WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED
Committee Substitute for
SENATE BILL NO. 299

(By Senator Ross, et al)

PASSED April 13, 2001
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, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; continuing rules previously promulgated by state agencies and boards; legislative mandate or authorization for the promulgation of certain legislative rules; 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; disallowing and not authorizing the board of acupuncturists to promulgate a legislative rule relating to disciplinary and complaint procedures for acupuncturists; authorizing commissioner of agriculture to promulgate a legislative rule relating to traditional cheese production; authorizing commissioner of agriculture to promulgate a legislative rule relating to sale and distribution of commercial fertilizer; authorizing commissioner of agriculture to promulgate a legislative rule relating to fee structure for pesticide control act of 1990; authorizing board of architects to promulgate a legislative rule relating to registration of architects; authorizing board of architects to promulgate a legislative rule relating to fees for registration of architects; authorizing the auditor to promulgate a legislative rule relating to the state auditor's computer and technology program; authorizing auditor to promulgate a legislative rule relating to transaction fee and rate structure; authorizing board of barbers and cosmetologists to promulgate a legislative rule relating to continuing competence; authorizing board of examiners in counseling to promulgate a legislative rule relating to licensing; authorizing board of examiners in counseling to promulgate a legislative rule relating to fees; authorizing board of examiners in counseling to promulgate a legislative rule relating to licensing renewal and continuing professional education requirements; authorizing board of examiners in counseling to promulgate a legislative rule relating to restricted practice licensure for addictions counselors; authorizing board of dental examiners to promulgate a legislative rule relating to fees established by board; authorizing board of licensed dieticians to promulgate a legislative rule relating to continuing professional education requirements; authorizing board of licensed dieticians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing board of licensed dieti-


cians to promulgate a legislative rule relating to code of professional ethics; authorizing board of embalmers and funeral home directors to promulgate a legislative rule relating to general provisions; authorizing board of registration for professional engineers to promulgate a legislative rule relating to rules of board; authorizing governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to law-enforcement training standards; authorizing governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to protocol for law-enforcement response to domestic violence; authorizing board of hearing aid dealers to promulgate a legislative rule relating to board; authorizing board of examiners for licensed practical nurses to promulgate a legislative rule relating to development of educational programs in practical nursing; authorizing board of examiners for licensed practical nurses to promulgate a legislative rule relating to policies regulating licensure of practical nurses; authorizing board of examiners for licensed practical nurses to promulgate a legislative rule relating to legal standards of nursing practice for licensed practical nurses; authorizing board of examiners for licensed practical nurses to promulgate a legislative rule relating to continuing competence; authorizing board of medicine to promulgate a legislative rule relating to licensing, disciplinary and complaint procedures for physicians and podiatrists; authorizing board of medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures for physician assistants; authorizing board of optometry to promulgate a legislative rule relating to osteopathy to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing board of pharmacy to promulgate a legislative rule relating to rules of board for uniform controlled substances act; authorizing radiologic technology board of examiners to promulgate a legislative rule relating to board; authorizing board of examiners for registered professional nurses to promulgate a legislative rule relating to disciplinary action;
authorizing secretary of state to promulgate a legislative rule relating to agencies designated to provide voter registration services; authorizing board of examiners to promulgate a legislative rule for speech-language pathologists and audiologists; and authorizing board of veterinary medicine to promulgate a legislative rule relating to schedule of fees.

*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. Board of acupuncturists.

1 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 seven, article thirty-six, chapter thirty of this code, modified by the board to meet the objections of the legislative rule-making review committee, refiled in the state register on the eighth day of January, one thousand nine hundred ninety-nine, and effective the twenty-first day of May, one thousand nine hundred ninety-nine, relating to board of acupuncturists (disciplinary and complaint procedures, 32 CSR 7), is disapproved and not authorized.


1 (a) The legislative rule filed in the state register on the twenty-seventh day of December, one thousand nine hundred ninety-nine, authorized under the authority of section three, article eleven-d, 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 fourth day of May, two thousand, relating to the commissioner of agriculture (traditional cheese production, 61 CSR 4), is authorized.
(b) The legislative rule filed in the state register on the fourth day of August, two thousand, authorized under the authority of section twelve, article fifteen, 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 twelfth day of October, two thousand, relating to the commissioner of agriculture (sale and distribution of commercial fertilizer, 61 CSR 6), is authorized.

(c) The legislative rule filed in the state register on the eighth day of August, two thousand, 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 fifteenth day of September, two thousand, relating to the commissioner of agriculture (fee structure for the pesticide control act of 1990, 61 CSR 12), is authorized.


(a) The legislative rule filed in the state register on the thirty-first day of August, two thousand, under the authority of section one, article twelve, chapter thirty of this code, modified by the board of architects to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of December, two thousand, relating to the board of architects (registration of architects, 2 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the thirty-first day of August, two thousand, under the authority of section three, article twelve, chapter thirty of this code, modified by the board of architects to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of December, two thousand, relating to the board of architects (fees for the registration of architects, 2 CSR 3), is authorized.

(a) The legislative rule filed in the state register on the tenth day of August, two thousand, authorized under the authority of section ten-c, article three, chapter twelve, of this code, relating to the auditor (transaction fee and rate structure, 155 CSR 4), is authorized with the following amendments:

On page 1, section 155-4-3, beginning on line 7 of subsection 155-4-3.2, following the word “transaction” and the period, by inserting the following: “The fee shall continue in effect until December 31, 2002.”

(b) 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 two, article four-a, 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 eighth day of February, two thousand, relating to the department of administration and the auditor (state auditor’s computer and technology donation program, 155 CSR 5), is authorized.

§64-9-5. Board of barbers and cosmetologists.

The legislative rule filed in the state register on the thirteenth day of June, two thousand, authorized 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 thirtieth day of November, two thousand, relating to the board of barbers and cosmetologists (continuing competence, 3 CSR 8), is disapproved.

§64-9-6. Board of examiners in counseling.

(a) The legislative rule filed in the state register on the twenty-eighth day of August, two thousand, under the
authority of section five, article thirty-one, chapter thirty
of this code, modified by the board of examiners in
counseling to meet the objections of the legislative rule-
making review committee and refiled in the state register
on the twenty-fifth day of September, two thousand,
relating to the board of examiners in counseling (licensing,
27 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the
twenty-eighth day of August, two thousand, under the
authority of section five, article thirty-one, chapter thirty
of this code, modified by the board of examiners in
counseling to meet the objections of the legislative rule-
making review committee and refiled in the state register
on the twenty-fifth day of September, two thousand,
relating to the board of examiners in counseling (fees, 27
CSR 2), is authorized.

(c) The legislative rule filed in the state register on the
twenty-eighth day of August, two thousand, under the
authority of section five, article thirty-one, chapter thirty
of this code, modified by the board of examiners in
counseling to meet the objections of the legislative rule-
making review committee and refiled in the state register
on the twenty-fifth day of September, two thousand,
relating to the board of examiners in counseling (licensing
renewal and continuing professional education require-
ments, 27 CSR 3), is authorized.

(d) The legislative rule filed in the state register on the
twenty-eighth day of August, two thousand, under the
authority of section seven-a, article thirty-one, chapter
thirty of this code, modified by the board of examiners in
counseling to meet the objections of the legislative rule-
making review committee and refiled in the state register
on the twenty-fifth day of September, two thousand,
relating to the board of examiners in counseling (restricted
practice licensure for addictions counselors, 27 CSR 4), is
authorized.

1 The legislative rule filed in the state register on the
2 twenty-sixth day of June, two thousand, authorized under
3 the authority of section six, article one, chapter thirty of
4 this code, relating to the board of dental examiners (fees
5 established by the board, 5 CSR 3), is authorized,

6 By striking the rule in its entirety and inserting in lieu
7 thereof, the following:

8 '§5-3-1. General
9 1.1 Scope- This legislative rule establishes fees for
10 the Board of Dental Examiners.
11 1.2 Authority: §30-1-6 and §30-4-4a
12 1.3 Filing date- 
13 1.4 Effective Date-
14 §5-3-2. Schedule of fees for Dentists.
15 2.1 Dental Licensure Application $50.00
16 2.2 Out of State Dentist - Dental
17 Licensure Application $100.00
18 2.3 Temporary Permit $100.00
19 2.4 Dental Intern/Dental
20 Residency Permit $50.00
21 2.5 Teaching Permit $100.00
22 2.6 Investigation of Qualification
23 for Temporary, Dental Intern/Dental
24 Residency or Teaching Permits $50.00
25 2.7 Annual Information & Renewal fee for a Dentist $125.00
26 §5-3-3. Schedule of fees for Hygienists
27 3.1 Dental Hygiene Licensure
28 Application $35.00
29 3.2 Re-examination fee for Dental
30 Hygienist $10.00
31 3.3 Out of State Dental Hygienist - 
32 Dental Hygienist Licensure
33 Application $50.00
34 3.4 Temporary Permit $100.00
35 3.5 Teaching Permit $100.00
Investigation of Qualification for Temporary, Dental Intern/Dental Residency or Teaching Permits $ 50.00
Annual Information & Renewal fee for a Dental Hygienist $ 50.00
§5-3-4. Schedules of fees for Dental Corporations.
Application to form a Dental Corporation $200.00
Annual Registration fee for a Dental Corporation $150.00
§5-3-5. Schedule of fees for Specialty Licensure for Dentists.
Dental Specialty Licensure Application $300.00
§5-3-6. Schedule for Miscellaneous fees.
Verification Of Licensure to another State $10.00
§64-9-8. Board of licensed dieticians.
(a) The legislative rule filed in the state register on the twenty-ninth day of August, two thousand, under the authority of section four, article thirty-five, chapter thirty of this code, modified by the board of licensed dieticians to meet the objections of the legislative rule-making review committee and refilled in the state register on the thirty-first day of October, two thousand, relating to the board of licensed dieticians (continuing professional education requirements, 31 CSR 5), is authorized.
(b) The legislative rule filed in the state register on the twenty-ninth day of August, two thousand, under the authority of section four, article thirty-five, chapter thirty of this code, modified by the board of licensed dieticians to meet the objections of the legislative rule-making review committee and refilled in the state register on the thirty-first day of October, two thousand, relating to the board of licensed dieticians (licensure and renewal requirements, 31 CSR 1), is authorized.
(c) The legislative rule filed in the state register on the seventh day of August, two thousand, under the authority of section four, article thirty-five, chapter thirty of this code, modified by the board of licensed dieticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourth day of October, two thousand, relating to the board of licensed dieticians (code of professional ethics, 31 CSR 2), is authorized.


The legislative rule filed in the state register on the eighteenth day of August, two thousand, under the authority of section three, article six, chapter thirty of this code, modified by the board of embalmers and funeral home directors to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of February, two thousand one, relating to the board of embalmers and funeral home directors (general provisions, 6 CSR 1), is authorized,

"On page two of the rule, section 2.13, following the word 'casket,' by inserting the word 'and';

On page ten of the rule, section 16.1, following the words 'The applicant is not', by striking the word 'be';

On page ten of the rule, section 16.3, following the words 'payment of a fee of $25.00 for each re-issuance', by striking out the remainder of the sentence and inserting in lieu thereof a period;

On page ten of the rule, subsection 16.4.2, following the words 'fault for the missed appointment' by striking out the word 'or' and inserting in lieu thereof a period and the words 'No fee will be charged'; and in two places in the subsection, following the word 'his' by inserting the words 'or her'.

And,
On page eleven of the rule, subsection 18.3, following the words 'one such program' by inserting the words 'or other approved program'.

§64-9-10. Board of registration for professional engineers.

The legislative rule filed in the state register on the thirtieth day of August, two thousand, under the authority of section nine, article thirteen, chapter thirty of this code, modified by the board of registration for professional engineers to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of October, two thousand, relating to the board of registration for professional engineers (rules of the board, 7 CSR 1), is authorized, with the following amendment:

On page ten of the rule, after the words 'services in this State', by striking out subsection 4.2 in its entirety;

On page nineteen of the rule, after the stricken words 'the first time', by striking the words 'will be granted a request' and inserting in lieu thereof the word 'requests';

On page twenty-seven of the rule, subdivision 14.2.b, after the stricken words 'Successful completion of', by inserting the words 'Evidence of completion of'; and,

On page thirty-seven of the rule, after the words 'W. Va. Code §47B-3-6 and §31B-13-1305', by striking out subsection 16.8 in its entirety.

§64-9-11. Governor's committee on crime, delinquency and correction.

(a) The legislative rule filed in the state register on the first day of September, two thousand, authorized under the authority of section three, article twenty-nine, chapter thirty of this code, 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 sixteenth day of August, two thousand, authorized under the authority of section nine, article two-a, chapter forty-eight of this code, relating to the governor's committee on crime, delinquency and correction (protocol for law-enforcement response to domestic violence, 149 CSR 3), is authorized.


The legislative rule filed in the state register on the twenty-eighth day of August, two thousand, under the authority of section three, article twenty-six, chapter thirty of this code, modified by the board of hearing aid dealers to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of September, two thousand, relating to the board of hearing aid dealers (rule governing the board, 8 CSR 1), is authorized.


(a) The legislative rule filed in the state register on the twenty-first day of March, two thousand, under the authority of section five, article seven-a, chapter thirty of this code, modified by the board of examiners for licensed practical nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of April, two thousand, relating to the board of examiners for licensed practical nurses (policies and procedures for development and maintenance of educational programs in practical nursing, 10 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the twenty-first day of March, two thousand, under the authority of section five, article seven-a, chapter thirty of this code, modified by the board of examiners for licensed practical nurses to meet the objections of the legislative rule-making review committee and refiled in the state
register on the twenty-eighth day of April, two thousand, 
relating to the board of examiners for licensed practical 
nurses (policies regulating licensure of the licensed 
practical nurse, 10 CSR 2), is authorized.

(c) The legislative rule filed in the state register on the 
twenty-first day of March, two thousand, under the 
authority of section five, article seven-a, chapter thirty of 
this code, modified by the board of examiners for licensed 
practical nurses to meet the objections of the legislative 
rule-making review committee and refiled in the state 
register on the twenty-eighth day of April, two thousand, 
relating to the board of examiners for licensed practical 
nurses (legal standards of nursing practice for the licensed 
practical nurse, 10 CSR 3), is authorized.

(d) The legislative rule filed in the state register on the 
twenty-first day of March, two thousand, under the 
authority of section five, article seven-a, chapter thirty of 
this code, modified by the board of examiners for licensed 
practical nurses to meet the objections of the legislative 
rule-making review committee and refiled in the state 
register on the twenty-eighth day of April, two thousand, 
relating to the board of examiners for licensed practical 
nurses (continuing competence, 10 CSR 6), is authorized.

§64-9-14. Board of medicine.

(a) The legislative rule filed in the state register on the 
thirty-first day of July, two thousand, authorized under 
the authority of section seven, article three, chapter thirty 
of this code, modified by the board of medicine to meet the 
objections of the legislative rule-making review committee 
and refiled in the state register on the thirteenth day of 
February, two thousand one, relating to the board of 
medicine (licensing, disciplinary and complaint proce-
dures: Physicians and podiatrists, 11 CSR 1A), is autho-
rized.
(b) The legislative rule filed in the state register on the thirty-first day of July, two thousand, authorized under the authority of section eight, article one, chapter thirty of this code, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of February, two thousand one, relating to the board of medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistant, 11 CSR 1B), is authorized.


The legislative rule filed in the state register on the fifteenth day of August, two thousand, under the authority of section three, article eight, chapter thirty of this code, modified by the board of optometry to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of November, two thousand, relating to the board of optometry (rules of the board, 14 CSR 1), is authorized.

§64-9-16. Board of osteopathy.

The legislative rule filed in the state register on the seventh day of August, two thousand, under the authority of section four, 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 twenty-second day of September, two thousand, relating to the board of osteopathy (licensing procedures, osteopathic physicians, 24 CSR 1), is authorized.

§64-9-17. Board of pharmacy.

The legislative rule filed in the state register on the eighteenth day of August, two thousand, under the authority of section 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 fourth day of
January, two thousand one, relating to the board of
pharmacy (rules of the board of pharmacy for the uniform
controlled substances act, 15 CSR 2), is authorized, with
the following amendment:

On page one of the rule, section two, following subsec-
tion 2.1, by inserting a new subsection, designated subsec-
tion 2.2, to read ‘The federal regulations are available on
the internet at www.access.gpo.gov/nara/cfr/waisidx_
00/21cfrv9_00.html.’


The legislative rule filed in the state register on the
thirty-first day of August, two thousand, under the
authority of section five, article twenty-three, chapter
thirty of this code, modified by the board of examiners of
radiologic technology to meet the objections of the legisla-
tive rule-making review committee and refiled in the state
register on the fifth day of February, two thousand one,
relating to the board of examiners of radiologic technology
(rules of the board, 18 CSR 1), is authorized.


The legislative rule filed in the state register on the third
day of August, two thousand, authorized under the
authority of section four, article one, 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 twenty-first day of February, two thousand
one, relating to the board of examiners of registered
professional nurses (disciplinary action, 19 CSR 9), is
authorized.

§64-9-20. Secretary of state.

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

§64-9-21. Board of examiners for speech-language pathology
and audiology.

The legislative rule filed in the state register on the
thirty-first day of August, two thousand, under the
authority of section ten, article thirty-two, chapter thirty
of this code, modified by the board of examiners for
speech-language pathology and audiology 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 one, relating to the board of
examiners for speech-language pathology and audiology
(licensure of speech-language pathology and audiology, 29
CSR 1), is authorized.

§64-9-22. Board of veterinary medicine.

The legislative rule filed in the state register on the first
day of September, two thousand, 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 nine-
teenth day of December, two thousand, relating to the
board of veterinary medicine (schedule of fees, 26 CSR 6),
is authorized.
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 is approved this the 23rd Day of April, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date: 4/01/01
Time: 2:50 PM