WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4258

(By Delegates Hunt, Linch, Compton, Jenkins, Faircloth and Riggs)

Passed March 10, 2000

In Effect from Passage
AN ACT to amend and reenact section one, article eight, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section two, 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 or 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 certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the
Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee and as amended by the Legislature; authorizing the division of motor vehicles to promulgate a legislative rule relating to administrative due process; authorizing the division of motor vehicles to promulgate a legislative rule relating to motor vehicle dealers, wrecker/dismantler/rebuilders and license services, automobile auctions, vehicle leasing companies, daily passenger rental car businesses and administrative due process; authorizing the division of highways to promulgate a legislative rule relating to the construction and reconstruction of state roads; authorizing the division of highways to promulgate a legislative rule relating to traffic and safety; and authorizing the division of highways to promulgate a legislative rule relating to the transportation of hazardous wastes upon the roads and highways.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section two, all to read as follows:

ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO PROMULGATE LEGISLATIVE RULES.

§64-8-1. Division of motor vehicles.

(a) The legislative rule filed in the state register on the fifth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section nine, article two, chapter seventeen-a, of this code, modified by the division of motor vehicles 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-nine,
relating to the division of motor vehicles (administrative due process, 91 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the fifth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section nine, article two, chapter seventeen-a, of this code, modified by the division of motor vehicles to meet the objections of the legislative rule-making review committee and refilled in the state register on the twenty-third day of September, one thousand nine hundred ninety-nine, relating to the division of motor vehicles (motor vehicle dealers, wrecker/dismantler/rebuilders and license services, automobile auctions, vehicle leasing companies, daily passenger rental car businesses and administrative due process, 91 CSR 6), is authorized.

§64-8-2. Division of highways.

(a) The legislative rule filed in the state register on the sixteenth day of November, one thousand nine hundred ninety-eight, under the authority of section eight, article two-a, chapter seventeen, of this code, modified by the division of highways to meet the objections of the legislative rule-making review committee and refilled in the state register on the twenty-ninth day of July, one thousand nine hundred ninety-nine, relating to the division of highways (construction and reconstruction of state roads, 157 CSR 3), is authorized with the following amendment:

On page one hundred two, at the end of paragraph 11.6.e.4 by adding thereto a new subdivision 11.6.f to read as follows:

11.6.f. Substitution of Surety Bond for Retainages

The contractor may at any time withdraw the amounts retained by the Division in accordance with subdivision 11.6.b and substitute therefore a surety bond, in a form acceptable to
the Commissioner, in the amount of two percent of the contract
bid amount plus all change order amounts approved as of the
time of tender of the surety bond. This surety bond shall be in
addition to, or an increase of, the performance bond required in
subsection 11.5.5. of this rule. The surety bond shall be
conditioned upon the payment by the contractor of all applica-
table taxes imposed by West Virginia Code § 11-13-1 et seq.; § 11-
21-1 et seq. and §11-24-1 et seq. as amended, and any applica-
table county and municipal business and occupation taxes. This
surety bond will not be released, nor will final payment be
made on the contract, until the Division receives from the
Commissioner of Tax and Revenue, and the county commission
or municipality, where applicable, a certificate declaring that all
taxes levied or accrued have been paid or provided for.

(b) The legislative rule filed in the state register on the
twenty-third day of September, one thousand nine hundred
ninety-eight, under the authority of section eight, article two-a,
chapter seventeen, of this code, modified by the division of
highways to meet the objections of the legislative rule-making
review committee and refiled in the state register on the thirty-
first day of August, one thousand nine hundred ninety-nine,
relating to the division of highways (traffic and safety, 157 CSR
5), is authorized.

(c) The legislative rule filed in the state register on the sixth
day of October, one thousand nine hundred ninety-eight, under
the authority of section seven, article eighteen, chapter twenty-
two, of this code, modified by the division of highways 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-nine, relating to the division
of highways (transportation of hazardous wastes upon the roads
and highways, 157 CSR 7), 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.

In 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 approved this the 28th day of March, 2000.

Governor
PRESENTED TO THE GOVERNOR
Date 3/23/00
Time 3:45pm