WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED
Committee Substitute for
SENATE BILL NO. 399

(By Senator _____ Ross, et al _____)

PASSED _____ March 13, 2004

In Effect _____ From _____ Passage
AN ACT to amend and reenact article 9, 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 rules; authorizing the board of accountancy to promulgate a legislative rule relating to the board and rules of professional conduct; authorizing commissioner of agriculture to promulgate legislative rule relating to frozen desserts and imitation frozen desserts; authorizing commissioner of agriculture to promulgate legislative rule relating to dairy products and imitation dairy products; authorizing commissioner of agriculture to promulgate legislative rule relating to seed law; authorizing board of architects to promulgate legislative rule relating to registration of architects; authorizing auditor's office to promulgate legislative rule relating to transaction fee and rate structure; authorizing auditor's office to promulgate legislative rule relating to state purchasing card program; authorizing board of examiners in counseling to promulgate legislative rule relating to fees; authorizing board of registration for professional engineers to promulgate legislative rule relating to governance of board; authorizing board of examiners of land surveyors to promulgate legislative rule relating to minimum standards for practice of land surveying; authorizing board of examiners of land surveyors to promulgate legislative rule relating to mandatory continuing education for land surveyors; authorizing board of landscape architects to promulgate legislative rule relating to board; authorizing board of examiners for licensed practical nurses to promulgate legislative rule relating to policies and procedures for development and maintenance of education programs in practical nursing; authorizing board of medicine to promulgate legislative rule relating to licensing and disciplinary procedures: physicians and podiatrists; authorizing board of optometry to promulgate legislative rule relating to board; authorizing board of examiners of psychologists to promulgate legislative rule relating to fees; authorizing public service commission to promulgate legislative rule relating to transportation of coal by commercial motor vehicles; authorizing records management and preservation board to promulgate legislative rule relating to general management and preservation of county
records; and authorizing statewide addressing and mapping board to promulgate legislative rule relating to addressing and mapping standards and participation by public agencies in statewide addressing and mapping projects.

Be it enacted by the Legislature of West Virginia:

That article 9, chapter 64 of the code of West Virginia, 1931, 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 accountancy.

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 nine, chapter thirty of this code, modified by the board of accountancy 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 board of accountancy (board rules and rules of professional conduct, 1 CSR 1), is authorized.


(a) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section ten, article eleven-b, 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 twenty-fourth day of November, two thousand three, relating to the commissioner of agriculture (frozen desserts and imitation frozen desserts, 61 CSR 4B), is authorized with the following amendment:

On page one, section 2.1.f, after the words “Pasteurized Milk”, by deleting the term “Ordinance”, and by inserting in lieu thereof the word “Ordinance”.
(b) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section ten, article eleven-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 twenty-fourth day of November, two thousand three, relating to the commissioner of agriculture (dairy products and imitation dairy products, 61 CSR 4C), is authorized.

(c) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section six, article sixteen, 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 twenty-fourth day of November, two thousand three, relating to the commissioner of agriculture (West Virginia seed law, 61 CSR 9), is authorized.


The legislative rule filed in the state register on the third day of October, two thousand two, authorized 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 twenty-second day of April, two thousand three, relating to the board of architects (registration of architects, 2 CSR 1), is authorized.

§64-9-4. Auditor's office.

(a) The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section ten-c, article three, chapter twelve of this code, modified by the auditor's office to meet the objections of the legislative rule-making review committee
and refiled in the state register on the eighteenth day of December, two thousand three, relating to the auditor's office (transaction fee and rate structure, 155 CSR 4), 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 ten-a, article three, chapter twelve of this code, modified by the auditor's office to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourth day of November, two thousand three, relating to the auditor's office (state purchasing card program, 155 CSR 7), is authorized with the following amendments:

On page two, section two, subdivision 2.17.e, line one, following the words “Higher Education,” by inserting the words “not to exceed $5,000 for any purchase”;

On page two, section two, subdivision 2.17.f, line two, following the words “Higher Education,” by striking out the word “which” and inserting in lieu thereof the words “not to exceed $5,000 for any purchase unless approved by the Purchasing Division. ‘Routine, regularly scheduled payments of Higher Education’”;

On page two, section two, subdivision 2.18.c, line three, following the words “Chapter 15”, by striking out the words “and WV Code 18B-5-9”;

On page two, section two, subdivision 2.18.c, line five, following the words “with the card,” and the semicolon, by inserting the words “and as provided in WV Code 18B-5-9, the transaction limit for Higher Education is the credit limit associated with the card, not to exceed $5,000 for any purchase”, followed by a semicolon;

On page two, section two, subdivision 2.18.e, line four, following the words “with the card,” by striking out the period and inserting the words “except as provided in subdivision 2.17.f.”;
41 And,
42 On page three, section three, subsection 3.3, line one,
43 following the words "an emergency", by striking out the
44 word "effecting" and inserting in lieu thereof the word
45 "affecting".

§64-9-5. Board of examiners in counseling.

1 The legislative rule filed in the state register on the
2 fourth day of December, two thousand two, authorized
3 under the authority of section five, article thirty-one,
4 chapter thirty of this code, modified by the board of
5 examiners in counseling to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-first day of April, two
8 thousand three, relating to the board of examiners in
9 counseling (fees, 27 CSR 2), is authorized.

§64-9-6. Board of registration for professional engineers.

1 The legislative rule filed in the state register on the
2 thirtieth day of July, two thousand three, authorized under
3 the authority of section nine, article thirteen, chapter
4 thirty of this code, modified by the board of registration
5 for professional engineers to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the fourteenth day of January, two
8 thousand four, relating to the board of registration for
9 professional engineers (rule governing the West Virginia
10 board of registration for professional engineers, 7 CSR 1),
11 is authorized with the following amendments:

12 On page three, subsection 3.3, subdivision h, by striking
13 out said subdivision h in its entirety;
14 And,
15 On page twenty-one, subsection 14.4, by striking out said
16 subsection 14.4 in its entirety and inserting in lieu thereof
17 the words:
"The Board may assess administrative costs incurred in the performance of its enforcement or investigatory activities against any person or entity who violates the provisions referenced in subsection 14.1 of this rule, which shall be paid to the West Virginia State Board of Registration for Professional Engineers by check or money order within a period of thirty (30) days from the date of the final order entered by the Board."


(a) 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 thirteen-a, chapter thirty of this code, relating to the board of examiners of land surveyors (minimum standards for practice of land surveying in West Virginia, 23 CSR 1), is authorized with the following amendments:

On page three, subsection 5.1, line eight, after the words "annual renewal fee" by striking out the comma and the words "determined by the board, not to exceed one hundred dollars ($100.00)" and by inserting in lieu thereof the words "of forty dollars ($40.00)"

On page three, subsection 5.1, line nine, after the words "the fee shall increase", by striking out the words "an amount determined by the Board, not to exceed twenty per cent (20%) of the annual renewal fee" and inserting in lieu thereof the words "one dollar ($1.00)"

And,

On page four, subsection 5.1, line one, after the words "payment of a fee", by striking out the words "determined by the Board, not to exceed fifty dollars ($50.00)" and by inserting in lieu thereof the words "of ten dollars ($10.00)"

(b) 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 thirteen-a, chapter
twenty-six thirty of this code, relating to the board of examiners of land surveyors (mandatory continuing education for land surveyors, 23 CSR 2), is authorized.


1 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 twenty-two, chapter thirty of this code, modified by the board of landscape architects to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of November, two thousand three, relating to the board of landscape architects (rule of the West Virginia board of landscape architects, 9 CSR 1), is authorized, with the following amendment:

On page one, section 1.1, line one, after the words “the Board”, by inserting the words “and the”;

On page three, section 4.15, line two, after the words “Section 8 of”, by striking out the words “these rules” and inserting in lieu thereof, the words “this rule”;

On page four, section 6.5, line two, after the words “Section 4.2 of”, by striking out the words “these rules” and inserting in lieu thereof, the words “this rule”;

On page five, section 6.6, line four, after the words “Section 4.17 of”, by striking out the words “these rules” and inserting in lieu thereof, the words “this rule”;

On page five, section 6.8, line three, after the words “10.6 of”, by striking out the words “these rules” and inserting in lieu thereof, the words “this rule”;

And,

On page seven, section 7.7, line four, after the word “or”, by striking out the words “these rules” and inserting in lieu thereof, the words “this rule”, and after the words

The legislative rule filed in the state register on the twenty-third day of June, two thousand three, authorized under the authority of section one, article seven-a, chapter thirty of this code, relating to the board of examiners for licensed practical nurses (policies and procedures for development and maintenance of education programs in practical nursing, 10 CSR 1), is authorized.

§64-9-10. Board of medicine.

The legislative rule filed in the state register on the sixteenth day of July, two thousand three, authorized under the authority of section seven, article three, chapter thirty of this code, relating to the board of medicine (licensing and disciplinary procedures: physicians; podiatrists, 11 CSR 1a), is authorized.


The legislative rule filed in the state register on the thirty-first day of July, two thousand three, authorized 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 eighteenth day of December, two thousand three, relating to the board of optometry (rule of the West Virginia board of optometry, 14 CSR 1), is authorized.

§64-9-12. Board of examiners of psychologists.

The legislative rule filed in the state register on the eighteenth day of June, two thousand three, authorized under the authority of section six, article twenty-one, chapter thirty of this code, modified by the board of examiners of psychologists to meet the objections of the legislative rule-making review committee and refiled in
the state register on the eighth day of August, two thousand three, relating to the board of examiners of psychologists (fees, 17 CSR 1), is authorized.


The legislative rule filed in the state register on the twenty-first day of November, two thousand three, authorized under the authority of section three, article seventeen-a, chapter seventeen-c of this code, modified by the public service commission 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 public service commission (transportation of coal by commercial motor vehicles, 150 CSR 27), is authorized.


The legislative rule filed in the state register on the thirteenth day of June, two thousand three, authorized under the authority of section fifteen, article eight, chapter five-a of this code, relating to the records management and preservation board (general management and preservation of county records, 100 CSR 2), is authorized with the following amendment:

On page seven, section five, subsection 5.2, line 1, by striking the word “shall” and inserting the word “may”.


The legislative rule filed in the state register on the first day of August, two thousand three, authorized under the authority of section six, article one, chapter twenty-four-e of this code, modified by the statewide addressing and mapping board 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 statewide addressing and mapping board (addressing and mapping standards and participa-
tion by public agencies in statewide addressing and mapping projects, 169 CSR 2), is authorized.
Enr. Com. Sub. for S. P. No. 399] 12

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

Chairman Senate Committee

Greg Butcher
Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell Hobbs
Clerk of the Senate

Rusty B. Slaudens
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Speaker House of Delegates

The within...is approved...this the...5th
Day of April.................., 2004.

Bob Wise
Governor