. Fund A has $288 million and B has $419, for a total $719 million. State law requires withdrawals to come from A first, which would leave only $88 million in that account. Because the state’s economy is volatile, Muchow said, bond rating agencies look for a solid Rainy Day fund when considering the state’s credit-worthiness. So a big tap into Fund A could make the agencies nervous pose challenges for future road bond efforts.

Sen. Robert Plymale, D-Wayne, said he would prefer using one-time revenues from state budget surpluses to tackle the issue, and look at it year-by-year. Sen. Swope offered an amendment to change the amount of severance tax taken from 2 percent to 40 percent to reflect the sponsors’ intent, but it was overwhelmingly rejected.

Members did approve an amendment offered by Sen. Rollan Roberts, R-Raleigh, to authorize the Division of Highways to include ditching in any paving contracts where it’s feasible to do that. SB 522 goes next to Finance, where senators expect that the bill’s impacts on the General Fund and the Rainy Day Fund will be debated thoroughly.
HB 2829 will eliminate the severance tax on limestone and sandstone. The bill is tentatively on the House Finance Agenda today at 2:00 pm.

**HOMELAND SECURITY TO ADMINISTER EMERGENCY DEMOLITION**

S.B. 326, introduced by Governor Justice would reorganize state agencies involved with emergency and disaster planning. The legislation includes many moving parts. One piece of which would create a state-wide effort to demolish old and dilapidated buildings deemed unusable. There is an estimated 50,000+ buildings (commercial and private) that would be demolished if this bill becomes a statute. The Senate Government Organization Committee approved the bill unanimously and made a motion to have the double committee reference to Finance waved. The bill is on First Reading on today’s Senate calendar.

**INDUSTRY AND LABOR COMMITTEE PASSES BILL RELATING TO CONTRACTORS WAGES FOR SUBCONTRACTOR EMPLOYEES**

The committee for Industry and Labor met last week to discuss House Bill 2049, relating to a prime contractor’s responsibility for wages and benefits of employees.

The purpose of this bill is to repeal a section of the West Virginia Wage Payment and Collection Act requiring a prime contractor to be responsible for the wages and benefits of a subcontractor’s employees in certain instances. The committee amendment made by the Subcommittee amends the language to provide additional language regarding how an employee may seek wages and/or fringe benefits from a prime contractor in the event that a subcontractor does not pay those wages and benefits in a manner consistent with the Wage Payment and Collection Act. The bill will be reported to the House after first being reviewed by the Judiciary committee.

As of Friday, lawmakers have introduced 1,507 bills. Bills of statewide interest to follow include:

- **HJR 17**: Business Inventory, Machinery and Equipment Tax Exemption Amendment. (Pending in House Judiciary)
- **HJR 23**: Just Cut Taxes and Win Amendment. (Pending in House Finance)
- **SB 1**: Increasing access to career education and workforce training (Passed Senate. Pending in House Education)
- **SB 3**: Establishing WV Small Wireless Facilities Deployment Act. (Pending in House Technology and Infrastructure)
- **SB 4**: Relating generally to Municipal Home Rule Program. (Pending in House Government Organization)
- **SB 29**: Creating five-year tax credits for businesses on post-coal mine sites. (2nd Reading, Senate, 2/18/2019)
- **SB 52**: Entitling natural resource producers to economic opportunity tax credit. (Pending in Senate Finance)
- **SB 64**: Relating to crane operation certification. (Pending in Workforce Committee)
- **SB 69**: Requiring certain documents that include wage records be considered confidential. (Pending in Workforce Committee)
- **SB 131**: Modifying procedure for certain public agencies to contract for architectural and engineering services. (Pending in Government Organization)
- **SB 153**: Providing greater flexibility for making infrastructure project grants. (Passed Senate. Pending in House Technology and Infrastructure)
- **SB 225**: Division of Labor rule relating to regulation of heating, ventilating, and cooling work. (In Judiciary)
- **SB 258**: Establishing common law "veil piercing" claims not be used to impose personal liability. (Pending in House Judiciary)
- **SB 266**: Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019. (3rd Reading, Senate, 2/18/2019)
- **SB 270**: Streamlining process for utilities access to DOH rights-of-way. (Passed Senate. Pending in House Judiciary)
- **SB 360**: Relating to third-party litigation financing. (1st Reading, Senate, 2/18/2019)
- **SB 455**: Registration and surety bonds of non-resident subcontractors. (Pending in Finance Committee)
- **SB 500**: Creating Sewer and Water Infrastructure Replacement Act. (Pending in Finance Committee)
- **SB 538**: Modifying limits for West Virginia Highway Design-Build projects. (Pending in Senate Transportation and Infrastructure)
- **SB 557**: Increases from $25,000 to $50,000 the size of contracts municipalities can let to contract without competitive bids. (Pending in Senate Government Organization)
- **SB 580**: Relating generally to Local Control and Accountability Act. (Pending in Senate Finance)
- **HB 2001**: Relating to exempting social security benefits from personal income tax. (Pending in Senate Finance)
- **HB 2004**: Providing for a program of instruction in workforce preparedness. (Pending in Senate Education)
- **HB 2028**: Prohibit the state from requiring PSD to have a state engineer on site during the entire construction period of projects on state right-of
Below is a list of bills that have been introduced this week that have an impact on the construction industry or some CAWV members. Anyone needing further information can contact Mike Clowser at (304) 342-1166 or email at mclowser@cawv.org.

**SENATE BILLS**

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