

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2640

BY DELEGATE FOSTER

[Passed March 6, 2023; in effect from passage.]

1 AN ACT to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, all
2 relating generally to authorizing certain agencies of the Department of Environmental
3 Protection to promulgate legislative rules; authorizing the rules as filed and as modified by
4 the Legislative Rule-Making Review Committee and as amended by the Legislature;
5 authorizing the Department of Environmental Protection to promulgate a legislative rule
6 relating to standards of performance for new stationary sources; authorizing the
7 Department of Environmental Protection to promulgate a legislative rule relating to
8 requirements for operating permits; authorizing the Department of Environmental
9 Protection to promulgate a legislative rule relating to emission standards for hazardous air
10 pollutants; authorizing the Department of Environmental Protection to promulgate a
11 legislative rule relating to control of ozone season nitrogen oxides emissions; authorizing
12 the Department of Environmental Protection to promulgate a legislative rule relating to
13 quarrying and reclamation; authorizing the Department of Environmental Protection to
14 promulgate a legislative rule relating to the Recycling Assistance Grant Program;
15 authorizing the Department of Environmental Protection to promulgate a legislative rule
16 relating to the Reclamation of Abandoned and Dilapidated Properties Grant Program; and
17 authorizing the Secretary's Office of the Department of Environmental Protection to
18 promulgate a legislative rule relating to reclamation of solar and wind electricity generation
19 facilities.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENTAL
PROTECTION. TO PROMULGATE LEGISLATIVE RULES.**

§64-3-1. Department of Environmental Protection.

1 (a) The legislative rule filed in the State Register on July 21, 2022, authorized under the
2 authority of §22-5-4 of this code, relating to the Department of Environmental Protection
3 (standards of performance for new stationary sources, 45 CSR 16), is authorized.

4 (b) The legislative rule filed in the State Register on July 21, 2022, authorized under the
5 authority of §22-5-4 of this code, modified by the Department of Environmental Protection to meet
6 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
7 on December 20, 2022, relating to the Department of Environmental Protection (requirements for
8 operating permits, 45 CSR 30), is authorized with the amendment set forth below:

9 On page 39, subdivision 8.1.a.1, by striking the number “\$15,000” and inserting in lieu
10 thereof the number “\$5,000”.

11 (c) The legislative rule filed in the State Register on July 21, 2022, authorized under the
12 authority of §22-5-4 of this code, relating to the Department of Environmental Protection
13 (emission standards for hazardous air pollutants, 45 CSR 34), is authorized.

14 (d) The legislative rule filed in the State Register on July 21, 2022, authorized under the
15 authority of §22-5-4 of this code, modified by the Department of Environmental Protection to meet
16 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
17 on September 16, 2022, relating to the Department of Environmental Protection (control of ozone
18 season nitrogen oxides emissions, 45 CSR 40), is authorized.

19 (e) The legislative rule filed in the State Register on May 26, 2022, authorized under the
20 authority of §22-4-4 of this code, modified by the Department of Environmental Protection to meet
21 the objections of the Legislative Rule-Making Review Committee and refiled in the State Register
22 on October 6, 2022, relating to the Department of Environmental Protection (rules for quarrying
23 and reclamation, 38 CSR 03), is authorized.

24 (f) The legislative rule filed in the State Register on July 29, 2022, authorized under the
25 authority of §22-15A-19 of this code, relating to the Department of Environmental Protection
26 (recycling assistance grant program, 33 CSR 10), is authorized.

27 (g) The legislative rule filed in the State Register on July 29, 2022, authorized under the
28 authority of §22-15A-30 of this code, modified by the Department of Environmental Protection to
29 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State

30 Register on October 14, 2022, relating to the Department of Environmental Protection
31 (Reclamation of Abandoned and Dilapidated Properties Grant Program, 33 CSR 13), is authorized
32 with the following amendment:

33 On page 2, after subdivision 4.1.b., by inserting a new subdivision 4.1.c. to read as follows:

34 "4.1.c. This project shall give priority to structures near highly visible traffic areas, tourism
35 corridors, and/or common open space."

§64-3-2. Department of Environmental Protection – Secretary’s Office.

1 The legislative rule filed in the State Register on July 29, 2022, authorized under the
2 authority of §22-32-7 of this code, relating to the Department of Environmental Protection –
3 Secretary’s Office (reclamation of solar and wind electricity generating facilities, 60 CSR 11), is
4 authorized with the following amendments:

5 On page 5, subparagraph 4.1.d.iii after the word, ‘slabs” by inserting the words “to a
6 minimum depth of 36 inches below the surface”;

7 On page 5, subsection 4.4 after the word “receipt” by adding the following:

8 “The department shall only deny an alternative decommissioning agreement if they
9 determine that it will not result in the restoration of the property to a condition in which it can be
10 used towards the same or a similar use as its use prior to the onset of the alternative
11 decommissioning agreement.”;

12 And,

13 On page 7, by striking out subdivision 6.2.a and inserting in lieu thereof subdivision 6.2.a
14 to read as follows:

15 “6.2.a. Estimated costs of decommissioning and salvage value as submitted by the owner
16 in the decommissioning plan and in accordance with these rules with such costs estimated by the
17 department using current machinery production handbooks and publications or other documented
18 or substantiated cost estimates acceptable to the department.”

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor