



Volume 2

January 27, 2020

## 2020 Legislative Update

A total of 1720 bills have been introduced thus far. So far 18 bills have passed in the Senate and 28 bills have passed in the House.

Below are bills that we will be watching that affect our industry.

### **IIAWV Specific Legislation**

**SB561 – Prohibiting insurers from denying coverage as result of preexisting condition.** The purpose of this bill is to prohibit health insurers from denying coverage for accident or sickness as a result of a preexisting condition in the requirement and prohibitions of the Affordable Care Act are no longer enforceable or no longer preempt state law.

**HB4192 – Relating to the establishment of an insurance innovation process.** The purpose of this bill is to establish a process in which a person or entity may apply to the Insurance Commissioner for the introduction and utilization of an insurance innovation in this state that would otherwise be in conflict with West Virginia law. This is considered the “regulatory sandbox” bill.

**HB4359 – Increasing filing fees for insurers.** The purpose of this bill is to provide a uniform definition of “filing” and set a flat filing fee regarding insurance forms, rules, and rates. This legislation increases the filing fee from \$50 to \$100 for each filing for each insurer, irrespective of the number of forms, rules, or rates included within or affected by the filing. The applicable fee shall be \$100 multiplied by the number of insurers on whose behalf the filing is made.

**HB4361 – Relating to insurance law violations.** This bill amends the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated [§33-41-4a](#), and [§33-41-11a](#); and to amend and reenact [§33-41-2](#), [§33-41-5](#), [§33-41-8](#), [§33-41-11](#), and [§33-41-12](#) of said code, all relating to insurance law violations; defining “fraudulent insurance act”; allowing Insurance Commissioner to accept proceeds from court ordered forfeiture proceedings; creating special revenue fund; permitting courts to award cost of investigation to insurance fraud unit or other law-enforcement agency; requiring person engaged in the business of insurance to report to the Insurance Commissioner suspected insurance law violations; permitting insurance fraud unit to administer oaths or affirmations, execute search and arrest warrants, make arrests upon probable cause without a warrant,

and participate in the prosecution of workers' compensation fraud; making the commission of a fraudulent insurance act a violation of law; mandating that a person convicted of a felony involving dishonesty, breach of trust, or a law reasonably related to the business of insurance is disqualified from participating in the business of insurance; requiring insurance companies to have antifraud initiatives; allowing the Insurance Commissioner to promulgate rules; and providing for criminal penalties and restitution for insurance law violations.

**HB4448 – Relating to the transfer of money from the Insurance Commission Fund into the Workers' Compensation Old Fund.** The purpose of this bill is to create a source of funding for the Old Fund by authorizing the Insurance Commissioner to transfer unspent special revenue funds from the Insurance Commission Fund, also known as the commissioner's operating account, to the Old Fund in order to reduce any deficit balance in the Old Fund. The Old Fund was statutorily created to pay compensable workers' compensation claims with a date of injury or last exposure on or before June 30, 2005 incurred as a liability to the state's former monopolistic workers' compensation system. The prior sources of funding for the Old Fund were eliminated via legislation in 2016, 2017 and 2018. The Old Fund currently has no funding source other than investment income earned on its capital.

**HB4466 – Certificates of Insurance Act.** The purpose of this bill is to give the Insurance Commissioner authority over certain certificates of insurance. It addresses form requirements, limitations on use, notice requirements, applicability, enforcement, penalties and rulemaking.

**HB4477 – West Virginia Mutual to Mutual Insurance Holding Company Act. (Same as SB598)**

**HB4502 – Relating to insurance adjusters.** The purpose of this bill is to update the requirements for insurance adjusters to become licensed, and maintain licensure, in this state.

## **General Business**

**SB528 – Creating Uniform Worker Classification Act.** The purpose of this bill is to simplify criteria used to define independent contractors and to impose objective standards on the differentiation of independent contractors from employees.

**HB4196 – Enacting fair workweek employment standards.** The purpose of this bill is to enact fair workweek employment standards for certain retail, hospitality, and food services establishments, and property services companies to meet certain employment standards. The bill would require notice of work schedules and require compensation for changed work schedules. It would also require a right to rest between work shifts and require an offer of certain work to existing employees. It provides protections for the exercise of rights and prohibits retaliation.

**HB4370 – Establishing limits applicable to the award of damages for medical monitoring.** This legislation provides: In any civil action in which a court orders a defendant to pay for a plaintiff's future medical surveillance, screening tests, or monitoring procedures, no plaintiff shall be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening tests, or monitoring procedures until such surveillance, tests, or procedures have been completed: Provided, That a court may order a defendant to make

periodic payments into a fund established to pay the cost of future medical surveillance, screening tests, or monitoring procedures that are required by the judgment of the court. The court shall determine how the fund will be administered. The court shall also determine the date after which the future medical surveillance, screening tests, or monitoring procedures are no longer required, and after that date any moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests, or monitoring procedures completed prior to the termination date shall be repaid to the defendant who paid such amounts in the fund. If there are multiple defendants, then repayments shall be made in proportion to the total contributions of each defendant into the fund.

**[HB4445 – Economic Diversification Act of 2020.](#)** The purpose of this bill is to create the Economic Diversification Act of 2020 for the purpose of income tax relief, by state, county, and municipal government, to new or existing businesses whose product or service offered is not currently offered in the state. The bill requires the Secretary of Commerce to appoint a commission to determine eligibility. The bill provides that commission to be composed of government officials and private citizens. The bill limits the tax relief to a maximum period of eight years. The bill provides for rule making.

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### **Find Your Legislators**

The Legislature's website is an excellent resource to find contact information for your local Legislators and the committees on which they serve. Below are links to the member rosters for both the Senate and House.

[Members of the West Virginia Senate](#)

[Members of the West Virginia House](#)

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## **2020 LEGISLATIVE CALENDAR**



**Twentieth Day** - January 27, 2020: Submission of Legislative Rule-Making Review bills due. ([WV Code §29A-3-12](#))

**Thirty-fifth Day** - February 11, 2020: Last day to introduce bills in the House. [House Rule 91a](#) does not apply to originating or supplementary appropriation bills and does not apply to Senate or House resolutions or concurrent resolutions.

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**Forty-first Day** - February 17, 2020: Last day to introduce bills in the Senate. [Senate Rule 14](#) does not apply to originating or supplementary appropriation bills, and does not apply to Senate or House resolutions or concurrent resolutions.

**Forty-seventh Day** - February 23, 2020: Bills due out of committees in house of origin to ensure three full days for readings.

**Fiftieth Day** - February 26, 2020: Last day to consider bill on third reading in house of

origin. Does not include budget or supplementary appropriation bills. (Joint Rule 5, paragraph b)

**Sixtieth Day** - March 7, 2020: Adjournment at Midnight. (WV Const. Art. VI, §22)

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If you have any questions during the session or would like to express your opinion on issues, please contact Daniel Hall at [daniel@omegawv.com](mailto:daniel@omegawv.com) or you can call the office at 304.342.2440 and leave him a message. You may also contact Traci Nelson at [traci@omegawv.com](mailto:traci@omegawv.com) or at 304.342.2440.