

HB 2567

FILED

2009 APR 24 PM 1:51

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 2567

(By Delegates Miley, Webster, Ellem, Hamilton,  
Mahan, Shook and Varner)



Passed April 10, 2009

In Effect Ninety Days from Passage

**E N R O L L E D**

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**H. B. 2567**

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(BY DELEGATES MILEY, WEBSTER, ELLEM, HAMILTON,  
MAHAN, SHOOK AND VARNER)

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[Passed April 10, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §29A-2-6 of the Code of West Virginia, 1931, as amended, relating to filing agency rules with the secretary of state under the administrative procedures act; requiring all rules to be filed with the secretary of state electronically beginning July 1, 2011; allowing for exemptions to the requirement; requiring legislative rules to implement the provisions of the requirement; and authorizing a voluntary pilot program to electronic filing of proposed rules.

*Be it enacted by the Legislature of West Virginia:*

That §29A-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. STATE REGISTER.**

12:1 §29A-2-6. **Format and numbering of agency rules filed in state register; electronic filing required beginning July 1, 2011; pilot project.**

304  
1 (a) Each proposed rule filed by an agency requiring a  
2 notice to be published in the state register in accordance with  
3 the provisions of section five, article three of this chapter  
4 shall include as its initial provisions: (1) A statement  
5 identifying such rule as a legislative rule, an interpretive rule  
6 or a procedural rule, as the case may be; (2) a statement of  
7 such section, article and chapter of this code to which such  
8 rule or any part thereof relates; and (3) a statement of the  
9 section, article and chapter of this code or any other provision  
10 of law which provides authority for the promulgation of such  
11 rule. The agency shall be stopped from relying on any  
12 authority for the promulgation of such rule which is not  
13 stated therein in accordance with the requirements of this  
14 subdivision.

15 (b) Each rule when filed, to be finally effective, shall  
16 have attached thereto an abstract of its promulgation history  
17 prepared by the agency showing the date of the filing in the  
18 state register of the content of, or notice of any procedure  
19 relating to, action necessary under this chapter to cause such  
20 rules to be finally effective: *Provided*, That any error or  
21 omission in such abstract shall not affect the validity of any  
22 rule or action in respect thereto.

23 (c) The secretary of state shall prescribe by legislative  
24 rule a standard size, format, numbering and indexing for rules  
25 to be filed in the state register, and may prescribe procedural  
26 or interpretive rules to clarify and interpret the provisions in  
27 this section. The secretary of state shall refuse to accept for  
28 filing any rules which do not comply with the specific  
29 provisions of this section. The Secretary of State may also  
30 refuse to accept any rules which do not comply with the rules  
31 issued pursuant to this section.

32 (d) Unless and until the secretary of state prescribes  
33 otherwise by rule issued and made effective under the  
34 provisions of subsection (c) of this section, each rule filed in  
35 paper form in the state register shall be on white paper  
36 measuring eight and one-half inches by eleven inches,  
37 typewritten and single-spaced, with a one inch margin at the  
38 top, bottom and each side of each page, and shall be  
39 reproduced photographically, or by xerography or other  
40 duplication process. The secretary of state may grant specific  
41 exceptions to such requirements in the case of maps,  
42 diagrams and exhibits, if the same may not be conveniently  
43 folded and fastened with the other pages of rules and in the  
44 case of rules which incorporate a rule or regulation of a  
45 federal agency or other organization which could not be  
46 submitted in the standard size and format except at undue  
47 expense. Materials submitted for inclusion in the state  
48 register shall be fastened on the left side by two or more  
49 fasteners attached through holes suitable for insertion into  
50 ring binders.

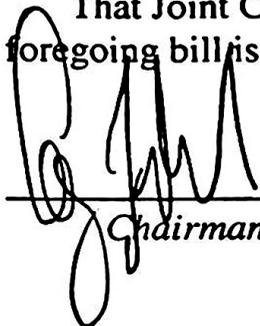
51 (e)(1) Beginning July 1, 2011, unless otherwise  
52 authorized by the secretary of state, all agencies, boards and  
53 commissions having rulemaking authority, shall file the  
54 provisions of and attachments to all proposed rules required  
55 to be filed with the secretary of state, and any associated  
56 documents that are required to be published in the state  
57 register, exclusively in a electronic format. The secretary of  
58 state may exempt an agency, board or commission from this  
59 requirement upon the secretary of state's determination that  
60 the filer is without the means to electronically file the  
61 documents and to require electronic filing would place an  
62 unreasonable burden on the agency, board or commission.

63 (2) On or before July 1, 2010, the secretary of state shall  
64 propose for promulgation legislative rules to establish a  
65 uniform system for the electronic filing required by the

66 provisions of this section and to otherwise implement those  
67 provisions.

68 (3) During the calendar year 2010, through procedural  
69 rules, the secretary of state may institute a limited pilot  
70 project through which proposed new rules or amendments to  
71 existing rules may be filed electronically by any agency,  
72 board or commission under agreement with the secretary of  
73 state. Participation by any agency, board or commission in  
74 the pilot project is voluntary.

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

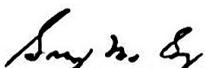
  
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Chairman Senate Committee

  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 24<sup>th</sup>  
day of April, 2009

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

APR 21 2009

Time 4:50 pm