

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 182

BY SENATOR SYPOLT

[Originating in the Committee on the Judiciary;

reported on February 19, 2021]

1 A BILL to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended,
2 all relating generally to authorizing certain miscellaneous agencies and boards to
3 promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative
4 Rule-Making Review Committee, and as amended by the Legislature; authorizing the
5 Commissioner of Agriculture to promulgate a legislative rule relating to animal disease
6 control; authorizing the Commissioner of Agriculture to promulgate a legislative rule
7 relating to West Virginia Seed Law; authorizing the Commissioner of Agriculture to
8 promulgate a legislative rule relating to inspection of meat and poultry; authorizing the
9 Commissioner of Agriculture to promulgate a legislative rule relating to poultry litter and
10 manure movement into primary poultry breeder rearing areas; authorizing the
11 Commissioner of Agriculture to promulgate a legislative rule relating to a seed certification
12 program; authorizing the Commissioner of Agriculture to promulgate a legislative rule
13 relating to West Virginia-exempted dairy farms and milk and milk products processing
14 rules; authorizing the Auditor to promulgate a legislative rule relating to standards for
15 requisitions for payment issued by state officers on the Auditor; authorizing the Funeral
16 Service Examiners to promulgate a legislative rule relating to funeral director, embalmer,
17 apprentice, courtesy card holders and funeral establishment requirements; authorizing the
18 Funeral Service Examiners to promulgate a legislative rule relating to crematory
19 requirements; authorizing the Funeral Service Examiners to promulgate a legislative rule
20 relating to a fee schedule; authorizing the Board of Hearing Aid Dealers to promulgate a
21 legislative rule relating to governing the West Virginia Board of Hearing Aid Dealers;
22 authorizing the Board of Landscape Architects to promulgate a legislative rule relating to
23 registration of landscape architects; authorizing the Board of Landscape Architects to
24 promulgate a legislative rule relating to application for waiver of initial licensing fees for
25 certain individuals; authorizing the Livestock Care Standards Board to promulgate a
26 legislative rule relating to livestock care standards; authorizing the Board of Medicine to

27 promulgate a legislative rule relating to registration to practice during declared state of
28 emergency; authorizing the Board of Occupational Therapy to promulgate a legislative
29 rule relating to telehealth practice requirements, and definitions; authorizing the Board of
30 Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for
31 osteopathic physicians; authorizing the Board of Osteopathic Medicine to promulgate a
32 legislative rule relating to emergency temporary permits to practice during states of
33 emergency or state of preparedness; authorizing the Board of Pharmacy to promulgate a
34 legislative rule relating to licensure and practice of pharmacy; authorizing the Board of
35 Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances
36 Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board
37 of Pharmacy rules for continuing education for licensure of pharmacists; authorizing the
38 Board of Pharmacy to promulgate a legislative rule relating to licensure of wholesale drug
39 distributors, third-party logistics providers, and manufacturers; authorizing the Board of
40 Pharmacy to promulgate a legislative rule relating to the Controlled Substances Monitoring
41 Program; authorizing the Board of Pharmacy to promulgate a legislative rule relating to
42 Board of Pharmacy Rules for immunizations administered by pharmacists and pharmacy
43 interns; authorizing the Board of Physical Therapy to promulgate a legislative rule relating
44 to general provisions for physical therapist and physical therapist's assistants; authorizing
45 the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical
46 therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to
47 promulgate a legislative rule relating to general provisions for athletic trainers; authorizing
48 the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic
49 trainers; authorizing the Board of Professional Surveyors to promulgate a legislative rule
50 relating to examination and licensing of professional surveyors in West Virginia;
51 authorizing the Real Estate Commission to promulgate a legislative rule relating to
52 licensing real estate brokers, associate brokers, and salespersons and the conduct of

53 brokerage business; authorizing the Board of Respiratory Care to promulgate a legislative
54 rule relating to criteria for licensure; authorizing the Secretary of State to promulgate a
55 legislative rule relating to loan and grants programs under the Help America Vote Act
56 (HAVA) for the purchase of voting equipment, election systems, software, services, and
57 upgrades; authorizing the Secretary of State to promulgate a legislative rule relating to
58 guidelines and standards for electronic notarizations; and authorizing the Board of Senior
59 Services to promulgate a legislative rule relating to a shared table initiative for senior
60 citizens.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
TO PROMULGATE LEGISLATIVE RULES.**

§64-9-1. Commissioner of Agriculture.

1 (a) The legislative rule filed in the State Register on August 27, 2020, authorized under the
2 authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (animal disease
3 control, 61 CSR 01), is authorized.

4 (b) The legislative rule filed in the State Register on August 27, 2020, authorized under the
5 authority of §19-16-6 of this code, modified by the Commissioner of Agriculture to meet the
6 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
7 December 23, 2020, relating to the Commissioner of Agriculture (West Virginia Seed Law, 61
8 CSR 09), is authorized.

9 (c) The legislative rule filed in the State Register on August 17, 2020, authorized under the
10 authority of §19-2B-3 of this code, relating to the Commissioner of Agriculture (inspection of meat
11 and poultry, 61 CSR 16), is authorized.

12 (d) The legislative rule filed in the State Register on July 27, 2020, authorized under the
13 authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (poultry litter and
14 manure movement into primary poultry breeder rearing areas, 61 CSR 28), is authorized.

15 (e) The legislative rule filed in the State Register on August 26, 2020, authorized under the
16 authority of §19-16-3a of this code, modified by the Commissioner of Agriculture to meet the
17 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
18 December 22, 2020, relating to the Commissioner of Agriculture (seed certification program, 61
19 CSR 39), is authorized.

20 (f) The legislative rule filed in the State Register on September 21, 2020, authorized under
21 the authority of §19-22E-8 of this code, relating to the Commissioner of Agriculture (WV-exempted
22 dairy farms and milk and milk products processing rules, 61 CSR 40), is authorized.

§64-9-2. Auditor.

1 The legislative rule filed in the State Register on September 17, 2020, authorized under
2 the authority of §12-3-10 of this code, modified by the Auditor to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on November 19,
4 2020, relating to the Auditor (standards for requisitions for payment issued by state officers on
5 the Auditor, 155 CSR 01), is authorized with the following amendments:

6 On page 2, subsection 2.15., by striking the word “or” and following the acronym “(PRC)”,
7 by inserting the following, “, or WIRE”;

8 On page 4, subdivision 3.1.3., after the word “signature.” by adding a new sentence to
9 read as follows, “Alternative certifications may be approved by the Auditor if required by
10 business processes.”;

11 On page 10, by inserting a new subsection 12.2. to read as follows:

12 “12.2. The auditor may approve alternative documents if necessitated by business
13 processes.”;

14 And,

15 On page 10, subsection 13.1., following the words “For all nonrecurring wires, the”, by
16 inserting the following, “State Treasurer’s Office (STO)”.

§64-9-3. Board of Funeral Service Examiners.

1 (a) The legislative rule filed in the State Register on August 26, 2020, authorized under the
2 authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 November 18, 2020, relating to the Board of Funeral Service Examiners (funeral director,
5 embalmer, apprentice, courtesy card holders, and funeral establishment requirements, 6 CSR
6 01), is authorized.

7 (b) The legislative rule filed in the State Register on August 24, 2020, authorized under the
8 authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the
9 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
10 November 18, 2020, relating to the Board of Funeral Service Examiners (crematory requirements,
11 6 CSR 02), is authorized with the following amendments:

12 On page 3, after paragraph 4.1.1.6. by adding a new subdivision 4.1.3. to read as follows:
13 “4.1.3. An applicant must attend a crematory operator certification program approved by
14 the Board prior to submitting an application. The completion certificate must be submitted with
15 the registration application.”;

16 And,

17 On page 21, Subdivision 22.5.3., by striking out the words “or courtesy card holder”.

18 (c) The legislative rule filed in the State Register on August 24, 2020, authorized under the
19 authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the
20 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

21 November 18, 2020, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR
22 07), is authorized.

§64-9-4. Board of Hearing Aid Dealers.

1 The legislative rule filed in the State Register on August 28, 2020, authorized under the
2 authority of §30-26-3 of this code, modified by the Board of Hearing Aid Dealers to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 December 1, 2020, relating to the Board of Hearing Aid Dealers (rule governing the West Virginia
5 Board of Hearing Aid Dealers, 8 CSR 01), is authorized.

§64-9-5. Board of Landscape Architects.

1 (a) The legislative rule filed in the State Register on August 27, 2020, authorized under the
2 authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 December 1, 2020, relating to the Board of Landscape Architects (registration of landscape
5 architects, 9 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on August 26, 2020, authorized under the
7 authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the
8 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
9 December 23, 2020, relating to the Board of Landscape Architects (application for waiver of initial
10 licensing fees for certain individuals, 9 CSR 04), is authorized.

§64-9-6. Livestock Care Standards Board.

1 The legislative rule filed in the State Register on August 21, 2020, authorized under the
2 authority of §19-1C-4 of this code, relating to the Livestock Care Standards Board (livestock care
3 standards, 73 CSR 01), is authorized.

§64-9-7. Board of Medicine.

1 The legislative rule filed in the State Register on June 24, 2020, authorized under the
2 authority of §30-3-7 of this code, relating to the Board of Medicine (registration to practice during
3 declared state of emergency, 11 CSR 14), is authorized.

§64-9-8. Board of Occupational Therapy.

1 The legislative rule filed in the State Register on August 10, 2020, authorized under the
2 authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (telehealth
3 practice requirements, definitions, 13 CSR 09), is authorized.

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

1 (a) The legislative rule filed in the State Register on August 28, 2020, authorized under the
2 authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 November 23, 2020, relating to the Board of Osteopathic Medicine (licensing procedures for
5 osteopathic physicians, 24 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on June 22, 2020, authorized under the
7 authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the
8 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
9 November 23, 2020, relating to the Board of Osteopathic Medicine (emergency temporary permits
10 to practice during states of emergency or states of preparedness, 24 CSR 09), is authorized.

§64-9-10. Board of Pharmacy.

1 (a) The legislative rule filed in the State Register on August 26, 2020, authorized under the
2 authority of §30-5-7 of this code, relating to the Board of Pharmacy (licensure and practice of
3 pharmacy, 15 CSR 01), is authorized.

4 (b) The legislative rule filed in the State Register on August 26, 2020, authorized under the
5 authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections
6 of the Legislative Rule-Making Review Committee and refiled in the State Register on December

7 2, 2020, relating to the Board of Pharmacy (Uniform Controlled Substances Act, 15 CSR 02), is
8 authorized.

9 (c) The legislative rule filed in the State Register on August 26, 2020, authorized under the
10 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
11 Legislative Rule-Making Review Committee and refiled in the State Register on December 2,
12 2020, relating to the Board of Pharmacy (board of pharmacy rules for continuing education for
13 licensure of pharmacists, 15 CSR 03), is authorized.

14 (d) The legislative rule filed in the State Register on August 26, 2020, authorized under the
15 authority of §60A-8-9 of this code, modified by the Board of Pharmacy to meet the objections of
16 the Legislative Rule-Making Review Committee and refiled in the State Register on December 2,
17 2020, relating to the Board of Pharmacy (licensure of wholesale drug distributors, third-party
18 logistics providers, and manufacturers, 15 CSR 05), is authorized.

19 (e) The legislative rule filed in the State Register on August 26, 2020, authorized under the
20 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
21 Legislative Rule-Making Review Committee and refiled in the State Register on December 2,
22 2020, relating to the Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR
23 08), is authorized.

24 (f) The legislative rule filed in the State Register on September 4, 2020, authorized under the
25 authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the
26 Legislative Rule-Making Review Committee and refiled in the State Register on December 2,
27 2020, relating to the Board of Pharmacy (board of pharmacy rules for immunizations administered
28 by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

§64-9-11. Board of Physical Therapy.

1 (a) The legislative rule filed in the State Register on October 19, 2020, authorized under the
2 authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

4 December 18, 2020, relating to the Board of Physical Therapy (general provisions for physical
5 therapist and physical therapist's assistants, 16 CSR 01), is authorized.

6 (b) The legislative rule filed in the State Register on August 28, 2020, authorized under the
7 authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the
8 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
9 December 16, 2020, relating to the Board of Physical Therapy (fees for physical therapist and
10 physical therapist's assistants, 16 CSR 04), is authorized.

11 (c) The legislative rule filed in the State Register on October 19, 2020, authorized under the
12 authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the
13 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
14 December 21, 2020, relating to the Board of Physical Therapy (general provisions for athletic
15 trainers, 16 CSR 05), is authorized.

16 (d) The legislative rule filed in the State Register on August 28, 2020, authorized under the
17 authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the
18 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
19 December 16, 2020, relating to the Board of Physical Therapy (fees for athletic trainers, 16 CSR
20 06), is authorized.

§64-9-12. Board of Professional Surveyors.

1 The legislative rule filed in the State Register on August 24, 2020, authorized under the
2 authority of §30-13A-6 of this code, modified by the Board of Professional Surveyors to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 November 19, 2020, relating to the Board of Professional Surveyors (examination and licensing
5 of professional surveyors in West Virginia, 23 CSR 01), is authorized.

§64-9-13. Real Estate Commission.

1 The legislative rule filed in the State Register on August 24, 2020, authorized under the
2 authority of §30-40-8 of this code, modified by the Real Estate Commission to meet the objections

3 of the Legislative Rule-Making Review Committee and refiled in the State Register on December
4 11, 2020, relating to the Real Estate Commission (licensing real estate brokers, associate
5 brokers, and salespersons and the conduct of brokerage business, 174 CSR 01), is authorized.

§64-9-14. Board of Respiratory Care.

1 The legislative rule filed in the State Register on August 26, 2020, authorized under the
2 authority of §30-34-6 of this code, modified by the Board of Respiratory Care to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 November 17, 2020, relating to the Board of Respiratory Care (criteria for licensure, 30 CSR 01),
5 is authorized.

§64-9-15. Secretary of State.

1 (a) The legislative rule filed in the State Register on June 23, 2020, authorized under the
2 authority of §3-1-48 of this code, modified by the Secretary of State to meet the objections of the
3 Legislative Rule-Making Review Committee and refiled in the State Register on December 4,
4 2020, relating to the Secretary of State (loan and grant programs under the Help America Vote
5 Act for the purchase of voting equipment, election systems, software, services, and upgrades,
6 153 CSR 10), is authorized.

7 (b) The legislative rule filed in the State Register on June 25, 2020, authorized under the
8 authority of §39-4-25 of this code, modified by the Secretary of State to meet the objections of the
9 Legislative Rule-Making Review Committee and refiled in the State Register on December 4,
10 2020, relating to the Secretary of State (guidelines and standards for electronic notarization, 153
11 CSR 45), is authorized.

§64-9-16. Bureau of Senior Services.

1 The legislative rule filed in the State Register on August 25, 2020, authorized under the
2 authority of §16-5P-6 of this code, modified by the Bureau of Senior Services to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

4 November 30, 2020, relating to the Bureau of Senior Services (shared table initiative for senior
5 citizens, 76 CSR 06), is authorized with the following amendments:

6 On page 1, subsection 1.1., by striking out “Share tables are tables or stations where food
7 service staff, senior citizens, and volunteers may return unopened prepackaged items, whole fruit
8 and unopened beverage items they choose not to eat. These food and beverage items are then
9 available to other senior citizens who may need additional nutritional servings.”;

10 On page 1, section 2, by adding a new subsection 2.6 to read as follows:

11 “2.6. “Sharing tables” are tables or stations at senior centers or other locations where
12 congregate meals are provided to senior citizens where senior citizens may return unopened
13 prepackaged items, whole fruit and unopened beverage items they choose not to eat. These food
14 and beverage items are then available to other senior citizens who may need additional nutritional
15 servings.”;

16 On page 2, section 3, by striking out all of subsection 3.1 and inserting in lieu thereof the
17 following:

18 “3.1. Any unopened pre-packaged items, including, but not limited to pretzels, crackers,
19 bags of fruits and vegetables stored in a cooling bin, wrapped whole fruit, such as apples and
20 bananas and unopened milk which has been stored in a cooling bin maintained at 41 degrees
21 Fahrenheit or below may be distributed at a sharing table. Nutrition providers shall be aware of
22 and comply with all Federal, state, and local laws, rules, regulations, and codes regarding
23 standards for the preparation and distribution of food and beverages.”;

24 On page 2, section 4, by striking out all of subsection 4.1. and inserting in lieu thereof the
25 following:

26 “4.1. “Food and beverages which may be distributed under section three of this rule may
27 be distributed at sharing table or to senior citizens who receive home-delivered meals.”;

28 On page 2, subsection 5.1. after the words “serving times or” by inserting the words “the
29 food or beverage item”;

30 On page 2, subsection 5.1. by deleting the words “where the Federal and State standards
31 have been maintained”;

32 On page 2, section 6, by striking out all of subsection 6.1 and inserting in lieu thereof the
33 following:

34 “Senior centers or other locations where congregate meals are provided to senior citizens’
35 which receive, prepare, or donate food and beverages to a food bank or other nonprofit charitable
36 organization under this rule, shall comply with and are subject to the Good Samaritan Food
37 Donation Act, W.Va. Code §55-7D-1 *et seq.*”;

38 And,

39 On page 2, section 6, by striking out all of subsection 6.2.