WEST VIRGINIA LEGISLATURE

Regular Session, 2004

ENROLLED

Committee Substitute for
SENATE BILL NO. 350

(By Senator__________________)

PASSED______March 13, 2004______

In Effect______From______Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 350

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

[Passed March 13, 2004; in effect from passage.]

AN ACT to amend and reenact article 10, chapter 64 of the code of West Virginia, 1931, as amended, 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; disapproving certain legislative
rules; authorizing the economic development authority to
promulgate a legislative rule relating to the general adminis-
tration of the West Virginia venture capital act; authorizing
the economic development authority to promulgate a
legislative rule relating to economic development and
technology advancement centers; authorizing the infrastruc-
ture and jobs development council to promulgate a legisla-
tive rule relating to council; authorizing the division of labor
to promulgate a legislative rule relating to psychophysiological
detection of deception examinations; disapproving the
manufactured housing construction and safety standards
board to promulgate a legislative rule relating to the board;
authorizing the office of miners' health, safety and training
to promulgate a legislative rule relating to reporting require-
ments for independent contractors; authorizing the division
of natural resources to promulgate a legislative rule relating
to public land corporation rule controlling sale, lease,
exchange or transfer of land and minerals; authorizing the
division of natural resources to promulgate a legislative rule
relating to revocation of hunting and fishing licenses;
authorizing the division of natural resources to promulgate
a legislative rule relating to special motorboating regula-
tions; and authorizing the division of natural resources to
promulgate a legislative rule relating to special fishing.

Be it enacted by the Legislature of West Virginia:

That article 10, chapter 64 of the code of West Virginia, 1931,
as amended, be amended and reenacted to read as follows:

ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO PRO-
MULGATE LEGISLATIVE RULES.

§64-10-1. Economic development authority.

1 (a) The legislative rule filed in the state register on the
2 first day of August, two thousand three, authorized under
3 the authority of section three, article two, chapter five-e-of
4 this code, modified by the economic development author-
5 ity to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-second day of December, two thousand three,
relating to the economic development authority (general
administration of the West Virginia venture capital act,
117 CSR 3), is authorized with the following amendments:

On page one, subsection 1.5, after the words “Series 3,”
by striking out the remainder of the sentence and inserting
in lieu thereof the words “§117-3-1, et seq.”;

On page two, section two, subsection 2.10, line 3, by
striking the word “Subdivision” and inserting the word
“Subsection”;

On page four, section four, subdivision 4.2.a, line 3,
following the word “with” by striking the word “Subdivi-
sion” and inserting the word “Subsection”;

On page six, subdivision 5.2.c.9., line one by striking the
words “A signed commitment” and inserting in lieu
thereof the words “An irrevocable letter of credit”;

On page six, paragraph 5.2.c.9, line three, after the
words “certified check for”, by striking out the word “the”
and inserting in lieu thereof the word “any”, and after the
word “call”, by striking out the comma and the words “if
required by the Authority”;

On page six, subdivision 5.2.c.9, line three, following the
words “by the authority”, by inserting a colon and the
words “Provided, That the economic development author-
ity may authorize a reduction in the amount of the irrevo-
cable letter of credit to correspond to a payment made
towards the proposed investment”;
previous investment in the West Virginia Business pursuant to the Act or this Rule.

On page twelve, subdivision 7.4.2, line seven, after the words "applicable where", by striking out the remainder of the subdivision and inserting in lieu thereof the words "the investor's economic relationship is solely the result of the fact that the Fund Manager has made a previous investment in the West Virginia Business pursuant to the Act or this Rule.

And,

On page sixteen, section ten, subsection 10.10, line 1, following the words "described in" by striking the words "Section 10" and inserting "this section".

(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 one, chapter five-e of this code, modified by the economic development authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of December, two thousand three, relating to the economic development authority (economic development and technology advancement centers, 117 CSR 4), is authorized with the following amendments:

On page five, section four, subdivision 4.1.2, line 1, following the word "Per" by striking the word "Investor" and inserting the word "Center";

On page five, section four, subdivision 4.1.2, line 1, following the word "single" by striking the words "Investor in a Center" and inserting the word "Center";

On page five, section four, subsection 4.3, line 7, following the word "subdivision" by striking "6.4.f" and inserting "4.4.f";

And,
On page nine, section six, subsection 6.8, following the words “described in” by striking the word “Sections” and inserting the word “Subsections.”.

§64-10-2. Infrastructure and jobs development council.

The legislative rule filed in the state register on the twenty-third day of June, two thousand three, authorized under the authority of section four, article fifteen-a, chapter thirty-one of this code, modified by the infrastructure and jobs development council to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of August, two thousand three, relating to the infrastructure and jobs development council (infrastructure and jobs development council, 167 CSR 1), is authorized with the following amendments:

On page nine, section five, subdivision 5.13.6, line 9, following the citation “WVC 22C-2-1 et. seq.” by inserting words “and WVC 16-13C-1 et seq.”;

On page nine, section five, subdivision 5.13.6, line 11, following the word “State” by striking the words “as delineated”;

And,

On page nine, section five, subdivision 5.13.6, line 13, following the word “Code” by striking the word “in”.

§64-10-3. Division of labor.

The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section five-c, article five, chapter twenty-one of this code, modified by the division of labor to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of December, two thousand three, relating to the division of labor (psychophysiological detection of deception examinations,
limitations of use, requirements, licenses and penalties, 42
CSR 6), is authorized with the following amendments:

On page one, subsection 1.1, line one, after the words
“W. Va. Code”, by striking out the words “§21-5-5(c)” and
inserting in lieu thereof the words “§21-5-5c”;

On page one, subsection 1.1, line three, after the words
“W. Va. Code”, by striking out the words “§21-5-5(a)-(d)”
and inserting in lieu thereof the words “§§21-5-5a, -5b, -
5c, and -5d”;

On page one, subsection 2.4, line three, after the words
“W. Va. Code”, by striking out the words “§21-5-5c(c)”
and inserting in lieu thereof the words “§§21-5-5a, -5b, -
5c, and -5d”;

On page two, subsection 3.1, line two, after the words
“issue a license”, by striking out the word “to”;

On page two, subsection 3.1, line five, after the words
“W. Va. Code”, by striking out the words “§21-5-5(a)-(d)”
and inserting in lieu thereof the words “§§21-5-5a, -5b, -
5c, and -5d”;

On page three, subdivision 3.10(b), line one, after the
words “in the violation of.”, by striking out the words
“this article” and inserting in lieu thereof the words “W.
Va. Code §§21-5-5a, -5b, -5c, and -5d”;

On page three, subdivision 3.10(c), line one, after the
words “The licensee”, by striking out the word “is” and
inserting in lieu thereof the words “has been”;

On page three, subdivision 3.10(d), line one, after the
words “The licensee”, by striking out the word “makes”
and inserting in lieu thereof the words “has been”, and
after the words “false promises”, by striking out the word
“cause” and inserting in lieu thereof the words “has caused”;

On page four, subdivision 3.10(f), line one, after the words “The licensee”, by striking out the word “allows” and inserting in lieu thereof the words “has allowed”;

On page four, subdivision 3.10(g), line one, after the words “The licensee”, by striking out the word “fails” and inserting in lieu thereof the words “has failed”;

On page four, subdivision 4.2, line one, after the words “The intern”, by striking out the words “shall have” and inserting in lieu thereof the word “has”;

On page four, subparagraph 4.2.1.b.(1), line one, after the words “W. Va. Code”, by striking out the words “§21-5-5a, b, c, and d” and inserting in lieu thereof the words “§§21-5a, -5b, -5c, and -5d”;

On page six, paragraph 4.2.3.A, line three, after the word “but”, by striking out the word “compliance” and inserting in lieu thereof the words “must comply” and, after the words “with all other”, by striking out the rest of the paragraph and inserting in lieu thereof the words “requirements of this subsection”;

On page six, subsection 5.1, line one, after the words “issue a license”, by inserting the words “without examination” and, after the words “applicant who is”, by striking out the words “an examiner” and inserting in lieu thereof the word “a”;

On page six, subsection 5.1, line two, after the word “licensed”, by inserting the word “examiner”;

On page six, subsection 5.1, line three, by striking out the words “without examination”;

On page seven, section 6, line two, by striking out the words “this article, it is the policy of the Commissioner
that” and inserting in lieu thereof the words “W. Va. Code §§21-5-5a, -5b, -5c, and -5d,”;

On page eight, subdivision 8.1.(b), line three, after the words “unfit for the”, by striking out the word “an”;

And,

On page nine, subdivision 8.2.(c), line two, after the words “record of the”, by striking out the term “PDD” and inserting in lieu thereof the words “psychophysiological detection of deception”.


The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section four, article nine, chapter twenty-one of this code, modified by the manufactured housing construction and safety standards board to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of December, two thousand three, relating to the manufactured housing construction and safety standards board (West Virginia manufactured housing construction and safety standards board, 42 CSR 19), is not authorized.

§64-10-5. Office of miners health, safety and training.

The legislative rule filed in the state register on the eighth day of November, two thousand two, authorized under the authority of section six, article one, chapter twenty-two-a of this code, modified by the office of miners health, safety and training to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of April, two thousand three, relating to the office of miners health, safety and training (reporting requirements for independent contractors, 56 CSR 10), is authorized.

§64-10-6. Division of natural resources.
(a) The legislative rule filed in the state register on the eleventh day of September, two thousand three, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of January, two thousand four, relating to the division of natural resources (public land corporation rule controlling the sale, lease, exchange or transfer of land and minerals, 58 CSR 2), is authorized.

(b) The legislative rule filed in the state register on the second day of July, two thousand three, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the division of natural resources 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 three, relating to the division of natural resources (revocation of hunting and fishing licenses, 58 CSR 23), is authorized with the following amendment:

On page 1, subsection 2.4, on the first line by striking out the words “Class A-1-L” and inserting in lieu thereof the words “Lifetime Class A-1”.

(c) The legislative rule filed in the state register on the tenth day of July, two thousand three, authorized under the authority of section twenty-two, article seven, chapter twenty of this code, relating to the division of natural resources (special motorboating regulations, 58 CSR 27), is authorized.

(d) The legislative rule filed in the state register on the fourteenth day of July, two thousand three, authorized under the authority of section seventeen, article one, chapter twenty of this code, relating to the division of natural resources (special fishing, 58 CSR 61), is authorized with the following amendment:
On page one, section 3, by striking out all of subsection 3.1 and renumbering the remaining subsections.
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 3/13/04
TIME 4:00 p.m.