

2021 West Virginia Legislative Session Bill Summaries

The West Virginia Legislature completed the 2021 regular legislative session on Saturday, April 10, 2021. In total, 282 bills completed legislative action. Summaries of key bills are addressed below, and the status of each is accurate as of Sunday, April 18, 2021. This summary also includes information regarding two joint resolutions that seek to amend the West Virginia Constitution and will be up for voter consideration in 2022.

Bills Completed Legislative Action

[Senate Bill 5](#)

Relating to claims arising out of WV Consumer Credit and Protection Act

- Senate Bill 5 amends the West Virginia Consumer Credit and Protection Act by creating an offer of judgment within the Act. This bill provides courts with criteria for evaluating reasonable attorney's fees and expense awards to the consumer under the Act; provides a unified mechanism for pre-suit notices of violations and offers to cure; allows either party in a private action under the Act to serve upon the other party an offer to settle or for judgment; and establishing that if the offer is rejected, the circumstances under which a party may recover attorney's fees.
- **Status**—Signed by the Governor on 3/29/2021. Effective 90 days from passage (6/16/2021).

[Senate Bill 9](#)

Continuing Licensed Racetrack Modernization Fund

- Senate Bill 9 continues the Licensed Racetrack Modernization Fund through July 1, 2030.
- **Status**—Signed by the Governor on 4/2/2021. Effective 90 days from passage (6/22/2021).

[Senate Bill 14](#)

Providing for additional options for alternative certification for teachers

- Senate Bill 14 provides a new pathway for individuals to obtain a professional teaching certificate by (1) obtaining a bachelor's degree, (2) passing a criminal background check, (3) completing pedagogical training, and (4) passing the PRAXIS exam.
- **Status**—Signed by the Governor on 3/10/2021. Effective 90 days from passage (5/27/2021).

[Senate Bill 34](#)

Creating exemption to state sales and use tax for rental and leasing of equipment

- Senate Bill 34 establishes an exemption to West Virginia's sales and use tax for the leasing or renting of heavy equipment among corporations that have at least 50% common ownership.
- **Status**—Completed legislative action and awaiting the Governor's signature.

[Senate Bill 42](#)

Creating Zombie Property Remediation Act of 2021

- Senate Bill 42 establishes a process through which municipalities can initiate court proceedings to force foreclosures on vacant and abandoned properties. The bill provides

definitions for what does and does not constitute “vacant and abandoned property.” The bill also includes the process for conveying the property’s deed following foreclosure.

- **Status**—Signed by the Governor on 3/29/2021. Effective 90 days from passage (6/16/2021).

Senate Bill 270

Providing for collection of tax by hotel marketplace facilitators

- Senate Bill 270 provides for the taxation of hotel rooms that are booked through a marketplace facilitator. The bill also provides for the collection and remittance of the hotel occupancy tax imposed by a municipality or county.
- **Status**—Signed by the Governor on 3/18/2021. Effective 90 days from passage (6/7/2021).

Senate Bill 272

Relating to WV Employment Law Worker Classification Act

- Senate Bill 272 establishes a single, statewide standard to evaluate whether an individual providing services to a business is an independent contractor or a bona fide employee. An individual must satisfy several conditions to be considered an independent contractor, and if the individual does not do so, then the individual’s employment status will be determined by the test set forth in Internal Service Revenue Ruling 87-41.
- **Status**—Signed by the Governor on 3/19/2021. Effective 90 days from passage (6/9/2021).

Senate Bill 275

Relating generally to WV Appellate Reorganization Act of 2021

- Senate Bill 275 creates the Intermediate Court of Appeals of West Virginia. The new court will consist of one three-judge panel that will serve the entire State and will be operable by July 1, 2022. The Court will not have any original jurisdiction, but it will have appellate jurisdiction over the following matters: (1) final judgments or orders of a circuit court in civil cases; (2) final judgments or orders of family courts; (3) final judgments or orders of a circuit court concerning guardianship or conservatorship matters pursuant to § 44A-1-1 et seq.; (4) final judgments, orders, or decisions of an agency or an administrative law judge; (5) final orders or decisions of the Health Care Authority in a certificate of need review; (6) final orders or decisions issued by the Office of Judges after June 30, 2022, and prior to its termination; and (7) final orders or decisions of the Workers’ Compensation Board of Review. Notably, the bill eliminates the the Workers’ Compensation Office of Administrative Law Judges, otherwise known as the Office of Judges, and transfers its duties and powers to the Workers’ Compensation Board of Review.
- **Status**—Signed by the Governor on 4/8/2021. Effective 90 days from passage (6/30/2021).

Senate Bill 277

Creating COVID-19 Jobs Protection Act

- Senate Bill 277 provides liability protections to persons and entities by prohibiting certain claims arising from the COVID-19 pandemic, COVID-19, or impacted care. Under the bill, claims “arise” from COVID-19 if the claims are caused by “actual alleged, or possible exposure to or contraction of COVID-19,” or if they result from services, treatment, or other actions in response to COVID-19. The bill provides a non-exhaustive list of examples, including implementing policies and procedures, testing, delay or modification

of scheduling or performing a medical procedure, and actions taken in response to governmental recommendations and guidelines. Not only does the bill provide protections against claims arising from COVID-19, COVID-19 care, and impacted care, but the bill also includes products liability protections for those who design, manufacture, label, sell, distribute, or donate products in response to COVID-19. But the bill does not provide protections for persons or entities who engaged in intentional conduct with actual malice. The bill will apply retroactively from January 1, 2020, and will apply to any cause of action accruing on or after that date.

- **Status**—Signed by the Governor on 3/19/2021. Effective from passage (3/11/2021).

[Senate Bill 344](#)

Relating to credit for qualified rehabilitated buildings investment

- Senate Bill 344 amends W. Va. Code § 11-24-23a by eliminating the termination date of the tax credit for qualified rehabilitated buildings investment. The tax credit was originally supposed to be eliminated after December 31, 2022, but this bill removed this limitation.
- **Status**—Completed legislative action and awaiting the Governor’s signature.

[Senate Bill 439](#)

Allowing use or nonuse of safety belts as admissible evidence in civil actions

- Senate Bill 439 establishes when an individual’s misuse or nonuse of a seatbelt can be admissible evidence in considering damages in a civil suit. Specifically, evidence that an individual was not wearing a seatbelt at the time of the accident may be admissible to show that his or her failure to wear the seatbelt exacerbated or contributed to the individual’s damages, provided that the burden of proof is supported by expert testimony.
- **Status**—Completed legislative action and awaiting the Governor’s signature.

[Senate Bill 492](#)

Establishing program for bonding to reclaim abandoned wind and solar generation facilities

- Senate Bill 492 creates the West Virginia Wind and Solar Energy Facility Reclamation Act, which establishes a program to decommission and reclaim wind and solar electrical generation facilities upon their closure. Companies that constructed and operated wind and solar generation facilities must post bonds and execute agreements sufficient to cover the costs of decommissioning and reclamation should the facilities be abandoned after closure.
- **Status**—Completed legislative action and awaiting the Governor’s signature.

[Senate Bill 673](#)

Relating to venue for bringing civil action or arbitration proceedings under construction contracts

- Senate Bill 673 requires that when a party whose principal place of business is in West Virginia enters into a construction contract on or after July 1, 2021, and the contract is executed in West Virginia, the construction contract must provide that any civil action or arbitration permitted by the contract must be commenced and heard in West Virginia.
- **Status**—Completed legislative action and awaiting the Governor’s signature.

[House Bill 2001](#)

Relating generally to creating the West Virginia Jumpstart Savings Program

- House Bill 2001 establishes a savings and investment program that allows individuals who wish to pursue a trade or establish a new business in West Virginia to make tax-free contributions to a savings and investment account. These monies can then later be used to cover the costs of tools, equipment, supplies, apprenticeship programs, licensure, or certification.
- **Status**—Signed by the Governor on 3/19/2021. Effective 90 days from passage (6/9/2021).

House Bill 2002

Relating to Broadband

- House Bill 2002 is related to facilitating broadband expansion policies. The bill expedites the process for obtaining permits to install telecommunications facilities, and provides that the Office of Broadband is responsible for ensuring compliance with the permits. The bill also creates a dispute resolution process for consumer protections.
- **Status**—Completed legislative action and awaiting the Governor’s signature.

House Bill 2012

Relating to public charter schools

- House Bill 2012 increases the number of public charter schools that can be created every three years from three to ten charter schools statewide. The bill also establishes the Professional Charter School Board as an additional authorizing agency for charter schools. The bill permits the Professional Charter School Board to recognize up to two statewide virtual charter schools.
- **Status**—Signed by the Governor on 3/11/2021. Effective 90 days from passage (6/1/2021).

House Bill 2013

Relating to the Hope Scholarship Program

- House Bill 2013 creates publicly funded personal education savings accounts for public school students who are interested in switching to private or home schools. The Hope Scholarship Program permits parents to use their per-pupil expenditure from West Virginia’s school aid formula to pay for certain educational expenses. The program will be operational by July 1, 2022.
- **Status**—Signed by the Governor on 3/27/2021. Effective 90 days from passage (6/15/2021).

House Bill 2024

Expand use of telemedicine to all medical personnel

- House Bill 2024 expands telemedicine policies by permitting health care practitioners licensed in other states to practice in West Virginia using telehealth services. The bill establishes the registration requirements for practicing telemedicine. The bill defines when the physician-patient relationship is established, and it requires that patients must have an in-person appointment with their physician within one year of establishing the physician-patient relationship. The bill also allows telehealth practitioners to prescribe controlled substances to established patients.
- **Status**—Signed by the Governor on 4/9/2021. Effective from passage (3/30/2021).

[House Bill 2025](#)

Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner

- House Bill 2025 expands West Virginia’s state alcohol laws, making several COVID-19 pandemic alcohol liberalizations permanent. The bill expands outdoor dining options by allowing patrons to dine outside with their drinks in designated areas. Alcohol will be available for delivery or pick-up with food orders. The bill also reduces certain alcohol-related licensing fees for bars, restaurants, brewers, wineries, and distilleries for the next two years.
- **Status**—Completed legislative action and awaiting the Governor’s signature.

[House Bill 2026](#)

Relating to the modernization of the collection of income taxes by adopting uniform provisions relating to the mobile workforce

- House Bill 2026 relates to the collection of state incomes taxes and provides that certain temporary, nonresident employee’s compensation is excluded from state source income. The bill also changes the allocation of multi-state income from a four-factor formula to a single sales factor.
- **Status**—Signed by the Governor on 4/9/2021. Effective 90 days from passage (6/28/2021).

[House Bill 2263](#)

Update the regulation of pharmacy benefit managers

- House Bill 2263 updates the Public Employees Insurance Agency’s reporting requirements, as well as updates the regulations regarding reimbursements of pharmacy benefit managers. The bill requires that when pharmacy benefit managers receive rebates, such rebates are passed to the consumer.
- **Status**—Signed by the Governor on 4/9/2021. Effective 90 days from passage (6/28/2021).

[House Bill 2358](#)

Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act

- House Bill 2358 updates the meaning of federal adjusted income and other terms used in the West Virginia Personal Income Tax Act by specifying the effective and applicable dates for determining the meaning of terms.
- **Status**—Signed by the Governor on 2/24/2021. Effective from passage (2/18/2021).

[House Bill 2359](#)

Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act

- House Bill 2359 updates the meaning of federal taxable income and other terms used in the West Virginia Corporation Net Income Tax Act by specifying the effective and applicable dates for determining the meaning of terms.
- **Status**—Signed by the Governor on 2/24/2021. Effective from passage (2/18/2021).

[House Bill 2495](#)

Relating to the filing of asbestos and silica claims

- House Bill 2495 requires that plaintiffs shall include a sworn information form when filing any asbestos or silica action. The sworn information form must specify the evidence that provides the basis for each claim against each defendant and provides a list of other requirements that must be included in the form.
- **Status**—Signed by the Governor on 4/15/2021. Effective 90 days from passage (6/29/2021).

[House Bill 2581](#)

Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property

- House Bill 2581 directs the State Tax Department to propose emergency rules by July 1, 2021, regarding the valuation of properties that produce oil, natural gas, natural gas liquids, or any combination thereof. The bill also provides that fair market value shall be determined by applying a yield capitalization model to the net proceeds. Net proceeds now will mean actual gross receipts on a sales volume basis determined from the actual price received by the taxpayers as reported on the taxpayer's returns, less royalties, and less actual annual operating costs.
- **Status**—Completed legislative action and awaiting the Governor's signature.

[House Bill 2962](#)

Relating generally to dental practice

- House Bill 2962 updates the licensing requirements to practice dentistry and to practice as a dental hygienist in West Virginia. Individuals who wish to practice dentistry or practice as a dental hygienist must not have any criminal convictions. Further, the bill requires that practitioners display their board authorizations at their place of practice, and it allows practitioners to form professional limited liability companies. The bill also updates the criteria used when considering disciplinary action, updates the types of disciplinary sanctions, and provides for criminal penalties.
- **Status**—Completed legislative action and awaiting the Governor's signature.

[House Bill 3301](#)

Relating generally to property tax increment financing districts

- House Bill 3301 authorizes payment in lieu of tax agreements for property located within property tax increment financing districts. The bill authorizes a county commission or municipality to extend the termination of the financing districts, and modifies the revenue sources for a financing district that is extended.
- **Status**—Completed legislative action and awaiting the Governor's signature.

[House Bill 3311](#)

Relating to the cost of medical records

- House Bill 3311 requires that providers cannot charge a patient or a patient's representatives a fee that exceeds a fee consistent with HIPAA.
- **Status**—Completed legislative action and awaiting the Governor's signature.

Joint Resolutions

[House Joint Resolution 2](#)

Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate

- House Joint Resolution 2 will amend Article IV of the West Virginia Constitution by providing that courts do not have the authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate. A judgement rendered by the Senate following an impeachment trial will not be reviewable by any court in West Virginia.
- **Status**—Two thirds of the members of the West Virginia Legislature passed the resolution. The question of ratification or rejection of the amendment will be submitted to voters of the state at the next general election in 2022.

[House Joint Resolution 3](#)

Property Tax Modernization Amendment

- House Joint Resolution 3 will amend section one, Article X of the West Virginia Constitution by authorizing the Legislature to exempt from property taxation tangible machinery and equipment personal property directly used in business activity, tangible inventory personal property directly used in business activity, and motor vehicles.
- **Status**—Two thirds of the members of the West Virginia Legislature passed the resolution. The question of ratification or rejection of the amendment will be submitted to voters of the state at the next general election in 2022.