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Liquor bill approved

Legislature passes 12 other call bills

BY DAVID BEARD The Dominion Post

EDITORIAL: State's effort to shield small businesses who own liquor licenses not sober. Page 4-A. IN THE WEEK AHEAD, we will take a closer look at two education bills passed by the Legislature on Tuesday.

The most debated bill on the House floor passed the state Legislature on Tuesday.

The bill made it possible for owners of stand-alone liquor stores to buy their licenses for another 10 years without bidding on them.

The Legislature passed 13 bills put on the call by Gov. Joe Manchin, and adjourned late Tuesday afternoon. Along the way, the House of Delegates also subjected two other bills to hearty debate before passing them — not unanimously.

The next interim session is scheduled for June 15-17.

Liquor licenses

House Bill 105 defines two types of retail liquor licenses: Class A, standalone stores, such as Ashebrooke Liquor Outlet on Beechurst Avenue; and Class B, mixed-use outlets, where other goods are sold under the same roof, such as in the Cheat Lake BFS.

The law permits holders of Class A licenses to buy their license, without bidding, for the next 10-year cycle, which begins July 1, 2010. They must pay a "minimum bid" price determined by the Alcohol Beverage Control Administration, plus a 10-percent premium. They may elect to pay 50 percent down and have the remainder financed by the state at 1 percent below prime rate.

Delegates who opposed the bill in Judiciary Committee opposed it again on the House floor.

Delegate Barbara Evans Fleischauer renewed her concerns about the discount financing, and the state essentially granting a limited monopoly by selling the license.

"Lots of businesses in my district would like not to have to compete with other businesses," she said. They would welcome a "10-year break from competition."

She also said that Class B license holders, and those in Class A who choose to bid, have to pay the whole bid prices — sometimes hundreds of thousands of dollars, up front, while Class A buyers can "dribble" the funds in over five years. This deprives the state of money it could be spending on needs, she said, citing The Dominion Post's "pothole of the week" feature, and statistics showing three southern West Virginia counties fall in the nation's bottom 1 percent for life expectancy.

"Keeping the status quo will result in greater revenues for the state," she said.

Delegate William R. Wooten, DRaleigh, said there are about 165 liquor licenses held in the state — 100 Class B and 65 Class A. He repeated his concerns that granting license holders the right to buy their license every 10 years creates a property right, and could subject the state to lawsuits. Bill proponents concurred those suits are a possibility.

He also noted that Gov. Gaston Caperton's administration set up the system as it is in 1989 in order to avoid cronyism — licenses go to the highest bidder.

The new bill, he said, establishes "a sweetheart deal ... that creates a perpetual limited monopoly without paying market rate. ... Is it good public policy to enrich 65 license holders at the expense of the rest of the state?"

Proponents pointed out Manchin's intention for the bill — to protect small-business owners from being outbid by out-of-state

retailers with deep pockets. Doug Skaff Jr., D-Kanawha, said a local liquor store owner had just phoned him urging support for the bill. A Walgreens will be going in near his store, and "he's scared to death right now. 'Give us a competitive advantage,' " the owner said.

"Yes it's a sweet deal," Skaff said, but without the protection, the owner might have to take his family and business out of state.

Carrie Webster, House Judiciary chair, Kanawha, said the committee took steps to build transparency into the law to avoid any backroom deals. "We didn't want it to be a sweetheart deal."

Addressing concerns about the financing, she said counsel has advised her it's not a loan, it's an installment plan. And if the license holder misses a payment by 30 days, they lose the license.

The bill passed the House 71 for, 27 against with two not voting; 20 no votes came from Republicans. It flew through the Senate without debate, with 32 for, two against and two not voting.

Ashebrooke's owners, Joe and Joseph Moser, had an interest in the bill because they lost a bid for one of their stores to a competitor, and attended all the sessions.

"We are very pleased with the outcome," Joseph said. "It's a victory for small businesses in West Virginia" whose owners have invested in and grown their businesses. "It's a great victory for us and for the consumer, because they're going to be able to have the variety and everything else."

Gambling proceeds

HB 102 also underwent debate before passing in the House.

The bill increases the share allocated to certain municipalities and counties after each pari-mutuel racetrack in the state is licensed to offer West Virginia Lottery racetrack table games and shifts some other proceeds around.

House Minority Leader Tim Armstead, R-Kanawha, said the Manchin "administration is trying to push additional gambling down the throats" of the voters.

People are concerned about economic development, taxes and job creation," he said. "If all we do is continue to expand gambling, [we have] no long-term economic development plan for the state of West Virginia put forward by this administration. ... Balancing the budget with gambling isn't economic development."

The vote went 74 for, 23 against, three not voting. All but four of the no votes came from Republicans.

It passed the Senate 30 for, two against, two not voting, with no debate.

Alternative energy

HB 103 requires energy suppliers to offer at least 25 percent of their energy from alternative fuels by the year 2025. Sen. Michael Oliverio, D-Monongalia, previously said this bill aims to give Manchin more clout as he makes the case for coal around the country.

Before the debate, an amendment attempting to correct a fact generated a room full of laughs. The bill includes references to fuel cells, and Delegate Ray Canterbury, R-Greenbrier, said they shouldn't be included because fuel cells aren't a fuel, they are a devices that use fuel to create electrical energy.

The amendment failed, but required two voice votes, and generated laughs as the two sides tried to shout each other.

The answer to a delegate's question about possible rate hikes stemming from the bill produced the answer, "It could result in increased consumer costs."

That prompted Delegate Mitch Carmichael, R-Jackson, to ask, "Why vote [for] a bill that would raise rates [to encourage] alternative energy sources in a coal-producing state? Why vote on what you know will increase electrical rates?"

The bill passed with 69 votes for, 30 against, one not voting; 27 of the no votes came from Republicans. It passed the Senate without debate, 28 for, four against, two not voting.

Other bills

Along with three education-related bills, this legislation also passed both houses:

Governing the development of land that's been surface mined, to allow for economic development in communities with limited developable land.

Improved pay to recruit and retain employees at two state mental hospitals — Mildred Mitchell-Bateman in Huntington and William R. Sharpe in Weston.

Creating tax incentives to draw high-tech businesses to the state.

Providing a tax modification for parents or guardians who contribute to the trust fund of a child with autism.

Creating tax incentives for high-tech firms to open in the state.

Providing for the continuation of the Motor Fuel Excise Tax Shortfall Reserve Fund until 2013.

Granting all county commissions the authority to regulate the locations of strip clubs.

Authorizing the State Building Commission to issue bonds for certain higher education, tourism and state capital improvement projects.

The Legislature also passed two supplemental spending bills.

SB 1014 devotes \$26 million in state money, from the rainy day fund, and \$37 million in federal funds — \$63 million altogether — to flood relief in southern West Virginia.

SB 1015 takes \$21 million from the state excess lottery fund give back pay to public defenders, who have been working unpaid, some for a year or more according to some lawyers, because the public defender's office ran out of money.

