WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED
Committee Substitute for
SENATE BILL NO. 299

(By Senator Minard, et al.)

PASSED March 11, 2006

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 299

(SENATORS MINARD, FANNING, PREZIOSO, UNGER, BOLEY AND MINEAR, original sponsors)

[Passed March 11, 2006; in effect from passage.]

AN ACT to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, 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
with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Department of Agriculture to promulgate a legislative rule relating to certified pesticide applicators; authorizing the Department of Agriculture to promulgate a legislative rule relating to integrated pest management programs in schools and day care centers/facilities; authorizing the Department of Agriculture to promulgate a legislative rule relating to voluntary farmland protection program; authorizing the State Auditor to promulgate a legislative rule relating to state purchasing card program; authorizing the Board of Dental Examiners to promulgate a legislative rule relating to fees; authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the dental advertising; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to motor vehicle stop data collection standard for study of racial profiling; authorizing the Board of Examiners for Licensed Practical Nurses to promulgate a rule relating to policies regulating licensure of the licensed practical nurse; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to administrative rule of the Board of Occupational Therapy and licensure of occupational therapists and occupational therapy assistants; authorizing the Board of Optometry to promulgate a legislative rule relating to rules for the West Virginia Board of Optometry; authorizing the Board of Optometry to promulgate a legislative rule relating to schedule of fees; authorizing the Board of Osteopathy to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to ephedrine and pseudoephedrine control; authorizing the Board of Examiners of Psychologists to promulgate a legislative rule relating to qualifications for licensure as a psychologist or a school psychologist; authorizing the
Radiologic Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Radiologic Technology Board of Examiners to promulgate a legislative rule relating to standards of ethics; authorizing the Real Estate Appraiser Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real Estate Appraiser Board to promulgate a legislative rule relating to renewal of licensure and certification; authorizing the Secretary of State to promulgate a legislative rule relating to loan program for purchase of voting equipment, software and services; authorizing the Secretary of State to promulgate a legislative rule relating to public testing of ballot-marking voting systems and precinct ballot-scanning devices; authorizing the Secretary of State to promulgate a legislative rule relating to use of digital signatures, state certificate authority and state repository; authorizing the Statewide Addressing and Mapping Board to promulgate a legislative rule relating to final distribution and use of the statewide addressing and mapping fund; authorizing the Statewide Addressing and Mapping Board to promulgate a legislative rule relating to standard fees for planimetric elevation data; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization and operation; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to certified animal euthanasia technicians; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to a schedule of fees.

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.

Enr. Com. Sub. for S. B. No. 299

(a) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand five, authorized under the authority of section two, article nine, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-third day of December, two thousand five, relating to the Department of Agriculture (animal disease control, 61 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section four, article sixteen-a, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixteenth day of December, two thousand five, relating to the Department of Agriculture (certified pesticide applicators, 61 CSR 12A), is authorized.

(c) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section four, article sixteen-a, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixteenth day of December, two thousand five, relating to the Department of Agriculture (integrated pest management programs in schools and day care centers/facilities, 61 CSR 12J), is authorized.

(d) The legislative rule filed in the State Register on the twenty-second day of December, two thousand five, authorized under the authority of section twenty, article twelve, chapter eight-a of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the thirteenth day of January, two
[Enr. Com. Sub. for S. B. No. 299]


1 The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section ten-a, 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-first day of December, two thousand five, relating to the Auditor (state Purchasing Card Program, 155 CSR 7), is authorized.


1 The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section four, article twenty-one-a, chapter nineteen of this code, modified by the State Conservation Committee 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 six, relating to the State Conservation Committee (State Conservation Committee, 63 CSR 1), is authorized.

§64-9-4. Board of Dental Examiners.

1 (a) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand five, authorized under the authority of section six, article four, chapter thirty of this code, relating to the Board of Dental Examiners (fees established by the board, 5 CSR 3), is authorized.

7 (b) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand five, authorized under the authority of section six, article four, chapter
Enr. Com. Sub. for S. B. No. 299] 6

10 thirty of this code, modified by the Board of Dental
11 Examiners to meet the objections of the Legislative Rule-
12 Making Review Committee and refiled in the State Regis-
13 ter on the sixth day of January, two thousand six, relating
14 to the Board of Dental Examiners (dental advertising, 5
15 CSR 8), is authorized.

§64-9-5. Governor's Committee on Crime, Delinquency and
Correction.

1 The legislative rule filed in the State Register on the
2 twenty-third day of November, two thousand four,
3 authorized under the authority of section three, article
4 two, chapter seventeen-g of this code, modified by the
5 Governor's Committee on Crime, Delinquency and Correc-
6 tion to meet the objections of the Legislative Rule-Making
7 Review Committee and refiled in the State Register on the
8 thirteenth day of January, two thousand six, relating to
9 the Governor's Committee on Crime, Delinquency and
10 Correction (motor vehicles stop data collection standards
11 for the study of racial profiling, 149 CSR 5), is authorized
12 with the following amendment:

TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME,
DELINQUENCY AND CORRECTION
SERIES 5
MOTOR VEHICLE STOP DATA COLLECTION
STANDARDS FOR THE STUDY OF RACIAL PROFILING

§149-5-1. General.

1 1.1. Scope. – This legislative rule establishes standards
2 for the collection, reporting, compilation and analysis of
3 data, for the purpose of studying the possible practice of
4 racial profiling by law enforcement in West Virginia.


6 1.3. Filing Date. –
1.4. Effective Date.

§149-5-2. Definitions.

2.1. "Chief executive" means the Superintendent of the State Police; the Chief Conservation Officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the Chief Conservation Officer of Natural Resources; the chief of any West Virginia municipal law-enforcement agency; or the duly authorized designee of any chief executive.

2.2. "Composition of patrol area" means the demographic description of the population in the patrol area to include elements of ethnicity, national origin, gender and age.

2.3. "County" means any one of the fifty-five major political subdivisions of the state.

2.4. "Driver" or "operator" means the person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

2.5. "Governor's Committee on Crime, Delinquency and Correction" or "Governor's committee" means the committee established as a state planning agency pursuant to W. Va. Code §15-9-1.

2.6. "Gross data" means aggregate data regarding the information obtained pursuant to section 3 of this rule.

2.7. "Law-enforcement agency" means every West Virginia state, county or municipal agency with officers who are authorized to direct or regulate traffic or to make arrests or issue citations or warnings for violations of traffic laws and ordinances.

2.8. "Law-enforcement officer" or "officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent
and detect crime, make arrests and enforce the laws of the
state or any county or municipality of the state, including
persons employed as campus police officers at state
institutions of higher education and those persons em-
ployed as rangers by the Hatfield-McCoy Regional Recre-
ation Authority.

2.9. "Minority group" means individuals of any ethnic
descent, including, but not limited to, African-American,
Hispanic, Native American, Middle Eastern, Asian or
Pacific Islander.

2.10. "Municipality" means any incorporated town,
village or city whose boundaries lie within the geographic
boundaries of the state.

2.11. "Originating Agency Identifier, or ORI Number"
means the standard identification number assigned by the
Federal Bureau of Investigation to law-enforcement and
other agencies that submit data required for criminal
justice purposes.

2.12. "Patrol area" means a clearly defined geographic
area, identified by a number assigned by the chief law-
enforcement official, that is established for the general
purpose of providing a visible law-enforcement presence
in the area, in order to: (1) Secure property and to protect
the public from the risks of damage or injury arising from
criminal activity; (2) respond to emergency and non-
emergency demands of citizens in a timely manner; (3)
conduct prevention and other proactive patrol tasks
effectively; and (4) conduct all other patrol tasks effec-
tively, including traffic control and special missions work.

2.13. "West Virginia Motor Vehicle Stop Form", or
"MVSF", means the form developed by the Division of
Motor Vehicles for collecting and reporting data for the
study of racial profiling.

§149-5-3. Data collection.
3.1. Operator Information Collected.

3.1.a. Beginning January 1, 2007, each time a law-enforcement officer stops the operator of a motor vehicle for a violation of any motor vehicle statute or ordinance, the officer shall record, on the West Virginia Motor Vehicle Stop Form appended to this rule, the information required to be collected pursuant to subsection 5 of this section. The officer may complete the Motor Vehicle Stop Form during or immediately after the stop, but must file the completed form with his or her law-enforcement agency before the officer goes off duty.

3.1.b. A law-enforcement officer is required to record the information required to be collected pursuant to subsection 5 of this section only when the operator has been stopped for violating a motor vehicle statute or ordinance. A law-enforcement officer is not required to record such information as a result of a nonviolation stop, even if the initial nonviolation stop results in a citation or arrest.

3.2. Passenger Information Collected.

3.2.a. Beginning January 1, 2007, each time a law-enforcement officer stops the operator of a motor vehicle for a violation of any motor vehicle statute or ordinance, and as a result, conducts a search of a passenger in the vehicle, the officer shall record, on the West Virginia Motor Vehicle Stop Form appended to this rule, the information required to be collected pursuant to subsection 5 of this section. The officer may complete the Motor Vehicle Stop Form during or immediately after the stop, but shall file the completed form with his or her law-enforcement agency before the officer goes off duty.

3.2.b. A law-enforcement officer is required to record the information required to be collected pursuant to subsection 5 of this section with regard to a passenger who has been searched only when the operator of the vehicle has been stopped for violating a motor vehicle statute or
A law-enforcement officer is not required to record such information as a result of a nonviolation stop, even if the initial nonviolation stop results in a citation or arrest.

3.3. West Virginia Motor Vehicle Stop Form (MVSF). - The MVSF shall allow for the recording of all of the information required to be collected by subsection 4 of this section and at a minimum be developed in hard copy format; however, nothing in this rule prohibits a law-enforcement agency from completing and/or submitting the information required to be collected in an electronic format, if a protocol for electronic filing is developed by the Division of Motor Vehicles. This form shall:

3.4. MVSF Components. - The MVSF shall allow a law-enforcement officer to collect and record the following information.

3.4.a. A unique identifier (i.e. numeric, alphanumeric, barcode, etc.) which will distinguish one from all others.

3.4.b. The law-enforcement agency's complete Originating Agency Identifier (ORI number), or an abbreviated version of that identifier singularly unique to that particular law-enforcement agency.

3.4.c. The identity of each individual law-enforcement officer within his or her law-enforcement agency. The chief executive of the law-enforcement agency shall assign a unique four (4) digit identifier to each law-enforcement officer within his or her agency for this purpose.

3.4.d. The month, day and year of the stop.

3.4.e. The approximate hour and minute of the stop.

3.4.f. The approximate duration of the stop in hours and minutes.

3.4.i. The county in which the stop took place.
3.4.j. The location of stop by patrol area.

3.4.k. The traffic violation that was the primary reason for the stop to be indicated as follows:

3.4.k.1. Code violations:
   3.4.k.1.A. Red light/stop sign;
   3.4.k.1.B. Speeding (<10mph over);
   3.4.k.1.C. Speeding (>10mph over);
   3.4.k.1.D. Lane violation/failure to signal;

3.4.k.1.E. Other moving violation; or,

3.4.k.1.F. Other nonmoving violation.

3.4.k.2. Penal code violations:
   3.4.k.2.A. Nuisance/vice;
   3.4.k.2.B. Suspicious circumstances;
   3.4.k.2.C. Be on the lookout (BOLO)/wanted persons;

3.4.k.2.D. Property crime;

3.4.k.2.E. Violent crime; or,

3.4.k.2.F. Local ordinance.

3.4.l. Disposition. – One of the following dispositions of the stop:

3.4.l.1. Citation

3.4.l.2. Warning

3.4.l.3. No action

3.4.m. The perceived identifying characteristics of the operator stopped, including:

3.4.m.1. The age of the operator
3.4.m.2. Whether the operator was male or female.
3.4.m.3. Whether the operator was:
3.4.m.3.A. White (W);
3.4.m.3.B. Black/African American (B/AA);
3.4.m.3.C. Asian/Pacific Islander (A/PI);
3.4.m.3.D. Native American (NA);
3.4.m.3.E. Middle Eastern (ME); or,
3.4.m.3.F. Other (Oth).
3.4.m.4. Whether the operator was:
3.4.m.4.A. Hispanic/Latino (H/L); or,
3.4.m.4.B. Non-Hispanic/Latino (NH/L).
3.4.n. Whether a search was performed as a result of the stop and, if so:
3.4.n.1. The authority for the search to be indicated as follows:
3.4.n.1.A. Consent;
3.4.n.1.B. Reasonable Suspicion/Weapon;
3.4.n.1.C. Incident to Arrest;
3.4.n.1.D. Inventory;
3.4.n.1.E. Probable Cause;
3.4.n.1.F. Plain View;
3.4.n.1.G. Probation/Parole Waiver; and,
3.4.n.1.H. Other.
3.4.n.2. Whether the search involved:
3.4.n.2.A. Officer;
3.4.n.2.B. Canine Unit;
3.4.n.2.C. Portable Breath Analyzer;
3.4.n.2.D. Drug Test Kit;
3.4.n.2.E. Warrant Check; and,
3.4.n.2.F. Other.
3.4.n.3. The persons/items searched, to be indicated as:
3.4.n.3.A. Vehicle;
3.4.n.3.B. Driver;
3.4.n.3.C. Passenger(s);
3.4.n.3.D. Personal Effects; and,
3.4.n.3.E. No Search Conducted.
3.4.n.4. The type of any contraband discovered or seized as a result of the search, to be indicated as follows:
3.4.n.4.A. None;
3.4.n.4.B. Illegal Drugs;
3.4.n.4.C. Drug Paraphernalia;
3.4.n.4.D. Alcohol;
3.4.n.4.E. Firearm(s);
3.4.n.4.F. Other Weapon(s);
3.4.n.4.G. Currency;
3.4.n.4.H. Stolen Property; and,
3.4.n.4.I. Other.
3.4.n.5. If the search was of a passenger in the motor vehicle, the age, gender and perceived race and ethnicity of the passenger searched.
3.5. Instructions detailing how an individual law-enforcement officer should complete and submit the form may be included on the MVSF itself, or provided to law-enforcement agencies or officers as an attachment.

§149-5-4. Designation of patrol area.

4.1. Patrol area of stop. The chief executive of every law-enforcement agency in the state shall establish one or more "patrol areas" as defined in section 2.9A of this rule. The boundaries shall be easily recognizable to the law-enforcement officer and the designation of the patrol area shall be identified by up to a three digit number that shall be entered by the officer on the Motor Vehicle Stop Form. The boundaries and designations of patrol areas shall be provided to all officers under the control of the agency and forwarded to the Governor's Committee on Crime Delinquency and Correction for utilization in preparing the report to the legislature required by West Virginia Code.

4.2. Requirements for boundaries of patrol areas. The boundaries of the patrol areas shall be drawn to allow the determination of population demographics of the Patrol Area as a whole. Patrol areas may include whole or partial census tracts and whole census blocks. The maps provided to officers need not show this specific information, but only the boundaries of the patrol area using natural landmarks such as streets, streams, railroad tracks, or other boundaries as may be generally known to a community. Maps of patrol areas shall be forwarded to the Governor's committee for approval of conformance to this subsection.

4.3. County level law-enforcement agencies in counties with a population of 20,000 or fewer may designate the entire county as one patrol area. Law-enforcement agencies in cities or towns with a population of 5,000 or fewer may designate the entire city or town as one patrol area. Law-enforcement agencies with statewide jurisdi-
§149-5-5. Training.

The chief executive officer of an law-enforcement agency shall, prior to January 1, 2007, provide to each law-enforcement officer of his or her agency appropriate training on the proper completion of the Motor Vehicle Stop Form. All training shall be based on the instructions developed by the Division of Motor Vehicles pursuant to subsection 3 of this rule. Additional and or ongoing training may be required by the law-enforcement agency if improper reporting is identified.

§149-5-6. Data reporting.

6.1. Beginning January 1, 2007, each law-enforcement agency in this state shall submit completed MVSFs to the Division of Motor Vehicles, via United States Postal Service or by any other reputable mail delivery service, hand-delivery or by electronic means, if authorized by the Division of Motor Vehicles. MVSFs must be received by the Division of Motor Vehicles no later than close of business, normal operating hours, on the fifteenth (15th) day following the end of the reporting calendar month during which the information recorded on the form was collected.

6.2. All MVSFs shall be completed correctly, be free of dirt and debris and be submitted in usable condition for the purposes outlined in this rule. Incomplete or rejected MVSFs will be returned to the law-enforcement agency for completion, correction and resubmission.

6.3. In furtherance of his or her responsibility to ensure that the requirements of this section are met, the chief executive shall periodically audit and review MVSFs submitted by law-enforcement officers within his or her agency to ensure that the facts surrounding traffic stops are not being intentionally misrepresented.
§149-5-7. Receipt and retention of MVSF.

MVSF Receiving and Retaining. - The Division of Motor Vehicles shall establish a written policy designed to address the reasonably foreseeable complications which may arise as a result of receiving and retaining MVSFs submitted by a law-enforcement agency, whether in hard copy or electronic format. This policy may change, from time to time, and at the discretion of the Division of Motor Vehicles, as necessity dictates. This policy shall include, but not be limited to:

6.1. A mechanism for identifying the time, day, date and year the MVSF was received by the Division of Motor Vehicles;

6.2. A mechanism for maintaining accurate and easily accessible data regarding the reporting habits of individual law-enforcement agencies; and,

6.3. The identification of an appropriate and logistically feasible time period to retain MVSFs submitted in hard copy format; as well as any data stored electronically as a result of this rule.

§149-5-8. Data limitations and confidentiality.

7.1. Any and all data collected, reported, compiled and analyzed pursuant to this rule may be used only for the purposes outlined in this rule.

7.2. Except as provided for in section 8 of this rule, no official of the Division of Motor Vehicles, the Governor's committee or a law-enforcement agency may release information from an MVSF regarding the identity of any individual law-enforcement officer. The Governor's committee and the chief executive of a law-enforcement agency shall make appropriate safeguards to protect the

8.1. The chief executive of a law-enforcement agency may request from the Division of Motor Vehicles release of data regarding his or her law-enforcement agency and law-enforcement officers. The request must be in writing and must be received by the Division of Motor Vehicles no sooner than thirty (30) days after the end of the calendar month for which the data is being requested.

8.2. At a minimum, the data shall be organized in such a manner as to allow the chief executive to review the information collected from the MVSF by his or her particular agency and officers for a period of at least one calendar month.

§149-5-10. Division of Motor Vehicles responsibilities.

The Division of Motor Vehicles and the Governor's Committee on Crime, Delinquency and Correction have reduced to writing in a memorandum of understanding the duties required of the DMV pursuant to §17G-2-3. This memorandum contains the protocols by which the Division of Motor Vehicles will collect the data required and by which the data will be conveyed to the Governor's committee for analysis and preparation of its annual report.


The Governor's committee shall analyze and report its finding pursuant to West Virginia Code §17G-2-3. The Criminal Justice Statistical Analysis Center, a unit of the Governor's committee, shall use its discretion to determine the methodology necessary to meet the analytic reporting requirements of §17G-2-3 consistent with the data made available to it.

The legislative rule filed in the State Register on the fifth day of July, two thousand five, authorized under the authority of section five, article seven-a, chapter thirty of this code, modified by the State 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 first day of November, two thousand five, relating to the State Board of Examiners for Licensed Practical Nurses (policies regulating licensure of the licensed practical nurse, 10 CSR 2), is authorized, with the following amendments:

On page two, section 8, at the beginning of the second sentence in the section, by striking out the words “If the board participates” and inserting in lieu thereof the words “Should the board participate”; and,

On page three, subsection 11.2, in the second sentence, by striking out the words “marriage certificate or divorce decree” and inserting in lieu thereof the words “marriage certificate, divorce decree or an order of a court of competent jurisdiction”.


The legislative rule filed in the State Register on the twenty-seventh day of June, two thousand five, authorized under the authority of section six, article twenty-eight, chapter thirty of this code, modified by the Board of Occupational Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-first day of November, two thousand five, relating to the Board of Occupational Therapy (administrative rule of the Board of Occupational Therapy and licensure of occupational therapists and occupational therapy assistants, 13 CSR 1), is authorized, with the following amendments:
On page two, subdivision 2.8.b, after the words "direct line of" by striking out the word "site" and inserting in lieu thereof the word "sight";

On page three, subsection 3.4, by striking out the words "one hundred dollars ($100.00)" and inserting in lieu thereof the words "fifty dollars ($50.00)";

On page six, subsection 9.2.a.1, by striking out the words "for ninety (90) days from date of issuance of the limited permit" and inserting in lieu thereof the words "until the date on which the results of the next qualifying examination have been made public";

On page six, subsection 9.2.b.1, by striking out the words "for ninety (90) days from the date of issuance of the limited permit" and inserting in lieu thereof the words "one (1) year or until eligibility to sit for the certification exam is withdrawn or the results of the certification exam have been made public"; and,

On page twelve, subsection 13.3, after the words "licensed Occupational Therapist supervising" by striking out the word "and" and inserting in lieu thereof the word "an".

§64-9-8. Board of Optometry.

(a) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section three, article eight, chapter thirty of this code, relating to the Board of Optometry (rules for the West Virginia Board of Optometry, 14 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section three, article eight, chapter thirty of this code, relating to the Board of Optometry (schedule of fees, 14 CSR 5), is authorized.

The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section one, article fourteen-a, 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-third day of January, two thousand six, relating to the Board of Osteopathy (osteopathic physician assistants, 24 CSR 2), is authorized with the following amendments:

On page four, subdivision 2.6.1, by striking the words "three (3) physician assistants" and inserting in lieu thereof the following "two (2) physician assistants";

On page eleven, subdivision 2.12.8., line one, after the word "assistant", by inserting the word "not";

On page sixteen, subdivision 2.14.1, by striking the subdivision in its entirety and inserting in lieu thereof the following:

"2.14.1 Each osteopathic physician assistant, as a condition of biennial renewal of osteopathic physician assistant license, shall provide written documentation of participation in and successful completion of a minimum of twenty (20) hours of continuing education, during each year of the two year period, in courses approved by the Board for the purposes of continuing education of osteopathic physician assistants."

§64-9-10. Board of Pharmacy.

The legislative rule filed in the State Register on the seventh day of July, two thousand five, authorized under the authority of sections six and seven, article ten, chapter sixty-a 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 eleventh day of October, two thousand five, relating to the

The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand five, 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 fourth day of January, two thousand six, relating to the Board of Examiners of Psychologists (qualifications for licensure as a psychologist or a school psychologist, 17 CSR 3), is authorized, with the following amendments:

On page one, subsection 2.2., by striking out the word "institute" and inserting in lieu thereof the word "institution";

On page five, subsection 8.4., after the word "as" by striking out the word "a";

On page seven, paragraph 12.1.d., by striking out "@" and inserting in lieu thereof a quotation mark;

And,

On page seven, section 12.7., by striking out the word "loner" and inserting in lieu thereof the word "longer".

§64-9-12. Radiologic Technology Board of Examiners.

(a) The legislative rule filed in the State Register on the twenty-first day of July, two thousand five, authorized under the authority of section five, article twenty-three, chapter thirty of this code, relating to the Radiologic Technology Board of Examiners (rule of the West Virginia Radiologic Technology Board of Examiners, 18 CSR 1), is authorized.
(b) The legislative rule filed in the State Register on the twenty-eighth day of July, two thousand five, authorized under the authority of section five, article twenty-three, chapter thirty of this code, modified by the Radiologic Technology Board of Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-eighth day of December, two thousand five, relating to the Radiologic Technology Board of Examiners (standard of ethics, 18 CSR 5), is authorized, with the following amendments:

On page two, at the end of section 4.1, after the words "comfort of patients." by inserting the words "The individual shall:"

On page two, subsection 4.1.1, by striking the words "The individual shall"

On page two, subsection 4.1.1, after the words "in a professional manner," by striking the word "responds" and inserting in lieu thereof the word "respond"

On page two, subsection 4.1.1, after the words "to patient needs and" by striking the word "supports" and inserting in lieu thereof the word "support"

On page two, subsection 4.1.4, after the words "theoretical knowledge and concepts," by striking out the word "uses" and inserting in lieu thereof the word "use"

On page two, subsection 4.1.4, after the words "they were designed, and" by striking out the word "employs" and inserting in lieu thereof the word "employ"

On page two, subsection 4.1.5, after the words "assess situations;" by striking out the word "exercises" and inserting in lieu thereof the word "exercise"

On page two, subsection 4.1.5, after the words "discretion and judgment;" by striking out the word "assumes" and inserting in lieu thereof the word "assume"
On page two, subsection 4.1.5, after the words "professional decisions; and" by striking out the word "acts" and inserting in lieu thereof the word "act";

On page two, subsection 4.1.6, after the words "treatment of the patient and" by striking out the word "recognizes" and inserting in lieu thereof the word "recognize";

On page two, subsection 4.1.7, by striking out the first word "uses" and inserting in lieu thereof the word "use";

On page two, subsection 4.1.7, after the words "equipment and accessories," by striking out the word "employs" and inserting in lieu thereof the word "employ";

On page two, subsection 4.1.7, after the words "techniques and procedures," by striking out the word "performs" and inserting in lieu thereof the word "perform";

On page two, subsection 4.1.7, after the words "standard of practice, and" by striking out the word "demonstrates" and inserting in lieu thereof the word "demonstrate";

On page two, subsection 4.1.8, after the words "appropriate to the profession and" by striking out the word "protects" and inserting in lieu thereof the word "protect";

On page two, subsection 4.1.9, after the words "course of professional practice," by striking out the word "respects" and inserting in lieu thereof the word "respect";

On page three, section 5.1, after the words "for all present Licensees," by striking out the word "Permittee"s" and inserting in lieu thereof the word "Permittees";

On page three, at the end of section 5.1, after the words "An individual" by striking out the word "shall" and inserting in lieu thereof the word "may";

On page three, subdivision 5.1.2(a), after the words "examination of the Board," and before the words "disclosing information" by striking out the word "or";
On page three, subdivision 5.1.2(a), after the words "understood by the recipient as" by striking out the comma and the words "any portion of or";

On page four, subdivision 5.1.2(c), after the word "impersonating" by striking out the word "a" and inserting in lieu thereof the word "an";

On page four, subdivision 5.1.5(a), after the words "rule or regulation exists," by inserting the words "a departure from or failure to conform";

On page four, subdivision 5.1.5(b), after the words "danger to a" by striking out the word "patient's" and inserting in lieu thereof the word "patient's";

On page five, subsection 5.1.7, after the words "reasonable skill and safety" by striking out the words "to patients";

On page five, subsection 5.1.7, after the words "any other material" by striking out the semicolon inserting in lieu thereof a comma;

On page five, subsection 5.1.9, after the words "harm the public; or" by striking out the word "demonstrating" and inserting in lieu thereof the word "demonstrate";

On page five, subsection 5.1.10, after the words "meaning to a patient" by striking out the semicolon and inserting in lieu thereof a comma;

On page five, subsection 5.1.10, after the words "to a patient, or" by striking out the word "engaging" and inserting in lieu thereof the word "engage";

On page five, in the last sentence of subsection 5.1.10 after the word "This" by inserting the word "subsection";

On page five, subsection 5.1.12, after the words "or otherwise" by striking out the word "participating" and inserting in lieu thereof the word "participate";
On page five, subsection 5.1.14, after the words "assist, advise or" by striking out the word "allowing" and inserting in lieu thereof the word "allow";

On page five, subsection 5.1.14, after the words "appropriate state permit" by striking out the comma;

On page six, section 5.2, by striking the words "Convictions, criminal proceedings or military court-martials." and inserting in lieu thereof the words "An individual must report convictions, criminal proceedings or military court-martials as set forth in this section:"

On page six, subsection 5.2.1, after the words "abuse related violations" by striking out the words "must be reported";

On page six, subsection 5.2.2, after the words "nolo contendere" by striking out the words "must be reported";

and,

On page six, subsection 5.2.3, after the words "patient-related infractions" by striking out the words "must be reported".


(a) The legislative rule filed in the State Register on the eleventh day of July, two thousand five, authorized under the authority of section seven, article thirty-eight, chapter thirty of this code, modified by the Real Estate Appraiser Licensure and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the eighteenth day of January, two thousand six, relating to the Real Estate Appraiser Licensure and Certification Board (requirements for licensure and certification, 190 CSR 2), is authorized.

(b) The legislative rule filed in the State Register on the eleventh day of July, two thousand five, authorized under
the authority of section nine, article thirty-eight, chapter
thirty of this code, relating to the Real Estate Appraiser
Licensure and Certification Board (renewal of licensure
and certification, 190 CSR 3), is authorized.

§64-9-14. Secretary of State.

(a) The legislative rule filed in the State Register on the
twenty-ninth day of July, two thousand five, authorized
under the authority of section forty-eight, article one,
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 Regis-
ter on the tenth day of January, two thousand six, relating
to the Secretary of State (loan program for purchase of
voting equipment, software and services, 153 CSR 10), is
authorized, with the following amendments:

On page one, subsection 1.1., line one, after the words
“administration of the”, by inserting the words “County
Assistance Voting Equipment Fund (‘Fund’)”;

On page one, subsection 1.1., by striking out the words
“S. B. 3002” and inserting in lieu thereof the words “W.
Va. Code §3-1-48”;

On page one, section 2., by striking out the words
“County commissions” and inserting in lieu thereof the
words “A county commission”;

On page one, section 2., after the word “loan”, by
inserting the words “from the Fund”;

On page one, section 2., after the words “related ser-
vices”, by inserting a comma;

On page one, subsection 3.1., after the words “requesting
a loan”, by striking out the comma and inserting the words
“from the Fund”;

On page one, subdivision 3.2.a., by striking out the word
“County” and inserting in lieu thereof the word “county”;
On page one, subdivision 3.2.c., after the word "funds", by inserting a comma;

On page two, section 4.1, by striking out the words "County commissions" and inserting in lieu thereof the words "A county commission";

On page two, section 4.1, after the words "obtain a loan", by inserting the words "from the Fund";

On page two, subsection 4.2., after the words "fifty percent" by inserting "(50%)";

On page two, subsection 4.2., by striking out the words "required by the county commission";

On page two, subsection 4.2., after the words "Commission that" by striking out the word "it" and inserting in lieu thereof the words "the county commission";

On page two, section 4.3, by striking out the words "County commissions" and inserting in lieu thereof the words "A county commission";

On page two, section 5., by striking out the word "only";

On page two, section 5., after the words "approved by the State Election Commission", by inserting the word "only";

On page two, section 5., after the word "services", by inserting the words "and only";

On page two, section 5., after the words "if certified", by inserting a comma and the words "when necessary,";

On page two, section 5., by striking out the words "if applicable";

On page two, section 6., by striking out the word "contracted" and inserting in lieu thereof the word "contract";
On page three, section 6., after the word "county", by inserting a period, striking out the words "and the" and inserting in lieu thereof the word "The";

On page three, subsection 7.1., after the words "forty-five days", by striking out the words "of receipt";

On page three, subsection 7.1., after the words "a denial", by striking out the words "shall have" and inserting in lieu thereof the word "has";

On page three, subsection 7.2., after the word "loan" by striking out the colon and the words "Provided that" and inserting in lieu thereof the word "if";

On page three, subsection 7.3., by striking out the words "a period not to exceed five years or";

On page three, subsection 7.3., after the words "length of the contract", by inserting a comma and the words "not to exceed five years";

On page three, subsection 7.3., after the word "services", by inserting a period and striking out the remainder of the sentence;

On page three, subsection 7.4., after the words "basis for", by striking out the word "repayment";

On page three, subsection 7.4., after the word "allow", by inserting the word "a";

On page three, subsection 7.4., by striking out the words "continuation for a period of" and inserting in lieu thereof the words "to continue for";

On page three, subsection 7.4., by striking out the word "total";

On page three, section 8., after the words "one request" by striking out the comma and the words "will be" and inserting in lieu thereof the word "is";
On page three, section 8., after the words "time of the request" by changing the comma to a period, striking out the word "the" and inserting in lieu thereof the word "The";

On page three, section 8., line five, after the words "presidential election", by changing the colon to a period and by striking out the remainder of the section;

On page three, section 9., after the words "The loan", by striking out the word "shall" and inserting in lieu thereof the word "may";

On page three, section 9., after the words "apply for", by striking out the words "matching funds" and inserting in lieu thereof the words "a loan";

On page four, section 10., after the words "voting system" by striking out the comma and the words "shall be" and inserting in lieu thereof the word "is";

On page four, section 10., after the words "loan proceeds", by striking out the comma and the words "that will be available to such counties under this loan program according to section 8 of this rule" and inserting in lieu thereof the words "available to any such county";

On page four, subsection 11.3., by placing quotation marks around the words "Nonpayment of the loan installments" and by striking out the words "shall mean" and inserting in lieu thereof the word "means";

On page four, subsection 11.4., by striking out the word "Any" inserting in lieu thereof the word "The Secretary of State will cease any";

On page four, subsection 11.4., after the words "legal action", by striking out the words "will cease"; and,

On page four, subsection 11.4., by striking out the words "shall be" and inserting in lieu thereof the word "is".
(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of sections nine-a and nine-b, article four-a, 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 tenth day of January, two thousand six, relating to the Secretary of State (public testing of ballot-marking voting systems and precinct ballot-scanning devices, 153 CSR 11), is authorized, with the following amendments:

On page one, subsection 1.1., after the words "ballot scanning", by striking out the words "the approval and use of various types of vote recording devices" and inserting in lieu thereof the word "systems";

On page one, subdivision 2.1.a., after the words "system ballot", by striking out the comma;

On page one, section 3., by striking out the word "will" and inserting in lieu thereof the word "shall"; and,

On page one, subsection 5.1., by striking out the word "annually" and inserting in lieu thereof the words "every two years".

(c) The legislative rule filed in the State Register on the twenty-first day of June, two thousand five, authorized under the authority of section three, article three, chapter thirty-nine-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 tenth day of January, two thousand six, relating to the Secretary of State (use of digital signatures, state certificate authority and state repository, 153 CSR 30), is authorized.


(a) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized
under the authority of section five, 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 seventeenth day of October, two thousand five, relating to the Statewide Addressing and Mapping Board (final distribution and use of the statewide addressing and mapping fund, 169 CSR 3), is authorized, with the following amendment:

On page two, subsection 2.1, following the words “in the fund” and the comma by striking the words “in the same proportions and manner as wireless enhanced 911 fees are distributed to county commissions under W.Va. Code §24-6-6b for the year in which the remaining amounts from the fund are distributed” and inserting the words “according to the formula contained in W.Va. Code §24-6-6b(d)(1):

\[\text{Provided, That the provisions of } \text{§24-6-6b(d)(1)} \text{ by which a county may receive a special eight and one half tenths of one percent because of the date upon which it enacted its 911 ordinance are not applicable to the apportionment of funds transferred pursuant to this rule}.\]

(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section nine, 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 eleventh day of October, two thousand five, relating to the Statewide Addressing and Mapping Board (standard fees for planimetric elevation data, 169 CSR 4), is authorized, with the following amendments:

On page three, subdivision 2.2.a., following the word “Fund” and the period, by striking out the remainder of subdivision 2.2.a.; and,
§64-9-16. Board of Veterinary Medicine.

(a) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, 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 seventh day of October, two thousand five, relating to the Board of Veterinary Medicine (organization and operation, 26 CSR 1), is authorized, with the following amendments:

On page ten, subsection 9.4, by striking out the underlined words "or any authorized reporting agent";

On page eleven, subsection 9.5, by striking out the word "investigation" and striking out the underlined words "legal fees"; and,

On page eleven, subsection 9.5, by striking out the words "to the veterinarian who was the subject of disciplinary action" and inserting in lieu thereof the words "to a veterinarian against whom disciplinary action was taken.".

(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section nine, article ten-a, 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 seventh day of October, two thousand five, relating to the Board of Veterinary Medicine (certified animal euthanasia technicians, 26 CSR 5), is authorized.
(c) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section four, article ten, chapter thirty of this code, 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... approved... this the...

Day of... April... 2006.

Governor