WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999

ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 269

(By Senator Ross, et al.)

PASSED MARCH 12, 1999

In Effect From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 269

(SENATORS ROSS, ANDERSON, BOWMAN AND Boley, original sponsors)

(Passed March 12, 1999; in effect from passage.)

AN ACT to amend and reenact article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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 commissioner of agriculture to promulgate a legislative rule relating to animal disease control; authorizing the commissioner of agriculture to promulgate a legislative rule relating to the marketing of eggs; authorizing the commissioner of agriculture to promulgate a legislative rule relating to the West Virginia seed law; authorizing the commissioner of agriculture to promulgate a legislative rule relating to the fee structure for the pesticide control act of 1990; authorizing the secretary of state to promulgate a legislative rule relating to agencies designated to provide voter registration services; authorizing the secretary of state to promulgate a legislative rule relating to electronic records; authorizing the secretary of state to promulgate a legislative rule relating to the use of electronic signatures by state agencies; authorizing the secretary of state to promulgate a legislative rule relating to the use of digital signatures, the state certification authority and the state repository; authorizing the governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to law-enforcement training standards; authorizing the governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to the protocol for law-enforcement response to domestic violence; authorizing the board of acupuncture to promulgate a legislative rule relating to applications for licensure to practice acupuncture; authorizing the board of acupuncture to promulgate a legislative rule relating to fees of the board; authorizing the board of acupuncture to promulgate a legislative rule relating to advertising by licensed acupuncturists; authorizing the board of acupuncture to promulgate a legislative rule relating to the standards of practice of acupuncture by licensed acupuncturists; authorizing the board of acupuncture to promulgate a legislative rule relating to disciplinary and complaint procedures for acupuncturists; authorizing the board of acupuncture to promulgate a legislative rule relating to continuing education requirements; authorizing the board of acupuncture to promulgate a legislative rule relating to a code of ethics for licensed acupuncturists; authorizing the board of acupuncture to promulgate a legislative rule relating to education requirements; authorizing the board of acupuncture to
promulgate a legislative rule relating to tutorial education requirements; authorizing the board of acupuncture to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the board of chiropractic examiners to promulgate a legislative rule relating to regulation of the board; authorizing the board of chiropractic examiners to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the contractor licensing board to promulgate a legislative rule relating to the West Virginia contractor licensing act; authorizing the board of dieticians to promulgate a legislative rule relating to a code of professional ethics, continuing education and examination, licensure and renewal requirements; authorizing the massage therapy licensure board to promulgate a legislative rule relating to massage therapy licensure; authorizing the board of medicine to promulgate a legislative rule relating to licensing, disciplinary and complaint procedures, continuing education and examination, licensure and renewal requirements; authorizing the board of osteopathy to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the board of osteopathy to promulgate a legislative rule relating to fees for services rendered by the board; authorizing the board of pharmacy to promulgate a legislative rule relating to the board; authorizing the board of accountancy to promulgate a legislative rule relating to the board and rules of professional conduct; authorizing the board of barbers and cosmetologists to promulgate a legislative rule relating to procedures, criteria and curricula for examination and licensure of barbers, cosmetologists, manicurists and aestheticians; authorizing the board of barbers and cosmetologists to promulgate a legislative rule relating to a schedule of fines; authorizing the family protection services board to promulgate a legislative rule relating to the licensure of domestic violence perpetrator intervention programs; authorizing the board of examiners in counseling to promulgate a legislative rule relating to licensing; authorizing the board of veterinary medicine to promulgate a legislative rule relating to certified euthanasia technicians; authorizing the board of veterinary medicine to promulgate a legislative rule relating to a schedule of fees; authorizing the office of the
treasurer to promulgate a legislative rule relating to the enforcement of the uniform unclaimed property act; and authorizing the West Virginia infrastructure and jobs development council to promulgate a legislative rule relating to the infrastructure and jobs development council funding rules.

Be it enacted by the Legislature of West Virginia:

That article nine, 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 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of agriculture.

(a) The legislative rule filed in the state register on the eighteenth day of June, one thousand nine hundred ninety-eight, authorized under the authority of section two, article nine, chapter nineteen, of this code, 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 sixteenth day of July, one thousand nine hundred ninety-eight, relating to the commissioner of agriculture (animal disease control, 61 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the fourteenth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section ten, article ten-a, chapter nineteen, of this code, 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 thirtieth day of September, one thousand nine hundred ninety-eight, relating to the commissioner of agriculture (remarketing of eggs, 61 CSR 7A), is authorized.

(c) The legislative rule filed in the state register on the fourteenth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section six, article sixteen, chapter nineteen, of this code, 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 thirtieth day of September, one
thousand nine hundred ninety-eight, relating to the
commissioner of agriculture (West Virginia seed law, 61
CSR 9), 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 four,
article sixteen-a, chapter nineteen, of this code, 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 thirtieth day of Septem-
ber, one thousand nine hundred ninety-eight, relating to
the commissioner of agriculture (fee structure for the
pesticide control act of 1990, 61 CSR 12), is authorized.

§64-9-2. Secretary of state.

(a) The legislative rule filed in the state register on the
fourteenth day of July, one thousand nine hundred ninety-
eight, authorized under the authority of section six, article
one-a, chapter three, and section thirteen, article two,
chapter three of this code, relating to the secretary of state
(agencies designated to provide voter registration services,
153 CSR 28), is authorized.

(b) The legislative rule filed in the state register on the
third day of August, one thousand nine hundred ninety-
eight, authorized under the authority of section two,
article one, chapter fifty-nine of this code, modified by the
secretary of state to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twenty-third day of September, one thou-
sand nine hundred ninety-eight, relating to the secretary
of state (fees relating to electronic records, 153 CSR 2), is
authorized.

(c) The legislative rule filed in the state register on the
third day of August, one thousand nine hundred ninety-
eight, authorized under the authority of section four,
article five, chapter thirty-nine, of this code, modified by
the secretary of state to meet the objections of the legisla-
tive rule-making review committee and refiled in the state
(d) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, authorized under the authority of section four, article five, chapter thirty-nine, of this code, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of September, one thousand nine hundred ninety-eight, relating to the secretary of state (use of electronic signatures by state agencies, 153 CSR 30), is authorized.

§64-9-3. Governor's committee on crime, delinquency and correction.

(a) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, authorized under the authority of section three, article twenty-nine, chapter thirty, of this code, modified by the governor's committee on crime, delinquency and correction to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of November, one thousand nine hundred ninety-eight, relating to the governor's committee on crime, delinquency and correction (law enforcement training standards, 149 CSR 2), is authorized.

(b) The legislative rule filed in the state register on the twenty-eighth day of July, one thousand nine hundred ninety-eight, authorized under the authority of section nine, article two-a, chapter forty-eight of this code, modified by the governor's committee on crime, delinquency and correction to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of November, one thousand nine hundred ninety-eight, relating to the governor's committee on crime, delinquency and correction (protocol for law enforcement response to domestic violence, 149 CSR 3), is authorized with the amendments set forth below:
On page six, by adding a new subsection 5.2 to read as follows:

"5.2 A dispatcher, who receives a domestic call for an incident which occurred or is occurring outside the jurisdiction of the police department or police departments which supervise the dispatcher, shall immediately notify a police department in the appropriate jurisdiction."

And,

On pages six and seven, by renumbering the remaining subsections.

§64-9-4. Board of acupuncture.

(a) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (applications for licensure to practice acupuncture, 32 CSR 3), is authorized.

(b) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (fees of the board of acupuncture, 32 CSR 4), is authorized with the following amendments:

On page 1, section 3 by striking out subsection 3.2 and inserting in lieu thereof the following:

"3.2. License fee. – The biennial license fee is four hundred and twenty-five dollars ($425.00).";

And,
On page 1, section 3 by striking out subsection 3.3 and inserting in lieu thereof the following:

"3.3. Renewal fee. - The renewal fee is four hundred and twenty-five dollars ($425.00)."

(c) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (advertising by licensed acupuncturists, 32 CSR 5), is authorized.

(e) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (standards of practice of acupuncture by licensed acupuncturists, 32 CSR 6), is authorized.

(f) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (disciplinary and complaint procedures for acupuncturists, 32 CSR 7), is authorized with the following amendment:

On page four, subsection 4.1.18, after the word "activity" by inserting the following:

"Provided, That upon termination of a patient-practitioner relationship nothing in this rule shall be construed to
prohibit a personal relationship between a former patient and a practitioner."

(f) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-eight, relating to the board of acupuncture (continuing education requirements, 32 CSR 9), is authorized.

(g) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (code of ethics for licensed acupuncturists, 32 CSR 10), is authorized.

(h) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture 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 ninety-nine, relating to the board of acupuncture (education requirements, 32 CSR 11), is authorized.

(i) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-eight, under the authority of section seven, article thirty-six, chapter thirty, of this code, modified by the board of acupuncture to meet the objections of the legislative rule-making committee and refiled in the state register on the eighth day of January, one thousand nine hundred ninety-nine, relating to the board of acupuncture (tutorial education requirements, 32 CSR 12), is authorized.
§64-9-5. Board of chiropractic examiners.

(a) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-seven, under the authority of sections five and fifteen, article sixteen, chapter thirty, of this code, modified by the board of chiropractic examiners to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of November, one thousand nine hundred ninety-eight, relating to the board of chiropractic examiners (regulation of the West Virginia board of chiropractic examiners, 4 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-seven, under the authority of section one thousand three hundred four, modified by the board of chiropractic examiners to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of July, one thousand nine hundred ninety-eight, relating to the board of chiropractic examiners (formation and approval of professional limited liability companies, 4 CSR 4), is authorized.

§64-9-6. Contractor licensing board.

The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-eight, under the authority of section sixteen, article eleven, chapter twenty-one, of this code, modified by the contractor licensing board to meet the objections of the legislative
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§64-9-7. Board of dietitians.

The legislative rule filed in the state register on the twenty-ninth day of July, one thousand nine hundred ninety-eight, under the authority of section four, article thirty-five, chapter thirty, of this code, modified by the board of dietitians to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of October, one thousand nine hundred ninety-eight, relating to the board of dietitians (code of professional ethics; continuing education; and examination, licensure and renewal requirements, 31 CSR 1), is authorized.


The legislative rule filed in the state register on the seventh day of May, one thousand nine hundred ninety-eight, under the authority of section six, article thirty-seven, of this code, modified by the massage therapy licensure board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of July, one thousand nine hundred ninety-eight, relating to the massage therapy licensure board (massage therapy licensure, 194 CSR 1), is authorized, with the following amendment:

‘On page two, subdivision 3.2(b), after the word “Board,” by inserting the word “and”,

And,

By striking out subdivision 3.2(c) in its entirety and relettering the remaining subdivision.’


The legislative rule filed in the state register on the fifteenth day of April, one thousand nine hundred ninety-
eight, authorized under the authority of section sixteen, article three, chapter thirty of this code relating to the board of medicine (licensing, disciplinary and complaint procedures, continuing education and physician assistants, 11 CSR 1B), is reauthorized with the following amendments:

On page three, subsection 2.6.1, after the words 'more than' by striking the words 'two (2) physician assistants' and inserting in lieu thereof the words 'three (3) physician assistants or their equivalent'; and

On page eight, subsection 2.12.13, after the words 'more than' striking out the words 'two (2) physician assistants' and inserting in lieu thereof the words 'three (3) physician assistants or their equivalent'.


(a) The legislative rule filed in the state register on the eleventh day of September, one thousand nine hundred ninety-seven, under the authority of section one thousand three hundred and four, article thirteen, chapter thirty-one-b, of this code, modified by the board of osteopathy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of July, one thousand nine hundred ninety-eight, relating to the board of osteopathy (formation and approval of professional limited liability companies, 24 CSR 4), is authorized.

(b) The legislative rule filed in the state register on the ninth day of July, one thousand nine hundred ninety-eight, under the authority of sections four and six, article one, chapter thirty, of this code, modified by the board of osteopathy 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 ninety-eight, relating to the board of osteopathy (fees for services rendered by the board of osteopathy, 24 CSR 5), is authorized.

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 and nineteen, article five, chapter thirty, of this code, modified by the board of pharmacy 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 ninety-nine, relating to the board of pharmacy (rules and regulations of the board of pharmacy, 15 CSR 1), is authorized.

§64-9-12. Board of accountancy.

The legislative rule filed in the state register on the fifth day of August, one thousand nine hundred ninety-eight, under the authority of section three, article nine, chapter thirty, of this code, modified by the board of accountancy 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 board of accountancy (board rules and rules of professional conduct, 1 CSR 1), is authorized.


(a) The legislative rule filed in the state register on the twenty-ninth day of July, one thousand nine hundred ninety-eight, under the authority of section one, article twenty-seven, chapter thirty, of this code, modified by the board of barbers and cosmetologists to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of October, one thousand nine hundred ninety-eight, relating to the board of barbers and cosmetologists (procedures, criteria and curricula for examination and licensure of barbers, cosmetologists, manicurists and aestheticians, 3 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the seventeenth day of July, one thousand nine hundred ninety-eight, under the authority of section eight, article one, chapter thirty, of this code, modified by the board of barbers and cosmetologists to meet the objections of the
legislative rule-making review committee and refiled in
the state register on the twenty-first day of December, one
thousand nine hundred ninety-eight, relating to the board
of barbers and cosmetologists (schedule of fines, 3 CSR 7),
is authorized, with the following amendment:

‘On page eight, subsection 2.49, after the words “other
than” by inserting the words “tropical birds as allowed by
law, animals employed to assist individuals with disabili-
ties, or’.

§64-9-14. Board of veterinary medicine.

(a) The legislative rule filed in the state register on the
third day of August, one thousand nine hundred ninety-
eight, under the authority of section nine, article ten-a,
chapter thirty, of this code, modified by the board of
veterinary medicine to meet the objections of the legisla-
tive rule-making review committee and refiled in the state
register on the twenty-seventh day of October, one thou-
sand nine hundred ninety-eight, relating to the board of
veterinary medicine (certified euthanasia technicians, 26
CSR 5), is authorized.

(b) The legislative rule filed in the state register on the
third day of August, one thousand nine hundred ninety-
eight, under the authority of section four, article ten,
chapter thirty, of this code, modified by the board of
veterinary medicine to meet the objections of the legisla-
tive rule-making review committee and refiled in the state
register on the twenty-seventh day of October, one thou-
sand nine hundred ninety-eight, relating to the board of
veterinary medicine (schedule of fees, 26 CSR 6), is autho-
ized.


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 five,
article thirty-one, chapter thirty, of this code, relating to
the board of examiners in counseling (licensing, 27 CSR 1),
is authorized.

1 The legislative rule filed in the state register on the first
day of July, one thousand nine hundred ninety-eight,
authorized under the authority of section twenty-eight,
article eight, chapter thirty-six, of this code, modified by
the office of the treasurer to meet the objections of the
legislative rule-making review committee and refiled in
the state register on the nineteenth day of November, one
thousand nine hundred ninety-eight, relating to the office
of the treasurer (the enforcement of the uniform unclaimed
property act, 112 CSR 5), is authorized.

§64-9-17. West Virginia infrastructure and jobs development
council.

1 The legislative rule filed in the state register on the ninth
day of September, one thousand nine hundred ninety-
eight, authorized under the authority of section four,
article fifteen, chapter thirty-one of this code relating to
the West Virginia infrastructure and jobs development
council (infrastructure and jobs development council
funding rules, 167 CSR 1), is authorized.

§64-9-18. Technology-related assistance revolving loan fund for
individuals with disabilities board.

1 The legislative rule filed in the state register on the ninth
day of February, one thousand nine hundred ninety-eight,
under the authority of section five, article twenty-four,
chapter twenty-nine, of this code, modified by the
technology-related assistance revolving loan fund for
individuals with disabilities board to meet the objections
of the legislative rule-making review committee and
refiled in the state register on the twenty-ninth day of
July, one thousand nine hundred ninety-eight (relating to
the technology-related assistance revolving loan fund for
individuals with disabilities board technology-related
assistance revolving loan fund for individuals with disabil-
ities, 193 CSR 1), 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 Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .................. approved this the 25th Day of March, 1998

Governor