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OPEB, shale bills fail

Legislation falls apart in final hours

BY DAVID BEARD

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WRAP UP of the bills that passed at the end of the Legislative session. Page 4-A.

CHARLESTON — The Legislature failed to pass either of its two top-priority bills this session: OPEB and Marcellus.

The final hours of the OPEB bill resembled the final moments of the monster in a cheap horror movie: It was dead, then alive, then dead again. Changes happened even as The Dominion Post's presses were rolling, and different papers reflect different phases of the action.

Shortly after 7 p.m., the House sent the Senate's unfunded OPEB plan back with several funding sources plugged in. With a 9 p.m. conference report deadline looming, the bill's fate appeared to be "on life support," as one senator put it.

Around 10 p.m., while The Dominion Post was attending House action, the Legislative website posted the Senate had accepted the House changes, legislation was complete and the bill was off to the governor.

But within 30 minutes, that message came down. The Senate had stripped the funding out and returned it to the House, which never took the bill back up before midnight. After both chambers adjourned, the two leaders reflected on the demise of the two bills. Both did some finger-pointing, and both said they'd like to see special sessions to get an OPEB plan and Marcellus regulation passed.

"I was extremely disappointed that the OPEB bill we passed, that we worked so hard on, that really addressed the OPEB situation failed," House Speaker Rick Thompson said. "We had a funding source. ... We made the tough decision to address that unfunded liability and I think it's a shame."

While the Senate version declared that the state assumed the responsibility for all OPEB liability across the state, the House version made that more explicit. Thompson said that provision would have erased school systems of that accountingbook debt, instantly freeing up \$300 million for them to use to hire people and improve education.

He was upset the Senate returned it with the money removed. "That's not a bill." But he looks forward to a possible special session. "We'll keep working on it."

On the failed Marcellus effort, he was more philosophical. The chambers had different bills that addressed different issues, and they couldn't find the right mix in time. "We should address it separately [in a special session], and I think that's the way we need to do it."

Kessler reflected, "Those obviously are the two biggest disappointments of the session. They were the two biggest things on the plate."

He noted how the Marcellus bill kept working its way down the House action calendar. How do you have a conference with a House that doesn't pass a bill?"

And he responded to Thompson's jab that the Senate didn't accept the House OPEB funding idea. The Senate sent its bill to the House March 3; House Finance got it out on Thursday. "And guess when we got those funding solutions?" After the 9 p.m. deadline Saturday.

The Senate would have liked more time to review the House ideas. He was particularly concerned that putting \$250 million from the Rainy Day Fund toward the OPEB liability would hurt the state's bond rating.

Both leaders — both running for governor — also took a few minutes to reflect on their successes.

“I’m very proud that the first bill we passed was the parole bill fix,” Thompson said. An error in the bill passed last year made murderers sentenced to life with mercy eligible for an annual parole hearing, posing hardships for victims’ families. The Legislature adjusted that to a hearing up to every three years.

He was also pleased the revised ethics act — with additional financial disclosures and a lobbying “revolving door” moratorium — passed in the final hours. “We passed it first week. ... We had to hold tough there for awhile. They really weakened the bill.”

Kessler was pleased that following the turbulent leadership transition, things settled down and the Senate passed every bill on its plate. “Early on we were seen as the house in disarray.”

He noted the House suffered turmoil in the final days, after Delegate Ron Walters demanded Thursday that every bill on third reading that day — one was 60 pages — had to be read aloud on the House floor. Kessler speculated that move might have fatally delayed Marcellus and OPEB action.

Local Delegates Tim Manchin, D-Marion, and Barbara Evans Fleischauer, D-Monongalia, have been heavily involved in the various Marcellus bills, and both were disappointed the bill died.

“It’s a real sad commentary,” Fleischauer said. “We worked so hard on it. It’s so frustrating and its so important. To me that was number one, and up until today I thought it was going to get through.”



AP photo

The sun sets on the south side of the Capitol building during the last day of the legislative session Saturday at the Capitol in Charleston.

