



Very Spooky Legal Updates

WVASBO FALL CONFERENCE
OCTOBER 31, 2025
KIM CROYLE and HOWARD SEUFER
(WE'RE BAAAAACK)

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WHAT KEEPS YOU UP AT NIGHT?

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WHAT KEEPS US UP AT NIGHT?

- Bills that go bump in the night
- Booooo-ster clubs
- Killer Court Decisions
- Blood-sucking Contract Provisions
- Freaky Fraudsters

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Bills that Go Bump in the Night

- HB 2897
- SB 175
- SB 712
- SB 587
- HB 2761

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**HOUSE BILL 2897 –
Handout p. 38**


**PERMITTING THE
LEGISLATIVE AUDITOR TO
CONDUCT PERIODIC
PERFORMANCE AND
FINANCIAL AUDITS OF
THE WEST VIRGINIA
DEPARTMENT OF
EDUCATION**

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- At the request of the Legislative Oversight Commission on Education Accountability (LOCEA) and approval of the Legislature's Joint Committee on Government and Finance, the Legislative Auditor may now conduct performance audits of
 - the State Department of Education, and
 - county boards of education

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- The Legislative Auditor is allowed to inspect all records and accounts of the Department and examine its personnel, but is required to protect the confidentiality, privacy or security of any protected information to the same degree as the State Department is required to protect it
 - The Legislative Auditor is also empowered to review “productivity and meeting standards, while ensuring local control is upheld”
- An initial performance audit of the State Department must be completed by December 1, 2025, with a report delivered to the Joint Committee and LOCEA

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**SENATE BILL 715 – Handout p. 22
RELATING TO PERSONALLY
IDENTIFIABLE INFORMATION OF
MEMBER, RETIRANT,
BENEFICIARY, OR ALTERNATE
PAYEE OF RETIREMENT SYSTEM**

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- In response to the risk of fraud and identity theft, all records maintained by the Retirement Board that would tend to disclose personally identifiable information of a member, retirant, beneficiary or alternate payee are confidential and exempt from disclosure under the Freedom of Information Act
 - But members, retirants, beneficiaries, alternate payees, or persons authorized by them may access their own information


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The confidential information includes, but is not limited to

- Social Security numbers
- Account numbers
- Birth dates
- Addresses
- Telephone numbers
- Email addresses
- Medical information
- Disability information
- Direct deposit information




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**SENATE BILL 712 –
Handout p. 20
RELATING TO
RETIREMENT
PROVISIONS OF SYSTEMS
MANAGED BY CPRB**


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Handout p. 51

- A retirant who becomes employed by the county board of education after the effective date of his or her retirement must have a bona fide separation from service upon retirement to be eligible for an annuity payable under the retirement system
- To avoid in engaging in a prearranged agreement, a retiree may not apply for or have discussions regarding re-employment with a PERS participating employer until the 60-day period has expired.


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Handout p. 51

- If a retirant fails to have a bona fide separation from service upon retirement, or if the retirant or the county board fails to make satisfactory reports or verifications requested by the Retirement Board to ensure that a bona fide separation from service upon retirement has occurred, then the member's retirement must be voided and the member must repay to the system the gross amount of all annuity payments received related to such voided retirement

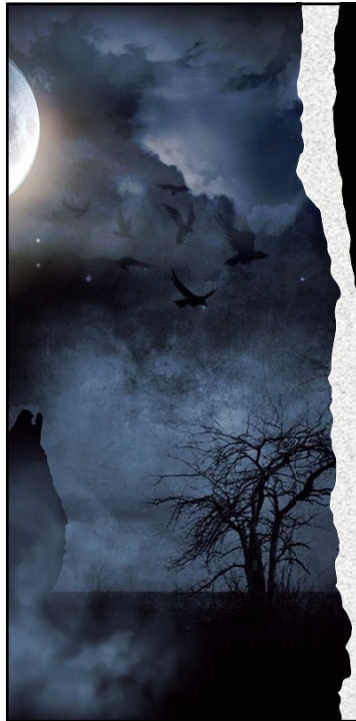
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SENATE BILL 587 – Handout p. 16

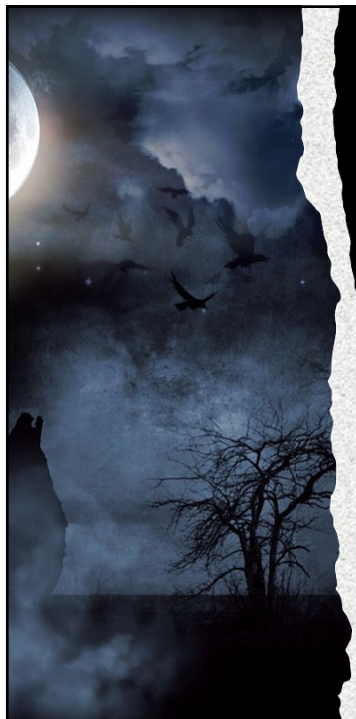
RELATING GENERALLY TO GOVERNMENT CONTRACTING

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- Under the statutes governing the bidding of county board construction contracts, the requirement to solicit competitive bids has been raised so that now it will apply to every construction project exceeding \$50,000 (instead of \$25,000) in total cost
- Senate Bill 587 requires that the provisions of a bid shall remain valid and legally binding for a period of 90 calendar days from the date of the bid opening
 - The period can be extended by mutual agreement

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- Under the provisions that allow a county board to negotiate with the lowest qualified responsible bidder when all bids exceed the board's maximum budgeted amount, the negotiations will now be based on the specifications (instead of on the "scope and specifications") contained in the original solicitation
- A negotiated award will now have to be made within 60 days (instead of 30 days) of the original bid opening date

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**HOUSE BILL 2761 –
Handout p. 37**

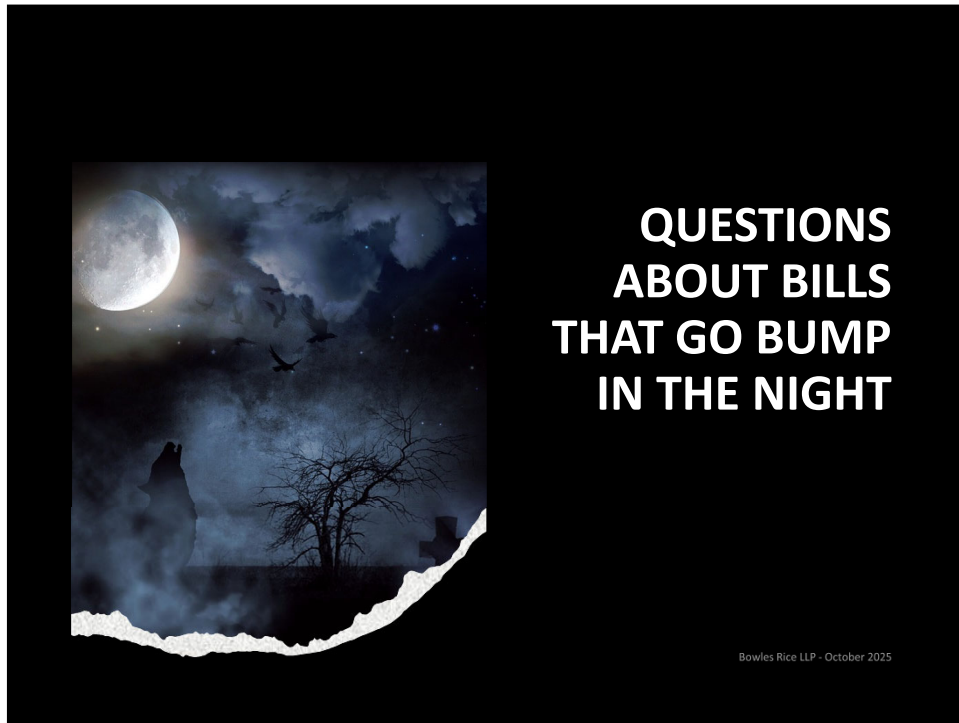
**RELATING GENERALLY
TO MAGISTRATE
COURTS**

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- Magistrate Courts will now have jurisdiction of all civil actions where the value of the amount in controversy or the value of property sought, exclusive of interest and cost, is not more than \$20,000
 - (Until now, the limit was \$10,000)

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Booooo-ster Clubs

Handout p. 67

- County boards of education, subject to the provisions of statute and the rules and regulations of the West Virginia Board of Education, have the authority and responsibility to require that records be kept of all receipts and disbursements of all funds collected or received by any principal, teacher, student, or other person connected with a school, and all programs, activities or other endeavors of any nature operated or carried on by or in the name of the school, or any organization or body directly connected with the school, to audit such funds, and to conserve such funds.

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Booooo-ster Clubs

Handout p. 67

- All such funds so collected shall be deemed quasi-public moneys, and shall be expended for the benefit of the students of the school.

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Booooo-ster Clubs

- Pre-numbered tickets are to be used at any event where an admission fee is charged or a donation accepted for admittance. Event examples include dances, sporting events, theater productions and show choir performances. Unused ticket stock should be kept in a secure location and issued to the ticket collectors immediately prior to the event. Whenever practical, separate individuals should be used to sell and collect the tickets and no individual should be used more than five times per year. As tickets are collected from fans, they should be torn in half; one half should be returned to the individual as a receipt and the other half should be retained.

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Booooo-ster Clubs

- Cash disbursements are not allowed from event collections. All proceeds from school sponsored events must be deposited intact into the school account.

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Booooo-ster Clubs

- All uniforms, equipment or other team merchandise purchased with school funds belong to the school. An inventory is to be maintained of all such items. Uniforms provided to athletes and coaches are to be returned to the school at the end of the season.

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Booooo-ster Clubs

- Monthly financial statements are to be prepared for each fund maintained by a school in timely manner. All accounts maintained by the school within each fund are to be listed separately. The financial statements are to be signed and dated by the preparer and the school principal.

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Boooooo-ster Clubs

- The principal is required to submit at least one signed copy of the financial statements for each fund to the county board's chief school business official and make one copy available for review at the school by anyone who desires to do so. The principal is also required to submit a copy of the balance page of all bank, CD and investment account statements with the financial statements.

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Boooooo-ster Clubs

- Every school support organization should be officially organized with a set of published by-laws and be governed by an elected board of directors consisting of at least president, a vice president, a secretary and a treasurer.
- All school support organizations must be approved **annually** by the county board of education.

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Booooo-ster Clubs

- All disbursements must be made by check, except for those from petty cash. The check must be made payable to the individual or vendor to whom the payment is being made, not to another party that is subsequently making payment on behalf of the organization. Every check and check stub must be completely filled out at the time the check is issued.
- Checks are not to be made payable to cash. If starting cash is needed for an event from which to make change, the check must be made payable to the individual who will be cashing the check.

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Booooo-ster Clubs

- All proceeds from fund raisers conducted by a school organization must be receipted and deposited intact into one of the organizations depository accounts. Merchandise purchased for resale should be purchased by checks issued for that purpose. In addition, all purchase invoices should be retained as documentation for the disbursements.
- A profit and loss statement must be prepared for each fund raising activity conducted by a school support organization that shows gross proceeds, cost of goods sold and net proceeds.

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Booooo-ster Clubs

Policy 8200:

- At any time a LEA determines that any personal property, including equipment, portable building, or motor vehicle, including school bus, school furniture, computers, or other personal property is no longer needed for school purposes, the purchasing director, in cooperation with the Chief School Business Official may declare the property surplus and dispose of the property in the most economical method for the benefit of the LEA.

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Booooo-ster Clubs

- The property may be disposed of in several ways: discarded or junked if it is determined not to have any salvageable value, traded in towards the purchase of a replacement item, sold at public auction, by competitive bid to the highest bidder, by fixed price, or contributed to:

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Boooooo-ster Clubs

- a. The state or political subdivisions, including county commissions or agencies thereof;
- b. A private, nonprofit, tax-exempt organization having been granted tax-exempt status by IRS Code 501(c) 3 through (8) inclusive, (19) or (23) for nominal consideration, provided that the property is for charitable, economic development or other community use.

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Boooooo-ster Clubs

- LEA employees and members of their immediate family are not eligible to buy or receive surplus property belonging to the LEA unless the surplus property is offered to the general public for sale.

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Booooo-ster Clubs

- W. Va. Code § 6B-2-5(b)(2) states, in relevant part: Use of public office for private gain. -- (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection.

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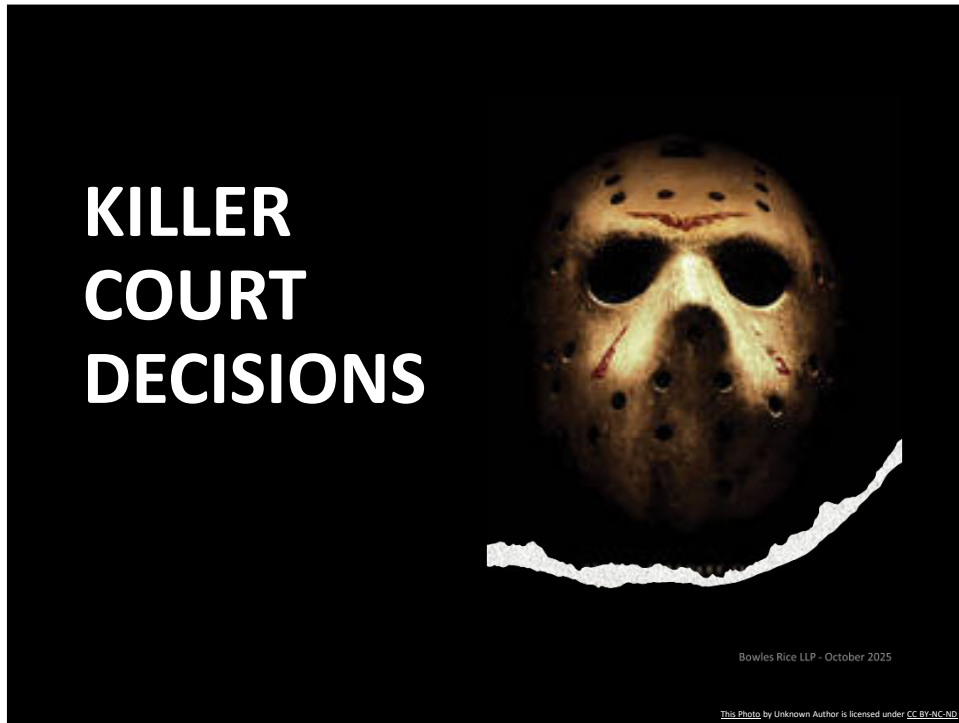


QUESTIONS ABOUT BOOOOO-STER CLUBS

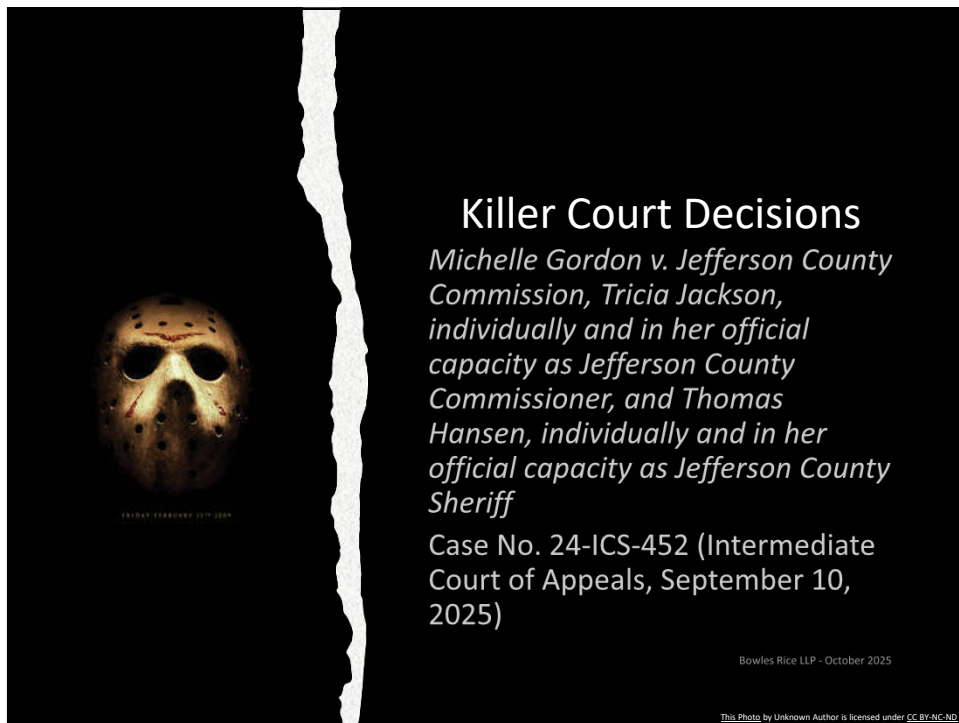
DON'T EVEN GET US STARTED ON BOOSTER CLUBS & TITLE IX!

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Killer Court Decisions

This case has all the intrigue!


- Former finance director for Jefferson County
- Allegations of official misconduct
- Whistle-blowers, defamers, and social media posters, oh my!

The former finance director for the Jefferson County Commission sued the Sheriff, the Sheriff's Department, the County Commission and certain commissioners after she allegedly reported instances of financial misconduct and policy violations

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Killer Court Decisions

- The finance director alleged defamation, invasion of privacy and whistle-blower retaliation.
- Plaintiffs who are public officials or public figures must prove by clear and convincing evidence that the defendants made their defamatory statement 'with knowledge that it was false or with reckless disregard of whether it was false or not.'" *State ex rel. Suriano v. Gaughan*, 198 W. Va. 339, 346, 480 S.E.2d 548, 555 (1996) (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 280 (1964)).

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Killer Court Decisions

- A public official or public figure can sustain an action for defamation only if she “can prove that: (1) the alleged libelous statements were false or misleading; (2) the statements tended to defame the plaintiff and reflect shame, contumely, and disgrace upon him; (3) the statements were published with knowledge at the time of publication that they were false or misleading or were published with a reckless and willful disregard of truth; and, (4) the publisher intended to injure the plaintiff through the knowing or reckless publication of the alleged libelous material.” *Id.* at 352, 480 S.E.2d at 561 (quoting *Syl. Pt. 1*, in part, *Sprouse v. Clay Comm., Inc.*, 158 W. Va. 427, 211 S.E.2d 674 (1975)).

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Killer Court Decisions

- West Virginia recognizes both “all-purpose public figures” and “limited purpose public figures.” All-purpose public figures are people “who achieve such pervasive fame or notoriety that they become public figures for all purposes and in all contexts” while limited purpose public figures are people “who voluntarily inject themselves into a particular public controversy and thereby become public figures for a limited range of issues.” *Syl. Pt. 3, Wilson v. Daily Gazette Co.*, 214 W. Va. 208, 588 S.E.2d 197 (2003).

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Killer Court Decisions

- Here, Plaintiff had reasonable access to channels of communications to the Sheriff as evidenced by her own allegations that she emailed Sheriff Hansen. Of course, Plaintiff also had reasonable access to channels of communications to the Jefferson County Commission and its Commissioners. Nonetheless, as Plaintiff's Exhibit B to her Amended Complaint establishes, in mid-October 2021 (before the Sheriff's statement was published), Plaintiff criticized the Sheriff's budget request publicly, and argued that the budget request should be denied, which it was.

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Killer Court Decisions

- As Plaintiff's Exhibit K establishes, Plaintiff further voluntarily engaged in significant efforts to influence a public debate when she wrote an 8-page single spaced letter to the West Virginia State Auditor's office on December 22, 2021, alleging a series of "noncompliant" activities of the Defendants, including that the Sheriff improperly attempted to create a new captain rank, was somehow involved in a fraud scheme, and misused the purchase card. On September 1, 2022, Plaintiff emailed third-party individuals, alleging that Stephanie Grove was removed due to some "partisan political issue."

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Killer Court Decisions

- Plaintiff's own Amended Complaint establishes how involved she was in the matters that she alleges support her claims. Accordingly, Plaintiff is either a public figure or limited purpose public figure, and therefore has to prove her defamation allegations by clear and convincing evidence.

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Killer Court Decisions


HD Media Company v. West Virginia University Board of Governors, No. 23-ICA-48 (June 14, 2024).

- The Open Meetings Act's exemption allowing a public body to consider in executive session "matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matter involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision" applies to "other matters" apart from the investment of public funds.

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Killer Court Decisions


HD Media Company v. West Virginia University Board of Governors, No. 23-ICA-48 (June 14, 2024).

- It thus allows a public body to deliberate in executive session even when non-financial interests are at stake. Also, where a public body meets to discuss a document that would be exempt from disclosure under the internal memoranda exemption in the Freedom of Information Act, the discussion falls within the Open Meetings Act's "nonpublic matter" exception and may occur in executive session.

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Killer Court Decisions

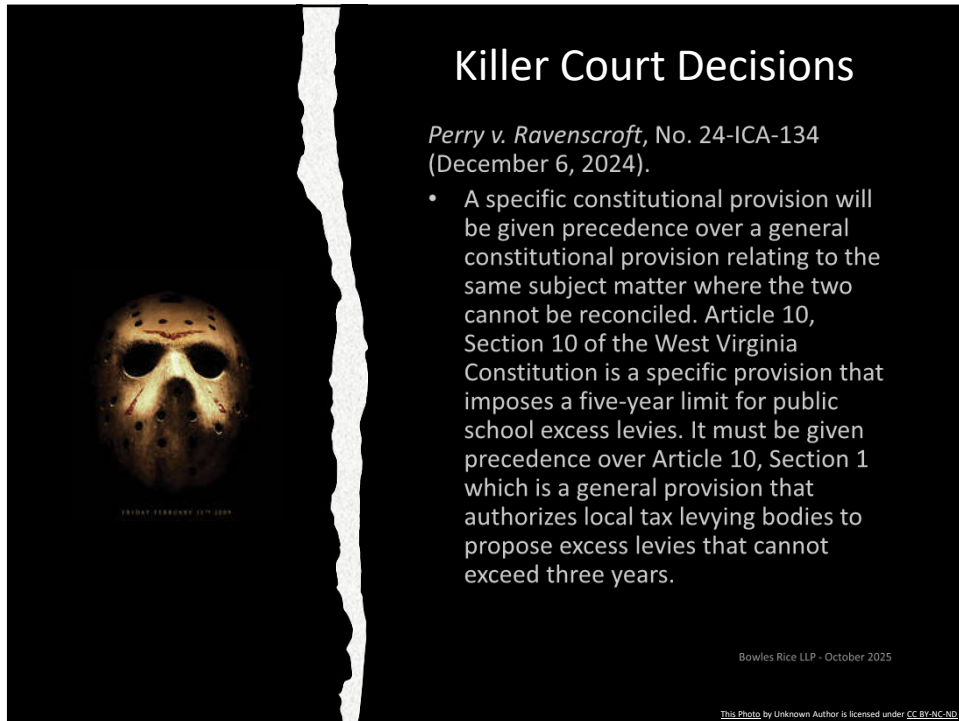
Tolbert v. Kanawha County Board of Education, No. 24-ICA-38 (December 6, 2024).

- The Supreme Court of Appeals' 1996 opinion in the Boner case requires a prerequisite showing of a reduced need before a county board may eliminate homebound instruction positions. As long as a county board does not act solely to cut expenses, it may lawfully eliminate homebound teacher positions for lack of need based on declining student enrollment. Also, nothing in the Boner decision requires a county board to use full-time teachers to fill homebound instructor positions.

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Killer Court Decisions

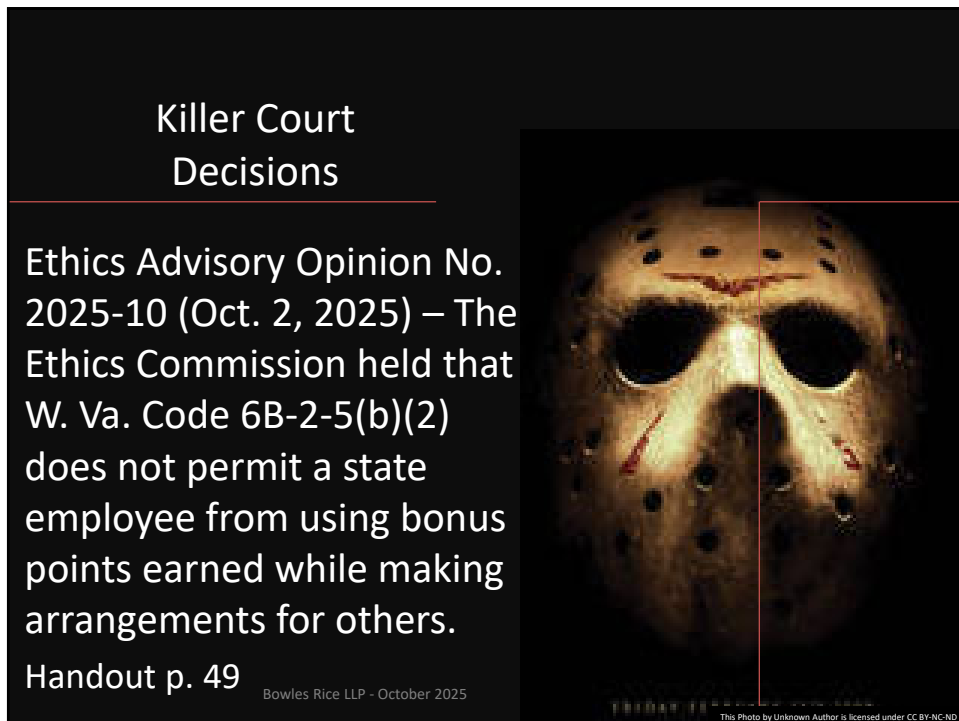
Perry v. Ravenscroft, No. 24-ICA-134 (December 6, 2024).

- A specific constitutional provision will be given precedence over a general constitutional provision relating to the same subject matter where the two cannot be reconciled. Article 10, Section 10 of the West Virginia Constitution is a specific provision that imposes a five-year limit for public school excess levies. It must be given precedence over Article 10, Section 1 which is a general provision that authorizes local tax levying bodies to propose excess levies that cannot exceed three years.

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Killer Court Decisions

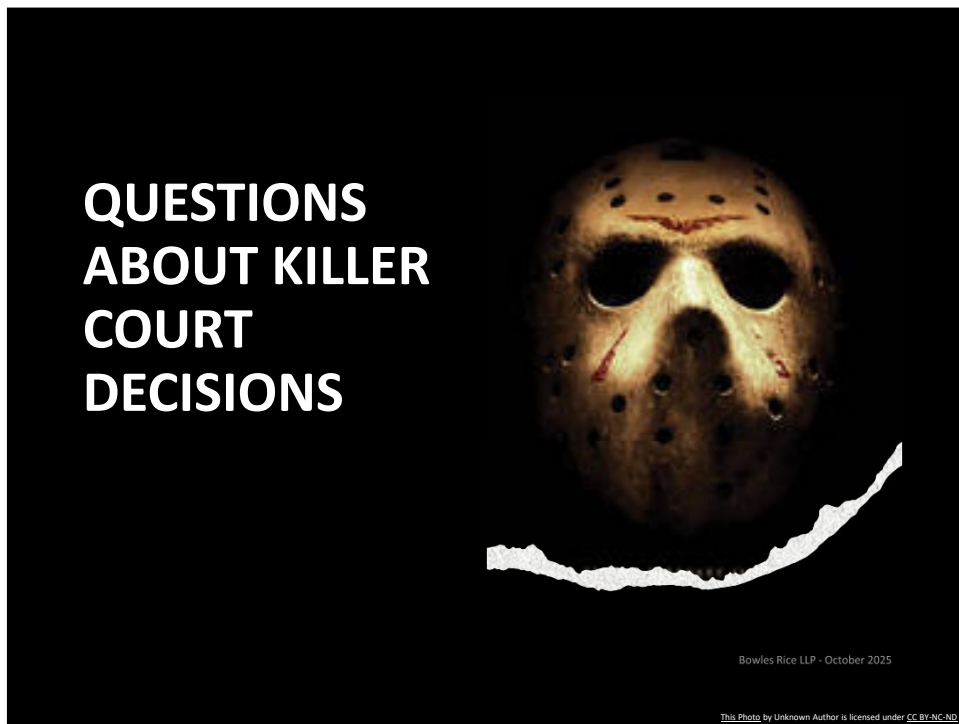
Ethics Advisory Opinion No. 2025-10 (Oct. 2, 2025) – The Ethics Commission held that W. Va. Code 6B-2-5(b)(2) does not permit a state employee from using bonus points earned while making arrangements for others.

Handout p. 49

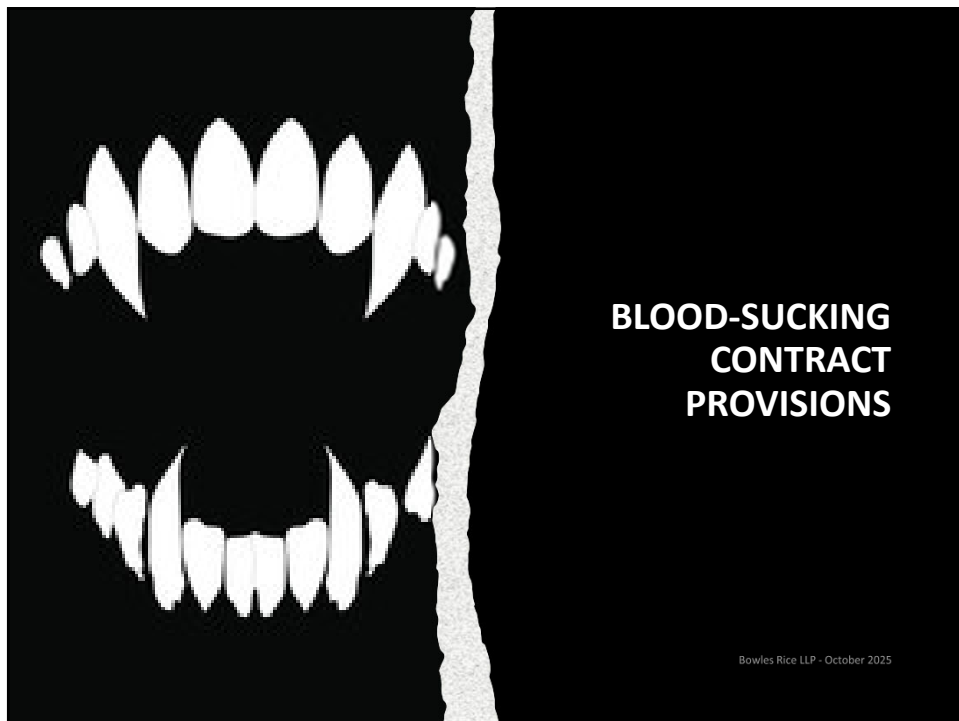
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Blood-sucking Contract Provisions

- How many of you are responsible for controlling all contracts that are approved by the Board of Education?
- How many of your boards approve each and every contract? [Hint: all]
- How many of your contracts have the Policy 8200 Addendum attached? [Hint: all]



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Blood- sucking Contract Provisions

Contract provisions that are in nearly every contract but are illegal for a board of education



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Blood-sucking Contract Provisions

- Contract states:
 - Except as expressly provided herein, VENDOR makes no warranties of any kind, whether express, implied, statutory or otherwise, and VENDOR specifically disclaims all implied warranties, including any implied warranties of merchantability, noninfringement, or fitness for a particular purpose.
- Can we sign it?

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Blood-sucking Contract Provisions

- Contract states:
 - BOARD shall indemnify, defend, and hold VENDOR, its directors, officers, employees, and agents harmless from and against any and all losses, damages, liabilities, and costs (including reasonable attorneys' fees) ("**Losses**") resulting from any third-party claim ("**Claim**") based on BOARD's use of the Products or Services, its breach of this Agreement, or its violation of applicable law.
- Can we sign it?

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Blood-sucking Contract Provisions

- Contract states:
 - Term of Agreement. The initial term of this Agreement commences on the Effective Date and, unless terminated earlier pursuant to the applicable terms of this Agreement, will continue in effect until the end of the initial term specified in the applicable Order Form (the "Initial Term"). It will automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to the applicable terms of this Agreement or either party gives the other party written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term.
- Can we sign it?

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Blood-sucking Contract Provisions

- Contract states:
 - Termination. Either party may terminate this Agreement and/or an Order Form for cause (i) upon 30-days' written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- Can we sign it?

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Blood-sucking Contract Provisions

- Contract states:
 - Termination. Either party may terminate this Agreement and/or an Order Form upon 30-days' written notice to the other party.
- Can we sign it?

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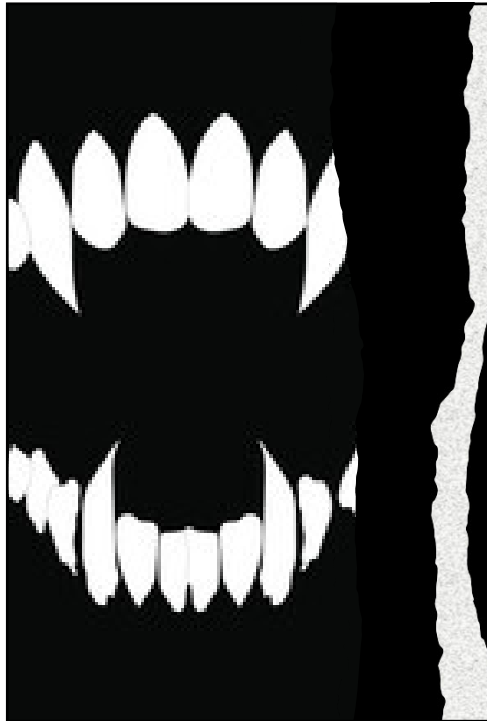


Blood-sucking Contract Provisions

- Contract states:
 - This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. No modification or amendment of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification or amendment is to be asserted.
- Can we sign it?

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A graphic showing two rows of white, sharp vampire teeth against a black background. A vertical white line, resembling a tear in paper, runs down the center of the slide.

Blood-sucking Contract Provisions

- Policy 8200 Addendum – Handout p. 65
- Common violations:
 - Governing law
 - Binding arbitration
 - Termination charges
 - Confidentiality

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A graphic showing two rows of white, sharp vampire teeth against a black background.

QUESTIONS ABOUT BLOODCURDLING CONTRACT PROVISIONS

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FREAKY FRAUDSTERS




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Freaky Fraudsters

- Internal (employee) fraud
- External fraud
 - Vendors
 - 3rd parties



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Freaky Fraudsters

According to an article in ASBO International¹:

. . . tips reveal 34% of detected fraud, internal audit detects 20%, internal controls detect 19%, external audits detect 12%, 25% of fraud is detected by accident, and 3% is notified by police.
(Percentage exceeds 100 because some respondents reported more than one fraud detection method.)

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Freaky Fraudsters

Fraud tips are reported by:

Employees - 64%
Customers - 11%
Vendors - 7%
Anonymous tips - 18%.

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Freaky Fraudsters



Type of Fraud

- Petty cash fraud—Most common type of fraud involving petty cash is “borrowing” funds.
- Double-payment fraud—Often easier for a dishonest individual to charge twice for a real service than it is to bill for a fictitious one.

Prevention Tips

- Scheduling periodic “surprise” counts of petty cash.
- Paying only from original documentation to support all payments. Periodically double-checking with computer sorts and reports.

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Freaky Fraudsters



Type of Fraud

- False claims fraud—Charged for goods or services of higher quality than received, or never received at all.

Prevention Tips

- Conducting quality inspection upon receipt.; including detailed products and deliverables in contract and designate proof required for payment. Requiring program administrator approval.

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Freaky Fraudsters



Type of Fraud

- Disposal fraud—Dishonest employees may look to benefit from disposal of surplus equipment and supplies.
- Bid-rigging fraud—Attempts to undermine competitive bidding process.

Prevention Tips

- Following Policy 8200
- Prohibiting employees from ever taking possession of assets even if items are on the “junk pile.”
- Carefully examine and confirm all bids and follow up on bidder complaints

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Freaky Fraudsters



- Tools at Your Disposal:
 - Policy 1224.1 – Accounting Procedures Manual for the Public Schools in the State of WV
 - Policy 8100 – Public School Finance (Handbook for School Finance in WV)
 - Policy 8200 – Purchasing Policies and Procedures Manual for Local Educational Agencies

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Freaky Fraudsters



- WV Offices of the Insurance Commissioner:
Employer Violator System – p. 52
– <https://www.wvinsurance.gov/EVS>

Search Business/DBA by FEIN:

Or click on the first letter of Business/Owner's Name you wish to review:

Owner Names: [A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#)

Business/DBA Name: [A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#)

Business/DBA Name By Number: [0](#) [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#)

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Freaky Fraudsters



- WV Secretary of State – Business Organizations Search
– <https://apps.sos.wv.gov/business/corporations/>

Business & Licensing

Business Organization Search

SEARCH TIPS: If you have trouble finding a business, try the following:

1. Enter one or more key words in the business name
2. Use the % symbol for a wild card search.
Example: searching for Fraternal Order Eagles 1234 ABCD, Inc.
%Fraternal%1234%
3. The search results will include what are commonly referred to as a fictitious business names in the results, if they have been registered with the State Tax Department.

Organization	<input type="text"/>
Agent/Officer/Name	<input type="text"/>
Show Advanced Search Options <input type="button" value="Search"/> <input type="button" value="Reset"/>	

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Article References

- ¹*Understanding, Detecting, and Preventing Fraud*; July/August 2008 School Business Affairs, www.asbintl.org

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