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
ENROLLED

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.

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


The legislative rule filed in the state register on the eighth day of July, one thousand nine hundred ninety-nine, under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the athletic commission to meet the objections of the legislative rule-making review committee and refiled in the state
register on the twenty-fourth day of January, two thousand, relating to the athletic commission (administrative rules and regulations of the West Virginia state athletic commission, 177 CSR 1), is authorized.

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

(a) The legislative rule filed in the state register on the third day of August, one thousand nine hundred ninety-nine, under the authority of section ten, article three, chapter twelve of this code, modified by the auditor 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 auditor (standards for requisitions for payment issued by state officers on the auditor, 155 CSR 1), is authorized with the following amendment:

"On page two, section 3.7, by striking out the words 'Those invoices which require original certification are' and inserting in lieu thereof the following:

'These invoices require two original certifications, one of which must be the Chief Financial Officer, Department/Agency Administrator, or as determined by the Auditor in emergency situations'; and

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

3.7.a. Electronically reproduced invoices sent by the invoicing vendor;'."

(b) The legislative rule filed in the state register on the twenty-seventh day of July, one thousand nine hundred ninety-nine, under the authority of section ten-c, article three, chapter twelve of this code, modified by the auditor to meet the objections of the legislative rule-making
review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-nine, relating to the auditor (transaction fee and rate structure, 155 CSR 4), is authorized with the following amendment:

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


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

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

2.6. “Contribution” means a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether or not conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for political purposes, as defined herein. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected before it is received or returned within thirty (30) days and not used during that time for political purposes. A contribution does not include volunteer personal services provided without compensation.
2.7. "Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality.

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

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

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

2.11. "Inaugural event" means any event or events held between the date of the general election for a state public office and a date ninety days after the date of the general election, whether the event is sponsored by the inaugural committee or the state political party committee representing the party of the elected official and for which the elected official is a prominent participant or for which solicitations of contributions include the name of the elected official in prominent display.

2.12. "Independent Expenditure" means an expenditure made by a person other than a candidate or committee for a communication which expressly advocates the election or defeat of a clearly identified candidate but which is made independently of a candidate's campaign and which has not been made with the cooperation or consent of, or in consultation with, or at the request or suggestion of, any candidate or any of his or her agents or authorized committees.
2.13. “Necessary traveling and hotel expenses” means mileage at a rate not to exceed the thirty-one cents per mile or direct charges for transportation and itemized food and lodging costs incurred specifically for the purpose of campaigning or conducting the organizational, political or financial business of a political committee or candidate’s campaign. The term does not include the purchase cost of any vehicle, or expenditures for traveling and hotel expenses incurred for activities which result primarily in personal benefit and are not directly and specifically undertaken for political purposes.

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

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

2.16. “Person” means an individual, partnership, committee, association, corporation, and any other organization or group of persons.

On page 3, subsection 2.8, the second line of the definition after the words “to exceed the” by striking out the words “current state-mandated reimbursement rate” and inserting in lieu thereof the words “thirty-one cents”; And,

On page 14, subsection 8.11 by striking out subsection s.11 in its entirety and inserting in lieu thereof the following new subsections 8.11 and 8.12 to read as follows:
8.11. Persons making independent expenditures shall report those expenditures according to West Virginia Code §3-8-2.

8.11.1 Each person who expends money as an independent expenditure for political purposes shall keep records of each expenditure.

8.11.2 Each person who expends money as an independent expenditure for political purposes shall file verified financial statements as public records.

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

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

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

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

8.12.2.a. For candidates running for statewide, legislative or multi-county offices or committees supporting or opposing candidates or issues on the ballot in more than one county, report is filed with the secretary of state.
8.12.2.b. For candidates running for county or single-county offices (except candidates for legislative offices who file with the secretary of state) or committees supporting or opposing candidates or issues on the ballot in only one county, report is filed with the county clerk.

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

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

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

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

"On page one, section 2.1, line two, after the word 'Foresters' by inserting the words 'or a master's degree in forestry from a program accredited by the Society of American Foresters'."

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

The legislative rule filed in the state register on the fifth day of August, one thousand nine hundred ninety-nine, under the authority of section four, article two-c, chapter
forty-eight of this code, modified by the family protection services board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of December, one thousand nine hundred ninety-nine, relating to the family protection services board (licensure of domestic violence and perpetrator intervention programs, 191 CSR 2), is authorized.

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

(a) The legislative rule filed in the state register on the fourth day of August, one thousand nine hundred ninety-nine, 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 January, two thousand, relating to the governor’s committee on crime, delinquency and correction (law enforcement training standards, 149 CSR 2), is authorized.

§64-9-8. Board of medicine.

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


The legislative rule filed in the state register on the twentieth day of July, one thousand nine hundred ninety-nine, under the authority of section seven, article
twenty-five, chapter thirty of this code, modified by the
nursing home administrators licensing board to meet the
objections of the legislative rule-making review committee
and refiled in the state register on the twenty-third day of
August, one thousand nine hundred ninety-nine, relating
to the nursing home administrators licensing board (rules
of the nursing home administrators licensing board, 21
CSR 1), is authorized with the following amendment:

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

§64-9-10. Board of physical therapy.

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

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

The legislative rule filed in the state register on the fifth
day of August, one thousand nine hundred ninety-nine,
under the authority of section four, article seven, chapter
thirty of this code, modified by the board of examiners of
registered professional nurses to meet the objections of the
legislative rule-making review committee and refiled in
the state register on the first day of November, one
thousand nine hundred ninety-nine, relating to the board
of examiners of registered professional nurses (policies and
criteria for the evaluation and accreditation of colleges,
§64-9-12. Board of respiratory care.

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

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


(a) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section five, article six-c, chapter forty-six-a 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-first day of December, one thousand nine hundred ninety-nine, relating to the secretary of state (filing fees for organizations, 153 CSR 15), is authorized.
(b) The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, authorized under the authority of section twenty-one, article two, chapter three 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 seventeenth day of December, one thousand ninety-nine, relating to the secretary of state (elimination of precinct registration books, 153 CSR 9), is authorized.


The legislative rule filed in the state register on the twenty-seventh day of April, one thousand nine hundred ninety-nine, under the authority of section three, article ten-k, chapter eighteen of this code, modified by the traumatic brain and spinal cord injury rehabilitation fund 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-nine, relating to the traumatic brain and spinal cord injury rehabilitation fund board (traumatic brain and spinal cord injury rehabilitation fund, 197 CSR 1), is authorized.


The legislative rule filed in the state register on the sixth day of August, one thousand nine hundred ninety-nine, authorized 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 legislative rule-making review committee and refiled in the state register on the twenty-eighth day of October, one thousand nine hundred ninety-nine, relating to the board of veteri-
nary medicine (standards of practice, 26 CSR 4), is autho-
ized."

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

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

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

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

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

(b) The existing course of study consisting of at least two
thousand clock hours divided as specified in table 3-1A of
this rule and subdivided at the discretion of the faculty of
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 ______ Day of ______, 2000.

Governor