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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

Committee Substitute for
SENATE BILL NO. 333

(By Senator Ross, et al)



PASSED March 11, **2000**
In Effect from **Passage**

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WEST VIRGINIA STATE

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 333

(SENATORS ROSS, ANDERSON, MINARD, SNYDER,
UNGER AND MINEAR, *original sponsors*)

[Passed March 11, 2000; 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 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 commissioner of agriculture to promulgate a legislative rule relating to the marketing of eggs; authorizing the athletic commission to promulgate a legislative rule relating to the commission; authorizing the auditor to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the auditor; authorizing the auditor to promulgate a legislative rule relating to the transaction fee and rate structure; authorizing the elections commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the family protection services board to promulgate a legislative rule relating to the licensure of domestic violence and perpetrator intervention programs; authorizing the board of registration for foresters to promulgate a legislative rule relating to the registration of foresters; authorizing the governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to law enforcement training standards; authorizing the board of medicine to promulgate a legislative rule relating to fees for services rendered by the board; authorizing the nursing home administrators licensing board to promulgate a legislative rule relating to the board; authorizing the board of physical therapy to promulgate a legislative rule relating to general provisions; authorizing the board of examiners of registered professional nurses to promulgate a legislative rule relating to policies and criteria for the evaluation and accreditation of colleges, departments or schools of nursing; authorizing the board of respiratory care to promulgate a legislative rule relating to continuing education requirements; authorizing the board of respiratory care to promulgate a legislative rule relating to disciplinary action; autho-

rizing the secretary of state to promulgate a legislative rule relating to filing fees for organizations; authorizing the secretary of state to promulgate a legislative rule relating to the elimination of precinct registration books; authorizing the traumatic brain and spinal cord injury rehabilitation fund board to promulgate a legislative rule relating to the traumatic brain and spinal cord injury rehabilitation fund; authorizing the board of veterinary medicine to promulgate a legislative rule relating to standards of practice; and 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.

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.

1 The legislative rule filed in the state register on the
2 thirtieth day of June, one thousand nine hundred ninety-
3 nine, authorized under the authority of section ten, article
4 ten-a, chapter nineteen of this code, relating to the com-
5 missioner of agriculture (marketing of eggs, 61 CSR 7A), is
6 authorized.

§64-9-2. Athletic commission.

1 The legislative rule filed in the state register on the
2 eighth day of July, one thousand nine hundred ninety-nine,
3 under the authority of section twenty-four, article five-a,
4 chapter twenty-nine of this code, modified by the athletic
5 commission to meet the objections of the legislative
6 rule-making review committee and refiled in the state

7 register on the twenty-fourth day of January, two thou-
8 sand, relating to the athletic commission (administrative
9 rules and regulations of the West Virginia state athletic
10 commission, 177 CSR 1), is authorized.

§64-9-3. Auditor and department of administration.

1 (a) The legislative rule filed in the state register on the
2 third day of August, one thousand nine hundred
3 ninety-nine, under the authority of section ten, article
4 three, chapter twelve of this code, modified by the auditor
5 to meet the objections of the legislative rule-making
6 review committee and refiled in the state register on the
7 thirty-first day of August, one thousand nine hundred
8 ninety-nine, relating to the auditor (standards for requisitions for payment issued by state officers on the auditor,
9 155 CSR 1), is authorized with the following amendment:
10

11 “On page two, section 3.7, by striking out the words
12 ‘Those invoices which require original certification are’
13 and inserting in lieu thereof the following:

14 ‘These invoices require two original certifications, one of
15 which must be the Chief Financial Officer, Depart-
16 ment/Agency Administrator, or as determined by the
17 Auditor in emergency situations’; and

18 On page two, by striking out all of subsection 3.7.a. and
19 inserting in lieu thereof a new subdivision 3.7.a to read as
20 follows:

21 ‘3.7.a. Electronically reproduced invoices sent by the
22 invoicing vender;.’”

23 (b) The legislative rule filed in the state register on the
24 twenty-seventh day of July, one thousand nine hundred
25 ninety-nine, under the authority of section ten-c, article
26 three, chapter twelve of this code, modified by the auditor
27 to meet the objections of the legislative rule-making

28 review committee and refiled in the state register on the
29 twenty-fourth day of September, one thousand nine
30 hundred ninety-nine, relating to the auditor (transaction
31 fee and rate structure, 155 CSR 4), is authorized with the
32 following amendment:

33 “On page two, subsection 3.2, after the last sentence, by
34 adding the following: ‘The fee shall continue in effect until
35 December 31, 2001.’”

§64-9-4. Elections commission.

1 The legislative rule filed in the state register on the sixth
2 day of August, one thousand nine hundred ninety-nine,
3 under the authority of section five, article one-a, chapter
4 three of this code, modified by the elections commission to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the twenty-
7 fourth day of September, one thousand nine hundred
8 ninety-nine, relating to the elections commission (regula-
9 tion of campaign finance, 146 CSR 3), is authorized, with
10 the following amendments:

11 On page two, after section 2.5 by striking out subsections
12 2.6 through 2.10 inclusive and inserting in lieu thereof the
13 following new subsections to read as follows:

14 2.6. “Contribution” means a gift subscription, assess-
15 ment, payment for services, dues, advance, donation,
16 pledge, contract, agreement, forbearance or promise of
17 money or other tangible thing of value, whether or not
18 conditional or legally enforceable, or a transfer of money
19 or other tangible thing of value to a person, made for
20 political purposes, as defined herein. An offer or tender of
21 a contribution is not a contribution if expressly and
22 unconditionally rejected before it is received or returned
23 within thirty (30) days and not used during that time for
24 political purposes. A contribution does not include volun-
25 teen personal services provided without compensation.

26 2.7. "Election" means any primary, general or special
27 election conducted under the provisions of this code or
28 under the charter of any municipality.

29 2.8. "Financial agent" means an individual designated to
30 act on behalf of one candidate to conduct financial
31 transactions for political purposes on behalf of that
32 candidate.

33 2.9. "Grossly incomplete or grossly inaccurate" means
34 that a financial statement as defined under West Virginia
35 Code §3-8-5 is missing information required by West
36 Virginia Code §3-8-1 et seq. and State Election Commis-
37 sion, Regulation of Campaign Finance, 146 CSR 3.

38 2.10. "Inaugural committee" includes any person,
39 organization or group of persons soliciting or receiving
40 contributions for the purpose of funding an inaugural
41 event for an elected state official.

42 2.11. "Inaugural event" means any event or events held
43 between the date of the general election for a state public
44 office and a date ninety days after the date of the general
45 election, whether the event is sponsored by the inaugural
46 committee or the state political party committee repre-
47 senting the party of the elected official and for which the
48 elected official is a prominent participant or for which
49 solicitations of contributions include the name of the
50 elected official in prominent display.

51 2.12. "Independent Expenditure" means an expenditure
52 made by a person other than a candidate or committee for
53 a communication which expressly advocates the election
54 or defeat of a clearly identified candidate but which is
55 made independently of a candidate's campaign and which
56 has not been made with the cooperation or consent of, or
57 in consultation with, or at the request or suggestion of, any
58 candidate or any of his or her agents or authorized com-
59 mittees.

60 2.13. "Necessary traveling and hotel expenses" means
61 mileage at a rate not to exceed the thirty-one cents per
62 mile or direct charges for transportation and itemized food
63 and lodging costs incurred specifically for the purpose of
64 campaigning or conducting the organizational, political or
65 financial business of a political committee or candidate's
66 campaign. The term does not include the purchase cost of
67 any vehicle, or expenditures for traveling and hotel
68 expenses incurred for activities which result primarily in
69 personal benefit and are not directly and specifically
70 undertaken for political purposes.

71 2.14. "Nominal noncash expressions of appreciation"
72 means a token of appreciation, having a cash value of
73 three dollars (\$3.00) or less, given to volunteer or paid
74 campaign workers following the close of the polls or
75 within 30 days thereafter.

76 2.15. "Occupation" means the principal work activity
77 which is described by a general term such as teacher,
78 miner, business executive, homemaker or doctor.

79 2.16. "Person" means an individual, partnership, com-
80 mittee, association, corporation, and any other organiza-
81 tion or group of persons.;

82 On page 3, subsection 2.8, the second line of the defini-
83 tion after the words "to exceed the" by striking out the
84 words "current state-mandated reimbursement rate" and
85 inserting in lieu thereof the words "thirty-one cents";

86 And,

87 On page 14, subsection 8.11 by striking out subsection
88 s.11 in its entirety and inserting in lieu thereof the follow-
89 ing new subsections 8.11 and 8.12 to read as follows:

90 8.11. Persons making independent expenditures shall
91 report those expenditures according to West Virginia Code
92 §3-8-2.

93 8.11.1 Each person who expends money as an independ-
94 ent expenditure for political purposes shall keep records of
95 each expenditure.

96 8.11.2 Each person who expends money as an independ-
97 ent expenditure for political purposes shall file verified
98 financial statements as public records.

99 8.11.3. The financial statements shall be filed as required
100 by the filing provision for all other campaign financial
101 reporting.

102 8.12. Any independent expenditure made or debt that is
103 incurred for a communication after the eleventh day but
104 more than twelve hours before the day of any election in
105 accordance with the following procedures:

106 8.12.1 The report shall be reported on the West Virginia
107 campaign financial statement for individuals making
108 independent expenditures to support or oppose candidates,
109 political parties, or ballot issues. The forms are available
110 from the secretary of state, county clerks and municipal
111 election officials. The forms are also available on the
112 West Virginia Secretary of State website, [www.
113 state.wv.us/SOS/](http://www.state.wv.us/SOS/). (The format may be different on the
114 website.)

115 8.12.2. The report shall be made to the proper filing
116 officer.

117 8.12.2.a. For candidates running for statewide, legislative
118 or multi-county offices or committees supporting or
119 opposing candidates or issues on the ballot in more than
120 one county, report is filed with the secretary of state.

121 8.12.2.b. For candidates running for county or single-
122 county offices (except candidates for legislative offices
123 who file with the secretary of state) or committees sup-
124 porting or opposing candidates or issues on the ballot in
125 only one county, report is filed with the county clerk.

126 8.12.2.c. For candidates running for municipal offices or
127 committees supporting or opposing candidates or issues on
128 the ballot in a municipal election, report is filed with the
129 city clerk/recorder.

130 8.12.3. The report shall be by hand-delivery, facsimile or
131 other means to assure receipt by the proper filing officer
132 within twenty-four hours after the expenditure is made or
133 debt is incurred for a communication.

§64-9-5. Board of registration for foresters.

1 The legislative rule filed in the state register on the fifth
2 day of August, one thousand nine hundred ninety-nine,
3 under the authority of section six, article nineteen, chapter
4 thirty of this code, modified by the board of registration
5 for foresters to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-ninth day of September, one
8 thousand nine hundred ninety-nine, relating to the board
9 of registration for foresters (registration of foresters, 200
10 CSR 1), is authorized with the following amendment:

11 “On page one, section 2.1, line two, after the word
12 ‘Foresters’ by inserting the words ‘or a master’s degree in
13 forestry from a program accredited by the Society of
14 American Foresters’.”

§64-9-6. Family protection services board.

1 The legislative rule filed in the state register on the fifth
2 day of August, one thousand nine hundred ninety-nine,
3 under the authority of section four, article two-c, chapter

4 forty-eight of this code, modified by the family protection
5 services board to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-second day of December, one
8 thousand nine hundred ninety-nine, relating to the family
9 protection services board (licensure of domestic violence
10 and perpetrator intervention programs, 191 CSR 2), is
11 authorized.

**§64-9-7. Governor's committee on crime, delinquency and
correction.**

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

§64-9-8. Board of medicine.

1 The legislative rule filed in the state register on the
2 twenty-first day of July, one thousand nine hundred
3 ninety-nine, under the authority of section seven, article
4 three, chapter thirty of this code, relating to the board of
5 medicine (fees for services rendered by the board of
6 medicine, 11 CSR 4), is authorized.

§64-9-9. Nursing home administrators licensing board.

1 The legislative rule filed in the state register on the
2 twentieth day of July, one thousand nine hundred
3 ninety-nine, under the authority of section seven, article

4 twenty-five, chapter thirty of this code, modified by the
5 nursing home administrators licensing board to meet the
6 objections of the legislative rule-making review committee
7 and refiled in the state register on the twenty-third day of
8 August, one thousand nine hundred ninety-nine, relating
9 to the nursing home administrators licensing board (rules
10 of the nursing home administrators licensing board, 21
11 CSR 1), is authorized with the following amendment:

12 “On page thirteen, subdivision 6.3.2, in the third sen-
13 tence, following the words ‘to the Board’, by striking out
14 the words ‘within 30 days’ and inserting in lieu thereof the
15 words ‘within 20 days’.”

§64-9-10. Board of physical therapy.

1 The legislative rule filed in the state register on the fifth
2 day of August, one thousand nine hundred ninety-nine,
3 under the authority of section five, article twenty, chapter
4 thirty of this code, modified by the board of physical
5 therapy to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-ninth day of December, one thou-
8 sand nine hundred ninety-nine, relating to the board of
9 physical therapy (general provisions, 16 CSR 1), is autho-
10 rized.

§64-9-11. Board of examiners of registered professional nurses.

1 The legislative rule filed in the state register on the fifth
2 day of August, one thousand nine hundred ninety-nine,
3 under the authority of section four, article seven, chapter
4 thirty of this code, modified by the board of examiners of
5 registered professional nurses to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the first day of November, one
8 thousand nine hundred ninety-nine, relating to the board
9 of examiners of registered professional nurses (policies and
10 criteria for the evaluation and accreditation of colleges,

11 departments or schools of nursing, 19 CSR 1), is autho-
12 rized.

§64-9-12. Board of respiratory care.

1 (a) The legislative rule filed in the state register on the
2 fourth day of August, one thousand nine hundred
3 ninety-nine, under the authority of section five, article
4 thirty-four, chapter thirty of this code, modified by the
5 board of respiratory care to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the eighth day of November, one
8 thousand nine hundred ninety-nine, relating to the board
9 of respiratory care (continuing education requirements, 30
10 CSR 3), is authorized.

11 (b) The legislative rule filed in the state register on the
12 eighth day of September, one thousand nine hundred
13 ninety-nine, under the authority of section six, article
14 thirty-four, chapter thirty of this code, modified by the
15 board of respiratory care to meet the objections of the
16 legislative rule-making review committee and refiled in
17 the state register on the eighth day of November, one
18 thousand nine hundred ninety-nine, relating to the board
19 of respiratory care (disciplinary action, 30 CSR 4), is
20 authorized.

§64-9-13. Secretary of state.

1 (a) The legislative rule filed in the state register on the
2 sixth day of August, one thousand nine hundred
3 ninety-nine, authorized under the authority of section five,
4 article six-c, chapter forty-six-a of this code, modified by
5 the secretary of state to meet the objections of the legisla-
6 tive rule-making review committee and refiled in the state
7 register on the twenty-first day of December, one thousand
8 nine hundred ninety-nine, relating to the secretary of state
9 (filing fees for organizations, 153 CSR 15), is authorized.

10 (b) The legislative rule filed in the state register on the
11 sixth day of August, one thousand nine hundred
12 ninety-nine, authorized under the authority of section
13 twenty-one, article two, chapter three of this code, modi-
14 fied by the secretary of state to meet the objections of the
15 legislative rule-making review committee and refiled in
16 the state register on the seventeenth day of December, one
17 thousand nine hundred ninety-nine, relating to the secre-
18 tary of state (elimination of precinct registration books,
19 153 CSR 9), is authorized.

§64-9-14. Traumatic brain and spinal cord injury rehabilitation fund.

1 The legislative rule filed in the state register on the
2 twenty-seventh day of April, one thousand nine hundred
3 ninety-nine, under the authority of section three, article
4 ten-k, chapter eighteen of this code, modified by the
5 traumatic brain and spinal cord injury rehabilitation fund
6 board to meet the objections of the legislative rule-making
7 review committee and refiled in the state register on the
8 twenty-second day of July, one thousand nine hundred
9 ninety-nine, relating to the traumatic brain and spinal
10 cord injury rehabilitation fund board (traumatic brain and
11 spinal cord injury rehabilitation fund, 197 CSR 1), is
12 authorized.

§64-9-15. Board of veterinary medicine.

1 The legislative rule filed in the state register on the sixth
2 day of August, one thousand nine hundred ninety-nine,
3 authorized under the authority of section four, article ten,
4 chapter thirty of this code, modified by the board of
5 veterinary medicine to meet the objections of the legisla-
6 tive rule-making review committee and refiled in the state
7 register on the twenty-eighth day of October, one thousand
8 nine hundred ninety-nine, relating to the board of veteri-

9 nary medicine (standards of practice, 26 CSR 4), is autho-
10 rized.”

§64-9-16. Board of barbers and cosmetologists.

1 The legislative rule filed in the state register on the
2 twenty-sixth day of March, one thousand one hundred
3 ninety nine, authorized under the authority of section one,
4 article twenty-seven, chapter thirty of this code relating to
5 the board of barbers and cosmetologists (procedures,
6 criteria, and curricular for examination and licensure of
7 barbers, cosmetologists, manicurists and aestheticians, 3
8 CSR 1), is reauthorized with the following amendments:

9 On page two, section five, by adding a new subsection, to
10 read as follows:

11 5.3. Every student has the option of completing a course
12 of study for:

13 (a) A one thousand eight hundred hour barbering course,
14 exclusive of permanent waving license; or

15 (b) The existing course of study consisting of at least two
16 thousand clock hours divided as specified in table 3-1A of
17 this rule and subdivided at the discretion of the faculty of
18 the school.

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

Chairman Senate Committee

Chairman House Committee

Originated 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 *2nd*
Day of... *April* ..., 2000.

Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/10

Time 3:10 pm