

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4046**

BY DELEGATES SOBONYA, FRICH AND MOFFATT

[Passed March 12, 2016; in effect ninety days from  
passage.]

1 AN ACT to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as  
2 amended, relating generally to administrative rules of the Department of Administration;  
3 authorizing certain of the agencies to promulgate certain legislative rules with various  
4 modifications presented to and recommended by the Legislative Rule-Making Review  
5 Committee; authorizing certain of the agencies to promulgate certain legislative rules with  
6 various amendments by the legislature; repealing certain legislative, procedural or  
7 interpretative rules that are no longer authorized or are obsolete of certain agencies and  
8 commissions under Department of Administration; authorizing the Department of  
9 Administration to promulgate a legislative rule relating to the purchasing division; repealing  
10 Department of Administration legislative rule relating to the availability of state surplus  
11 buildings and equipment to charity food banks; authorizing the Consolidated Public  
12 Retirement Board to promulgate a legislative rule relating to benefit determination and  
13 appeal; authorizing the Consolidated Public Retirement Board to promulgate a legislative  
14 rule relating to the Teachers' Defined Contribution System; authorizing the Consolidated  
15 Public Retirement Board to promulgate a legislative rule relating to the Teachers'  
16 Retirement System; authorizing the Consolidated Public Retirement Board to promulgate  
17 a legislative rule relating to refund, reinstatement, retroactive service, loan and correction  
18 of error interest factors; authorizing the Consolidated Public Retirement Board to  
19 promulgate a legislative rule relating to service credit for accrued and unused sick leave;  
20 authorizing the Consolidated Public Retirement Board to promulgate a legislative rule  
21 relating to the West Virginia State Police; authorizing the Consolidated Public Retirement  
22 Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System;  
23 not authorizing the Ethics Commission to promulgate a legislative rule relating to the public  
24 use of names or likenesses; repealing Ethics Commission legislative rule relating to  
25 advisory opinions; repealing Ethics Commission legislative rule relating to guidelines and  
26 standards for determining the existence of disqualifying financial interests; repealing

27 Ethics Commission legislative rule relating to contributions; authorizing the Division of  
28 Personnel to promulgate a legislative rule relating to the administrative rule of the West  
29 Virginia Division of Personnel; repealing State Building Commission procedural rule  
30 relating to procedural rules for meetings; repealing Public Employees Insurance Agency  
31 procedural rules relating to procedural rules for the Public Employees Insurance Agency  
32 Advisory Board; and repealing Board of Risk and Insurance Management legislative rule  
33 relating to discontinuation of professional malpractice insurance.

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

1 That article 2, chapter 64 of the Code of West Virginia, 1931, as amended, be amended  
2 and reenacted to read as follows:

**ARTICLE 2. AUTHORIZATION FOR THE DEPARTMENT OF ADMINISTRATION TO  
PROMULGATE LEGISLATIVE RULES; REPEALING UNAUTHORIZED AND  
OBSOLETE RULES OF THE DEPARTMENT OF ADMINISTRATION.**

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

3 (a) The legislative rule filed in the State Register on September 1, 2015, authorized under  
4 the authority of section four, article three, chapter five-a, of this code, relating to the Department  
5 of Administration (Purchasing Division, 148 CSR 1), is authorized.

6 (b) The legislative rule effective on April 3, 1991, authorized under the authority of section  
7 seven, article eight, chapter nine of this code, relating to the Department of Administration  
8 (availability of state surplus buildings and equipment to charity food banks, 148 CSR 5), is  
9 repealed.

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

1 (a) The legislative rule filed in the State Register on July 28, 2015, authorized under the  
2 authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated  
3 Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee  
4 and refiled in the State Register on November 5, 2015, relating to the Consolidated Public

5 Retirement Board (benefit determination and appeal, 162 [CSR 2](#)), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2015, authorized under the  
7 authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated  
8 Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee  
9 and refiled in the State Register on September 22, 2015, relating to the Consolidated Public  
10 Retirement Board (Teachers' Defined Contribution System, 162 [CSR 3](#)), is authorized with the  
11 following amendment:

12 On page 7, subsection 7.4.1, line 4, following the word "amounts" and the period, by  
13 adding the following: "Using irrevocably forfeited amounts pursuant to the authority of this  
14 subsection will reduce the employer contributions in future years as required by W. Va. Code §18-  
15 7B-11.".

16 (c) The legislative rule filed in the State Register on July 28, 2015, authorized under the  
17 authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated  
18 Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee  
19 and refiled in the State Register on September 22, 2015, relating to the Consolidated Public  
20 Retirement Board (Teachers' Retirement System, 162 [CSR 4](#)), is authorized.

21 (d) The legislative rule filed in the State Register on July 28, 2015, authorized under the  
22 authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated  
23 Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee  
24 and refiled in the State Register on September 22, 2015, relating to the Consolidated Public  
25 Retirement Board (refund, reinstatement, retroactive service, loan and correction of error interest  
26 factors, 162 [CSR 7](#)), is authorized.

27 (e) The legislative rule filed in the State Register on July 28, 2015, authorized under the  
28 authority of section one, article ten-d, chapter five, of this code, relating to the Consolidated Public  
29 Retirement Board (service credit for accrued and unused sick leave, 162 [CSR 8](#)), is authorized.

30 (f) The legislative rule filed in the State Register on July 28, 2015, authorized under the

31 authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated  
32 Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee  
33 and refiled in the State Register on November 5, 2015, relating to the Consolidated Public  
34 Retirement Board (West Virginia State Police, 162 CSR 9), is authorized.

35 (g) The legislative rule filed in the State Register on July 28, 2015, authorized under the  
36 authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated  
37 Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee  
38 and refiled in the State Register on November 5, 2015, relating to the Consolidated Public  
39 Retirement Board (Deputy Sheriff Retirement System, 162 CSR 10), is authorized.

**§64-2-3. Ethics Commission.**

40 (a) The legislative rule filed in the State Register on June 30, 2015, authorized under the  
41 authority of section five-c, article two, chapter six-b, of this code, relating to the Ethics Commission  
42 (public use of names or likenesses, 158 CSR 21), is not authorized.

43 (b) The legislative rule effective on September 1, 1993, authorized under the authority of  
44 section two, article two, chapter six-b of this code, relating to Ethics Commission (advisory  
45 opinions, 158 CSR 2), is repealed.

46 (c) The legislative rule effective on April 10, 1995, authorized under the authority of section  
47 twenty-eight, article twenty, chapter thirty-one of this code, relating to Ethics Commission  
48 (guidelines and standards for determining the existence of disqualifying financial interests, 158  
49 CSR 4), is repealed.

50 (d) The legislative rule effective on June 1, 1992, authorized under the authority of section  
51 one, article two, chapter six-b of this code, relating to Ethics Commission (contributions, 158 CSR  
52 10), is repealed.

**§64-2-4. Division of Personnel.**

1 The legislative rule filed in the State Register on July 21, 2015, authorized under the  
2 authority of section ten, article six, chapter twenty-nine, of this code, relating to the Division of

3 Personnel (administrative rule of the West Virginia Division of Personnel, 143 CSR 1), is  
4 authorized with the following amendment:

5 On page 48, by removing the strikethrough of subparagraph 14.3.f.1, and restoring the  
6 original language, with modification, to read as follows:

7 14.3.f.1. An employee may elect to be paid in installments at his or her usual rate and  
8 frequency of pay as if employment were continuing until the pay period during which the accrued  
9 annual leave is exhausted. If the last day for which leave payment is due falls before the day on  
10 which the pay period ends, terminal annual leave payment for those days within that pay period  
11 shall be calculated using the daily rate for pay period in which the last day on payroll occurs.  
12 Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem  
13 pay schedule approved by the Board shall be paid according to those standard procedures;

14 And renumbering the subparagraphs thereafter; and

15 On page 50, by removing the strikethrough in subparagraph 14.4.e.2, and restoring the  
16 original language of subparagraph 14.4.e.2.

**§64-2-5. State Building Commission.**

1 The procedural rule effective on July 21, 1995, authorized under the authority of section  
2 three, article nine-a, chapter six of this code, relating to the State Building Commission  
3 (procedural rules for meetings, 159 CSR 1), is repealed.

**§64-2-6. Public Employees Insurance Agency.**

1 The procedural rule effective on June 20, 1991, authorized under the authority of section  
2 six, article sixteen, chapter five of this code, relating to the Public Employees Insurance Agency  
3 (procedural rules for the Public Employees Insurance Agency Advisory Board, 151 CSR 5), is  
4 repealed.

**§64-2-7. Board of Risk and Insurance Management.**

1 The legislative rule effective on April 14, 1992, authorized under the authority of section  
2 five, article twelve, chapter twenty-nine of this code, relating to the Board of Risk and Insurance

- 3 Management (discontinuation of professional malpractice insurance, 115 CSR 4), is repealed.