WEST VIRGINIA CODE: §29A-3A-3

§29A-3A-3. Limitations on authority to exercise rule-making power.

(a) Except when, and to the extent that, this chapter or any other provision of law now or hereafter made expressly exempts the agency or a particular grant of the rule-making power from the provisions of this article, every grant of rule-making authority to the agency heretofore provided shall be construed and applied to be effective only:

(1) If heretofore lawfully exercised in accordance with the prior provisions of this chapter and the resulting rule has not been revoked or invalidated by the provisions hereof or by the agency; or

(2) If exercised in accordance with the provisions hereof.

(b) The agency shall not be deemed to have the power and authority to promulgate a legislative rule without compliance with this article unless: (1) The provision of this code, heretofore or hereafter enacted, granting the power and authority expressly exempts its exercise from legislative rule-making review prior to promulgation or (2) the grant of the power and authority is exempted from the application of this chapter by the express provisions of this chapter. To the extent any grant of power and authority not so exempt is deemed to exceed the limits and provisions of this article, the power and authority to promulgate legislative rules is hereby revoked.

WV Legislature