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LEGISLATURE WORKING TO GET BILLS PASSED BY FEBRUARY 27 CROSSOVER DAY

Wednesday, February 27 is crossover day in the legislature. All bills must pass their house of origin or they are dead this legislative session. The Senate met Saturday to get their bills out of committee by Sunday in order to ensure three full days for readings. House and Senate committees have been meeting continuously this week to get bills through the legislative process.

BILLS PROMOTE HIGHWAY MAINTENANCE PROGRAM

Senate Finance Committee Friday reported out S.B. 522, a bill to create the Special Road Repair Fund for the maintenance and repair of the state’s roads and highways. The original bill, “Randy’s Dream” for Senator Randy Smith, R-Tucker, provided for two percent of the severance of natural gas and oil and coal and other mining to be transferred to the new fund. The bill also required a one-time transfer of $200 million from the Rainy Day Fund. The bill also creates a new article that establishes a procedure for contracting road maintenance work for potholes, mowing, ditch removal and snow removal with most of the work to be contracted out to private companies.

The bill is now $110 million a year for two years that will be funded out the general fund. Senate Finance Committee approved an amendment that will give each county $1.5 million to help with its maintenance needs. The bill is on Second Reading in the Senate today.

Meanwhile, the House Committee on Government Organization on Friday approved H.B. 2011 which creates the “Enhanced Road Maintenance Program” to improve road conditions across the state. This bill requires the state’s Division of Highways districts to come up with detailed maintenance plans for the roads in their districts by Dec. 1. If the districts are unable to complete 90 percent of those plans in a given year on their own, the bill requires them to hire private contractors to perform this work.

“While voters approved the road bond last year to fund major road and bridge projects, the number one complaint we continue to hear from our constituents is
the poor maintenance of our existing roads – particularly the secondary and tertiary roads,” said Majority Leader Amy Summers, R-Taylor, the bill’s lead sponsor.

“This bill will increase accountability at the DOH, while also allowing it to contract outside help to complete the work that they’re unable to get to,” Summers said. “This will allow DOH workers to focus on major tasks, while also ensuring the regular needed maintenance is accomplished.”

The bill is on Second Reading on the House Special Calendar today.

**HOUSE VOTES ON LIMESTONE SEVERANCE TAX REPEAL**

H.B. 2829 eliminates the severance tax on limestone and sandstone. The West Virginia Crushed Aggregates Council has worked for years to get a uniform structure for severance tax liability. The bill eliminates the severance tax entirely and puts West Virginia stone producers on equal footing with Pennsylvania, Maryland and Virginia that have no severance tax on limestone. The House Finance Committee approved the bill unanimously last week and passed by the full House Friday on a vote of 78-16. It now goes to the Senate Finance Committee.

**SENATE TRANSPORTATION REPORTS OUT DESIGN-BUILD MODIFICATIONS**

The Senate Transportation and Infrastructure Committee Thursday reported out S.B. 538, a bill to modify the current WV Division of Highways’ Pilot Design-Build Program. The committee bifurcated the WVDOH’s construction program into its regular construction and maintenance program and the division’s program which is funded by Roads to Prosperity bond funds, GARVEE bonds and WV Turnpike bonds.

**H.B. 2049 ON SECOND READING TODAY**

H.B. 2049 relates to a prime contractor’s responsibility for wages and benefits. Wage payment act claims have a five-year statute of limitations. Under the wage payment act, an employee of a subcontractor may seek repayment of wages and benefits from the prime contractor. This bill seeks to address belated claims where the prime contractor, with no prior notice, is subject to suit long after a construction project ceases, due to the failure of a subcontractor to pay its employees. The bill was reported out of House Judiciary Friday and is on Second Reading House Special Calendar today.

**SENATE FINANCE POSTPONES FUEL TAX EXEMPTION BILL**
A bill intended to authorize railroad and commercial watercraft claims for refundable exemption on motor fuel excise taxes was postponed indefinitely during Thursday’s Senate Finance Committee meeting. S.B. 456, which had come before the committee twice prior to the decision, spurred caution among members. During the bill’s latest review on Feb. 19, committee chair Sen. Craig Blair, R-Berkeley, expressed concern over the legislation and requested for more testimonies to come before the committee before a decision would be given. This bill has been introduced numerous times over the years. Exempting locomotives and aircraft from tax on the wholesale price of gasoline would cost the State Road Fund $2 million to $3 million annually.

EDUCATION COMMITTEES REVIEW, ADVANCE SBA RULES

The state School Building Authority presented last week its proposed rule changes that would reduce some of the agency’s regulation of the school construction and renovation projects it funds. The proposed changes, affecting six policies, include no longer requiring counties to submit the list of architecture and engineering companies that have bid on their SBA-funded projects to the SBA for “review and evaluation” before the county picks a winner. Ben Ashley, director of architectural services for SBA, said most counties ask for this help regardless, and the SBA would continue to review construction bidders.

The proposals would remove sections saying the SBA assigns the project management strategy for all projects” and “identifies” the “requirements for project design and construction administration,” instead saying the county “shall work with the design professional to develop a project management strategy.”

Also removed would be a line saying that “if a construction manager is required, the [county] will be required to follow SBA policy regarding the procurement of professional construction management services.” SBA staff must still review the contract. The proposals would raise from $100,000 to $750,000 the amount a construction project must cost before a county has to hire a clerk of the works. The ability for the SBA to grant a waiver from this hiring would remain.

Ashley said clerks of the works, unlike construction managers, merely observe and report on projects and don’t have the power to stop non-compliant work and don’t have responsibility to coordinate contractors. The proposals would also remove the requirement for the SBA to approve clerk of the works candidates. Other changes would increase the dollars counties could receive for renovations, among other things.

The Legislative Oversight Committee on Education Accountability reviewed the proposed rules last week. Saturday, the Senate Education Committee met and voted to send the rules to the full Senate for approval. S.B. 672 is on First Reading on today’s Senate calendar.
S.B. 152 EXPUNGEMENT BILL A WORKFORCE DEVELOPMENT BILL

The purpose of S.B. 152 is to allow for criminal record expungement, rather than just reducing felonies to a misdemeanor. It has a further goal: Allowing people with criminal records to return to the workforce. The CAWV has been working with representatives of the governor’s office, Adjutant General James Hoyer and legislators to tailor the bill to provide career training, drug testing and other measures that would enhance someone’s ability to be hired in the construction industry. The CAWV noted that being drug-free with some level of construction training is good but that showing up every day on the jobsite, many times in remote parts of the state, is essential to being employable. It was noted that many times people convicted of crimes have lost their driver’s license and have huge fines that they are unable to pay. A separate bill has been introduced to provide some type of forgiveness in order to get licenses reinstated.

S.B. 152 has passed the Senate and the House Judiciary Committee. It is pending in House Finance.

EDUCATION REFORM BILL DEAD FOR THIS SESSION

The House of Delegates approved a motion that postponed an omnibus education bill indefinitely, essentially killing the bill. The motion to table the bill passed 53 to 45 with two absences. Senate President Mitch Carmichael, a main advocate for the big education bill, expressed disappointment but said he would continue to fight for educational policy changes. “Unfortunately, today the champions of the status quo won,” said Carmichael, R-Jackson. “But that will not stop progress. They’re on the wrong side of history.”

The House Friday passed the governor’s bill that just provides a 5 percent pay raise. Senators have not indicated they are willing to pass a pay bill without education reforms. Senate Finance Chairman Craig Blair, R-Berkeley, said he would rather the money for pay raises be spent on maintenance of the state’s highways.

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.

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| SCR 39 | Sen. Trump | Requesting creation of Joint Select Committee on Requirements Governing Water Quality Standards | 2/19/19 |