

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 199

(By Senator Snyder)

[Originating in the Committee on
the Judiciary;
reported February 23, 2015.]

A BILL 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 miscellaneous agencies and boards; 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 as amended by the Legislature; 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 with various modifications; authorizing Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice for professional engineers; authorizing Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement

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training and certification standards; authorizing Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for registration and renewal of appraisal management companies; authorizing Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education and physician assistants; authorizing Enterprise Resource Planning Board to promulgate a legislative rule relating to the enterprise resource planning system user fee; authorizing Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapists and physical therapist assistants; authorizing Board of Osteopathic Medicine to promulgate a legislative rule relating to fees for services rendered by the board; authorizing Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists; authorizing Board of Pharmacy to promulgate a legislative rule relating to the registration of pharmacy technicians; authorizing Board of Pharmacy to promulgate a legislative rule relating to controlled substances monitoring; authorizing Board of Pharmacy to promulgate a legislative rule relating to licensure and the practice of pharmacy; authorizing Board of Dental Examiners to promulgate a legislative rule relating to formation and approval of professional limited liability companies; authorizing Board of Dental Examiners to promulgate a legislative rule relating to the board; authorizing Board of Dental Examiners to promulgate a legislative rule relating to dental recovery networks; authorizing Board of Dental Examiners to promulgate a legislative rule relating to the formation and approval of dental corporations and dental

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practice ownership; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to frozen desserts and imitation frozen desserts; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to fee structure for the Pesticide Control Act of 1990; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Plant Pest Act; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Spay Neuter Assistance Program; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to equine rescue facilities; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to the Rural Rehabilitation Loan Program; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to aquaculture importation; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to dangerous wild animals; authorizing Secretary of State to promulgate a legislative rule relating to the procedures for recount of election results; authorizing Secretary of State to promulgate a legislative rule relating to the standards and guidelines for electronic notarization; authorizing Secretary of State to promulgate a legislative rule relating to

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notaries public; authorizing Secretary of State to promulgate a legislative rule relating to a schedule of fees for notaries public; authorizing Family Protection Services Board to promulgate a legislative rule relating to perpetrator intervention programs licensure; authorizing Family Protection Services Board to promulgate a legislative rule relating to domestic violence program licensure standards; authorizing Family Protection Services Board to promulgate a legislative rule relating to the Monitored Parenting and Exchange Program certification; authorizing Family Protection Services Board to promulgate a legislative rule relating to the operation of the board; and authorizing Family Protection Services Board to promulgate a legislative rule relating to perpetrator intervention programs licensure for correctional institutions.

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 Registration for Professional Engineers.

1 The legislative rule filed in the State Register on March 27, 2014, authorized under the
2 authority of section nine, article thirteen, chapter thirty of this code, relating to the Board of
3 Registration for Professional Engineers (examination, licensure and practice for professional
4 engineers, 7 CSR 1), is not authorized.

5 **§64-9-2. Governor’s Committee on Crime, Delinquency and Correction.**

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1 The legislative rule filed in the State Register on September 9, 2014, authorized under the
2 authority of section two, article twenty-nine, chapter thirty of this code, modified by the Governor’s
3 Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-
4 making Review Committee and refiled in the State Register on October 29, 2014, relating to the
5 Governor’s Committee on Crime, Delinquency and Correction (law-enforcement training and
6 certification standards, 149 CSR 2), is authorized.

7 **§64-9-3. Real Estate Appraiser Licensing and Certification Board.**

8 The legislative rule filed in the State Register on August 1, 2014, authorized under the
9 authority of section seven, article thirty-eight, chapter thirty of this code, modified by the Real Estate
10 Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making
11 Review Committee and refiled in the State Register on December 23, 2014, relating to the Real
12 Estate Appraiser Licensing and Certification Board (requirements for registration and renewal of
13 appraisal management companies, 190 CSR 5), is authorized.

14 **§64-9-4. Board of Medicine.**

15 The legislative rule filed in the State Register on July 22, 2014, authorized under the
16 authority of section three, article three-e, chapter thirty of this code, modified by the Board of
17 Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in
18 the State Register on November 20, 2014, relating to the Board of Medicine (licensure, disciplinary
19 and complaint procedures, continuing education and physician assistants, 11 CSR 1B), is authorized.

20 **§64-9-5. Enterprise Resource Planning Board.**

21 The legislative rule filed in the State Register on June 26, 2014, authorized under the

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1 authority of section two, article six-d, chapter twelve of this code, relating to the Enterprise Resource
2 Planning Board (enterprise resource planning system user fee, 213 CSR 1), is authorized.

3 **§64-9-6. Board of Physical Therapy.**

4 The legislative rule filed in the State Register on May 9, 2014, authorized under the authority
5 of section six, article twenty, chapter thirty of this code, relating to the Board of Physical Therapy
6 (fees for physical therapists and physical therapist assistants, 16 CSR 4), is authorized.

7 **§64-9-7. Board of Osteopathic Medicine.**

8 (a) The legislative rule filed in the State Register on July 31, 2014, authorized under the
9 authority of section six, article one, chapter thirty of this code, relating to the Board of Osteopathic
10 Medicine (fees for services rendered by the board, 24 CSR 5), is authorized.

11 (b) The legislative rule filed in the State Register on July 31, 2014, authorized under the
12 authority of section three, article fourteen-a, chapter thirty of this code, modified by the Board of
13 Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and
14 refiled in the State Register on November 25, 2014, relating to the Board of Osteopathic Medicine
15 (osteopathic physician assistants, 24 CSR 2), is authorized.

16 **§64-9-8. Board of Pharmacy.**

17 (a) The legislative rule filed in the State Register on August 1, 2014, authorized under the
18 authority of section seven, article five, chapter thirty of this code, modified by the Board of
19 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
20 the State Register on January 8, 2015, relating to the Board of Pharmacy (immunizations
21 administered by pharmacists, 15 CSR 12), is authorized.

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1 (b) The legislative rule filed in the State Register on August 1, 2013, authorized under the
2 authority of section seven, article five, chapter thirty of this code, modified by the Board of
3 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
4 the State Register on January 8, 2015, relating to the Board of Pharmacy (registration of pharmacy
5 technicians, 15 CSR 7), is authorized with the amendment set forth below:

6 On page 11, subsection 5.3, by striking out the word “four” and inserting in lieu thereof the
7 word “six”.

8 (c) The legislative rule filed in the State Register on August 1, 2013, authorized under the
9 authority of section seven, article five, chapter thirty of this code, modified by the Board of
10 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
11 the State Register on January 8, 2015, relating to the Board of Pharmacy (controlled substances
12 monitoring, 15 CSR 8), is authorized.

13 (d) The legislative rule filed in the State Register on August 1, 2014, authorized under the
14 authority of section seven, article five, chapter thirty of this code, modified by the Board of
15 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
16 the State Register on January 8, 2015, relating to the Board of Pharmacy (licensure and the practice
17 of pharmacy, 15 CSR 1), is authorized.

18 **§64-9-9. Board of Dental Examiners.**

19 (a) The legislative rule filed in the State Register on July 25, 2014, authorized under the
20 authority of section one thousand three hundred four, article thirteen, chapter thirty-one-b of this
21 code, relating to the Board of Dental Examiners (formation and approval of professional limited

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1 liability companies, 5 CSR 2), is authorized.

2 (b) The legislative rule filed in the State Register on July 25, 2014, authorized under the
3 authority of section six, article four, chapter thirty of this code, modified by the Board of Dental
4 Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in
5 the State Register on December 17, 2014, relating to the Board of Dental Examiners (rule for the
6 West Virginia Board of Dental Examiners, 5 CSR 1), is authorized.

7 (c) The legislative rule filed in the State Register on July 25, 2014, authorized under the
8 authority of section six, article four, chapter thirty of this code, modified by the Board of Dental
9 Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in
10 the State Register on December 17, 2014, relating to the Board of Dental Examiners (dental recovery
11 networks, 5 CSR 15), is authorized.

12 (d) The legislative rule filed in the State Register on July 25, 2014, authorized under the
13 authority of section six, article four, chapter thirty of this code, relating to the Board of Dental
14 Examiners (formation and approval of dental corporations; and dental practice ownership, 5 CSR
15 6), is authorized.

16 **§64-9-10. Commissioner of Agriculture.**

17 (a) The legislative rule filed in the State Register on July 29, 2014, authorized under the
18 authority of section ten, article eleven-b, chapter nineteen of this code, modified by the
19 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
20 Committee and refiled in the State Register on October 30, 2014, relating to the Commissioner of
21 Agriculture (frozen desserts and imitation frozen desserts, 61 CSR 4B), is authorized.

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1 (b) The legislative rule filed in the State Register on August 1, 2014, authorized under the
2 authority of section two, article nine, chapter nineteen of this code, modified by the Commissioner
3 of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled
4 in the State Register on November 19, 2014, relating to the Commissioner of Agriculture (animal
5 disease control, 61 CSR 1), is authorized.

6 (c) The legislative rule filed in the State Register on August 1, 2014, authorized under the
7 authority of section three-a, article two-c, chapter nineteen of this code, modified by the
8 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
9 Committee and refiled in the State Register on November 19, 2014, relating to the Commissioner
10 of Agriculture (auctioneers, 61 CSR 11B), is authorized.

11 (d) The legislative rule filed in the State Register on July 29, 2014, authorized under the
12 authority of section four, article sixteen-a, chapter nineteen of this code, modified by the
13 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
14 Committee and refiled in the State Register on October 30, 2014, relating to the Commissioner of
15 Agriculture (fee structure for the Pesticide Control Act of 1990, 61 CSR 12), is authorized.

16 (e) The legislative rule filed in the State Register on August 1, 2014, authorized under the
17 authority of section three, article twelve, chapter nineteen of this code, modified by the
18 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
19 Committee and refiled in the State Register on October 30, 2014, relating to the Commissioner of
20 Agriculture (West Virginia Plant Pest Act, 61 CSR 14), is authorized.

21 (f) The legislative rule filed in the State Register on July 22, 2013, authorized under the

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1 authority of section three, article two-b, chapter nineteen of this code, relating to the Commissioner
2 of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

3 (g) The legislative rule filed in the State Register on August 1, 2014, authorized under the
4 authority of section three, article twenty-c, chapter nineteen of this code, modified by the
5 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
6 Committee and refiled in the State Register on November 19, 2014, relating to the Commissioner
7 of Agriculture (West Virginia Spay Neuter Assistance Program, 61 CSR 24), is authorized.

8 (h) The legislative rule filed in the State Register on August 1, 2014, authorized under the
9 authority of section four, article one-c, chapter nineteen of this code, modified by the Commissioner
10 of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled
11 in the State Register on November 19, 2014, relating to the Commissioner of Agriculture (livestock
12 care standards, 61 CSR 31), is authorized.

13 (i) The legislative rule filed in the State Register on August 1, 2014, authorized under the
14 authority of section one, article thirty-three, chapter nineteen of this code, modified by the
15 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
16 Committee and refiled in the State Register on December 23, 2014, relating to the Commissioner
17 of Agriculture (equine rescue facilities, 61 CSR 32), is authorized.

18 (j) The legislative rule filed in the State Register on August 1, 2014, authorized under the
19 authority of section three, article twelve, chapter nineteen of this code, modified by the
20 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
21 Committee and refiled in the State Register on November 20, 2014, relating to the Commissioner

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1 of Agriculture (Rural Rehabilitation Loan Program, 61 CSR 33), is authorized with the following
2 amendment:

3 On page 3, by striking out all of subsection 4.2, and by renumbering the remaining
4 subsections.

5 (k) The legislative rule filed in the State Register on the August 1, 2014, authorized under
6 the authority of section four, article thirty-two, chapter nineteen of this code, modified by the
7 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
8 Committee and refiled in the State Register on November 19, 2014, relating to the Commissioner
9 of Agriculture (aquaculture importation, 61 CSR 35), is authorized.

10 (l) The legislative rule filed in the State Register on August 1, 2014, authorized under the
11 authority of section seven, article twelve-e, chapter nineteen of this code, modified by the
12 Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee
13 and refiled in the State Register on December 30, 2014, relating to the Commissioner of Agriculture
14 (industrial hemp, 61 CSR 29), is authorized.

15 (m) The legislative rule filed in the State Register on August 1, 2014, authorized under the
16 authority of section three, article thirty-four, chapter nineteen of this code, modified by the
17 Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review
18 Committee and refiled in the State Register on November 20, 2014, relating to the Commissioner
19 of Agriculture (dangerous wild animals, 61 CSR 30), is authorized with the following amendments:

20 On page 2, Paragraph 3.1.g.3., after the words "mountain lions;" by adding the word "and";

21 On page 2, Paragraph 3.1.g.4., after the word "caracals", by changing the semicolon to a

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1 period and striking out the remainder of Paragraph 3.1.g.4;

2 On page 2, Paragraph 3.1.g.5., by striking out all of Paragraph 3.1.g.5.;

3 On pages 2 and 3, Subdivision 3.1.t., by striking out all of subdivision 3.1.t.;

4 On page 3, Subdivision 3.1.u., by striking out all of Paragraph 3.1.u.1 through Paragraph
5 3.1.u.8 and renumbering the remaining Paragraph;

6 On page 3, Subdivision 3.1.v., by striking out all of subdivision 3.1.v.;

7 On pages 3 and 4, Subdivision 3.1.w., by striking out all of subdivision 3.1.w.;

8 On page 4, Subdivision 3.1.x., by striking out all of subdivision 3.1.x.;

9 On page 4, Subdivision 3.1.y., by striking out all of subdivision 3.1.y.;

10 And,

11 On page 4, Subdivision 3.1.z., by striking out all of subdivision 3.1.z..

12 **§64-9-11. Secretary of State.**

13 (a) The legislative rule filed in the State Register on July 22, 2014, authorized under the
14 authority of section six, article one-a, chapter three of this code, modified by the Secretary of State
15 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
16 Register on September 9, 2014, relating to the Secretary of State (procedures for recount of election
17 results, 153 CSR 20), is authorized.

18 (b) The legislative rule filed in the State Register on August 1, 2014, authorized under the
19 authority of section twenty-five, article four, chapter thirty-nine of this code, modified by the
20 Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and
21 refiled in the State Register on September 9, 2014, relating to the Secretary of State (standards and

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1 guidelines for electronic notarization, 153 CSR 45), is authorized with the amendments set forth
2 below:

3 On page 3, by deleting all of section 8;

4 And,

5 By renumbering the remaining subsections.

6 (c) The legislative rule filed in the State Register on August 1, 2014, authorized under the
7 authority of section twenty-five, article four, chapter thirty-nine of this code, modified by the
8 Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and
9 refiled in the State Register on September 9, 2014, relating to the Secretary of State (notaries public,
10 153 CSR 46), is authorized.

11 (d) The legislative rule filed in the State Register on August 1, 2014, authorized under the
12 authority of section twenty-five, article four, chapter thirty-nine of this code, modified by the
13 Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and
14 refiled in the State Register on September 9, 2014, relating to the Secretary of State (schedule of fees
15 for notaries public, 153 CSR 50), is authorized.

16 **§64-5-12. Family Protection Services Board.**

17 (a) The legislative rule filed in the State Register on July 30, 2014, authorized under the
18 authority of section four hundred three, article twenty-six, chapter forty-eight of this code, modified
19 by the Family Protection Services Board to meet the objections of the Legislative Rule-Making
20 Review Committee and refiled in the State Register on December 17, 2014, relating to the Family
21 Protection Services Board (perpetrator intervention programs licensure, 191 CSR 3), is authorized

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1 (b) The legislative rule filed in the State Register on July 30, 2014, authorized under the
2 authority of section four hundred three, article twenty-six, chapter forty-eight of this code, modified
3 by the Family Protection Services Board to meet the objections of the Legislative Rule-Making
4 Review Committee and refiled in the State Register on December 17, 2014, relating to the Family
5 Protection Services Board (domestic violence program licensure standards, 191 CSR 2), is
6 authorized.

7 (c) The legislative rule filed in the State Register on the July 30, 2014, authorized under the
8 authority of section four hundred three, article twenty-six, chapter forty-eight of this code, modified
9 by the Family Protection Services Board to meet the objections of the Legislative Rule-Making
10 Review Committee and refiled in the State Register on December 17, 2014, relating to the Family
11 Protection Services Board (Monitored Parenting and Exchange Program Certification, 191 CSR 4),
12 is authorized.

13 (d) The legislative rule filed in the State Register on July 30, 2014, authorized under the
14 authority of section four hundred three, article twenty-six, chapter forty-eight of this code, modified
15 by the Family Protection Services Board to meet the objections of the Legislative Rule-Making
16 Review Committee and refiled in the State Register on December 30, 2014, relating to the Family
17 Protection Services Board (Operation of the Family Protection Services Board, 191 CSR 1), is
18 authorized.

19 (e) The legislative rule filed in the State Register on July 30, 2014, authorized under the
20 authority of section four hundred three, article twenty-six, chapter forty-eight of this code, modified
21 by the Family Protection Services Board to meet the objections of the Legislative Rule-Making

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1 Review Committee and refiled in the State Register on December 17, 2014, relating to the Family
2 Protection Services Board (perpetrator intervention programs licensure for correctional institutions,
3 191 CSR 5), is authorized.

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