WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

ENROLLED

House Bill No. 2570
(By Delegates Hunt, Compton, Jenkins, Linch, Faircloth and Riggs)

Passed March 10, 1999
In Effect from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2570
(BY DELEGATES HUNT, COMPTON, JENKINS, LINCH, FAIRCLOTH AND RIGGS)

[Passed March 10, 1999; in effect from passage.]

AN ACT to amend and reenact sections one, two and three, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing the division of banking to promulgate a legislative rule relating to permissible additional charges in connection with a consumer credit sale; authorizing the division of banking to
promulgate a legislative rule relating to the sale of insurance products by state-chartered banks; authorizing the insurance commissioner to promulgate a legislative rule relating to individual accident and sickness insurance minimum standards; authorizing insurance commissioner to promulgate a legislative rule relating to AIDS; authorizing the insurance commissioner to promulgate a legislative rule relating to individual and employer group minimum benefits accident and sickness insurance policies; insurance commissioner to promulgate a legislative rule relating to group accident and sickness insurance minimum policy coverage standards; authorizing insurance commissioner to promulgate a legislative rule relating to recognizing annuity mortality tables for use in determining reserve liabilities for annuities; authorizing the insurance commissioner to promulgate a legislative rule relating to group accident and sickness insurance issuance, portability and marketing requirements; insurance commissioner to promulgate a legislative rule relating to the guaranteed issue of individual accident and sickness insurance; authorizing the insurance commissioner to promulgate a legislative rule relating to quality assurance; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of active and reserve coal property for ad valorem property tax purposes; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of producing and reserve oil and natural gas for ad valorem property tax purposes; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of natural resources property other than coal, oil or natural gas for ad valorem property tax purposes; authorizing the tax commissioner to promulgate a legislative rule relating to the electronic data processing system network for property tax administration; authorizing the state tax commissioner to promulgate a legislative rule relating to the property tax valuation of certain manufacturing property; authorizing the state tax commissioner to promulgate a legislative rule relating to tax credits for new value-added wood manufacturing facilities; authorizing the state tax commissioner to promulgate a legislative rule relating to tax credits for new steel, aluminum or polymer manufacturing operations; authorizing the state tax commissioner to promulgate a legislative rule
relating to the value of timberland and managed timberland; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of public utility property for ad valorem property tax purposes; and authorizing the department of tax and revenue to promulgate a legislative rule relating to the registration of telemarketers.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Division of banking.

(a) The legislative rule filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of section four, article two, chapter thirty-one-a of this code, relating to the division of banking (permissible additional charges in connection with a consumer credit sale, 106 CSR 11), is authorized.

(b) The legislative rule filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of section thirteen, article four, chapter thirty-one-a of this code, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of October, one thousand nine hundred ninety-eight, relating to the division of banking (sale of insurance products by state-chartered banks, 106 CSR 2), is authorized.

§64-7-2. Department of tax and revenue; and state tax commissioner.

(a) The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section five, article one-c, chapter eleven of this code, 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 seventh
day of January, one thousand nine hundred ninety-nine, relating
to the state tax commissioner (valuation of active and reserve
coal property for ad valorem property tax purposes, 110 CSR
11), is authorized with the amendment set forth below:

"On page twelve, section 4.1.7.1.e, line seven, following
the words "Tax Commissioner" and the period, by inserting the
following words: "Beginning in Tax Year 2003, the inflation
rate shall be estimated through analysis of the most recent three
calendar years of an appropriate United States Department of
Labor, Bureau of Labor Statistics price index, as determined by
the Tax Commissioner."

(b) The legislative rule filed in the state register on the
thirtieth day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section five, article one-c,
chapter eleven of this code, modified by the state tax commis-
sioner to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
thirtieth day of October, one thousand nine hundred ninety-
eight, relating to the state tax commissioner (valuation of
producing and reserve oil and natural gas for ad valorem
property (tax purposes, 110 CSR 1J), is authorized.

(c) The legislative rule filed in the state register on the
twenty-ninth day of July, one thousand nine hundred ninety-
eight, authorized under the authority of sections five and five-a,
article one-c, chapter eleven of this code, 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
thirtieth day of October, one thousand nine hundred ninety-
eight, relating to the state tax commissioner (valuation of
natural resources property other than coal, oil or natural gas for
ad valorem property tax purposes, 110 CSR 1K), is authorized.

(d) The legislative rule filed in the state register on the
twenty-ninth day of July, one thousand nine hundred ninety-
eight, authorized under the authority of section twenty-one,
article one-a, and section four, article one-c, chapter eleven of
this code, 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 seventeenth day of November, one thousand nine hundred ninety-eight, relating to the state tax commissioner (electronic data processing system network for property tax administration, 110 CSR 2), is authorized.

(e) The legislative rule filed in the state register on the twenty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of section five, article six-f, chapter eleven of this code, 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 seventh day of January, one thousand nine hundred ninety-nine, relating to the state tax commissioner (property tax valuation of certain manufacturing property, 110 CSR 6F), is authorized.

(f) The legislative rule filed in the state register on the twenty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of sections seven, eight and ten, article thirteen-m, chapter eleven of this code, 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 seventeenth day of November, one thousand nine hundred ninety-eight, relating to the state tax commissioner (tax credits for new value-added wood manufacturing facilities, 110 CSR 13M), is authorized.

(g) The legislative rule filed in the state register on the twenty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of sections seven, eight and ten, article thirteen-n, and sections seven, eight and ten, article thirteen-o, chapter eleven of this code, 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 seventeenth day of November, one thousand nine hundred ninety-eight, relating to the state tax commissioner (tax credits for new steel, aluminum or polymer manufacturing operations, 110 CSR 13N), is authorized with the amendment set forth below:
“On page 2, section 2.3 by striking out the entire section and inserting in lieu thereof the words “2.3 “Full-time employee” means a permanent hourly employee of an eligible taxpayer, who is a West Virginia domiciled resident, and works in a new value-added steel product manufacturing facility in this state, or in a new value-added steel product line of an existing manufacturing facility in this state, more than eighteen hundred hours during the entire twelve-month period ending on the last day of the taxable year of the eligible employer, whether these hours are hours worked at the manufacturing facility, or include hours of employer paid vacation leave or other employer paid leave. Full-time employee does not include an employee who is a part-time, seasonal or temporary employee.”,

And,

On page four, section 5.1, following the word “Code” by striking out “§11-13M-7” and inserting in lieu thereof “§11-13N-7”.

(h) The legislative rule filed in the state register on the twenty-ninth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section eleven-b, article one-c, chapter eleven of this code, 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 seventeenth day of November, one thousand nine hundred ninety-eight, relating to the state tax commissioner (value of timberland and managed timberland, 110 CSR 1H), is authorized with the amendment set forth below:

“on page 7, section 10, by inserting the following sentence at the end of the section:

‘In no case may managed timberland values for Class III and IV property be lower than $225 per acre for Grade 1; $150 per acre for Grade 2; $75 per acre for Grade 3, and Class II properties may not be lower than $200 per acre for Grade 1; $140 per acre for Grade 2; and $50 per acre for Grade 3.’”

(i) The legislative rule filed in the state register on the twenty-ninth day of July, one thousand nine hundred ninety-
eight, authorized under the authority of section seven-b, article six, section one, article six-g, and section five, article one-c, chapter eleven of this code, 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 fifteenth day of January, one thousand nine hundred ninety-nine, relating to the state tax commissioner (valuation of public utility property for ad valorem property tax purposes, 110 CSR 1M), is authorized with the amendment set forth below:

On page two, by striking-out all of subsection 2.5;

On page two, by striking-out all of subsection 2.7 and inserting in lieu thereof a new subsection 2.7 to read as follows:

"§2.7 "Fair market value" means the highest price in terms of money that a property will bring in a competitive and open market, assuming that the buyer and seller are acting prudently and knowledgeably, allowing sufficient time for the sale and assuming that the price is not affected by undue stimulations."

On page four, subsection 3.1, after the word "generally," by inserting the words "when the cost approach is used,;"

On page four, subsection 3.1, after the word "purposes," by striking-out the period and inserting in lieu thereof a colon and the word "however;"

On page four, by striking-out all of subdivision 3.1.1, and inserting in lieu thereof new subdivision 3.1.1 to read as follows:

"3.1.1 When the income approach is used, the unit of value shall be allocated to the state of West Virginia using operating plant data after which;"

On page five, subdivision 3.1.2, by striking-out the word "property" and inserting in lieu thereof the words "physical plant";

On page five, by striking-out all of subdivision 4.2.1 and inserting in lieu thereof a new subdivision 4.2.1 to read as follows:
“4.2.1 Cost approach. — Recognizing that public service corporations are predominantly cost regulated, when the cost approach is used in the valuation process, original cost less applicable depreciation shall be employed. In applying the cost approach, the tax commissioner shall consider three (3) types of depreciation; (a) physical deterioration, (b) functional obsolescence, and (c) economic obsolescence.”;

On page five, subdivision 4.2.2 after the word “interest” by striking-out the word “expense” and inserting in lieu thereof “on long-term debt”;

On page six, by striking out all of subdivision 4.2.4;

On page six, subdivision 4.2.5 after the word “process” by changing the colon to a period and by striking-out the remainder of the subdivision;

On page eight, by striking-out all of subdivision 4.3.13;

And,

On page ten, by adding the new subsection 6.5 to read as follows:

“The tax commissioner, for good cause shown, may grant an extension of filing deadlines.”

(j) The legislative rule filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-eight, authorized under the authority of sections three hundred one and three hundred three, article six-f, chapter forty-six-a of this code, modified by the department of tax and revenue 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 ninety-nine, relating to the department of tax and revenue (registration of telemarketers, 119 CSR 301), is authorized.

§64-7-3. Insurance commissioner.

(a) The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section ten, article two,
chapter thirty-three of this code, relating to the insurance
commissioner (individual accident and sickness insurance
minimum standards, 114 CSR 12), is authorized.

(b) The legislative rule filed in the state register on the
thirtieth day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section ten, article two,
chapter thirty-three of this code, relating to the insurance
commissioner (AIDS, 114 CSR 27), is authorized.

(c) The legislative rule filed in the state register on the
thirtieth day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section ten, article two,
chapter thirty-three of this code, relating to the insurance
commissioner (individual and employer group minimum
benefits accident and sickness insurance policies, 114 CSR 33),
is authorized.

(d) The legislative rule filed in the state register on the
thirtieth day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section seventeen, article
sixteen, chapter thirty-three of this code, relating to the insur-
ance commissioner (group accident and sickness insurance
minimum policy coverage standards, 114 CSR 39), is autho-
rized.

(e) The legislative rule filed in the state register on the
thirtieth day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section nine-a, article seven,
chapter thirty-three of this code, relating to the insurance
commissioner (recognizing annuity mortality tables for use in
determining reserve liabilities for annuities, 114 CSR 45), is
authorized.

(f) The legislative rule filed in the state register on the
thirtieth day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section ten, article two,
chapter thirty-three of this code, relating to the insurance
commissioner (group accident and sickness insurance issuance,
portability and marketing requirements, 114 CSR 54), is
authorized.
(g) The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the insurance commissioner (guaranteed issue of individual accident and sickness insurance, 114 CSR 55), is authorized.

(h) The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section ten, article two, chapter thirty-three of this code, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of December, one thousand nine hundred ninety-eight, relating to the insurance commissioner (quality assurance, 114 CSR 53), is authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ________ day of ________, 1999, is approved this the ________ day of ________, 1999.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/30/99
Time 3:13 PM