WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED
Committee Substitute for
SENATE BILL NO. 327

(By Senator Ross, et al)

PASSED March 13, 2004

In Effect from Passage
AN ACT to amend and reenact §64-1-1 of the code of West Virginia, 1931, as amended, and to amend and reenact article 2, chapter 64 of said code, 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
enr. com. sub. for s. b. no. 327] 2

with various modifications presented to and recommended by the legislative rule-making review committee and as amended by the Legislature; disapproving certain legislative rules; authorizing the department of administration to promulgate a legislative rule relating to leasing space on behalf of state spending units; authorizing the department of administration to promulgate a legislative rule relating to parking; authorizing the consolidated public retirement board to promulgate a legislative rule relating to general provisions; authorizing the consolidated public retirement board to promulgate a legislative rule relating to benefit determination and appeal; authorizing the consolidated public retirement board to promulgate a legislative rule relating to the teachers defined benefit plan; authorizing the consolidated public retirement board to promulgate a legislative rule relating to the West Virginia state police disability determination and appeal process; authorizing the board of risk and insurance management to promulgate a legislative rule relating to the public entities insurance program; and disapproving the board of risk and insurance management legislative rule relating to the terms and conditions pertaining to members of self-insurance pools who wish to participate in state insurance programs.

Be it enacted by the Legislature of West Virginia:

That §64-1-1 of the code of West Virginia, 1931, as amended, be reenacted; and that article 2, chapter 64 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL LEGISLATIVE AUTHORIZATION.

§64-1-1. Legislative authorization.

1 Under the provisions of article three, chapter twenty-nine-a of the code of West Virginia, the Legislature expressly authorizes the promulgation of the rules described in articles two through eleven, inclusive, of this chapter, subject only to the limitations set forth with respect to each such rule in the section or sections of this chapter authorizing its promulgation. Legislative rules
promulgated pursuant to the provisions of articles one through eleven, inclusive, of this chapter in effect at the effective date of this section shall continue in full force and effect until reauthorized in this chapter by legislative enactment or until amended by emergency rule pursuant to the provisions of article three, chapter twenty-nine-a of this code.

ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-1. Department of administration.

(a) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section forty-two, article three, chapter five-a of this code, modified by the department of administration to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, two thousand four, relating to the department of administration (leasing space on behalf of state spending units, 148 CSR 2), is authorized with the following amendments:

On page one, subdivision 1.1, on the ninth line, by striking out the words “those spending units who are exempt or who have independent leasing authority.” and inserting in lieu thereof the words “the division of highways, the higher education policy commission, the lottery commission, or a spending unit of the state with independent leasing authority pursuant to the code of West Virginia. This exemption does not apply to the office space of spending units of the executive branch.”

On page one, subsection 2.1, by designating the first paragraph as subdivision 2.1.a and by designating the second paragraph as subdivision 2.1.b;

On page one, subsection 2.2, line three, after the words “describing the space” by striking out the remainder of the subsection and by inserting in lieu thereof the words “and
a letter justifying the agency's need for leasing the new space.”;

On page two, subdivision 4.2.b, line three, after the word “considered”, by inserting the words “by the leasing officer”;

On page two, subdivision 4.2.c, line two, by inserting the words “Class II”;

On page two, section four, following subsection 4.3, by inserting the following and renumbering the remaining subsections:


The Leasing Office shall provide written notification of its site selection recommendation to the spending unit within thirty (30) days of the evaluation of the spending unit’s request for space which includes the review of bids, evaluation of bids by the Leasing Office and any negotiations conducted by the Leasing Office pursuant to Subsection 4.3 of this rule prior to final location selection.”

On page two, section four, subsection 4.4, by striking the second paragraph;

On page two, subsection 4.5, after the period, by inserting the words “The leasing office shall provide written notification to the spending unit regarding the agency's authorization to occupy the space within thirty (30) days of an evaluation period.”;

On page three, section six, subsection 6.3, line 1, following the word “Administration” by inserting “or the Director of the Purchasing Division of the Department of Administration”;

On page three, section six, subsection 6.3, line seven, following the word “Administration” by inserting “or the Director of the Purchasing Division”;
On page three, section six, subsection 6.3, line nine, following the word "Secretary" and the comma, by inserting the words "the Director";

On page three, section six, subsection 6.3, line 14, following the word "Secretary", by inserting the words "or Director";

On page three, section six, subsection 6.4, line two, following the word "Administration" by inserting "or the Director of the Purchasing Division";

On page four, section seven, subsection 7.1, line seven, following the word "Administration" by inserting "or the Director of the Purchasing Division"; and

On page four, section ten, subsection 10.1, line five, following the word "Administration" by inserting "or the Director of the Purchasing Division"."

On page four, subsection 11.1, line two, after the words "other emergency situation", by inserting the words "as determined by the Secretary,"

On page four, subsection 11.1, line three, after the period, by inserting the words "In the event of a natural disaster or emergency situation, the Secretary of Administration shall continue to have the authority to select and to acquire by contract or lease, in the name of the State, all grounds, buildings, office space or other space for and on behalf of any spending unit.";

On page four, subsection 11.2, by striking out the entire subsection and by renumbering the subsequent subsections;

On page four, subsection 11.3, line one, by striking out the words "At no time does the" and inserting in lieu thereof the word "The", and after the words "spending unit", by inserting the words "does not";
On page four, subsection 11.4, line one, by striking out the words “To the degree” and by inserting in lieu thereof the word “When”;

On page four, subsection 11.4, line three, after the word “unit”, by striking out the words “shall get” and by inserting in lieu thereof the words “will obtain”;

On page five, subsection 11.5, line one, by striking out the words “To the degree” and by inserting in lieu thereof the word “When”;

And,

On page five, subsection 11.5, line two, after the words “will put a”, by inserting the words “Class II”.

(b) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section five, article four, chapter five-a of this code, modified by the department of administration to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, two thousand four, relating to the department of administration (parking, 148 CSR 6), is authorized with the following amendment:

On page two, subsection 5, on the eleventh line, by adding after “2007.” the following sentence: “The maximum fee that can be charged thereafter for parking is twenty dollars ($20.00) per month.”.


(a) The legislative rule filed in the state register on the twenty-eighth day of July, two thousand three, authorized under the authority of section one, article ten-d, chapter five of this code, modified by the consolidated public retirement board 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
three, relating to the consolidated public retirement board (general provisions, 162 CSR 1), is authorized.

(b) The legislative rule filed in the state register on the twenty-eighth day of July, two thousand three, authorized under the authority of section one, article ten-d, chapter five of this code, modified by the consolidated public retirement board 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 three, relating to the consolidated public retirement board (benefit determination and appeal, 162 CSR 2), is authorized.

c) The legislative rule filed in the state register on the twenty-eighth day of July, two thousand three, authorized under the authority of section one, article ten-d, chapter five of this code, modified by the consolidated public retirement board 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 three, relating to the consolidated public retirement board (teachers defined benefit plan, 162 CSR 4), is authorized.

d) The legislative rule filed in the state register on the twenty-eighth day of July, two thousand three, authorized under the authority of section one, article ten-d, chapter five of this code, modified by the consolidated public retirement board 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 three, relating to the consolidated public retirement board (West Virginia state police disability determination and appeal process, 162 CSR 9), is authorized.

§64-2-3. Board of risk and insurance management.

(a) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section one, article twelve, chapter
twenty-nine of this code, modified by the board of risk and insurance management to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, two thousand four, relating to the board of risk and insurance management (public entities insurance program, 115 CSR 2), is authorized.

(b) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section fourteen, article twelve, chapter twenty-nine of this code, modified by the board of risk and insurance management to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, two thousand four, relating to the board of risk and insurance management (terms and conditions pertaining to members of self insurance pools who wish to participate in state insurance programs, 115 CSR 7), is not 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 5th Day of April, 2004.

Governor
PRESENTED TO THE
GOVERNOR
DATE 3/12/04
TIME 4:00 PM