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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

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ENROLLED

SENATE BILL NO. 399

(By Mr. R. Williams)

—•—

PASSED April 13, 1985

In Effect from Passage



ENROLLED
Senate Bill No. 399

(BY MR. R. WILLIAMS)

[Passed April 13, 1985; in effect from passage.]

AN ACT to amend and reenact sections five (sixteen) (eighteen), fifteen (two) (twenty-five), sixteen (one) (seven), sixteen (twenty-nine-b) (eight), seventeen-a (two) (nine), seventeen-d (two-a) (eight), nineteen (twenty-three) (six), twenty (five-a) (three), twenty (five-e) (six), twenty (five-e) (seven), twenty (six) (two) and thirty-two (four) (four hundred twelve), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article two by adding thereto twenty-nine new sections, designated sections five (sixteen) (five), eleven (one-a) (one), eleven (ten) (five), sixteen (five-b) (one), sixteen (twenty-nine-b) (twenty-three), seventeen (two-a) (eight), seventeen (four) (nineteen), nineteen (one) (four), nineteen (two) (two), nineteen (nine) (two), nineteen (nine-a) (seven), nineteen (twelve-d) (four), nineteen (sixteen-b) (four), nineteen (twenty) (four), twenty (one) (seven), twenty (two) (forty-b), twenty (five-c) (six), twenty (six) (seven), twenty (six) (forty-three), twenty-one (five) (five-c), twenty-three (one) (thirteen), twenty-three (one) (fifteen), twenty-nine (one) (six), twenty-nine (five-a) (twenty-four), thirty (five) (nineteen), thirty (six) (three), thirty (twenty-one) (six), forty-six-a (six-a) (eight) and sixty-one (eleven-a) (six), all relating generally to the legislative mandate or authorization for the promulgation of certain legislative rules by various executive agencies of the

state; authorizing certain of such agencies to promulgate certain legislative rules in the form that such rules were filed in the state register; authorizing certain of such agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of such agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; directing certain of such agencies to promulgate certain legislative rules filed in the office of the secretary of state during the regular session of the Legislature held in the year one thousand nine hundred eighty-five; authorizing the public employees insurance board to promulgate certain legislative rules relating to late enrollment in the public employees insurance program, with certain amendments thereto and relating generally to the public employees insurance plan, with certain amendments thereto; directing the state tax commissioner to promulgate certain legislative rules which were filed in the office of the secretary of state during the regular session of the Legislature held in the year one thousand nine hundred eighty-five relating to the identification and appraisal of farmland subsequent to the base year of statewide reappraisal for ad valorem tax purposes as amended by the Legislature; authorizing the state tax commissioner to promulgate certain legislative rules relating to estimated personal income tax, with certain amendments and certain rules relating to estimated corporation net income tax, with certain amendments; authorizing the department of public safety to promulgate certain legislative rules relating to general orders, with certain amendments; authorizing the state board of health to promulgate certain legislative rules relating to trauma center or facility designation, to promulgate certain legislative rules relating to reportable diseases, to promulgate certain legislative rules relating to retail food store sanitation and to promulgate certain legislative rules relating to the licensure of medical adult day care centers; authorizing the health care cost review authority to promulgate certain legislative rules relating to hospital cost containment methodology and to promulgate certain legislative rules relating to the implementation of the utilization review and quality assurance program; authorizing the commissioner of highways to promulgate

certain legislative rules relating to construction and reconstruction of state roads, with certain amendments, to promulgate certain legislative rules relating to disqualification and suspension of prequalified contractors and to promulgate certain legislative rules relating to the transportation of hazardous waste by highway transporters, with certain amendments; authorizing the commissioner of motor vehicles to promulgate certain legislative rules relating to titling of vehicles and to promulgate certain legislative rules relating to compulsory motor vehicle liability insurance; authorizing the commissioner of agriculture to promulgate certain legislative rules relating to conducting of beef industry self-improvement assessment program referendum, to promulgate certain legislative rules relating to public markets, to promulgate certain legislative rules relating to animal disease control, to promulgate certain legislative rules relating to feeding untreated garbage to swine, to promulgate certain legislative rules relating to noxious weeds, to promulgate certain legislative rules relating to the use of certain picloram products and to promulgate certain legislative rules relating to registration, taxation and control of dogs; authorizing the West Virginia racing commission to promulgate certain legislative rules relating to greyhound racing and to promulgate certain legislative rules relating to thoroughbred racing; authorizing the department of natural resources to promulgate certain legislative rules relating to the public use of state parks, forests, hunting and fishing areas, to promulgate certain legislative rules relating to small arms hunting, to promulgate certain legislative rules relating to hazardous waste management, to promulgate certain legislative rules relating to surface mining reclamation, to promulgate certain legislative rules relating to coal refuse disposal, to promulgate certain legislative rules relating to the transfer of the state national discharge elimination system program, with certain amendments; authorizing the water resources board to promulgate certain legislative rules relating to water quality standards; authorizing the water development authority to promulgate certain legislative rules relating to hardship grant funds; authorizing the department of labor to promulgate certain legislative rules relating to polygraph examination;

authorizing the workers' compensation commissioner to promulgate certain legislative rules relating to time limits for the administrative proceedings of adjudications and awards, to promulgate certain legislative rules relating to self-insured employers and to promulgate certain legislative rules relating to the payment of attorney's fees; authorizing the archives and history commission to promulgate certain legislative rules relating to locally created historic landmark commissions and certified local government programs with respect thereto, with certain amendments; authorizing the state athletic commission to promulgate certain legislative rules relating to professional and amateur boxing; authorizing the board of pharmacy to promulgate certain legislative rules relating to parenteral/enteral compounding; authorizing the board of embalmers and funeral directors to promulgate certain legislative rules relating generally to apprenticeships; authorizing the board of examiners of psychologists to promulgate certain legislative rules relating to examination fees; authorizing the state auditor as securities commissioner to promulgate certain legislative rules relating to filing fees; and authorizing the attorney general to promulgate certain legislative rules relating generally to new motor vehicle warranties and to third party dispute mechanisms with respect thereto and to promulgate certain legislative rules relating to the fair treatment of crime victims and witnesses.

Be it enacted by the Legislature of West Virginia:

That sections five (sixteen) (eighteen), fifteen (two) (twenty-five), sixteen (one) (seven), sixteen (twenty-nine-b) (eight), seventeen-a (two) (nine), seventeen-d (two-a) (eight), nineteen (twenty-three) (six), twenty (five-a) (three), twenty (five-e) (six), twenty (five-e) (seven), twenty (six) (two) and thirty-two (four) (four hundred twelve), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted and that said article two be further amended by adding thereto twenty-nine new sections, designated sections five (sixteen) (five), eleven (one-a) (one), eleven (ten) (five), sixteen (five-b) (one), sixteen (twenty-nine-b) (twenty-three), seventeen (two-a) (eight), seventeen (four) (nineteen), nineteen (one) (four), nineteen (two) (two), nineteen (nine) (two), nineteen (nine-a) (seven), nineteen (twelve-d) (four),

nineteen (sixteen-b) (four), nineteen (twenty) (four), twenty (one) (seven), twenty (two) (forty-b), twenty (five-c) (six), twenty (six) (seven), twenty (six) (forty-three), twenty-one (five) (five-c), twenty-three (one) (thirteen), twenty-three (one) (fifteen), twenty-nine (one) (six), twenty-nine (five-a) (twenty-four), thirty (five) (nineteen), thirty (six) (three), thirty (twenty-one) (six), forty-six-a (six-a) (eight) and sixty-one (eleven-a) (six), all to read as follows:

**ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
LEGISLATIVE RULES.**

§64-2-5(16)(5). Public employees insurance board.

1 The legislative rules filed in the state register on the
2 twelfth day of September, one thousand nine hundred
3 eighty-four, relating to the public employees insurance
4 board (late enrollment in the public employees insurance
5 program) are authorized with the amendments set forth
6 below:

7 §2.01(b) shall read as follows:

8 “(b) ‘children’ shall mean unmarried children between
9 birth and age nineteen and shall include: (1) The employee’s
10 natural children, (2) legally adopted children, including
11 children living with the employee during the period of
12 probation, (3) step-children residing in the employee’s
13 household and (4) other children fully dependent upon the
14 employee for support and maintenance and residing in the
15 household of which the employee is head and actually being
16 supported by the employee. Children may be included after
17 the attainment of age nineteen, but not beyond the
18 attainment of age twenty-five, if they are enrolled as full-
19 time students, are unmarried, and are dependent upon the
20 employee for support. Children may also be included after
21 the attainment of age nineteen while incapable of self-
22 support because of mental illness, mental retardation or a
23 permanent physical disability, if the child was dependent
24 upon the employee for support and maintenance at the
25 onset of the mental illness, mental retardation or
26 permanent physical disability. For the purpose of this
27 section, mental illness includes addiction as defined in Code
28 27-1-11 as is defined as a manifestation in a person of
29 significantly impaired capacity to maintain acceptable
30 levels of functioning in the areas of intellect, emotion and
31 physical well-being, only if such impairment renders the

32 person dangerous to himself or others or such person is
33 substantially unable to protect himself from significant
34 hazard: *Provided*, That children included because of
35 addiction as hereinbefore defined, shall not be included
36 beyond the attainment of age twenty-five."

37 On page six, at 4.01(g) (2) shall read as follows:

38 The end of any 12 month period after enrollment during
39 which no diagnosis or treatment is received, and no
40 expenses are incurred for care of the injury, illness or
41 related conditions.

42 Also, insert a new section, designated section 5.07, to read
43 as follows:

44 "5.07.—Coverage for dependents shall terminate at the
45 end of the month in which they no longer meet the definition
46 of 'dependent' as set forth in section 2.01 of these rules."

§64-2-5(16)(18). Public employees insurance board.

1 (a) The legislative rules filed in the state register on the
2 sixteenth day of May, one thousand nine hundred eighty-
3 three, relating to the public employees insurance board
4 (public employees insurance plan) are authorized with the
5 amendments set forth below:

6 §6.03.—In the second sentence delete the words
7 "Executive Secretary" and insert the word "Board."

8 (b) The legislative rules filed in the state register on the
9 twenty-seventh day of September, one thousand nine
10 hundred eighty-four, modified by the public employees
11 insurance board to meet the objections of the legislative
12 rule-making review committee and refiled in the state
13 register on the fourth day of March, one thousand nine
14 hundred eighty-five, relating to the public employees
15 insurance board (credit for accrued sick/annual leave and
16 optional life insurance) are authorized.

§64-2-11(1a)(1). State tax commissioner.

1 The legislative rules filed in the state register on the
2 twelfth day of March, one thousand nine hundred eighty-
3 five relating to the state tax commissioner (identification
4 and appraisal of farmland subsequent to the base year of
5 statewide reappraisal) are authorized and directed to be
6 promulgated with the following amendments:

- 7 Title page, Subject; following the word "Farmland,"
8 insert the words "and of Structures Situated Thereon."
- 9 Page i, Subject; following the word "Farmland," insert
10 the words "and of Structures Situated Thereon."
- 11 Page i, TABLE OF CONTENTS, Section 10; following the
12 words "Valuation of Farmland" add the words "and of
13 Structures Situated Thereon."
- 14 Page 10.1, Title; following the "FARMLAND" insert the
15 words "AND STRUCTURES SITUATED THEREON."
- 16 Page 10.1, Section 10, Title; following the word
17 "Farmland" add the words "and Structures Situated
18 Thereon."
- 19 Page 10.1, Section 10.01(b); following the word
20 "farmland" insert the words "and structures situated
21 thereon."
- 22 Page 10.2, Section 10.02(a), first sentence; following the
23 word "farmland" insert the words "and structures situated
24 thereon."
- 25 Page 10.3, Section 10.02(b), first sentence; following the
26 word "farmland" insert the words "and structures situated
27 thereon." Delete the words "for purposes of the statewide
28 reappraisal."
- 29 Page 10.3, Section 10.02(b), last sentence; following the
30 word "farmland" insert the words "and structures situated
31 thereon."
- 32 Page 10.8, Section 10.04(5)(B), last sentence; delete the
33 period and add "or the incapability to be adapted to
34 alternative uses."
- 35 Page 10.9, Section 10.04(6), first sentence; following the
36 words "land currently being used" insert the words "as part
37 of a farming operation,."
- 38 Page 10.9, Section 10.04(6), following the last sentence;
39 add the sentence "For the purposes of this definition,
40 'contiguous tracts' are farmlands which are in close
41 proximity, but not necessarily adjacent: *Provided*, That all
42 such contiguous tracts are operated as part of the same farm
43 management plan."
- 44 Page 10.10, Section 10.04(8) is amended to read in its
45 entirety as follows:
- 46 (8) *Farm Buildings*.—The term "farm buildings" shall
47 mean structures which directly contribute to the operation
48 of the farm, and shall include tenant houses and quarters

49 furnished farm employees without rent as a part of the
50 terms of their employment.

51 Page 10.11, Section 10.04; delete the word "November"
52 and insert in lieu thereof the word "September." Delete the
53 period following the word "valuation" and add the words
54 "for the assessment year beginning July 1st of each year."

55 Page 10.11, Section 10.04, insert the following
56 subdivision; "(12) Application Form: The application form
57 required to be filed with the assessor on or before
58 September 1st of each year shall require certification that
59 the farm complies with criteria set forth in Section 10.05(c)
60 of these regulations, and renewal applications from year to
61 year shall be sufficient upon statement certifying that no
62 change has been made in the use of farm property which
63 would disqualify 'farm use' classification for assessment
64 purposes." Renumber the subdivisions of Section 10.04
65 following the new 10.04(12), formerly 10.04(12) through
66 10.04(28), to 10.04(13) through 10.04(29) respectively.

67 Page 10.14, Section 10.04(28) (formerly 10.04(27));
68 following the words "woodland products" insert a comma
69 and the words "such as nuts or fruits harvested" and add a
70 coma following the words "human consumption" on Page
71 10.15.

72 Page 10.16, Section 10.05, subsection (a) following the
73 words "land is used for farm purposes" by striking the
74 period and inserting in lieu thereof a colon and the
75 following: "*Provided*, That the true and actual value of all
76 farms used, occupied and cultivated by their owners or
77 bona fide tenants shall be arrived at according to the fair
78 and reasonable value of the property for the purpose for
79 which it is actually used regardless of what the value of the
80 property would be if used for some other purpose; and that
81 the true and actual value shall be arrived at by giving
82 consideration to the fair and reasonable income which the
83 same might be expected to earn under normal conditions in
84 the locality wherein situated, if rented: *Provided, however*,
85 That nothing herein shall alter the method of assessment of
86 lands or minerals owned by domestic or foreign
87 corporations."

88 Page 10.16, Section 10.05 (b), first clause; following the
89 words "following factors shall be" insert the words
90 "indicative of but not conclusive" and delete the word
91 "considered."

92 Page 10.16, Section 10.05 (b) (2); delete the period and add
93 the words "such as soil conservation, farmland
94 preservation or federal farm lending agencies."

95 Page 10.17, Section 10.05 (b) (7); delete the section and
96 insert in lieu thereof the words "(7) Whether or not the
97 farmer practices 'custom farming' on the land in question."

98 Page 10.17, Section 10.05 (b) (9); following the word
99 "type" add a coma and insert the word "utility."

100 Page 10.17, Section 10.05 (b) (11), first sentence;
101 following the word "sales" insert the words "for nonfarm
102 uses."

103 Page 10.17, Section 10.05 (b) (12) (A); following the words
104 "part of" insert the words "or appurtenant to."

105 Page 10.17, Section 10.05 (b) (12) (B); following the words
106 "contiguous to" insert the words "or operated in common
107 with."

108 Page 10.18, Section 10.05, subsection (c), the first
109 sentence of which is amended in its entirety to read as
110 follows: "Qualifying farmland and the structures situate
111 thereon shall be subject to farm use valuation, with primary
112 consideration being given to the income which the property
113 might be expected to earn, in the locality wherein situated,
114 if rented."

115 Page 10.18, Section 10.05 (b) (12) (B); delete the
116 semicolons and the words "it was purchased at the same
117 time as the tract so used." Delete the period following the
118 word "purposes" and add the words "or any nonfarm use."

119 Page 10.19, Section 10.05 (c) (2); following the words
120 "*Provided*, That no" delete the word "reason" and insert in
121 lieu thereof the words "individual event."

122 Page 10.20, Section 10.05 (c) (4) (C); following the words
123 "(1,000) minimum production value" insert the words "or
124 the small farm five hundred dollars (\$500) minimum
125 production and sale."

126 Page 10.23, Section 10.05 (d) (3) (B), third sentence;
127 following the word "If" insert the words "timber from".
128 Delete the period following the word "purpose" and add the
129 words "or is being converted to farm production uses."

130 Page 10.26, Section 10.05 (f) (2) is amended in its entirety
131 to read as follows:

132 "(2) *Farm Buildings*.—Rental value of farm buildings
133 and other improvements on the farmland, shall be valued by

134 determining the replacement cost of the building or
135 structure by usual farm construction practices, and farm
136 labor standards and subtracting therefrom depreciation.¹
137 Both of these determinations shall be made in accordance
138 with the Tax Department's real property appraisal manual²
139 as filed in the State Register in accordance with Chapter
140 29A of the Code of West Virginia, 1931, as amended and as it
141 relates to agricultural buildings and structures. One (1) acre
142 of land shall be assigned to all buildings as a unit situate on
143 the property, regardless of the actual acreage occupied by
144 such buildings and shall be appraised at its farm-use
145 valuation bases on the highest class of farmland present on
146 the farm.

147 Page 10.28, Section 10.05 (f)(3)(B)(1); following the words
148 "or more of the" insert the word "usual".

149 Page 10.28, Section 10.05 (f)(3)(B)(2); following the words
150 "(50%) of the" insert the word "usual".

151 Page 10.29, Section 10.05 (f)(3)(C)(1)(a); following the
152 words "(50%) or more of the" insert the word "usual".

153 Page 10.29, Section 10.05 (f)(3)(C)(1)(b); following the
154 words "(50%) of the" insert the word "usual".

155 Page 10.31, Section 10.05 (f)(3)(C)(2)(b); following the last
156 sentence insert the sentence "An individual employed other
157 than in farming is not an unincorporated business."

158 Page 10.35, Section 10.07, Title; following the word
159 "Farmland" insert the words "and Structures Situated
160 Thereon."

161 Page 10.35, Section 10.07 (a), first sentence; following the
162 word "farmland" insert the words "and structures situated
163 thereon."

164 Page 10.46, Subject; following the word "Farmland"
165 insert the words "and Structures Situated Thereon."

§64-2-11 (10) (5). State tax commissioner.

1 (a) The legislative rules filed in the state register on the
2 twenty-eighth day of September, one thousand nine
3 hundred eighty-four relating to the state tax commissioner
4 (estimated personal income tax) are authorized with the
5 amendments set forth below:

6 55.02 (a) (2) (on page 182.2) line 18, after the word
7 "profession" strike the words "on his own account" and the
8 comma (,).

9 55.12 (b) (1) (page 182.35) at end of the section, change the
10 period to a comma, and add the following language: and in
11 the case of a court appointed agent, a copy of the court order
12 of appointment is sufficient.

13 55.12 (c) (page 182.36) after the word "for", strike the
14 word "erroneous".

15 (b) The legislative rules filed in the state register on the
16 twenty-eighth day of September, one thousand nine
17 hundred eighty-four, modified by the state tax
18 commissioner to meet the objections of the legislative rule-
19 making review committee and refiled in the state register on
20 the fourteenth day of November, one thousand nine
21 hundred eighty-four and on the twenty-first day of March,
22 one thousand nine hundred eighty-five, relating to the state
23 tax commissioner (estimated corporation net income tax)
24 are authorized.

§64-2-15(2)(25). Department of public safety.

1 (a) The legislative rules filed in the state register on the
2 twenty-third day of September, one thousand nine hundred
3 eighty-three, relating to the department of public safety
4 (general orders) are authorized with the amendment set
5 forth below:

6 Page 23, §9.10 remove the period at the end of the
7 sentence and add the words "or municipalities."

8 (b) The legislative rules filed in the state register on the
9 twenty-second day of June, one thousand nine hundred
10 eighty-four, modified by the department of public safety to
11 meet the objections of the legislative rule-making review
12 committee and refiled in the state register on the fifth day of
13 December, one thousand nine hundred eighty-four, relating
14 to the department of public safety (commission on drunk
15 driving) are authorized.

§64-2-16(1)(7). State board of health.

1 (a) The legislative rules filed in the state register on the
2 second day of June, one thousand nine hundred eighty-two,
3 relating to the state board of health (waste water treatment
4 works operations) are authorized.

5 (b) The legislative rules filed in the state register on the
6 second day of June, one thousand nine hundred eighty-two,

7 relating to the state board of health (laboratory reporting of
8 syphilis and gonorrhea) are authorized.

9 (c) The legislative rules filed in the state register on the
10 second day of June, one thousand nine hundred eighty-two,
11 relating to the state board of health (public water supply
12 operators) with the modification of §11.02 as presented to
13 the legislative rule-making review committee on the ninth
14 day of November, one thousand nine hundred eighty-two,
15 are authorized.

16 (d) The legislative rules filed in the state register on the
17 twenty-second day of October, one thousand nine hundred
18 eighty-two, relating to the state board of health (sewage
19 systems) with the modification presented to the legislative
20 rule-making review committee on the sixth day of
21 December, one thousand nine hundred eighty-two, are
22 authorized except lines ten through seventeen, page eight of
23 the rules shall be stricken in their entirety and the
24 remaining paragraphs renumbered. These rules were
25 proposed by the state board of health pursuant to sections
26 seven and nine, article one, chapter sixteen of this code.

27 (e) The legislative rules filed in the state register on the
28 second day of June, one thousand nine hundred eighty-two,
29 relating to the state board of health (approval of
30 laboratories) are authorized. These rules were proposed by
31 the state board of health pursuant to section one, article
32 seven, chapter sixteen and section six-a, article one,
33 chapter forty-eight of this code.

34 (f) The legislative rules filed in the state register on the
35 thirteenth day of August, one thousand nine hundred
36 eighty-two, and filed with amendments on the eleventh day
37 of January, one thousand nine hundred eighty-three,
38 relating to the state board of health (nursing home
39 licensure) are authorized with the amendment of §5.15.02 of
40 those rules as set forth below:

41 By striking the word "and" at the end of subdivision (f),
42 by changing the period at the end of subdivision (g) to a
43 semicolon, and by adding the following after subdivision
44 (g): "(h) one (1) member who represents social work
45 services."

46 These rules were proposed by the state board of health
47 pursuant to section seven, article one, chapter sixteen and
48 section three, article five-c, chapter sixteen of this code.

49 (g) The legislative rules filed in the state register on the
50 third day of October, one thousand nine hundred eighty-
51 four, relating to the state board of health (trauma center or
52 facility designation) are authorized.

53 (h) The legislative rules filed in the state register on the
54 seventh day of September, one thousand nine hundred
55 eighty-three, relating to the state board of health (well
56 water regulations) are authorized with the amendments set
57 forth below:

58 §4.1. In the first sentence delete the word "obtaining"
59 and insert in lieu thereof the words "applying for." In the
60 second sentence after "4.3" add "and 4.5."

61 §4.2. At the end of the second sentence, strike the period
62 and add the words "unless emergency conditions prevail as
63 noted under §4.3."

64 With the balance of §4.2 and create a new §4.3 with the
65 following changes: In the first sentence delete the word
66 "deadline" and insert in lieu thereof the word
67 "requirements." Add after the first sentence the sentence,
68 "Emergency conditions and unavoidable circumstances are
69 those conditions involving acts of God, water outages or
70 disruption of water service, unsatisfactory water quality or
71 quantity or public health threats." In the third sentence
72 delete the word "exceed" and insert in lieu thereof the
73 words "be made in excess of."

74 Renumber §4.3 as §4.4 and add the following two
75 sentences at the end of the section: "Such standards shall
76 constitute the minimum standards for the installation, the
77 alteration or the deepening of water wells. Any plans
78 approved by the director pursuant to these regulations shall
79 be in substantial compliance with the heretofore mentioned
80 standards."

81 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7 as
82 §4.8 and §4.8 as §4.9.

83 §5.2. Delete the words "four (4)" and insert in lieu thereof
84 the words "two (2)" and delete the words "active,
85 continuous."

86 (i) The legislative rules filed in the state register on the
87 nineteenth day of December, one thousand nine hundred
88 eighty-three, relating to the state board of health
89 (procedures for recovery of corneal tissue for transplant)
90 are authorized.

91 (j) The legislative rules filed in the state register on the
92 twenty-first day of December, one thousand nine hundred
93 eighty-four, relating to the state board of health (reportable
94 diseases) are authorized.

95 (k) The legislative rules filed in the state register on the
96 third day of October, one thousand nine hundred eighty-
97 four, relating to the state board of health (retail food store
98 sanitation) are authorized.

§64-2-16(5b)(1). State board of health.

1 The legislative rules filed in the state register on the
2 twenty-first day of December, one thousand nine hundred
3 eighty-four, relating to the state board of health (licensure
4 of medical adult day care centers) are authorized.

§64-2-16(29b)(8). Health care cost review authority.

1 (a) The legislative rules filed in the state register on the
2 twenty-first day of October, one thousand nine hundred
3 eighty-three, relating to the health care cost review
4 authority (limitation on hospital gross patient revenue) are
5 authorized.

6 (b) The legislative rules filed in the state register on the
7 nineteenth day of December, one thousand nine hundred
8 eighty-three, relating to the health care cost review
9 authority (freeze on hospital rates and granting temporary
10 rate increases) are authorized.

11 (c) The legislative rules filed in the state register on the
12 fifteenth of August, one thousand nine hundred eighty-
13 four, relating to the health care cost review authority
14 (hospital cost containment methodology), are authorized.

§64-2-16(29b)(23). Health care cost review authority.

1 The legislative rules filed in the state register on the
2 twenty-first day of December, one thousand nine hundred
3 eighty-four, relating to the health care cost review
4 authority (implementation of the utilization review and
5 quality assurance program) are authorized.

§64-2-17(2a)(8). Commissioner of highways.

1 The legislative rules filed in the state register on the tenth
2 day of August, one thousand nine hundred eighty-four,
3 relating to the commissioner of highways (construction and

4 reconstruction of state roads), are authorized with the
5 amendments set forth below:

6 Page 16, Sec. 8.08, line 21, (unnumbered), by inserting
7 after the word "all" the following language: "reasonable
8 and necessary" and after the word "project" inserting the
9 following language "by the Railroad".

10 Page 16, Sec. 8.08, line 22 (unnumbered), after the word
11 "the" by striking the words "Railroad's Chief".

12 Page 19, Sec. 8.08, line 25, (unnumbered), by striking
13 "Railroad's Chief" and adding the following new
14 paragraph language:

15 Any approval by the Department of any activity by the
16 Contractor upon the right-of-way or premises of any
17 Railroad which is provided for in this Section (8.08)
18 (including, but not limited to approval of work, methods, or
19 procedures of work to be done, and the condition of
20 premises after completion of work by the Contractor) shall
21 in no way create any liability by the Department to the
22 Railroad except to the extent provided otherwise by law
23 and the Contractor shall, during all periods of construction
24 and thereafter indemnify and save harmless the department
25 from any and all liability to the Railroad or any third parties
26 for any damages as a result of the work of the Contractor,
27 the methods and procedures for performing work, the
28 failure of the Contractor to properly remove equipment,
29 surplus material and other debris upon the Railroad
30 premises, or the condition of the premises of the Railroad
31 during construction or after completion of construction by
32 the Contractor as approved by the Department or
33 otherwise.

34 Page 18, Sec. 8.08, Subdivision (a), line 22, (unnumbered),
35 by striking the words "single limit" and inserting in lieu
36 thereof the following language: "per occurrence".

37 Page 19, Sec. 8.08, Subdivision (b), line 8, (unnumbered),
38 by striking the words "single limit" and inserting in lieu
39 thereof the following language: "per occurrence".

40 Page 19, Sec. 8.08 (c), line 18, (unnumbered), by inserting
41 after the word "occurrence" the following language: "of";
42 and after the word "injury" insert a comma and strike the
43 word "or".

§64-2-17(4)(19). Commissioner of highways.

1 The legislative rules filed in the state register on the

2 fourteenth day of August, one thousand nine hundred
3 eighty-four, modified by the commissioner of highways to
4 meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the fifth day of
6 October, one thousand nine hundred eighty-four, relating
7 to the commissioner of highways (disqualification and
8 suspension of prequalified contractors) are authorized.

§64-2-17a(2)(9). Commissioner of motor vehicles.

1 (a) The legislative rules filed in the state register on the
2 second day of December, one thousand nine hundred
3 eighty-two, relating to the commissioner of motor vehicles
4 (denial of driving privileges), are authorized with the
5 amendments set forth below:

6 By inserting the words "licensed in the United States"
7 after the phrase "physician of the applicant's choice," on
8 page five, line two, and page seven, line one; and by striking
9 out the words "licensed vision specialist" and inserting in
10 lieu thereof the words "an optometrist or ophthalmologist
11 licensed in the United States," on page five, line three, and
12 on page seven, line two.

13 These rules were proposed by the commissioner pursuant
14 to section nine, article two, chapter seventeen-a and section
15 six, article three-c, chapter seventeen-b of this code.

16 (b) The legislative rules filed in the state register on the
17 twentieth day of November, one thousand nine hundred
18 eighty-four, relating to the commissioner of motor vehicles
19 (titling a vehicle) are authorized.

§64-2-17d(2a)(8). Commissioner of motor vehicles.

1 (a) The legislative rules filed in the state register on the
2 sixteenth day of June, one thousand nine hundred eighty-
3 three, relating to the commissioner of motor vehicles
4 (compulsory insurance) are authorized.

5 (b) The legislative rules filed in the state register on the
6 tenth day of September, one thousand nine hundred eighty-
7 four, modified by the commissioner of motor vehicles to
8 meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the fifth day of
10 October, one thousand nine hundred eighty-four, relating
11 to the commissioner of motor vehicles (compulsory motor
12 vehicle liability insurance) are authorized.

§64-2-19(1)(4). Commissioner of agriculture.

1 The legislative rules filed in the state register on the
2 eighth day of February, one thousand nine hundred eighty-
3 four, relating to the commissioner of agriculture (conduct of
4 beef industry self-improvement assessment program
5 referendum) are authorized.

§64-2-19(2)(2). Commissioner of agriculture.

1 The legislative rules filed in the state register on the first
2 day of November, one thousand nine hundred eighty-four,
3 relating to the commissioner of agriculture (public markets)
4 are authorized.

§64-2-19(9)(2). Commissioner of agriculture.

1 The legislative rules filed in the state register on the
2 fourth day of June, one thousand nine hundred eighty-four,
3 relating to the commissioner of agriculture (animal disease
4 control) are authorized.

§64-2-19(9a)(7). Commissioner of agriculture.

1 The legislative rules filed in the state register on the
2 fourth day of June, one thousand nine hundred eighty-four,
3 relating to the commissioner of agriculture (feeding
4 untreated garbage to swine) are authorized.

§64-2-19(12d)(4). Commissioner of agriculture.

1 The legislative rules filed in the state register on the tenth
2 day of September, one thousand nine hundred eighty-four,
3 relating to the commissioner of agriculture (noxious weed
4 rules) are authorized.

§64-2-19(16b)(4). Commissioner of agriculture.

1 The legislative rules filed in the state register on the fifth
2 day of January, one thousand nine hundred eighty-four,
3 relating to the commissioner of agriculture (use of certain
4 picloram products) are authorized.

§64-2-19(20)(4). Commissioner of agriculture.

1 The legislative rules filed in the state register on the
2 fourth day of June, one thousand nine hundred eighty-four,

3 relating to the commissioner of agriculture (registration,
4 taxation and control of dogs) are authorized.

§64-2-19(23)(6). West Virginia racing commission.

1 (a) The legislative rules filed in the state register on the
2 twenty-third day of April, one thousand nine hundred
3 eighty-two, relating to the West Virginia racing commission
4 (Rule 795), are authorized.

5 (b) The legislative rules filed in the state register on the
6 twenty-third day of April, one thousand nine hundred
7 eighty-two, relating to the West Virginia racing commission
8 (Rule 107), are authorized.

9 (c) The legislative rules filed with the legislative rule-
10 making review committee on the tenth day of January, one
11 thousand nine hundred eighty-three, relating to the West
12 Virginia racing commission (Rule 471), are authorized.

13 (d) The legislative rules filed in the state register on the
14 tenth day of January, one thousand nine hundred eighty-
15 three, relating to the West Virginia racing commission (Rule
16 526), are authorized.

17 (e) The legislative rules filed in the state register on the
18 twenty-third day of April, one thousand nine hundred
19 eighty-two, relating to the West Virginia racing commission
20 (Rule 819), are authorized.

21 (f) The legislative rules filed in the state register on the
22 twentieth day of September, one thousand nine hundred
23 eighty-three, relating to the West Virginia racing
24 commission (Rule 107) greyhound racing, are authorized.

25 (g) The legislative rules filed in the state register on the
26 twentieth day of September, one thousand nine hundred
27 eighty-three, relating to the West Virginia racing
28 commission (Rule 108) greyhound racing are authorized
29 with the amendment set forth below:

30 Following the word "Association" insert a period and
31 strike the remainder of the sentence.

32 (h) The legislative rules filed in the state register on the
33 twentieth day of September, one thousand nine hundred
34 eighty-three, relating to the West Virginia racing
35 commission (Rule 108) thoroughbred racing are authorized
36 with the amendment set forth below:

37 Following the word "Association" insert a period and
38 strike the remainder of the sentence.

39 (i) The legislative rules filed in the state register on the
40 twentieth day of September, one thousand nine hundred
41 eighty-three, relating to the West Virginia racing
42 commission (Rule 392) greyhound racing, are authorized.

43 (j) The legislative rules filed in the state register on the
44 twentieth day of September, one thousand nine hundred
45 eighty-three, relating to the West Virginia racing
46 commission (Rule 455) greyhound racing are authorized.

47 (k) The legislative rules filed in the state register on the
48 twentieth day of September, one thousand nine hundred
49 eighty-three, relating to the West Virginia racing
50 commission (Rule 609A) greyhound racing are authorized.

51 (l) The legislative rules filed in the state register on the
52 twentieth day of September, one thousand nine hundred
53 eighty-three, relating to the West Virginia racing
54 commission (Rule 627) greyhound racing are authorized.

55 (m) The legislative rules filed in the state register on the
56 twentieth day of September, one thousand nine hundred
57 eighty-three, relating to the West Virginia racing
58 commission (Rule 845) thoroughbred racing are authorized.

59 (n) The legislative rules filed in the state register on the
60 ninth day of November, one thousand nine hundred eighty-
61 four, relating to the West Virginia racing commission
62 (greyhound racing — Rule 628), are authorized.

63 (o) The legislative rules filed in the state register on the
64 twenty-fifth day of September, one thousand nine hundred
65 eighty-four, relating to the West Virginia racing
66 commission (greyhound racing — Rule 672) are authorized.

67 (p) The legislative rules filed in the state register on the
68 ninth day of November, one thousand nine hundred eighty-
69 four, relating to the West Virginia racing commission
70 (thoroughbred racing — Rule 808), are authorized.

71 (q) The legislative rules filed in the state register on the
72 twenty-fifth day of September, one thousand nine hundred
73 eighty-four, relating to the West Virginia racing
74 commission (thoroughbred racing — Rule 843), are
75 authorized.

76 (r) The legislative rules filed in the state register on the
77 sixth day of August, one thousand nine hundred eighty-
78 four, relating to the West Virginia racing commission
79 (greyhound racing — Rule 845-I) are authorized.

§64-2-20(1)(7). Department of natural resources.

1 The legislative rules filed in the state register on the
2 twenty-sixth day of September, one thousand nine hundred
3 eighty-four, relating to the department of natural resources
4 (public use of state parks, forests, hunting and fishing
5 areas) are authorized.

§64-2-20(2)(40b). Department of natural resources.

1 The legislative rules filed in the state register on the
2 twenty-eighth day of August, one thousand nine hundred
3 eighty-four, relating to the department of natural resources
4 (small arms hunting) are authorized.

§64-2-20(5a)(3). Water resources board.

1 (a) The legislative rules filed in the state register on the
2 sixth day of January, one thousand nine hundred eighty-
3 three, relating to the state water resources board
4 (underground injection control program), are authorized.

5 (b) The legislative rules filed in the state register on the
6 fifteenth day of November, one thousand nine hundred
7 eighty-three, relating to the state water resources board
8 (special regulations), are authorized.

9 (c) The legislative rules filed in the state register on the
10 third day of August, one thousand nine hundred eighty-
11 three, relating to the state water resources board
12 (groundwater protection standards), are authorized.

13 (d) The legislative rules filed in the state register on the
14 fifteenth day of November, one thousand nine hundred
15 eighty-three, relating to the state water resources board
16 (state national pollutant discharge elimination system
17 NPDES) program), are authorized.

18 (e) The Legislature hereby authorizes and directs the
19 water resources board to promulgate rules relating to water
20 quality standards in exact conformity with the rules
21 relating to water quality standards tendered to the
22 secretary of state on the seventh day of March, one thousand
23 nine hundred eighty-four, by the executive secretary of the
24 state water resources board, to be received and filed for
25 inclusion in the state register by the secretary of state.

26 (f) The legislative rules filed in the state register on the
27 seventh day of January, one thousand nine hundred eighty-

28 five, modified by the water resources board to meet the
29 objections of the legislative rule-making review committee
30 and refiled in the state register on the thirteenth day of
31 February, one thousand nine hundred eighty-five, relating
32 to the water resources board (water quality standards), are
33 authorized.

§64-2-20(5c)(6). Water development authority.

1 The legislative rules filed in the state register on the
2 thirtieth day of August, one thousand nine hundred eighty-
3 four, relating to the water development authority (hardship
4 grant funds) are authorized.

§64-2-20(5e)(6). Department of natural resources.

1 (a) The legislative rules filed in the state register on the
2 sixth day of January, one thousand nine hundred eighty-
3 four, relating to the department of natural resources
4 (hazardous waste management) are authorized.

5 (b) The legislative rules filed in the state register on the
6 sixth day of January, one thousand nine hundred eighty-
7 four, relating to the air pollution control commission (to
8 prevent and control air pollution from hazardous waste
9 treatment, storage or disposal facilities) (series XXV) are
10 authorized with the amendments set forth below:

11 Page 3, §1.06, change the §title from "Enforcement" to
12 "Procedure"; place an "(a)" in front of the existing
13 paragraph and add the following:

14 "(b) Permit applications filed pursuant to this
15 regulation shall be processed in accordance with the
16 permitting procedures as set forth in code §20-5E of this
17 regulation. Permit procedures set forth in code §16-20 and
18 any other regulation of this commission are not applicable
19 to any permit application filed pursuant to this regulation."

20 Such rules shall also include a section which shall read as
21 follows:

22 "The commission shall report to the legislative rule-
23 making review committee as required by that committee,
24 but in no event later than the first day of the regular session
25 of the Legislature in the year one thousand nine hundred
26 eighty-five. Such report shall include information
27 regarding the commission's data gathering efforts, the
28 development of compliance programs, the progress in

29 implementation, and such other matters as the committee
30 may require, pertaining to the regulations hereby
31 authorized."

32 (c) The legislative rules filed in the state register on the
33 third day of December, one thousand nine hundred eighty-
34 four, modified by the department of natural resources to
35 meet the objections of the legislative rule-making review
36 committee and refiled in the state register on the thirteenth
37 day of February, one thousand nine hundred eighty-five,
38 relating to the department of natural resources (hazardous
39 waste management), are authorized.

§64-2-20 (5e) (7). Commissioner of highways.

1 (a) The legislative rules filed in the state register on the
2 twenty-first day of October, one thousand nine hundred
3 eighty-three, relating to the commissioner of highways
4 (transportation of hazardous waste by highway
5 transporters) are authorized with the amendments set forth
6 below:

7 Pages 3 and 7 after "40CFR part 262" add the words "as
8 amended through February 20, 1984,"

9 Page 7 after "49CFR parts 171-179" add the words "as
10 amended through February 20, 1984," and

11 Page 11 after "49CFR 171.16" add the words "as amended
12 through February 20, 1984."

13 (b) The legislative rules filed in the state register on the
14 seventh day of September, one thousand nine hundred
15 eighty-four, modified by the commissioner of highways to
16 meet the objections of the legislative rule-making review
17 committee and refiled in the state register on the fifth day of
18 October, one thousand nine hundred eighty-four, relating
19 to the commissioner of highways (transportation of
20 hazardous waste) are authorized with the amendment set
21 forth below:

22 Page 5, by amending §3.01 by adding thereto a new
23 subsection, designated subsection (4), to read as follows:
24 "(4) Before accepting hazardous waste from a rail
25 transporter, a highway transporter must sign and date the
26 manifest and provide a copy to the rail transporter."

§64-2-20 (6) (2). Department of natural resources.

1 (a) The legislative rules filed in the state register on the

2 eighth day of December, one thousand nine hundred eighty-
3 three, relating to the department of natural resources
4 (surface mining) are authorized with the amendments set
5 forth below:

6 Page 3-4, section 3E.01 by adding after the word
7 "engineer" the words "or licensed land surveyor."

8 Page 3-5, section 3E.02, subsection (a), by adding after
9 the word "mining" the words "or civil."

10 Page 3-5, section 3E.02, subsection (b), by adding after
11 the first sentence—"Those persons who have been approved
12 to date need not make said demonstration."

13 (b) The legislative rules filed in the state register on the
14 seventh day of November, one thousand nine hundred
15 eighty-four, relating to the department of natural resources
16 (surface mining reclamation) are authorized.

§64-2-20 (6) (7). Department of natural resources.

1 The legislative rules filed in the state register on the
2 seventh day of November, one thousand nine hundred
3 eighty-four, relating to the department of natural resources
4 (coal refuse disposal) are authorized.

§64-2-20 (6) (43). Department of natural resources.

1 The legislative rules filed in the state register on the ninth
2 day of November, one thousand nine hundred eighty-four,
3 relating to the department of natural resources (transfer of
4 the state national pollutant discharge elimination system
5 program), are authorized with the amendments set forth
6 below:

7 Page 10-5, by striking §10B.19 and inserting in lieu
8 thereof a new §10B.19, to read as follows: " 'Effluent
9 limitations guidelines' means a regulation published by the
10 Administrator under Section 304(b) or Section 301 (b) (1)
11 (B) of the CWA to adopt or revise effluent limitations or
12 levels of effluent quality attainable through the application
13 of secondary or equivalent treatment. For the coal industry
14 these regulations are published at 40 C.F.R. Parts 434 and
15 133. (See: Appendix G and H)"

§64-2-21 (5) (5c). Department of labor.

1 The legislative rules filed in the state register on the
2 second day of February, one thousand nine hundred eighty-

3 four relating to the department of labor (polygraph
4 examinations) are authorized.

§64-2-23 (1) (13). Workers' compensation commissioner.

1 The legislative rules filed in the state register on the
2 twenty-fifth day of October, one thousand nine hundred
3 eighty-four relating to the workers' compensation
4 commissioner (time limits for the administrative
5 proceedings of adjudications and awards) are authorized.

§64-2-23 (1) (15). Workers' compensation commissioner.

1 (a) The legislative rules filed in the state register on the
2 twenty-fifth day of October, one thousand nine hundred
3 eighty-four, modified by the workers' compensation
4 commissioner to meet the objections of the legislative rule-
5 making review committee and refiled in the state register on
6 the ninth day of January, one thousand nine hundred
7 eighty-five, relating to the workers' compensation
8 commissioner (self-insured employers) are authorized.

9 (b) The legislative rules filed in the state register on the
10 twenty-fifth day of October, one thousand nine hundred
11 eighty-four, modified by the workers' compensation
12 commissioner to meet the objections of the legislative rule-
13 making review committee and refiled in the state register on
14 the fifth day of December, one thousand nine hundred
15 eighty-four, relating to the workers' compensation
16 commissioner (payment of attorney's fees) are authorized.

§64-2-29 (1) (6). Archives and history commission.

1 The legislative rules filed in the state register on the
2 fourteenth day of September, one thousand nine hundred
3 eighty-four relating to the archives and history commission
4 (certified local government program) are authorized with
5 the following amendments:

6 §4.02, subsections, a, b, c, d, e and i are amended in their
7 entirety to read as follows:

8 "a. The local government shall have created a historic
9 landmark commission or commission, consisting of five (5)
10 members, to carry out the provisions of the ordinance or
11 order."

12 "b. HLC or commission membership shall be drawn
13 from among persons with demonstrated interest,

14 competence, or knowledge in historic preservation and
15 local history. To the extent available in the community,
16 members of the HLC shall be preservation-related
17 professionals (including the professions of history,
18 architecture, architectural history, planning, real estate,
19 American studies, geography, landscape architecture, law,
20 engineering, or archaeology)."

21 "c. The local government, be certified without the
22 minimum number or types of professional disciplines, must
23 report to the SHPO's satisfaction that it has made a
24 reasonable effort to fill those positions."

25 "d. Commission meetings shall be held at regular
26 intervals at least four times each year, advertised in
27 advance, and open to the public. The Commission shall
28 establish rules of procedure or bylaws including a code of
29 conduct."

30 "e. The Commission shall transmit an annual report of
31 its activities to the State Historic Preservation Officer.
32 Such reports shall include, at a minimum, new designations
33 made, progress on survey activities, and attendance
34 records. Reports shall be submitted within sixty days after
35 the end of the fiscal year for the local government or portion
36 of the fiscal year in the first year of the establishment of the
37 commission. These reports will be reviewed and evaluated
38 by the SHPO to ensure that the Commission's activities are
39 consistent with the State Historic Preservation Plan."

40 "i. Commission responsibilities must be
41 complementary to and carried out in coordination with
42 those of the State Historic Preservation Office as outlined in
43 36 CFR 61.4 (b)."

44 §5.01, subsections a and d are amended to read in their
45 entirety as follows:

46 "a. A written assurance by the chief elected official that
47 the local government does fulfill all the standards for
48 certification outlined above."

49 "d. Resumes of each of the members of the historic
50 landmark commission including credentials of member
51 expertise in fields related to historic preservation. Where no
52 professional members have been appointed an explanation
53 and information demonstrating good faith efforts to obtain
54 such members shall be included."

55 §5.03 is amended in its entirety to read as follows:

56 “5.03—*Determination that Local Government Fulfills*
57 *Requirements for Certification*—if the State Historic
58 Preservation Officer determines that the local government
59 fulfills the requirements for certification, the State Historic
60 Preservation Officer will prepare a written certification
61 agreement with the local government that lists the specific
62 responsibilities of the local government where certified.
63 These responsibilities will include those powers and duties
64 as stated in 4.02. The SHPO will notify the United States
65 Secretary of the Interior, or designee and furnish a copy of
66 the approved request and the certification agreement and
67 shall respond to the local government within fifteen days of
68 the Secretary’s response.”

69 The fourth line of §5.04 is amended to read as follows:
70 “Secretary of the Interior within 15 working days. The
71 certification”

72 The last line of Section 6 is amended to read as follows:
73 “(National Historic Preservation Act, Section 101(c)(2)”

74 The section heading to §6.01 is amended in its entirety to
75 read as follows: “6.01 Notification of Commission by SHPO
76 of National Register Nomination of Property Within Local
77 Government Jurisdiction—”

78 The last three lines of §6.01 are amended in their entirety
79 to read as follows: “101(a) of the National Historic
80 Preservation Act, as amended. The State may expedite such
81 process with the concurrence of the certified local
82 government.”

83 The first line after the section heading of §6.02 is
84 amended to read as follows: “(National Historic
85 Preservation Act, Sec. 101(c)(2)(b). If” and the third
86 sentence of said §6.02 is amended in its entirety to read as
87 follows: “If such an appeal is filed, the State shall follow the
88 procedures for making a nomination pursuant to
89 established procedures (section 101(a) of the Act).”

90 The second sentence of §6.03 is amended in its entirety to
91 read as follows: “If a HLC or commission does not have a
92 professional member with the necessary federal
93 qualifications in the area, the HLC can obtain the opinion of
94 a qualified professional in the area and consider their
95 opinion in their recommendation.”

96 §6.04 is amended in its entirety to read as follows:

97 “6.04—*Commission Qualifications for Federal Pass*

98 *Through Funds*—Federal regulations also require that
99 commissions possess certain qualifications in order to
100 receive federal pass through funds. These are explained in
101 Section 4.02.”

102 §7.01 is amended in its entirety to read as follows:

103 “7.01—*Performance Review of Certified Local Gov-*
104 *ernment by SHPO*—The SHPO will review the
105 commission’s annual report to insure that the performance
106 of the local government is consistent with the State Historic
107 Preservation Plan. If the SHPO determines that the
108 performance of a certified local government is not in
109 conformance with the certification agreement and the State
110 Historic Preservation Plan the State Historic Preservation
111 Officer shall document that determination and recommend
112 to the certified local government steps which may be taken
113 to improve their performance.”

114 The last sentence of §7.03 is amended in its entirety to
115 read as follows: “This closeout will follow procedures
116 specified in National Register Programs Guidelines.”

117 The first sentence of §8.01 is amended in its entirety to
118 read as follows: “A minimum of 10% of the state’s annual
119 apportionment from the Historic Preservation Fund of the
120 Department of the Interior will be set aside for transfer to
121 qualified CLG’s in accordance with the National Historic
122 Preservation Act as amended.”

123 The third line of the first sentence of §8.04 is amended in
124 its entirety to read as follows: “consistent with 35(FR
125 61.7(f) (1)) which states that the amount awarded to”

126 §8.05 is amended in its entirety to read as follows:

127 “8.05—*Application and Selection Criteria*—Project
128 application forms and selection criteria will be made
129 available through individual notification and public
130 advertisement from the SHPO of the West Virginia
131 Department of Culture and History in June of each year.
132 The criteria will be coordinated with those used to select
133 survey and planning grants during that fiscal year. Funds
134 must be applied for by August 30 of each year. Funding in
135 any prior year does not guarantee continued funding. The
136 project schedule and deadlines may vary from year to year
137 and is dependent upon the time frame in which the
138 Secretary of the Interior notifies the state of its

139 apportionment from the annual Historic Preservation
140 Fund.”

141 The third sentence of §8.06 is amended in its entirety to
142 read as follows: “The SHPO is responsible for proper
143 accounting of Historic Preservation Funds grants to CLG’s
144 in accordance with Office Management and Budget
145 Circular A-102, Attachment P Audit Requirements.”

§64-2-29(5a)(24). State athletic commission.

1 The legislative rules filed in the state register on the
2 twentieth day of February, one thousand nine hundred
3 eighty-five, relating to the state athletic commission
4 (professional and amateur boxing) are authorized.

§64-2-30(5)(19). Board of pharmacy.

1 The legislative rules filed in the state register on the
2 second day of October, one thousand nine hundred eighty-
3 four, modified by the board of pharmacy to meet the
4 objections of the legislative rule-making review committee
5 and refiled in the state register on the ninth day of January,
6 one thousand nine hundred eighty-five, relating to the
7 board of pharmacy (parenteral/enteral compounding) are
8 authorized.

§64-2-30(6)(3). Board of embalmers and funeral directors.

1 The legislative rules filed in the state register on the
2 twenty-seventh day of July, one thousand nine hundred
3 eighty-four, modified by the board of embalmers and
4 funeral directors to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the ninth day of January, one thousand nine
7 hundred eighty-five, relating to the board of embalmers
8 and funeral directors (apprenticeship), are authorized.

§64-2-30(21)(6). Board of examiners of psychologists.

1 The legislative rules filed in the state register on the
2 twentieth day of December, one thousand nine hundred
3 eighty-four, relating to the board of examiners of
4 psychologists (examination fee) are authorized.

§64-2-32(4)(412). State auditor, securities commissioner.

1 (a) The legislative rules authorized by the Legislature in
2 section thirty-two (four) (four hundred two) of this article

3 were also proposed by the state auditor, securities
4 commissioner pursuant to section four hundred twelve,
5 article four, chapter thirty-two of this code.

6 (b) The legislative rules filed in the state register on the
7 eighteenth day of January, one thousand nine hundred
8 eighty-five, relating to the state auditor, securities
9 commissioner (filing fee) are authorized.

§64-2-46a(6a)(8). Attorney general.

1 The legislative rules filed in the state register on the sixth
2 day of December, one thousand nine hundred eighty-four,
3 relating to the attorney general (third party dispute
4 mechanisms) are authorized.

§64-2-61(11a)(6). Attorney general.

1 The legislative rules filed in the state register on the ninth
2 day of January, one thousand nine hundred eighty-five,
3 relating to the attorney general (fair treatment of crime
4 victims and witnesses) are authorized.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

David E. Cohen
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originated in the Senate.

In effect from passage.

John C. Nich
Clerk of the Senate

Donald L. Webb
Clerk of the House of Delegates

Don T. ...
President of the Senate

Joseph P. Wright
Speaker House of Delegates

The within *approved* this the *2nd*
May day of *May* 1985.

Anda. Phares Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 4/30/85

Time 6:39 p.m.