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COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 112**

(By Senators Minard, Snyder, Prezioso, Unger, Boley and K.  
Facemyer)

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[Originating in the Committee on the Judiciary;  
reported February 22, 2011.]

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A BILL to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Administration; 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

1 legislative rules with various modifications presented to and  
2 recommended by the Legislative Rule-Making Review Committee  
3 and as amended by the Legislature; authorizing certain of the  
4 agencies to promulgate certain legislative rules in the form  
5 that the rules were filed in the State Register and as amended  
6 by the Legislature; authorizing the Department of  
7 Administration to promulgate a legislative rule relating to  
8 state-owned vehicles; authorizing the Consolidated Public  
9 Retirement Board to promulgate a legislative rule relating to  
10 general provisions; authorizing the Consolidated Public  
11 Retirement Board to promulgate a legislative rule relating to  
12 Teachers' Defined Contribution Retirement System; authorizing  
13 the Consolidated Public Retirement Board to promulgate a  
14 legislative rule relating to Public Employees Retirement  
15 System; authorizing the Consolidated Public Retirement Board  
16 to promulgate a legislative rule relating to refund,  
17 reinstatement, retroactive service, loan and employer error  
18 interest factors; authorizing the Consolidated Public  
19 Retirement Board to promulgate a legislative rule relating to  
20 the West Virginia State Police; and authorizing the Ethics  
21 Commission to promulgate a legislative rule relating to  
22 forms.

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

24 That article 2, chapter 64 of the Code of West Virginia, 1931,

1 as amended, be amended and reenacted to read as follows:

2 **ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO**  
3 **PROMULGATE LEGISLATIVE RULES.**

4 **§64-2-1. Department of Administration.**

5 The legislative rule filed in the state register on the  
6 twenty-sixth day of July, two thousand ten, authorized under the  
7 authority of section two, article one, chapter five-a of this code,  
8 modified by the Department of Administration to meet the objections  
9 of the Legislative Rule-Making Review Committee and refiled in the  
10 state register on the twenty-first day of January, two thousand  
11 eleven, relating to the Department of Administration (state owned  
12 vehicles, 148 CSR 3), is authorized with the following amendments:

13 On page one, subsection 1.1., by striking out all of  
14 subsection 1.1 and inserting in lieu thereof a new subsection 1.1  
15 to read as follows:

16 "1.1 Scope. - This Rule governs all state owned and leased  
17 vehicles and aircraft, including the minimal requirements for all  
18 state spending units that have a state vehicle and/or aircraft in  
19 their possession.";

20 On page four, section 4, by striking out all of section 4 and  
21 inserting in lieu thereof a new section four to read as follows:

22 **"§148-3-4. Titles to State owned or Long-Term Leased Vehicles**

23 Vehicles may be titled in the name of the spending unit. The  
24 Fleet Management Office will coordinate with spending units to

1 ensure standardized naming convention. For Model Years beginning  
2 with 2011, the Fleet Management Office will initiate the titling  
3 and registration process, digitize, and safeguard the original  
4 title. The original title documents for the Model Years prior to  
5 2011 will be provided to the Fleet Management Office for  
6 digitization and safekeeping. Spending units will be provided with  
7 web-enabled, secure access to and/or digitized copy of the title  
8 documents. Original titling documents will be returned to the  
9 spending unit within five (5) business days of a determination by  
10 the Department of Administration, Board of Risk and Insurance  
11 Management that the vehicle is no longer insurable; or the vehicle  
12 is scheduled for decommissioning activity by the spending unit.”;

13 On page four, subsection 5.1., by striking out all of  
14 subsection 5.1. and inserting in lieu thereof a new subsection 5.1.  
15 to read as follows:

16 “5.1. A vehicle lease may be terminated by the Fleet  
17 Management Office for failing to maintain the vehicle; vehicle  
18 abuse beyond the intended purpose of the vehicle; or becoming  
19 seriously delinquent (more than 90 days).”;

20 On pages four and five, subsection 5.4., by striking out all  
21 of subsection 5.4. and inserting in lieu thereof a new subsection  
22 5.4. to read as follows:

23 “5.4. All vehicles governed by this rule should meet minimum  
24 utilization criteria established by the Fleet Management Office.

1 Justification for each underutilized vehicle will be provided by  
2 the assigned Cabinet Secretary using the Fleet Management Office  
3 designated form. Utilization criteria will apply to each vehicle  
4 individually; consider periods of inactivity; specialized vehicle  
5 mission; cost effectiveness; minimum mileage requirements; and the  
6 current replacement methodology established by the Fleet Management  
7 Office. Minimum utilization criteria will be reviewed by the Fleet  
8 Management Office each fiscal year, provided to assigned cabinet  
9 secretary, and included in an annual report to the Executive and  
10 Legislative branches of State Government.”;

11 On page seven, after subdivision 8.8.6., by inserting a new  
12 subsection 8.9. to read as follows:

13 “8.9. Confidentially played vehicles may be excluded, at the  
14 discretion of the spending unit, from any automated fleet  
15 management program: *Provided*, That information necessary to  
16 accurately report the vehicle for asset management purposes, such  
17 as vehicle class, model year, drive type, in-service date, and  
18 odometer reading as well as vehicle commuting status for fringe  
19 benefit reporting purposes will be provided by the fifth working  
20 day of each month by the spending unit using the designated form to  
21 the Fleet Management Office.”;

22 On page nine, subsection 10.1., by striking out all of  
23 subsection 10.1. and inserting a new subsection 10.1. to read as  
24 follows:

1           "10.1. Any long-term vehicle lease must first be approved by  
2 the Fleet Management Office. Any vehicle purchase must first be  
3 reviewed by the Fleet Management Office.

4           Regardless of vehicle acquisition method, spending units  
5 should not increase their fleet size without prior notification to  
6 the Fleet Management Office. A designated form will be processed by  
7 the Fleet Management Office with response provided to spending unit  
8 within five (5) business days from receipt of the designated form  
9 by the Fleet Management Office.";

10           And,

11           On page eleven, subdivision 10.9.1., by striking out the first  
12 sentence and inserting in lieu thereof a new first sentence to read  
13 as follows:

14           "Accidents and damage to vehicles and aircraft must be  
15 reported to the Fleet Management Office and the Board of Risk and  
16 Insurance Management by the spending unit on the day of the  
17 accident if practical or the next business day if it is impractical  
18 to report the accident."

19           **§64-2-2. Consolidated Public Retirement Board.**

20           (a) The legislative rule filed in the state register on the  
21 twenty-second day of July, two thousand ten, authorized under the  
22 authority of section one, article ten-d, chapter five of this code,  
23 relating to the Consolidated Public Retirement Board (general  
24 provisions, 162 CSR 1), is authorized.

1 (b) The legislative rule filed in the state register on the  
2 twenty-second day of July, two thousand ten, authorized under the  
3 authority of section one, article ten-d, chapter five of this code,  
4 relating to the Consolidated Public Retirement Board (Teachers'  
5 Defined Contribution System, 162 CSR 3), is authorized.

6 (c) The legislative rule filed in the state register on the  
7 twenty-second day of July, two thousand ten, authorized under the  
8 authority of section one, article ten-d, chapter five of this code,  
9 relating to the Consolidated Public Retirement Board (Public  
10 Employees Retirement System, 162 CSR 5), is authorized with the  
11 following amendments:

12 On page two, subdivision 5.1.4., by striking out the word  
13 "5.1.2." and inserting in lieu thereof the word "5.1.3.";

14 And,

15 On page two, subdivision 5.1.5., by striking out the word  
16 "5.1.3." and inserting in lieu thereof the word "5.1.4.".

17 (d) The legislative rule filed in the state register on the  
18 twenty-second day of July, two thousand ten, authorized under the  
19 authority of section one, article ten-d, chapter five of this code,  
20 relating to the Consolidated Public Retirement Board (refund,  
21 reinstatement, retroactive service, loan and employer error  
22 interest factors, 162 CSR 7), is authorized with the following  
23 amendment:

24 On page five, subsection 4.2., by striking out all of

1 subsection 4.2. and inserting in lieu thereof a new subsection 4.2.  
2 to read as follows:

3 "4.2. West Virginia State Police Death, Disability and  
4 Retirement Fund. In the event a member of the West Virginia State  
5 Police Death, Disability and Retirement Funds requests and is  
6 determined to be eligible to restore retirement system service  
7 credit for periods of previously terminated employment, the member  
8 shall pay into the West Virginia State Police Retirement System as  
9 established in W. Va. Code §15-2A-1 et seq., any contributions  
10 which the member may have previously withdrawn from the West  
11 Virginia State Police Death, Disability and Retirement Fund at the  
12 termination of any prior periods of employment, plus reinstatement  
13 interest at the rate specified in W. Va. Code §15-2-37(b)."

14 (e) The legislative rule filed in the state register on the  
15 twenty-second day of July, two thousand ten, authorized under the  
16 authority of section one, article ten-d, chapter five of this code,  
17 relating to the Consolidated Public Retirement Board (West Virginia  
18 State Police, 162 CSR 9), is authorized.

19 **§64-2-3. Ethics Commission.**

20 The legislative rule filed in the state register on the  
21 twenty-fourth day of June, two thousand ten, authorized under the  
22 authority of section two, article two, chapter six-b of this code,  
23 modified by the Ethics Commission to meet the objections of the  
24 Legislative Rule-Making Review Committee and refiled in the state



1 register on the twentieth day of August, two thousand ten, relating  
2 to the Ethics Commission (forms, 158 CSR 20), is authorized.