

**OCTOBER** 6

TENTATIVE AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

MONDAY, OCTOBER 6, 1986

1:00 P.M.

COMMITTEE MEETING ROOM, E-226

1. Approval of Minutes
2. REVIEW OF LEGISLATIVE RULES:
  - a. Tax Department - Additional Review and Implementation of Property Reappraisals.
  - b. Health Department - Hazardous Material Treatment Information Repository, Series 53.
  - c. State Water Resources Board -  
Series I, Water Quality Standards  
Series II, National Pollutant Discharge Elimination System
3. Other business.

Monday Oct. 6, 1986      Legislative Rule-Making Review Committee  
(Code §29A-3-10)

1:00 - 3:00 p.m.

Dan Tonkovich,  
ex officio nonvoting member

Joseph P. Albright,  
ex officio nonvoting member

Senate

House

Williams, R., Chairman  
Boettner  
Tucker  
Tomblin  
Harman  
Shaw

Casey, Chairman (absent)  
Knight  
Schifano  
Wiedebusch (absent)  
Shaffer (absent)  
Springston (absent)

The meeting was called to order by Mr. Williams, Co-Chairman.

The minutes of the September 28, 1986 meeting were approved.

Mr. Williams asked John Montgomery, Tax Department, to explain the amendments he had prepared to the proposed rule - Additional Review and Implementation of Property Reappraisals - which would answer the Committee's questions from the last meeting. Mr. Montgomery explained the proposed changes and he and Robert Hoffman, Tax Department, answered questions from the Committee.

Mr. Tucker moved that the amendments to the proposed rule be adopted. The motion was adopted.

Mr. Tucker moved the proposed rule be approved as amended. The motion was adopted.

Debra Graham, Associate Counsel, explained the rule proposed by the Department of Health-Hazardous Material Treatment Information Repository, Series 53. She stated that she had

suggested several minor modifications to the proposed rule. Dr. Fred Cooley, Director, Emergency Medical Services, stated that he accepted the modifications suggested by counsel. Robert Foster, from Carbide and representing the Manufacturer's Association, told the Committee that he also agrees with the proposed rule, as modified.

Mr. Tomblin moved that the proposed rule be approved as modified. The motion was adopted.

Robert Corey, Board of Risk and Insurance Management, appeared before the Committee and explained the memorandum which he circulated to the county boards of education requiring them to purchase liability insurance from the Board. He answered questions from the Committee.

The Committee then moved to a consideration of proposed legislative rules of the Water Resources Board, relating to conforming the rules of the Board to federal regulations implementing provisions of the Federal Clean Water Act. John Ailes, Water Resources Board, explained the reason for and the process by which the following proposed rules were promulgated:

Series I, Requirements for water quality standards

Series II, National Pollutant Discharge System (NPDES) Rules

Series III, Special Rules, and

Series IX, West Virginia Underground Injection Program (UIC)

Delegate Schifano moved that the proposed rules be approved as filed. A discussion on Delegate Scifano's motion followed, with Chairman Ailes and Assistant Attorney General Robert Parsons

responding to inquiries by members of the Committee. M.E. Mowery, Counsel for the Committee, also explained portions of the staff analysis of the proposed rules. Following debate, a roll call vote was taken, and the following votes were recorded upon Delegate Schifano's motion:

In favor, Schifano, Williams, Tucker, Tomblin, and Harman.

Opposed, Knight and Shaw.

Absent and not voting, Casey, Wiedebusch, Shaffer, Springston, and Boettner.

Whereupon Chairman Williams declared the motion adopted.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Oct. 6, 1986

TIME: 1:00 pm.

NAME	Present	Absent	Yeas	Nays
Albright, Joseph P.				
Casey, James M.				
Knight, Thomas A.	✓			
Schifano, Larry E.	✓			
Wiedebusch, Larry				
Shaffer, Charles R.				
Springston, Benjamin				
Tonkovich, President				
Williams, Ralph D.	✓			
Boettner, John "Si"	✓			
<del>Tucker, Larry</del> Rogers, J. Robert	✓			
Tomblin, Earl Ray	✓			
Harman, C. N.	✓			
Shaw, Michael	✓			
TOTAL				

RE: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Oct 6, 1986

TIME: \_\_\_\_\_

NAME	Present	Absent	Yeas	Nays
Albright, Joseph P.				
Casey, James M.				
Knight, Thomas A.				✓
Schifano, Larry E.			✓	
Wiedebusch, Larry				
Shaffer, Charles R.				
Springston, Benjamin				
Tonkovich, President				
Williams, Ralph D.			✓	
Boettner, John "Si"				
Regers, J. Robert			✓	
Tomblin, Earl Ray			✓	
Harman, C. N.			✓	
Shaw, Michael				✓
TOTAL			5	2

RE: Approval I, II, III + IX - State Water Resources Board

---



---



---

REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Legislative Rule-Making Review Comm DATE: Monday, October 6, 1986

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
JOHN AILES SR.	ROMNEY W.Va.	CHAIRMAN - WATER RESOURCES Bd	X
BILL PLAZT	PRINCETON, W.Va.	MEMBER - "	
BOB SCOTT	ELKINS, W.Va.	MEMBER - "	
BOB PARSONS	RIPLEY, W.Va.	LEGAL ADVISOR "	
FRANCIS HUNTER	CHARLESTON, W.Va.	EXECUT. SEC "	
PAUL HILL	" "	TECHNICAL ADVISOR "	
KAM HOWARD	" "	HEALTH DEPT	
RICH HARTMAN	ADMIN CHARLESTON	ADMIN LAW, SEC OF STATE	
<del>John Ailes</del>	<del>Romney</del>		
GRAY MARION	CHARLESTON W.Va	Charles Ryan Assoc	
<del>John Montgomery</del>	<del>Charleston</del>	<del>Tax Department</del>	As needed
<del>John</del> ROBERT A. HOFFMAN	CHARLESTON	TAX DEPT	" "



*Handwritten mark*

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property Appraisals

Mr. Tucker moves to amend the rule on page 17, Subsection 8.3.1, by adding the following paragraphs to Subsection 8.3.1.

8.3.1a. In order to better determine the issue or issues under consideration in the respective petitions, county commissions are authorized to develop a telephone screening procedure.

8.3.1a1. The telephone screening procedure may be used only for identifying and correcting property description errors and for screening out non-value related complaints.

8.3.1a2. All such property description errors and non-value related complaints shall be transmitted to the county commission and the assessor. Also, the complaining party shall be directed to contact the assessor.

8.3.1a3. The assessor shall correct all incorrect property description information and he shall take action sufficient to resolve the non-value related complaints.

8.3.1b. In order to expedite the property valuation review process, the respective county commissions may appoint a hearing officer or officers whose duties shall be to receive testimony and other evidence, to examine witnesses, and to direct parties to obtain additional information. A hearing officer shall have no authority to determine property values.

8.3.1b1. Every hearing officer shall have demonstrable knowledge of property values in the county where he is performing his duties. He should also have knowledge as to how the reappraisal was conducted; provided, that the Tax Commissioner shall brief those who do not possess sufficient information relative to the reappraisal.

8.3.1b2. All such hearings are public hearings.

8.3.1b3. All evidence shall be received under oath which shall be administered by the hearing officer. All such testimony shall be recorded in the same manner as in the following subsection 8.3.2, and all evidence received at the hearing shall

be transmitted to the county commission within 24 hours after receipt thereof.

8.3.1b4. While the hearing officer is not authorized to determine property values, he is authorized to comment on the credibility of the witnesses and the evidence and to state whether in his judgment the appraised value is correct or incorrect. At the conclusion of each hearing, the hearing officer shall complete a form to be provided by the Tax Department. The information to be entered on the form shall be the complete description of the property, a synthesis of the main points of the parties and other comments as indicated above. The completed form shall be transmitted with the recorded testimony and any other evidence to the county commission.

8.3.1b5. A hearing officer may receive stipulations and agreements. All stipulations and agreements in order to be valid if accepted and entered by the county commission must be approved by the Tax Commissioner prior to receipt by a hearing officer. Approved stipulations and agreements must be transmitted to the county commission within 24 hours of receipt by the hearing officer. The running of the 5 day time period required by the following subsection 9.4.4 shall not commence until the calendar day next succeeding the day of receipt by the county commission.

8.3.1b6. The county commission sitting as an Administrative Appraisal Review Board shall dispose of the matter in question in accordance with either the following section 8.7 or the following section 9 by issuing a signed order within 30 days after receipt of the hearing evidence or stipulation but no later than December 1, 1986.

8.3.1c. In order to expedite the property valuation review process, the respective county commissions may authorize the individual commissioners to sit separately for the purpose of receiving testimony and other evidence, examining witnesses, and directing parties to obtain additional evidence. A county commissioner shall have no authority to independently determine property values.

8.3.1c1. All such hearings shall be public hearings.

8.3.1c2. All evidence shall be received under oath which shall be administered by the county commissioner. All testimony shall be recorded in the same manner as in the following subsection 8.3.2, and all evidence shall be transmitted to the county commission within 24 hours after receipt thereof.

8.3.1c3. At the conclusion of the hearing, the county commissioner shall complete a form provided by the Tax Department. The information to be entered on the form shall be the complete description of the property, a synthesis of the main points of the parties, his judgment as to the credibility of the witnesses and the evidence, and his judgment as to whether the appraisal is

correct or incorrect. The completed form shall be transmitted with the recorded testimony and other evidence to the county commission.

8.3.1c4. A county commissioner may receive stipulations and agreements. All stipulations and agreements in order to be valid if accepted and entered by the county commission must be approved by the Tax Commissioner prior to receipt by a county commissioner. Approved stipulations and agreements must be transmitted to the county commission within 24 hours of receipt by the individual county commissioner. The running of the 5 day time period required by the following subsection 9.4.4. shall not commence until the calendar day next succeeding the day of receipt by the county commission.

8.3.1c5. The county commission sitting as an Administrative Appraisal Review Board shall dispose of the matter in question in accordance with the following section 8.7 or the following section 9 by issuing a signed order within 30 days after receipt of the hearing evidence or stipulation but no later than December 1 1986.

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property Appraisals

Mr. Tucker moves to amend the rule on page 2, Subsection 2.3, by striking the word "accretion";

and

On page 11, Subsection 6.2.7 by striking the word "commencing" and inserting in lieu thereof the words "for which the lien attaches on";

and

On page 17, Subdivision 8.3.3, by striking "resulting from any substitutions," and "improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or any like occurrences or any similar factors or occurrences," and inserting the word "or" after the word "alterations";

and

On page 32, Subdivision 19.2.2 by striking the word "Such" and inserting in lieu thereof the words "Subsequent to establishing the 1983 base year values, such";

and

On page 32, Subdivision 19.2.2 by striking the words "substitutions, improvements, additions, replacements, destructions, removals, casualties, acts of God, waste or like occurrences or circumstances and by inserting the word "or" after the word "alterations";

and

On page 32, Subdivision 18.2.2a by inserting the word "adjusted" after the word "such."

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property  
Appraisals

Mr. Tucker moves to amend the rule on page 21, Subsection 9.3.1 by adding the following sentence thereto: The Tax Commissioner must approve any stipulation or agreement before it is submitted to the county commission.

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of Property  
Appraisals

Mr. Trubert moves to amend the rule on page 26, subsection 12.1 by adding the following sentence thereto:

On or before December 15, 1986, the assessor or his delegate shall enter or cause to be entered in the manner prescribed by the State Tax Department on the statewide data processing system all determinations which were rendered by December 1, 1986.

AMENDMENT -- LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Agency: State Tax Department

Rule: Leg. Reg. 11-1B, Series V

Subject: Additional Review and Implementation of  
Property Appraisals

Mr. Rucker moves to amend the rule on page 31, subsection 17.1.2 by changing the period to a comma and by adding the following thereafter: the classification of every individual parcel of real property or each personal property account for which the valuation was changed, and the amount of the increase or decrease of such valuation.