WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED
SENATE BILL NO. 761
(By Senators Tucker and Holmes)

PASSED May 13, 1987
In Effect Passage
AN ACT to amend and reenact sections fifteen and fifteen-a, article three, chapter twenty-nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section fifteen-b; to amend and reenact sections five-e (one) (five), eleven (one-a) (one), eleven (one-a) (twenty-nine-a), eleven (ten) (five), eleven (twelve) (twenty-four), sixteen (one) (seven), sixteen (three-a) (two), sixteen (five) (three), sixteen (five-b) (eight), sixteen (twenty-nine-a) (five), seventeen-a (two) (nine), nineteen (one-a) (three), nineteen (one-a) (four), nineteen (sixteen-b) (four), twenty (one) (seven), twenty (two) (twelve), twenty (two) (twenty-three-a), twenty (five) (five), twenty (five-a) (three), twenty (five-c) (six), twenty (five-e) (six), twenty-two (one) (thirteen), twenty-two (one) (sixteen), twenty-two (nine) (six), twenty-two-a (three) (forty), twenty-seven (nine) (one), twenty-seven (seventeen) (three), twenty-nine (three) (five), twenty-nine (six) (ten), thirty (six) (three), thirty (seven-a) (five), thirty-one-a (eight-b) (five), thirty-three (two) (ten), thirty-three (thirty) (fifteen), forty-six-a (six) (one hundred three) and forty-six-a (seven) (one hundred two), article two, chapter sixty-four of said code, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereto; providing that emergency rules promulgated by the secretary of state be reviewed by and may be disapproved by the attorney general; the legislative mandate or authorization for the promulgation of certain legislative
rules by various executive and administrative agencies of
the state; authorizing certain of such agencies to promulgate
certain legislative rules in the form that the 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-seven; authorizing
the West Virginia industrial and trade jobs development
corporation to promulgate certain legislative rules relating
to the general administration of the West Virginia capital
company act and to the establishment of application
procedures to implement the act as modified; authorizing
the state tax commissioner to promulgate certain legislative
rules relating to a listing of interests in natural resources for
the first statewide reappraisal and providing for penalties;
authorizing the state tax commissioner to promulgate
certain legislative rules relating to the review of appraisals
by county commissions sitting as administrative appraisal
review boards as modified; authorizing the state tax
commissioner to promulgate certain legislative rules
relating to review of reappraisals by a circuit court on
certiorari as modified; authorizing the state tax
commissioner to promulgate certain legislative rules
relating to the administrative review of appeals by the state
tax commissioner as modified; authorizing the state tax
commissioner to promulgate certain legislative rules
relating to the additional review and implementation of
property reappraisals as modified; authorizing the state tax
commissioner to promulgate certain legislative rules
relating to providing guidelines for assessors to assure fair
and uniform property values; authorizing the state tax
commissioner to promulgate certain legislative rules
relating to business and occupation taxes as modified;
authorizing the state tax commissioner to promulgate
certain legislative rules governing the registration of
transient vendors as modified; authorizing the state board of
health to promulgate certain legislative rules relating to
establishing methods and standards for chemical tests for
intoxication as modified; authorizing the director of the department of health to promulgate certain legislative rules governing the hazardous material treatment information repository as modified; authorizing the state board of health to promulgate certain legislative rules relating to vital statistics as modified; authorizing the state board of health to promulgate certain legislative rules governing hospital licensure and relating to allowing hospitals to have licensed health care professionals, other than licensed physicians, on their staff, as modified; authorizing the state board of health to promulgate certain legislative rules governing hospital licensure as modified; authorizing the West Virginia hospital finance authority to promulgate certain legislative rules governing the establishment of fee schedule and cost allocation applicable to issuance of bonds by West Virginia hospital finance authority as modified; authorizing the commissioner of motor vehicles to promulgate certain legislative rules relating to the seizure of a driver's license and the issuance of a temporary driver's license as modified; authorizing the commissioner of motor vehicles to promulgate certain legislative rules relating to a federal safety standards inspection program as modified; authorizing the commissioner of agriculture to promulgate certain legislative rules relating to ginseng as modified; authorizing the commissioner of agriculture to promulgate certain legislative rules relating to the West Virginia pesticide use and application act as modified; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to the WV/NPDES program for coal mines and preparation plants and the refuse and waste therefrom with certain amendments thereto; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to procedures for transporting and dealing in fur-bearing animals; authorizing the commercial whitewater advisory board to promulgate certain legislative rules relating to commercial whitewater outfitters as modified; authorizing the water resources board to promulgate certain legislative rules relating to water quality standards as modified; authorizing the water resources board to promulgate certain legislative rules relating to the state national pollutant discharge elimination system (NPDES) program as modified; authorizing the water resources board
to promulgate certain legislative rules relating to special regulations; authorizing the water resources board to promulgate certain legislative rules relating to the underground injection control program; authorizing the water development authority to promulgate certain legislative rules relating to requirements governing disbursement of loans and grants to governmental agencies for the acquisition or construction of water development projects; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to hazardous waste management as modified; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to hazardous waste management; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to hazardous waste management which were filed in the state register on the fifth day of March, one thousand nine hundred eighty-seven, which rules modify the previously filed rules entitled “Hazardous Waste Management, Series 35”; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing oil and gas wells and other wells as modified; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing certification of gas wells; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing underground injection control as modified; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing the state national pollutant discharge elimination system (NPDES) program as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing miscellaneous water pollution control; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing dam control as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing solid waste management as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing hazardous waste management as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing the state...
national pollutant discharge elimination system (NPDES) for mines and minerals as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules relating to the standards for certification of coal mine electricians as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing the safety training program for prospective underground coal miners in West Virginia; authorizing the commissioner of the department of energy to promulgate legislative rules governing the safety training program for prospective surface coal miners in West Virginia; authorizing the promulgation of certain legislative rules and regulations relating to the standards for certification of underground belt examiners for underground coal mines; authorizing the state board of health to promulgate certain legislative rules relating to the licensure of behavioral health centers as modified; authorizing the state fire commission to promulgate certain legislative rules relating to the hazardous substance emergency response training program as modified; authorizing the civil service commission to promulgate certain legislative rules governing the civil service system as modified; authorizing the West Virginia board of embalmers and funeral directors to promulgate certain legislative rules relating to the governing of the board of embalmers and funeral directors as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate certain legislative rules governing policies relating to licensure of the licensed practical nurse as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate certain legislative rules governing legal standards of nursing practice for the licensed practical nurse; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate certain legislative rules governing fees for services rendered by the board; authorizing the commissioner of banking to promulgate certain legislative rules implementing the West Virginia community reinvestment act as modified; authorizing the insurance commissioner to promulgate certain legislative rules relating to examiners' compensation, qualification and classification as modified; authorizing the state board of risk and insurance management to promulgate certain
legislative rules governing the mine subsidence insurance program as modified; authorizing the attorney general to promulgate certain legislative rules relating to the prevention of unfair or deceptive acts or practices in home improvement and home construction transactions as modified; and authorizing the attorney general to promulgate certain legislative rules relating to the prevention of unfair or deceptive acts or practices in the sale of damaged goods or products as modified.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES.

ARTICLE 3. RULE MAKING.

§29A-3-15. Emergency legislative rules; procedure for promulgation; definition.

1 (a) Any agency with authority to propose legislative rules may, without hearing, find that an emergency exists requiring that emergency rules be promulgated and promulgate the same in accordance with this section. Such
emergency rules, together with a statement of the facts and circumstances constituting the emergency, shall be filed in the state register and shall become effective immediately upon such filing. Such emergency rules may adopt, amend or repeal any legislative rule, but the circumstances constituting the emergency requiring such adoption, amendment or repeal shall be stated with particularity and be subject to de novo review by any court having original jurisdiction of an action challenging their validity. Fifteen copies of the rules and of the required statement shall be filed forthwith with the legislative rule-making review committee.

An emergency rule shall be effective for not more than fifteen months and shall expire earlier if any of the following occurs:

1. The secretary of state, acting under the authority provided for in section fifteen-a of this article, or the attorney general, acting under the authority provided for in section fifteen-b of this article, disapproves the emergency rule because (A) the agency has exceeded the scope of its statutory authority in promulgating the emergency rule; (B) an emergency does not exist justifying the promulgation of such rule; or (C) the rule was not promulgated in compliance with the provisions of this section.

2. The agency has not previously filed and fails to file a notice of public hearing on the proposed rule within sixty days of the date the proposed rule was filed as an emergency rule; in which case the emergency rule expires on the sixty-first day.

3. The agency has not previously filed and fails to file the proposed rule with the legislative rule-making review committee within one hundred eighty days of the date the proposed rule was filed as an emergency rule; in which case the emergency rule expires on the one hundred eighty-first day.

4. The Legislature has authorized or directed promulgation of an authorized legislative rule dealing with substantially the same subject matter since such emergency rule was first promulgated, and in which case the emergency rule expires on the date the authorized rule is made effective.

5. The Legislature has, by law, disapproved of such emergency rule; in which case the emergency rule expires on the date the law become effective.
(b) Any amendment to an emergency rule made by the agency shall be filed in the state register and does not constitute a new emergency rule for the purpose of acquiring additional time or avoiding the expiration dates in subdivision (1), (2), (3) or (4), subsection (a) of this section. (c) Once an emergency rule expires due to the conclusion of fifteen months or due to the effect of subdivision (1), (2), (3) or (4), subsection (a) of this section, the agency may not refile the same or similar rule as an emergency rule. (d) Emergency legislative rules currently in effect under the prior provisions of this section may be refiled under the provisions of this section. (e) The provision of this section shall not be used to avoid or evade any provision of this article or any other provisions of this code, including any provisions for legislative review and approval of proposed rules. Any emergency rule promulgated for any such purpose may be contested in a judicial proceeding before a court of competent jurisdiction. (f) The legislative rule-making review committee may review any emergency rule to determine (1) whether the agency has exceeded the scope of its statutory authority in promulgating the emergency rule; (2) whether there exists an emergency justifying the promulgation of such rule; and (3) whether the rule was promulgated in compliance with the requirements and prohibitions contained in this section. The committee may recommend to the agency, the Legislature, or the secretary of state such action as it may deem proper. (g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest. §29A-3-15a. Disapproval of emergency rules by the secretary of state; judicial review. (a) Upon the filing of an emergency rule by an agency, under the provisions of section fifteen of this article, by any agency, except for the secretary of state, the secretary of state shall review such rule and, within forty-two days of
such filing, shall issue a decision as to whether or not such emergency rule should be disapproved. An emergency rule filed by the secretary of state shall be reviewed by the attorney general as provided for in section fifteen-b of this article.

(b) The secretary of state shall disapprove an emergency rule if he determines:

1. That the agency has exceeded the scope of its statutory authority in promulgating the emergency rule;
2. That an emergency does not exist justifying the promulgation of the rule; or
3. That the rule was not promulgated in compliance with the provisions of section fifteen of this article.

(c) If the secretary of state determines, based upon the contents of the rule or the supporting information filed by the agency, that the emergency rule should be disapproved, he may disapprove such rule without further investigation, notice or hearing. If, however, the secretary of state concludes that the information submitted by the agency is insufficient to allow a proper determination to be made as to whether the emergency rule should be disapproved, he may make further investigation, including, but not limited to, requiring the agency or other interested parties to submit additional information or comment or fixing a date, time and place for the taking of evidence on the issues involved in making a determination under the provisions of this section.

(d) The determination of the secretary of state shall be reviewable by the supreme court of appeals under its original jurisdiction, based upon a petition for a writ of mandamus, prohibition of certiorari, as appropriate. Such proceeding may be instituted by:

1. The agency which promulgated the emergency rule;
2. A member of the Legislature; or
3. Any person whose personal property interests will be significantly affected by the approval or disapproval of the emergency rule by the secretary of state.

§29A-3-15b. Disapproval of emergency rules by the attorney general; judicial review.

(a) Upon the filing of an emergency rule by the secretary of state under the provisions of section fifteen of this article, the attorney general shall review such rule and, within
forty-two days of such filing, shall issue a decision as to whether or not such emergency rule should be disapproved. (b) The attorney general shall disapprove an emergency rule if he determines:

(1) That the secretary of state has exceeded the scope of its statutory authority in promulgating the emergency rule;

(2) That an emergency does not exist justifying the promulgation of the rule; or

(3) That the rule was not promulgated in compliance with the provisions of section fifteen of this article.

(c) If the attorney general determines, based upon the contents of the rule or the supporting information filed by the secretary of state, that the emergency rule should be disapproved, he may disapprove such rule without further investigation, notice or hearing. If, however, the attorney general concludes that the information submitted by the secretary of state is insufficient to allow a proper determination to be made as to whether the emergency rule should be disapproved, he may make further investigation, including, but not limited to, requiring the secretary of state or other interested parties to submit additional information, or comment or fixing a date, time and place for the taking of evidence on the issues involved in making a determination under the provisions of this section.

(d) The determination of the attorney general shall be reviewable by the supreme court of appeals under its original jurisdiction, based upon a petition for a writ of mandamus, prohibition or certiorari, as appropriate. Such proceeding may be instituted by:

(1) The secretary of state;

(2) A member of the Legislature; or

(3) Any person whose personal property interests will be significantly affected by the approval or disapproval of the emergency rule by the attorney general.

CHAPTER 64. LEGISLATIVE RULES.

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-5e(1)(5). West Virginia industrial and trade jobs development corporation.

The legislative rules filed in the state register on the fifteenth day of October, one thousand nine hundred
eighty-six, modified by the West Virginia industrial and trade jobs development corporation to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of January, one thousand nine hundred eighty-seven, relating to the West Virginia industrial and trade jobs development corporation (general administration of the West Virginia capital company act and establishment of application procedures to implement the act), are authorized.


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

Title page, Subject; following the word “Farmland,” insert the words “and of Structures Situated Thereon.”

Page i, Subject; following the word “Farmland,” insert the words “and of Structures Situated Thereon.”

Page i, TABLE OF CONTENTS, Section 10; following the words “Valuation of Farmland” add the words “and of Structures Situated Thereon.”

Page 10.1, Title; following the word “FARMLAND” insert the words “AND STRUCTURES SITUATED THEREON.”

Page 10.1, Section 10, Title; following the word “Farmland” add the words “and Structures Situated Thereon.”

Page 10.1, Section 10.01(b); following the word “farmland” insert the words “and structures situated thereon.”

Page 10.2, Section 10.02(a), first sentence; following the word “farmland” insert the words “and structures situated thereon.”

Page 10.3, Section 10.02(b), first sentence; following the word “farmland” insert the words “and structures situated thereon.” Delete the words “for purposes of the statewide reappraisal.”

Page 10.3, Section 10.02(b), last sentence; following the word “farmland” insert the words “and structures situated thereon.”
Page 10.8, Section 10.04(5)(B), last sentence; delete the period and add “or the incapability to be adapted to alternative uses.”

Page 10.9, Section 10.04(6), first sentence; following the words “land currently being used” insert the words “as part of a farming operation,”.

Page 10.9, Section 10.04(6), following the last sentence; add the sentence “For the purposes of this definition, 'contiguous tracts' are farmlands which are in close proximity, but not necessarily adjacent: Provided, That all such contiguous tracts are operated as part of the same farm management plan.”

Page 10.10, Section 10.04(8), is amended to read in its entirety as follows:

“(8) **Farm buildings.**—The term “farm buildings” shall mean structures which directly contribute to the operation of the farm, and shall include tenant houses and quarters furnished farm employees without rent as a part of the terms of their employment.”

Page 10.11, Section 10.04; delete the word “November” and insert in lieu thereof the word “September.” Delete the period following the word “valuation” and add the words “for the assessment year beginning July first of each year.”

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

Page 10.14, Section 10.04(28) (formerly 10.04(27)); following the words “woodland products” insert a comma and the words “such as nuts or fruits harvested” and add a comma following the words “human consumption” on Page 10.15.

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

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

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

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

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

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

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

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

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

Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
and the words "it was purchased at the same time as the
tract so used." Delete the period following the word
"purposes" and add the words "or any nonfarm use."
Page 10.19, Section 10.05(c)(2); following the words
"Provided, That no" delete the word "reason" and insert in
lieu thereof the words "individual event."
Page 10.20, Section 10.05(c)(4)(C); following the words
"(1,000) minimum production value" insert the words "or
the small farm five hundred dollars ($500) minimum
production and sale."
Page 10.23, Section 10.05(d)(3)(B), third sentence;
following the word "If" insert the words "timber from."
Delete the period following the word "purpose" and add the
words "or is being converted to farm production uses."
Page 10.26, Section 10.05(f)(2) is amended in its entirety
to read as follows:
“(2) Farm buildings.—Rental value of farm buildings
and other improvements on the farmland shall be valued by
determining the replacement cost of the building or
structure by usual farm construction practices, and farm
labor standards and subtracting 1 therefrom depreciation.
Both of these determinations shall be made in accordance
with the tax department's real property appraisal manual
as filed in the state register in accordance with chapter 29A
of the code of West Virginia, 1931, as amended, and as it
relates to agricultural buildings and structures. One (1) acre
of land shall be assigned to all buildings as a unit situate on
the property, regardless of the actual acreage occupied by
such buildings and shall be appraised at its farm-use
valuation based on the highest class of farmland present on
the farm.”
Page 10.28, Section 10.05(f)(3)(B)(1); following the words
"or more of the“ insert the word “usual.”
Page 10.28, Section 10.05(f)(3)(B)(2); following the words
“(50%) of the” insert the word “usual.”
Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
“(50%) or more of the” insert the word “usual”.
Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
“(50%) of the” insert the word “usual”.
Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
sentence insert the sentence “An individual employed other
than in farming is not an unincorporated business.”
Page 10.35, Section 10.07, Title; following the word
“Farmland” insert the words “and Structures Situated
Thereon.”.
Page 10.35, Section 10.07(a), first sentence; following the word “farmland” insert the words “and structures situated thereon.”

Page 10.46, Subject; following the word “Farmland” insert the words “and Structures Situated Thereon.”

(b) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, relating to the state tax commissioner (listing of interests in natural resources for the first statewide reappraisal; provision for penalties) are authorized.

(c) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (review of appraisals by county commissions sitting as administrative appraisal review boards), are authorized.

(d) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (review of appraisals by a circuit court on certiorari), are authorized with the following amendment:

On page 3, §18.3.1 is stricken in its entirety and a new §18.3.1 is inserted in lieu thereof to read as follows:

“18.3.1 Who May Request Review.—The property owner, Tax Commissioner, protestor or intervenor may request the county commission to certify the evidence and remove and return the record to the circuit court of the county on a writ of certiorari. Parties to the proceeding wherein review by the circuit court is sought shall pay costs and fees as they are incurred: Provided, That the circuit court upon rendering judgment or making any order may award costs to any party in accordance with the provisions of W. Va. Code §53-3-5.”

(e) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet
the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (administrative review of appraisals by the state tax commissioner), are authorized.

(f) The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (additional review and implementation of property appraisals), are authorized.


1 The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, relating to the state tax commissioner (guidelines for assessors to assure fair and uniform personal property values) are authorized.


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

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

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

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

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

c) The legislative rules filed in the state register on the fourth day of February, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objection of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred eighty-seven, relating to the state tax commissioner (business and occupation tax) are authorized.


The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of December, one thousand nine hundred eighty-six, relating to the state tax commissioner (registration of transient vendors), are authorized.


(a) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (waste water treatment works operations), are authorized.
(b) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (laboratory reporting of syphilis and gonorrhea) are authorized.
(c) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (public water supply operators) with the modification of §11.02 as presented to the legislative rule-making review committee on the ninth day of November, one thousand nine hundred eighty-two, are authorized.
(d) The legislative rules filed in the state register on the twenty-second day of October, one thousand nine hundred eighty-two, relating to the state board of health (sewage
systems) with the modification presented to the legislative
rule-making review committee on the sixth day of
December, one thousand nine hundred eighty-two, are
authorized except lines ten through seventeen, page eight of
the rules, shall be stricken in their entirety and the
remaining paragraphs renumbered. These rules were
proposed by the state board of health pursuant to sections
seven and nine, article one, chapter sixteen of this code.

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

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

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

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

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

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

§4.1. In the first sentence delete the word “obtaining”
and insert in lieu thereof the words “applying for.” In the
second sentence after “4.3” add “and 4.5.”
§4.2. At the end of the second sentence, strike the period and add the words "unless emergency conditions prevail as noted under §4.3."

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

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

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

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

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

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

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

(l) The legislative rules filed in the state register on the seventeenth day of July, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee
and refiled in the state register on the sixteenth day of
October, one thousand nine hundred eighty-six, relating to
the state board of health (methods and standards for
chemical tests for intoxication) are authorized.

§64-2-16(3a)(2). Director of health.
1 The legislative rules filed in the state register on the
2 thirteenth day of August, one thousand nine hundred
3 eighty-six, modified by the director of the department of
4 health to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 sixteenth of October, one thousand nine hundred eighty-
7 six, relating to the director of the department of health
8 (hazardous material treatment information repository) are
9 authorized.

1 The legislative rules filed in the state register on the ninth
2 day of December, one thousand nine hundred eighty-six,
3 modified by the state board of health to meet the objections
4 of the legislative rule-making review committee and refiled
5 in the state register on the twenty-third day of December,
6 one thousand nine hundred eighty-six, relating to the state
7 board of health (vital statistics) are authorized.

1 (a) The legislative rules filed in the state register on the
2 eighteenth day of April, one thousand nine hundred eighty-
3 six, modified by the state board of health to meet the
4 objections of the legislative rule-making review committee
5 and refiled in the state register on the seventeenth day of
6 October, one thousand nine hundred eighty-six, relating to
7 the state board of health (hospital licensure) are authorized.
8 (b) The legislative rules filed in the state register on the
9 ninth day of December, one thousand nine hundred eighty-
10 six, modified by the state board of health to meet the
11 objections of the legislative rule-making review committee
12 and refiled in the state register on the twenty-third day of
13 December, one thousand nine hundred eighty-six, relating
14 to the state board of health (hospital licensure and allowing
15 hospitals to have licensed hospital professionals, other than
16 licensed physicians, on their medical staff) are authorized.
§64-2-16(29a)(5). West Virginia hospital finance authority.

The legislative rules filed in the state register on the tenth day of June, one thousand nine hundred eighty-six, modified by the West Virginia hospital finance authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of January, one thousand nine hundred eighty-seven, relating to the West Virginia hospital finance authority (establishment of fee schedule and cost allocation applicable to issuance of bonds) are authorized.


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

By inserting the words "licensed in the United States" after the phrase "physician of the applicant’s choice," on page five, line two, and page seven, line one; and by striking out the words "licensed vision specialist" and inserting in lieu thereof the words "an optometrist or ophthalmologist licensed in the United States," on page five, line three, and on page seven, line two. These rules were proposed by the commissioner pursuant to section nine, article two, chapter seventeen-a and section six, article three-c, chapter seventeen-b of this code.

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

(c) The legislative rules filed in the state register on the fifth day of August, one thousand nine hundred eighty-five, modified by the commissioner of motor vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourth day of October, one thousand nine hundred eighty-five, relating to the commissioner of motor vehicles (eligibility for reinstatement following suspension or revocation of driving privileges), are authorized.

(d) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred eighty-six, modified by the commissioner of motor vehicles...
32. to meet the objections of the legislative rule-making review
33. committee and refiled in the state register on the ninth day
34. of October, one thousand nine hundred eighty-six, relating
35. to the commissioner of motor vehicles (seizure of a driver's
36. license and issuance of a temporary driver's license), are
37. authorized.
38. (e) The legislative rules filed in the state register on the
39. twenty-fifth day of July, one thousand nine hundred
40. eighty-six, modified by the commissioner of motor vehicles
41. to meet the objections of the legislative rule-making review
42. committee and refiled in the state register on the ninth day
43. of October, one thousand nine hundred eighty-six, relating
44. to the commissioner of motor vehicles (federal safety
45. standards inspection program) are authorized.

§64-2-19(1a)(3). Division of forestry; department of
agriculture.
1. The rules authorized by the Legislature in section
2. nineteen (one-a) (four) of this article were also proposed by
3. the commissioner of agriculture pursuant to section three,
4. article one-a, chapter nineteen of this code.

§64-2-19(1a)(4). Division of forestry; department of
agriculture.
1. The legislative rules filed in the state register on the
2. eighteenth day of August, one thousand nine hundred
3. eighty-six, modified by the director of the division of
4. forestry of the department of agriculture to meet the
5. objections of the legislative rule-making review committee
6. and refiled in the state register on the fifth day of January,
7. one thousand nine hundred eighty-seven, relating to the
8. director of the division of forestry of the department of
9. agriculture (ginseng), are authorized. These rules were
10. proposed by the director of the division of forestry of the
11. department of agriculture pursuant to sections three and
12. four, article one-a, chapter nineteen of the code.

1. (a) The legislative rules filed in the state register on the
2. fifth day of January, one thousand nine hundred eighty-
3. four, relating to the commissioner of agriculture (use of
4. certain picloram products), are authorized.
5. (b) The legislative rules filed in the state register on the
6. eighteenth day of June, one thousand nine hundred eighty-
six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of January, one thousand nine hundred eighty-seven, relating to the commissioner of agriculture (West Virginia pesticide use and application act), are authorized.

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

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

(b) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred eighty-five, relating to the department of natural resources (WV/NPDES regulations for the coal mining point source category and related sewage facilities), are authorized.

(c) The legislative rules filed in the state register on the thirtieth day of December, one thousand nine hundred eighty-six, relating to the department of natural resources (WV/NPDES program for coal mines and preparation plants, and the refuse and waste therefrom), are authorized with the amendments set forth below:

On page four, §1.9.1.a by inserting the words “five thousand dollars or” after the words “significant portion of income’ means” and

On page four, §1.9.1.a by inserting the words “whichever is less,” after the words “ten percent or more of gross personal income for a calendar year”.

§64-2-20(2)(12). Director of the department of natural resources.

The legislative rules filed in the state register on the seventh day of August, one thousand nine hundred eighty-six, relating to the director of the department of natural resources (procedures for transporting and dealing in furbearing animals), are authorized.

§64-2-20(2)(23a). Department of natural resources; commercial whitewater advisory board.

The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred
eighty-six, modified by the commercial whitewater advisory board to meet the objections of the legislative rule-making review committee and refiled in the state register on sixteenth day of January, one thousand nine hundred eighty-seven, relating to the commercial whitewater advisory board (commercial whitewater outfitters), are authorized with the following amendments:

On page 1, §2.1, by striking all of §2.1 and inserting in lieu thereof the following: "2.1 Commercial whitewater outfitter means any person, partnership, corporation or other organization, or any combination thereof, duly authorized and operating from within or from without the state, which for monetary profit or gain, provides whitewater expeditions or rents whitewater craft or equipment for use in whitewater expeditions on any river, portions of rivers or waters of the state."

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

The legislative rules filed in the state register on the seventeenth day of October, one thousand nine hundred eighty-five, and modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-seven, relating to the state water resources board (special regulations) are authorized. These rules were proposed by the state water resources board pursuant to section three, article five-a, and section five, article five, of chapter twenty of this code.

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

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

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

(c) The legislative rules filed in the state register on the third day of August, one thousand nine hundred eighty-three, relating to the state water resources board (groundwater protection standards), are authorized.
(d) The legislative rules filed in the state register on the fifteenth day of November, one thousand nine hundred eighty-three, relating to the state water resources board (state national pollutant discharge elimination system (NPDES) program), are authorized.

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

(f) The legislative rules filed in the state register on the seventh day of January, one thousand nine hundred eighty-five, modified by the water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of February, one thousand nine hundred eighty-five, relating to the water resources board (water quality standards), are authorized.

(g) The legislative rules filed in the state register on the seventeenth day of October, one thousand nine hundred eighty-five, modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred eighty-seven, and further modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-seven, relating to the state water resources board (water quality standards), are authorized.

(h) The legislative rules filed in the state register on the seventeenth day of October, one thousand nine hundred eighty-five, modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred eighty-seven, and further modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-seven, relating to the state water resources board (water quality standards), are authorized.
seven, relating to the state water resources board (state national pollutant discharge elimination system (NPDES) program), are authorized.

(i) The legislative rules filed in the state register on the seventeenth day of October, one thousand nine hundred eighty-five, and modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-seven, relating to the state water resources board (underground injection control program), are authorized.

(j) The legislative rules filed in the state register on the seventeenth day of October, one thousand nine hundred eighty-five, and modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-seven, relating to the state water resources board (special regulations), are authorized. These rules were proposed by the state water resources board pursuant to section three, article five-a, and section five, article five, of chapter twenty of this code.

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

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

(b) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-six, relating to the water development authority (requirements governing disbursements of loans and grants to governmental agencies for the acquisition or construction of water development projects), are authorized.

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

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

(b) The legislative rules filed in the state register on the sixth day of January, one thousand nine hundred eighty-
Page 3, §1.06, change the § title from “Enforcement” to “Procedure”; place an “(a)” in front of the existing paragraph and add the following:

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

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

“The commission shall report to the legislative rule-making committee as required by that committee, but in no event later than the first day of the regular session of the Legislature in the year one thousand nine hundred eighty-five. Such report shall include information regarding the commission’s data gathering efforts, the development of compliance programs, the progress in implementation, and such other matters as the committee may require, pertaining to the regulations hereby authorized.”

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

(d) The legislative rules filed in the state register on the eleventh day of December, one thousand nine hundred eighty-five, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of February, one thousand nine hundred eighty-six, relating to the department of natural resources (hazardous waste management), are authorized.

(e) The legislative rules filed in the state register on the fifth day of March, one thousand nine hundred eighty-six,
relating to the department of natural resources (hazardous waste management), are authorized.

(f) The legislative rules filed in the state register on the tenth day of October, one thousand nine hundred eighty-five, relating to the department of natural resources (hazardous waste management: small quantity generators and waste minimization certification), are authorized with the amendments set forth below:

On page 1, § 3.1.4b, delete the word “or” in the reference to paragraph (g) or (j) and insert in lieu thereof the words “and, if applicable.”

(g) The legislative rule filed in the state register on the twenty-sixth day of September, one thousand nine hundred eighty-six, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of December, one thousand nine hundred eighty-six, relating to the department of natural resources (hazardous waste management regulations), are authorized.

(h) The legislative rule filed in the state register on the ninth day of January, one thousand nine hundred eighty-seven, relating to the department of natural resources (hazardous waste management regulations), are authorized.

(i) The legislative rule filed in the state register on the fifth day of March, one thousand nine hundred eighty-seven, relating to the department of natural resources (hazardous waste management regulations, Series 35) are authorized.

§64-2-22(1)(13). Department of energy; director of the division of oil and gas.

(a) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the director of the division of oil and gas of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the director of the division of oil and gas of the department of energy (oil and gas wells and other wells), are authorized.

(b) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-
six, modified by the director of the oil and gas division of the
department of energy to meet the objections of the
legislative rule-making review committee and refiled in the
state register on the fifteenth day of December, one
thousand nine hundred eighty-six, relating to the director
of the division of oil and gas of the department of energy
(certification of gas wells), are authorized.

(a) The legislative rules filed in the state register on the
eleventh day of August, one thousand nine hundred eighty-
six, modified by the commissioner of the department of
energy to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department
of energy (miscellaneous water pollution control), are
authorized.

(b) The legislative rules filed in the state register on the
eleventh day of August, one thousand nine hundred eighty-
six, modified by the commissioner of the department of
energy to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
fifteenth day of December, one thousand nine hundred
Eighty-six, relating to the commissioner of the department
of energy (miscellaneous water pollution control), are
authorized.


(d) The legislative rules filed in the state register on the
eleventh day of August, one thousand nine hundred eighty-
six, modified by the director of the division of oil and gas of
the department of energy to meet the objections of the
legislative rule-making review committee and refiled in the
state register on the fifteenth day of December, one
thousand nine hundred eighty-six, relating to the director
of the division of oil and gas of the department of energy
(state national pollutant discharge elimination system
(npdes) program), are authorized.
eighty-six, relating to the commissioner of the department of energy (dam control), are authorized.

(c) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (solid waste management), are authorized.

(d) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (hazardous waste management), are authorized.

(e) The rules authorized by the Legislature in section twenty-two-a (three) (forty) of this article were also proposed by the commissioner of the department of energy pursuant to section sixteen, article one, chapter twenty-two of this code.

§64-2-22(9)(6). Commissioner of the department of energy.

(a) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (standards for certification of coal mine electricians), are authorized with the following amendments:

"Page one, §2.1, subsection (a), following the second word, 'electrician' by striking the colon and inserting the following: 'under the supervision required by section 4.1(d) of these rules' and a colon.

Page one, §2.1, subsection (a), by deleting all of subdivision 6) and renumbering the subsequent subdivisions."
Page two, §2.1, subsection (a), by deleting all of subdivision (9).

Page two, §2.1, subsection (b), by deleting all of subdivision 14) and inserting in lieu thereof a new subdivision 14) to read as follows: '14) Replace blown fuses on trolley poles and nips.'

Page five, §4.1, subsection (d), line three, following the words 'certified electrician prior' by inserting the words 'to any work being performed and again prior'."

(b) The legislative rules filed in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of January, one thousand nine hundred eighty-seven, relating to the commissioner of the department of energy (safety training program for prospective underground coal miners in West Virginia), are authorized.

(c) The legislative rules filed in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of January, one thousand nine hundred eighty-seven, relating to the commissioner of the department of energy (safety training program for prospective surface coal miners in West Virginia), are authorized.

(d) The legislative rules filed in the state register on the third day of April, one thousand nine hundred eighty-seven, relating to the department of energy (standards for certification of underground belt examiners for underground coal mines) are authorized.

§64-2-22a(3)(40). Commissioner of the department of energy.

The legislative rules filed in the state register on the twelfth day of January, one thousand nine hundred eighty-seven, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of February, one thousand nine hundred eighty-seven, relating to the commissioner of the
department of energy (state national pollutant discharge
elimination system (NPDES) for mines and minerals), are
authorized.


(a) The legislative rules filed in the state register on the
fourteenth day of November, one thousand nine hundred
eighty-three, relating to the state board of health (licensure
of behavioral health centers), are authorized with the
amendments set forth below:

Page 45, § 12.8.2. In the first sentence delete the words
"without delay" and insert in lieu thereof the words "within
twenty-four hours after receiving a report of a complaint."

(b) The legislative rules filed in the state register on the
twenty-first day of November, one thousand nine hundred
eighty-six, modified by the state board of health to meet the
objections of the legislative rule-making review committee
and refiled in the state register on the twenty-third day of
December, one thousand nine hundred eighty-six, relating
to the state board of health (licensure of behavioral health
centers), are authorized.


The legislative rules filed in the state register on the
fourteenth day of November, one thousand nine hundred
eighty-three and on the twenty-first day of November, one
thousand nine hundred eighty-six and authorized by the
Legislature in section twenty-seven (nine) (one) of this
article, were also proposed by the state board of health
pursuant to section three, article seventeen, chapter
twenty-seven of this code.

§64-2-29(3)(5). State fire commission.

(a) The legislative rules filed in the state register on the
third day of January, one thousand nine hundred eighty-
four, relating to the state fire commission (state fire code)
are authorized with the amendments set forth below:

Page 1, § 106, line 1, after the word "to" add the words
"personal care homes caring for five or less patients or"; and

Page 26, § 11.06(3)A.(3). Strike the period at the end of the
sentence and add the words "except for existing sleeping
rooms owned by the state and located in dormitories or state
parks."
[Enr. S. B. No. 761]

§64-2-29(6)(10). Civil service commission.

1 The legislative rules filed in the state register on the
2 nineteenth day of November, one thousand nine hundred
3 eighty-six, modified by the civil service commission to meet
4 the objection of the legislative rule-making review
5 committee and refiled in the state register on the fifteenth
6 day of December, one thousand nine hundred eighty-six,
7 relating to the civil service commission (civil service
8 system), are authorized.

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

1 (a) 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.
9 (b) The legislative rules filed in the state register on the
10 sixteenth day of October, one thousand nine hundred
11 eighty-five, modified by the board of embalmers and
12 funeral directors to meet the objections of the legislative
13 rule-making review committee and refiled in the state
14 register on the eighteenth day of July, one thousand nine
15 hundred eighty-six, relating to the board of embalmers and
16 funeral directors (governing the board of embalmers and
17 funeral directors), are authorized.

§64-2-30(7a)(5). West Virginia board of examiners for licensed
practical nurses.

1 (a) The legislative rules filed in the state register on the
2 thirtieth day of July, one thousand nine hundred eighty-six,
3 modified by the West Virginia board of examiners for
licensed practical nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of September, one thousand nine hundred eighty-six, relating to the West Virginia board of examiners for licensed practical nurses (policies relating to licensure of the licensed practical nurse), are authorized.

(b) The legislative rules filed in the state register on the thirtieth day of July, one thousand nine hundred eighty-six, relating to the West Virginia board of examiners for licensed practical nurses (legal standards of nursing practice for the licensed practical nurse) are authorized.

(c) The legislative rules filed in the state register on the thirtieth day of July, one thousand nine hundred eighty-six, relating to the West Virginia board of examiners for licensed practical nurses (fees for services rendered by the board) are authorized.

§64-2-31a(8b)(5). Commissioner of banking.

The legislative rules filed in the state register on the seventh day of November, one thousand nine hundred eighty-six, modified by the commissioner of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-six, relating to the commissioner of banking (implementing the West Virginia community reinvestment act), are authorized.


(a) The legislative rules filed in the state register on the eighteenth day of October, one thousand nine hundred eighty-three, relating to the insurance commissioner (excess line brokers), are authorized.

(b) The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the insurance commissioner to meet the objection of the legislative rule-making review committee and refiled in the state register on the twelfth day of December, one thousand nine hundred eighty-six, relating to the insurance commissioner (examiners' compensation, qualification and classification), are authorized.

1. The legislative rules filed in the state register on the twenty-sixth day of November, one thousand nine hundred eighty-five, modified by the state board of risk and insurance management to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of December, one thousand nine hundred eighty-six, relating to the state board of risk and insurance management (mine subsidence insurance program), are authorized.


(a) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine hundred eighty-six, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of December, one thousand nine hundred eighty-six, relating to the attorney general (prevention of unfair or deceptive acts or practices in home improvement and home construction transactions), are authorized. These rules were proposed by the attorney general pursuant to section one hundred three, article six and section one hundred two, article seven of chapter forty-six-a of this code with the following amendments:

"Amending the title to the proposed legislative rule wherever said title may appear, on lines three and four thereof, by striking the words 'and home construction'.

On the index page following '3.' by striking the words 'and home construction'.

On page 1, §1.2, line three, after the first word 'transactions' on line three, by striking the comma and the words 'and home construction transactions' and on line five, by striking the period and inserting the words 'but shall not cover new construction of single-family dwellings or rebuilding all or substantially all of an existing or preexisting single-family dwelling.'

Page 2, section 2.2 by striking all of lines seven and eight and inserting in lieu thereof the following:

'unless: (a) it appears in printed or typed face larger than the largest type used in the written contract, apart'.

[Enr. S. B. No. 761]
On page 2, section 2.4, by striking all of section 2.4 and inserting in lieu thereof a new section 2.4, to read as follows:

2.4 “Home Construction” means, for the purpose of this Rule, the repair, remodeling or the building of additions to existing single-family dwelling units, including single-family homes, condominium units or any other dwelling unit to be used by any person primarily for personal or family use, but shall not include new single-family home construction or the rebuilding of all or substantially all of an existing or preexisting single-family dwelling.'

Page 3, section 2.6, on line two thereof, after the second comma by inserting the word 'replacement'.

Page 3, section 3., by striking the words 'and home construction' from the section heading.

Page 3, section 3.1, lines one and two, by striking the words 'or home construction'.

Page 4, section 3.1.4, on lines one and two thereof, by striking the words 'or home construction'.

Page 4, section 3.1.8, on line two thereof, by striking the words 'or home construction'.

Page 4, section 3.1.9, on lines two and three thereof, by striking the words 'or home construction'.

Page 5, section 3.1.12, on lines one and two thereof, by striking the words 'or home construction'.

Page 6, section 3.1.26, by striking all of section 3.1.26 and renumbering the subsequent subsections.

Page 7, section 3.1.29, on lines one and two thereof, by striking the words 'or home construction'.

Page 7, section 3.1.29, on line six thereof, following the word 'contract' by inserting a period and striking the remainder of the section.

Page 7, following section 3.1.29 by adding a new section to be designated section 3.1.29, to read as follows:

failed to file a certificate in the office of the Clerk of the County Commission in the county in which the principal place of business of the seller is located, setting forth the assumed name in or by which the business is being conducted in conformity with the provisions of Chapter 47, Article 8, Section 2 of the Code of West Virginia, 1931, as amended.'

Page 7, section 3.2, on lines two and three thereof, by striking the words, 'or home solicitation sale of home construction' and the comma on line three.
Page 9, section 4.1, on line eight thereof, by deleting the period and inserting the following:

'to the extent permitted by statute' and a period."

Page 10, section 4.2, on line 9 thereof, by striking the period and inserting the following:

"to the extent permitted by statute" and a period.

(b) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-six, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of December, one thousand nine hundred eighty-six, relating to the attorney general (prevention of unfair or deceptive acts or practices in the sale of damaged goods or products), are authorized. These rules were proposed by the attorney general pursuant to section one hundred three, article six and section one hundred two, article seven of chapter forty-six-a of the code.

§64-2-46a(102). Attorney general.

1 The legislative rules authorized by the Legislature in section forty-six-a (six) (one hundred three) of this article were also proposed by the attorney general pursuant to section one hundred two, article seven, chapter forty-six-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams  
Chairman Senate Committee

Lyle Dotte  
Chairman House Committee

Originated in the Senate.

In effect from passage.

Jared C. Voiles  
Clerk of the Senate

Donald J. Kegz  
Clerk of the House of Delegates

Dan Thomond  
President of the Senate

Robert C. Moser  
Speaker House of Delegates

The within is hereby approved this the 25th day of May, 1987.

Arch A. Rose, Jr.  
Governor