

JANUARY 7

Monday, January 7, 1991

9:00 - 11:00 a.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Jackson, Chairman (absent)
Chafin (absent)
Manchin, J. (absent)
Tomblin (absent)
Wiedebusch (absent)
Warner (absent)

Roop, Chairman
Burk
Buchanan
Faircloth
Starcher (absent)
Grubb

The meeting was cancelled due to lack of a quorum.

Mr. Roop, Co-Chairman, announced the meeting scheduled for 4:00 - 6:00 p.m. would be cancelled for lack of a quorum.

Monday, January 7, 1991

4:00 - 6:00 p.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Jackson, Chairman
Chafin
Manchin, J.
Tomblin
Wiedebusch
Warner

Roop, Chairman
Burk
Buchanan
Faircloth
Starcher
Grubb

The meeting was cancelled.

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Monday, January 7, 1990, 9:00 - 11:00 a.m.

COMMITTEE MEETING ROOM, M-438

1. Approval of Minutes - Meeting November 14, 1990.
2. Review of Legislative Rules:
 - a. Attorney General - Proposed legislative rule pertaining to the regulated business exemption under the West Virginia Antitrust Act
 - b. Attorney General - Proposed legislative rule pertaining to defining the term "federal antitrust laws" and prohibiting tying and reciprocity
 - c. Division of Culture and History - Standards and Procedures for Granting Permits to Excavate Archaeological Sites and Unmarked Graves
 - d. West Virginia Board of Medicine - Licensing, Certification, Disciplinary and Complaint Procedures, Physicians; Podiatrist; Physician Assistants
 - e. West Virginia Hospital Finance Authority - Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority
 - f. State Fire Commission - State Fire Code
 - g. Department of Transportation, Division of Highways - Traffic and Safety Rules and Regulations
 - h. Insurance Commissioner - AIDS Regulations
 - i. Racing Commission - Thoroughbred Racing Rules
 - j. Water Resources Board - Requirements Governing Water Quality Standards
 - k. Department of Administration: Information Services and Communications - Plan of Operation
 - l. Department of Administration - Parking

- m. Department of Administration - Leasing Space on Behalf of State Spending Units
- n. Department of Administration - Purchasing
- o. Department of Administration - Public Transportation

3. Other Business:

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Monday, January 7, 1990, 4:00 - 6:00 p.m.

SENATE FINANCE COMMITTEE ROOM, M-451

1. Approval of Minutes - Meeting January 7, 1990 9:00 a.m.
2. Review of Legislative Rules:
 1. Health Care Cost Review Authority - Conversion of Acute Care Beds to 100 Skilled Nursing Care Beds
 2. Cable Television Advisory Board - Implementing Regulations
 3. Cable Television Advisory Board - Franchising Procedures
 4. Solid Waste Management Board - Disbursement of Loans and Grants to Governmental Agencies for the Acquisition or Construction of Solid Waste Disposal Projects
 5. Solid Waste Management Board - Establishment of Fee Schedule and Cost Allocation Applicable to the Issuance of Bonds
 6. Solid Waste Management Board - Development of Comprehensive Litter and Solid Waste Control Plans
 7. Solid Waste Management Board - Rules and Regulations for the Development of Commercial Solid Waste Facility Siting Plans
3. Other Business:

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Rule-Making Review

DATE: January 7, 1991

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
Lois GRAHAM	Charleston	W.V. Racing Commission	
Billy McClamb	Chas	IS&C	
WALTER SPITTE	Charleston	Fire Marshal	
Lynn Nicholson	Charleston	Leasing / Administration	
Ronald Heley	Charleston	Director - Purchasing Div	
John Taylor	Chas.	Water Resources Board	
Linda Day	A.G.'s office for the	WV Insurance Comm	
Karen Fleets	910 Quarrier St	WVHFA	
John Roderick	Chas	WV Bd of Med	
Ronald Walter	Chas	WV Bd. of Med	
Rob Schulerberg	Chas	AG	(if ?)
Donna Quisenberry	Chas	AG	(if ?)
Bill Wilshire	Charleston	W.V. DOT - DOH	
Gil Delaura	"	Hospital Association	

JANUARY 9

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Wednesday, January 9, 1991, 3:00 - 5:00 p.m.

HOUSE JUDICIARY COMMITTEE ROOM, M-410

1. Approval of Minutes - Meeting November 14, 1990.
2. Review of Legislative Rules:
 - a. Attorney General - Proposed legislative rule pertaining to the regulated business exemption under the West Virginia Antitrust Act
 - b. Attorney General - Proposed legislative rule pertaining to defining the term "federal antitrust laws" and prohibiting tying and reciprocity
 - c. Solid Waste Management Board - Disbursement of Loans and Grants to Governmental Agencies for the Acquisition or Construction of Solid Waste Disposal Projects
 - d. Solid Waste Management Board - Establishment of Fee Schedule and Cost Allocation Applicable to the Issuance of Bonds
 - e. Solid Waste Management Board - Development of Comprehensive Litter and Solid Waste Control Plans
 - f. Solid Waste Management Board - Rules and Regulations for the Development of Commercial Solid Waste Facility Siting Plans
 - g. Racing Commission - Thoroughbred Racing Rules
 - h. Racing Commission - Greyhound Rules
 - i. Division of Culture and History - Standards and Procedures for Granting Permits to Excavate Archaeological Sites and Unmarked Graves
 - j. West Virginia Board of Medicine - Licensing, Certification, Disciplinary and Complaint Procedures, Physicians; Podiatrist; Physician Assistants

- k. West Virginia Hospital Finance Authority -
Establishment of Fee Schedule and Cost Allocations
Applicable to the Issuance of Bonds by the West
Virginia Hospital Finance Authority
- l. State Fire Commission - State Fire Code
- m. Department of Transportation, Division of Highways
- Traffic and Safety Rules and Regulations
- n. Insurance Commissioner - AIDS Regulations
- o. Water Resources Board - Requirements Governing
Water Quality Standards

3. Other Business:

SPECIAL MEETING

Wednesday, January 9, 1991

3:00 - 5:00 p.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Wooton, Chairman
Chafin
Manchin, J.
Tomblin (absent)
Wiedebusch
Boley

Grubb, Chairman
Burk
Faircloth
Roop
Love
Gallagher

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

The minutes of the November 14, 1990 meeting were approved.

Debra Graham, Committee Counsel, explained that the rule proposed by the Attorney General - Proposed legislative rule pertaining to the regulated business exemption under the West Virginia Antitrust Act - had been laid over from the Committee's previous meeting to allow the Committee the opportunity to review the Attorney General's proposed modifications to the rule. Robert Schulenberg, Assistant Attorney General, explained the proposed modifications and answered questions from the Committee.

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

Ms. Graham told the Committee that the rule proposed by the Attorney General - Proposed legislative rule pertaining to defining the term "federal antitrust laws" and prohibiting tying and reciprocity - had been laid over from the Committee's last meeting because of numerous questions regarding the proposed rule. Mr. Schulenberg explained the proposed rule to the Committee.

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

Michael McThomas, Committee Associate Counsel, reviewed his abstract on the rule proposed by the Solid Waste Management Board - Disbursement of Loans and Grants to Governmental Agencies for the

Acquisition or Construction of Solid Waste Disposal Projects - and stated that the Board has agreed to modifications to the proposed rule. Karen Watson and George Chappell, Sr., representing the Board, answered questions from the Committee.

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

Mr. McThomas explained the rule proposed by the Solid Waste Management Board - Establishment of Fee Schedule and Cost Allocation Applicable to the Issuance of Bonds. Mr. Chappell told the Committee that the Board has agreed to counsel's suggested modifications.

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

Mr. McThomas reviewed his abstract on the rule proposed by the Solid Waste Management Board - Development of Comprehensive Litter and Solid Waste Control Plans - and stated that the agency has agreed to several modifications. Mr. Chappell answered questions from the Committee.

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

Mr. McThomas reviewed the rule proposed by the Solid Waste Management Board - Rules and Regulations for the Development of Commercial Solid Waste Facility Siting Plans. Mr. Chappell stated that the Board has agreed to all the modifications suggested by Counsel.

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

Mr. McThomas reviewed his abstract on the rule proposed by the Racing Commission - Thoroughbred Racing Rules. Lois Graham, Executive Secretary of the Racing Commission, told the Committee that the Commission has agreed to the modifications suggested by Mr. McThomas and she answered questions from the Committee.

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

Mr. McThomas explained that the rule proposed by the Racing Commission - Greyhound Rules - is an amended version of a rule that had been approved by the Committee at one of its previous meetings. Lois Graham answered the Committee's questions.

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

Mr. McThomas reviewed the rule proposed by the Division of Culture and History - Standards and Procedures for Granting Permits to Excavate Archaeological Sites and Unmarked Graves and stated that the division has agreed to modify the proposed rule.

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

Ms. Graham reviewed her abstract on the rule proposed by the West Virginia Board of Medicine - Licensing, Certification, Disciplinary and Complaint Procedures, Physicians; Podiatrists; Physician Assistants. She told the Committee that the Board has agreed to extensive modifications, including splitting the proposed rule into two separate rules because of the varying subject matter. Deborah Rodecker, Counsel for the Board, addressed the Committee and responded to their questions.

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

Ms. Graham reviewed the rule proposed by the West Virginia Hospital Finance Authority - Establishment of Fee Schedule and Cost Allocations Applicable to the issuance of bonds by the West Virginia Hospital Finance Authority - and stated that the Authority has agreed to several minor technical modifications. Karen Potesta, representing the Authority, responded to questions from the Committee.

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

Mr. McThomas reviewed his abstract on the rule proposed by the State Fire Commission - State Fire Code - and stated that the Commission has agreed to modify the proposed rule. Darrell Cross, representing the Fire Commission, answered questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the Department of Transportation - Traffic and Safety Rules and Regulations - and stated that the Division has agreed to several technical modifications.

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

Mr. McThomas explained the rule proposed by the Insurance Commissioner - AIDS Regulations - and stated that the Commissioner has agreed to modify the proposed rule. Keith Huffman, Counsel for the

Insurance Commissioner, addressed the Committee regarding the proposed rule and responded to questions.

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

Mr. McThomas reviewed his abstract on the rule proposed by the Water Resources Board - Requirements Governing Water Quality Standards.

Mr. Faircloth moved that the proposed rule be approved. The motion was adopted.

Mr. Wiedebush requested that the Committee's counsel obtain from the Secretary of State's office a copy of the Emergency Rule Decision on the Emergency rule filed by the Racing Commission - Greyhound rules. He also requested that information be obtained regarding the procedure for issuing decisions on emergency rules.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: January 9, 1991

Special Meeting

TIME: 3:00 - 5:00 p.m.

<u>NAME</u>	<u>Present</u>	<u>Absent</u>	<u>Yeas</u>	<u>Nays</u>
Chambers, Robert "Chuck", Speaker				
Grubb, David, Co-Chair	✓			
Burk, Robert W., Jr.	✓			
Faircloth, Larry V.	✓			
Brian A. Gallagher	✓			
Love, Sam	✓			
Roop, Jack	✓			
Burdette, Keith, President				
Wooton, William, Co-Chair	✓			
Chafin, Truman H.	✓			
Manchin, Joe, III	✓			
Tomblin, Earl Ray		✓		
Boley, Donna	✓			
Wiedebusch, Larry	✓			
TOTAL	11	1		

RE: _____

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule Making Review

DATE: JAN 9, 1990 3:00 p.m.

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<u>Please print or write plainly</u>			
<u>JAN TAYLOR</u>	<u>CHAS.</u>	<u>WATER RESOURCES BOARD</u>	
<u>Karen Watson</u>	"	<u>Solid Waste Man. Bd.</u>	
<u>George A. Chappell, Sr</u>	<u>1212 Stewart Plaza Dunbar WV 25014</u>	<u>Solid Waste Management Bd</u>	
<u>Rob Schulenberg</u>	<u>A. G. State Capitol</u>	<u>A. G.</u>	<u>X (IF ?)</u>
<u>Donna Quisenberry</u>	"	"	
<u>Jim Cardone</u>	"		
<u>Deborah Rodecker</u>	<u>Bd of Med</u>		
<u>Karen Pesta</u>	<u>WV Hosp. Fin. Auth</u>		
<u>Alan Cuervo</u>	<u>WV Div. of Highways</u>		

JANUARY 10

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Thursday, January 10, 1991, 9:00 - 11:00 a.m.

HOUSE JUDICIARY COMMITTEE ROOM, M-410

1. Approval of Minutes - Meeting January 9, 1991
2. Review of Legislative Rules:
 1. Health Care Cost Review Authority - Conversion of Acute Care Beds to 100 Skilled Nursing Care Beds
 2. Cable Television Advisory Board - Implementing Regulations
 3. Cable Television Advisory Board - Franchising Procedures
 4. Department of Administration: Information Services and Communications - Plan of Operation
 5. Department of Administration - Parking
 6. Department of Administration - Leasing Space on Behalf of State Spending Units
 7. Department of Administration - Purchasing
 8. Department of Administration - Public Transportation
 9. Board of Professional Engineers - Rules & Regulations governing the Board of Registration for Professional Engineers
 10. Division of Natural Resources - Department of Commerce, Labor and Environmental Resources - Hunting and Trapping Regulations
 11. Division of Public Safety - Modified Vehicle Inspections
 12. Division of Energy - West Virginia Surface Mining and Reclamation Regulations
3. Other Business:

SPECIAL MEETING

Thursday, January 10, 1991

9:00 - 11:00 a.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

Wooton, Chairman
Chafin, (absent)
Manchin, J. (absent)
Tomblin (absent)
Wiedebusch
Bolely (absent)

House

Grubb, Chairman
Burk
Faircloth
Roop
Love
Gallagher

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

Mr. Roop moved that the rule proposed by the Department of Energy - West Virginia Surface Mining and Reclamation Regulations lie over to the Committee's next meeting. The motion was adopted.

Mr. Wooton moved that the rules proposed by the Department of Administration- Information Services and Communications - Plan of Operation; Parking; Leasing Space on Behalf of State Spending Units; Purchasing; Public Transportation and the rule proposed by the Board of Professional Engineers - Rules and Regulations governing the Board of Registration for Professional Engineers be approved as modified. The motion was adopted.

Debra Graham, Committee Counsel, reviewed her abstract on the rule proposed by the Health Care Cost Review Authority - Conversion of Acute Care Beds to 100 Skilled Nursing Care Beds - and stated that the Authority has agreed to modify the proposed rule. Marianne Stonestreet, counsel, representing HCCRA, addressed the Committee regarding the proposed rule.

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

Ms. Graham reviewed her abstract on the rule proposed by the Cable Television Advisory Board - Implementing Regulations - and

stated that the Board has agreed to modify the proposed rule. Tim Winslow, Assistant Attorney General representing the Board, addressed the Committee and responded to questions from the Committee.

Mr. Gallagher moved that the proposed rule, as well as the rule proposed by the Board regarding Franchising Procedures, lie over until the Committee's next meeting. The motion was adopted.

Mr. Grubb inquired if there was anyone present to follow up on the Committee's question regarding the issuance of Emergency Rule Decisions by the Secretary of State's office. Judy Cooper, Director, Administrative Law Division, addressed the Committee and responded to questions. Mr. Grubb requested that a representative from the Secretary of State's office attend the Committee's meetings and review pending emergency rules.

Mr. Wiedebusch requested that the Committee's staff meet with representatives of the Secretary of State's office to determine whether or not a more workable statutory definition of "emergency" can be developed and also to develop language to close the loophole which allows agencies to file amendments to the emergency rules without review by the Secretary of State's office.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Natural Resources - Hunting and Trapping Regulations - and stated that the agency has agreed to several minor technical modifications. Lt. William Daniel, Law Enforcement Section, Department of Natural Resources, responded to questions from the Committee.

Mr. Love moved that the proposed rule lie over until the Committee's next meeting in order to allow the Division to determine if Section 9, regarding Class R licenses, reflects the current law.

After discussion, Mr. Love asked unanimous consent to withdraw his motion until a later time. There being no objection, his motion was withdrawn.

Gary Richards addressed the Committee regarding Section 3.7.1 of the proposed rule which he said prohibits the use of a sure shot device on a bow. He demonstrated the device for the Committee and responded to their questions.

Mr. Love moved that the proposed rule lie over until the Committee's next meeting and requested that DNR have someone present to answer questions. The motion was adopted.

Mr. Wooton moved that the Committee reconsider its action whereby it approved, as modified, the rule proposed by the Department of Administration - Public Transportation. The motion was adopted.

Mr. Wooton moved that the Committee request that the Department of Administration withdraw the proposed rule. The motion was adopted.

Michael McThomas, Committee Associate Counsel, reviewed his abstract on the rule proposed by the Division of Public Safety - Modified Vehicle Inspections. He told the Committee that he believes that the statute upon which the rules are based is fatally flawed and that in his opinion the Committee should request that the Agency withdraw the proposed rule.

Senator Pritt reviewed the legislative history of the authorizing statute and answered questions from the Committee. Lt. Clark of the Department of Public Safety, also answered questions from the Committee. Alvin Hunt, Attorney at Law, Charleston, WV, addressed the Committee and responded to questions.

Mr. Wooton moved that the proposed rule lie over.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: JANUARY 10, 1991

Special Meeting

TIME: 9:00-11:00 A.M.

NAME

Present	Absent	Yeas	Nays
✓			
✓			
✓			
✓			
✓			
✓			
✓			
	✓		
	✓		
	✓		
	✓		
✓			
8	4		

Chambers, Robert "Chuck", Speaker

Grubb, David, Co-Chair

Burk, Robert W., Jr.

Faircloth, Larry V.

Brian A. Gallagher

Love, Sam

Roop, Jack

Burdette, Keith, President

Wooton, William, Co-Chair

Chafin, Truman H.

Manchin, Joe, III

Tomblin, Earl Ray

Boley, Donna

Wiedebusch, Larry

TOTAL

RE: _____

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: _____

DATE: _____

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly L. ALVIN HUNT	7 Players Club Dr. CHAS, W.VA. 25331	Rondus W. CASTO	X
RONDUS W. CASTO	ROUTE 2 BOX 42 B KENNA, W.VA 25248	SELF	
Gary E. Reese	RT 1 Box 308 DOK Hill, W.V. 25001	SELF	X
Roger Hall	1615 Wash St E	DOE	
Jeffrey A Almond	101 SIDDAI ST BECKLEY, W.V.	M.A.E-SERVICES, INC	X
William Stover	41 Eagle Rd. Mateh. WV	M.A.E. Service Inc.	X
Frank D Haddy	415 Sand, do Ht V.	WV Bd of Reg Er-PE'S	
Marian Stover	100 Don Drive	HCCPA	if needed
DINA STOUT	CAPITOL, E-119	ADMINISTRATION	if needed
Greg Nicholson	" E 110	" / Leasing	
Ronald H. Riley	" E 110	Purchasing	"
Michael E Camer	Capitol Bld 3 Rm 712	DNR	if needed
Timothy Winston	812 Quarrier St Cab 711	WV Cable TV Advisory Board Attorney General of WV	X
Bill Herlich	Box 273 Chas.	WV Cable TV Adm	
Matthew Brown	State Capitol	Admin - ISZ	
Royce M. Charles	State Capitol	Admin - ISZ	

JANUARY 16

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Wednesday, January 16, 1991, 2:00 - 5:00 p.m.

House Judiciary Committee Room - M-410

1. Approval of Minutes - Meeting January 9 and 10, 1991
2. Review of Legislative Rules:
 1. Cable Television Advisory Board - Implementing Regulations
 2. Cable Television Advisory Board - Franchising Procedures
 3. Division of Public Safety - Modified Vehicle Inspections
 4. Insurance Commissioner, Office of - Health Insurance Benefits for Temporomandibular and Craniomandibular Disorders
 5. Health, Board of - Public Water Systems, Bottled Water and Laboratory Certification
 6. Health, Board of - Vital Statistics
 7. Health, Division of - Fees for Services
 8. Jail & Correctional Facility Authority - Regional Regulations relating to Public Hearings and Site Selection for Private Prisons
3. Other Business:

SPECIAL MEETING

Wednesday, January 16, 1991

2:00 - 5:00 p.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Wooten, Chairman
Chafin
Manchin, J. (absent)
Tomblin
Wiedebusch (absent)
Boley (absent)

Grubb, Chairman
Burk
Faircloth
Roop
Love
Gallagher

The meeting was called to order by Mr. Wooten, Co-chairman.

The minutes of the January 9 and 10, 1991, meetings were approved.

Debra Graham, Committee Counsel, briefly reviewed the rule proposed by the Cable Television Advisory Board - Implementing Regulations - which had been laid over from the Committee's last meeting.

Mr. Gallagher asked for unanimous consent that the proposed rule lie over until the Committee's next meeting. There being no objection, the rule was laid over until the Committee's next meeting.

Ms. Graham reviewed her abstract on the rule proposed by the Cable Television Advisory Board - Franchising Procedures - and stated that the Board has agreed to several modifications. Tim Winslow, Assistant Attorney General, further explained the proposed rule and answered questions from the Committee. Todd Carden, Manager, Telecommunications Section of the Utilities Division, PSC, also addressed the Committee and answered their questions.

Mr. Gallagher asked for unanimous consent that the proposed rule lie over until the Committee's next meeting. Mr. Chafin objected to the request.

Mr. Gallagher moved that the proposed rule lie over until the Committee's next meeting. Following discussion on the motion, Mr. Chafin withdrew his objection to Mr. Gallagher request for unanimous consent.

Mr. Gallagher asked for unanimous consent that the proposed rule lie over until the Committee's next meeting. There being no objection, the rule was laid over until the Committee's next meeting

Michael McThomas, Associate Counsel, briefly reviewed the rule proposed by the Division of Public Safety - Modified Vehicle Inspection - which had been laid over from the Committee's previous meeting.

Mr. Grubb moved that the proposed rule be postponed indefinitely. The motion was adopted.

Mr. McThomas reviewed his abstract on the rule proposed by the Office of the Insurance Commissioner - Health Insurance Benefits for Temporomandibular and Craniomandibular Disorders.

Mr. Roop moved that the proposed rule be approved. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Board of Health - Public Water Systems, Bottled Water and Laboratory Certification - and stated that the Board has agreed to several minor technical modifications. Kay Howard of the Regulatory Division, Department of Health and Human Resources, answered questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the Board of Health - Vital Statistics - and stated that the Board has agreed to several minor technical modifications.

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

Ms. Graham explained the rule proposed by the Division of Health - Fees for Services - and stated that the Division has agreed to several minor technical modifications. Kay Howard and Joseph Shock, Director, Office of Environmental Health, Department of Health and Human Resources, answered questions from the Committee.

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

Mr. McThomas reviewed his abstract on the rule proposed by the Regional Jail and Correctional Facility Authority - Public Hearings and Site Selection for Private Prisons - and stated that the Authority has agreed to modify the proposed rule.

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

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: JANUARY 16, 1991

TIME: 2:00 - 5:00 p.m.

NAME

Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Grubb, David, Co-Chair

Burk, Robert W., Jr.

Faircloth, Larry V.

Brian A. Gallagher

Love, Sam

Roop, Jack

Burdette, Keith, President

Wooton, William, Co-Chair

Chafin, Truman H.

Manchin, Joe, III

Tomblin, Earl Ray

Boley, Donna

Wiedebusch, Larry

TOTAL

<u>Present</u>	<u>Absent</u>	<u>Yeas</u>	<u>Nays</u>
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			

RE: _____

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Rule-Making Review

DATE: January 16, 1991

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<u>Please print or write plainly</u>		<u>Please print</u>	
Joseph P Schock		Bureau of Public Health	
WILLIAM HEROLD		" " " "	
DON KUNTZ		" " " "	
Charlotte Billingsley		" " " "	
Tim Winslow		WV Cable TV Advisory Bd	X
Scott Harless		Modified Vehicle Insp.	
Debbie Ellis		Modified Vehicle Insp.	
Bill Ozde	Beckley, W.Va.	Beckley Telecable	
Ray Howard		Health & Hum. Resources	
Sue Boring		DHHR	
R.D. BLANKENSHIP		DEPT OF PUBLIC SAFETY	
T.M. GRAY		" " " "	
L. ALVIN HUNT	Chas. W. Va.	RONDUS G. CASTO	X
Rondus G. Casto	KENNEDY, W. VA	SELF	

JANUARY 17

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Thursday - January 17, 1991 - 4:00 p.m.

SENATE JUDICIARY MEETING ROOM, W-208

1. Approval of Minutes - Meeting January 16, 1991, 2:00 p.m.
2. Review of Legislative Rules:
 - a. Cable Television Advisory Board - Implementing Regulations
 - b. Cable Television Advisory Board - Franchising Procedures
 - c. Division of Energy - West Virginia Surface Mining Reclamation Regulations
3. Other Business:

SPECIAL MEETING

Thursday, January 17, 1991

4:00 p.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Wooton, Chairman
Chafin (absent)
Manchin, J.
Tomblin (absent)
Wiedebusch
Boley (absent)

Grubb, Chairman
Burk
Faircloth
Roop
Love
Gallagher

The meeting was called to order by Mr. Grubb, Co-chairman.

The minutes of the January 16, 1991, meeting were approved.

Mr. Grubb reminded the members of the Committee that the rules proposed by the Cable Television Advisory Board - Implementing Regulations and Franchising Procedures - had been laid over from the previous meeting in order to allow members to prepare amendments to the proposed rules. No amendments were proposed.

Mr. Wooten moved that the proposed rules be approved as modified. The motion was adopted.

Mr. Grubb made a preliminary statement regarding the rule proposed by the Division of Energy - West Virginia Surface Mining Reclamation Regulations. Mr. Woody Wayland, Commissioner of the Department of Energy and Roger Hall, Administrator, Division of Energy, addressed the Committee regarding the proposed rule.

Michael McThomas, Associate Counsel, reviewed Section 12.2 (c)(4) of the proposed rule which conflicts with the statute. Mr. Hall stated that the Division would modify the proposed rule in accordance with Mr. McThomas' suggestions.

Mr. Hall answered questions regarding the proposed rule. Tom Rodd, representing Mountain Stream Monitors, and Bill Raney, representing the Mining and Reclamation Association, addressed the Committee and answered questions regarding the proposed rule.

Mr. Grubb moved to amend the proposed rule on page 1 by striking all of Section 12.3.4 and inserting in lieu thereof a new Section 12.3.4 which would require site specific bonding.

After discussion, Mr. Grubb asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Grubb moved to amend the proposed rule on page 155, Section 12.4 by adding a new subsection (f). The motion was rejected.

Mr. Grubb moved to modify the proposed rule on pages 175 through 177, Section 14.8(a)(2) by deleting all of subdivision 2 relating to multiple seam mining.

John McFarrin, Steve Keen, Director of Mines and Minerals, Division of Energy, and Tom Rodd addressed the Committee regarding the proposed amendment.

Mr. Grubb's motion was adopted.

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

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: JAN. 17, 1991

TIME: 4:00

NAME

Present	Absent	Yeas	Nays
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			

Chambers, Robert "Chuck", Speaker

Grubb, David, Co-Chair

Burk, Robert W., Jr.

Faircloth, Larry V.

Brian A. Gallagher

Love, Sam

Roop, Jack

Burdette, Keith, President

Wooton, William, Co-Chair

Chafin, Truman H.

Manchin, Joe, III

Tomblin, Earl Ray

Boley, Donna

Wiedebusch, Larry

TOTAL

RE: _____

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg Role-Making Review

DATE: JAN. 17, 1991 4:00 p.m.

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
Tim Winslow		WV Cable TV Advisory Bd	If needed
Roger T. Hall	1615 West St E CHE	DOE	
Bill Cagle	205 Quarry St. Beckley	Beckley Telecable	
Melvin Yall	Kenova, W.V.	Cable Television	if Ness
Woody Wayland - (COMMISSIONER)		ENERGY (DOE)	X
Stephen C. Keen	Charleston	Division of Energy	if needed

Proposed Change To DOE Regulation

#1

Title 38
CSR 2
Section 12

(4) Notwithstanding any other provision of this section, these regulations, or the Act, no permit will be issued or a bond release or bond reduction granted if the applicant or permittee proposes to treat any discharge from the site, or if the Commissioner determines treatment may be required when the permit is issued or at the time bond release or bond reduction is requested, water discharged from or affected by the operation requires chemical treatment in order to comply with applicable effluent limitations or water quality standards; provided, that the Commissioner may issue a permit or approve a request for Phase I or Phase II bond release, but not Phase III, release if the applicant demonstrates to the satisfaction of the Commissioner that either:

(A) A bond exists or is supplemented which is adequate to assure long term treatment of the drainage; or

(B) The permittee has irrevocably committed other financial resources which are adequate to assure long term treatment of the drainage; provided, that the alternate financial resources must be in acceptable form, and meet the standards set forth in Section 11 of the Act and Section 11 of these regulations; provided, however, that the alternate financial arrangements shall provide a mechanism whereby the Commissioner can assume management of the resources and treatment work in the event that the operator defaults for any reason; provided, further, that default on a treatment obligation under this paragraph shall be considered equivalent to a bond forfeiture, and the permittee and operator will be subject to penalties and sanctions, including permit blocking, as if a bond forfeiture had occurred.

In order to make such demonstration as referenced above, the applicant shall address in his application for a permit or bond release, at a minimum, the current and projected quantity and quality of drainage to be treated, the anticipated duration of treatment, the estimated capital and operating cost of the treatment facility, and the calculations which demonstrate the adequacy of the remaining bond or of the alternate financial resources.

HOUSE OF DELEGATES

47

19 91

SESSION: Regular 1st Ext. 2nd Ext. 3rd Ext.

H. B. No. _____

S. B. No. _____

DELEGATE Grubb

change
moves to amend the bill

on page 155, section 12.4, line _____, by adding a new

§(e) + redesignating the existing §(e) as §(f).

rules by changes, then

as attached

see attached

Adopted.

REJECTED

Proposed Change To DOE Regulation

Action: Amend 12.4 by adding a new subsection (f) concerning initiation of bond forfeiture action

Proposed Amendment:

Subsection (e) would read as follows:

(e) In all cases in which a Cessation Order remains unabated or has remained unabated for a period of sixty days from issuance, the Commissioner will initiate bond forfeiture action pursuant to this section and will pursue the action to final forfeiture in a diligent manner; provided however, that in no event, shall more than one year pass between initiation of a bond forfeiture proceeding and final administrative action by the Commission unless a lawful and binding Consent Order with explicit time limits for abatement has been approved by the Commissioner.

Proposed Change To DOE Regulation

Action: Amend 12.4 by adding a new subsection (f) concerning initiation of bond forfeiture action

Proposed Amendment:

Subsection (e) would read as follows:

(e) In all cases in which a Cessation Order remains unabated or has remained unabated for a period of sixty days from issuance, the Commissioner will initiate bond forfeiture action pursuant to this section and will pursue the action to final forfeiture in a diligent manner; provided however, that in no event, shall more than one year pass between initiation of a bond forfeiture proceeding and final administrative action by the Commission unless a lawful and binding Consent Order with explicit time limits for abatement has been approved by the Commissioner.

§ 22A-3-23. Release of performance bond or deposits; application; notice; duties of commissioner; public hearings; final maps on grade release.

(a) The permittee may file a request with the commissioner for the release of a performance bond or deposit. The permittee shall publish an advertisement regarding such request for release in the same manner as is required of advertisements for permit applications. A copy of such advertisements shall be submitted to the commissioner as part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit and the date approved, the amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed and a description of the results achieved as they relate to the permittee's approved reclamation plan. In addition, as part of any bond release application, the permittee shall submit copies of letters which he has sent to adjoining property owners, local government bodies, planning agencies, sewage and water treatment authorities or water companies in the locality in which the surface-mining operation is located, notifying them of the permittee's intention to seek release from the bond. Any request for grade release shall also be accompanied by final maps.

(b) Upon receipt of the application for bond release, the commissioner, within thirty days, taking into consideration existing weather conditions, shall conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance or future occurrence of such pollution and the estimated cost of abating such pollution. The commissioner shall notify the permittee in writing of his decision to release or not to release all or part of the performance bond or deposit within sixty days from the date of the initial publication of the advertisement if no public hearing is requested. If a public hearing is held, the commissioner's decision shall be issued within thirty days thereafter.

(c) If the commissioner is satisfied that reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this article, he may release said bond or deposit, in whole or in part, according to the following schedule:

(1) When the operator completes the backfilling, regrading and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent of the bond or collateral for the applicable bonded area: Provided, That a minimum bond of ten thousand dollars shall be retained after grade release;

(2) Two years after the last augmented seeding, fertilizing, irrigation or other work to ensure compliance with subdivision (19), subsection (b), section twelve [§ 22A-3-12(b)(19)] of this article, the release of an additional twenty-five percent of the bond or collateral for the applicable bonded area: Provided, That a minimum bond of ten thousand dollars shall be retained after the release provided for in this subdivision; and

Re:
12.2 (c)(4)
Bond
Release
&
Water
Quality

bond or deposits; ap-
 es of commissioner; pub-
 s on grade release.

the commissioner for the release
 ittee shall publish an advertise-
 he same manner as is required of
 opy of such advertisements shall
 any bond release application and
 ocation of the land affected, the
 approved, the amount of the bond
 he type and appropriate dates of
 on of the results achieved as they
 n plan. In addition, as part of any
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 ion is located, notifying them of
 the bond. Any request for grade
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 id of continuance or future
 d cost of abating such pollution.
 e in writing of his decision to
 formance bond or deposit within
 ation of the advertisement if no
 ring is held, the commissioner's
 reafter.

lamation covered by the bond or
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(3) When the operator has completed successfully all surface mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified in subdivision (20), subsection (b), section twelve [§ 22A-3-12(b)(20)] of this article: Provided, That the revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan: Provided, however, That such a release may be made where the quality of the untreated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

No part of the bond or deposit may be released under this subsection so long as the lands to which the release would be applicable are contributing additional suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section twelve or thirteen of this article, or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section nine of this article. Where a sediment dam is to be retained as a permanent impoundment pursuant to section twelve of this article, or where a road or minor deviation is to be retained for sound future maintenance of the operation, the portion of the bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the commissioner.

(d) If the commissioner disapproves the application for release of the bond or portion thereof, the commissioner shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release and notifying the operator of his right to a hearing.

(e) When any application for total or partial bond release is filed with the commissioner, he shall notify the municipality in which a surface-mining operation is located by registered or certified mail at least thirty days prior to the release of all or a portion of the bond.

(f) Any person with a valid legal interest which is or may be adversely affected by release of the bond or the responsible officer or head of any federal, state or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations, has the right to file written objections to the proposed bond release and request a hearing with the commissioner within thirty days after the last publication of the permittee's advertisement. If written objections are filed and a hearing requested, the commissioner shall inform all of the interested parties of the time and place of the hearing and shall hold a public hearing in the locality of the surface-mining operation proposed for bond release within three weeks after the close of the public comment period. The date, time and location of such public hearing shall also be advertised by the commissioner in a newspaper of general circulation in the same locality.

SPECIAL MEETING

Thursday, January 17, 1991

4:00 p.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Wooton, Chairman
Chafin (absent)
Manchin, J.
Tomblin (absent)
Wiedebusch
Boley (absent)

Grubb, Chairman
Burk
Faircloth
Roop
Love
Gallagher

The meeting was called to order by Mr. Grubb, Co-chairman.

The minutes of the January 16, 1991, meeting were approved.

Mr. Grubb reminded the members of the Committee that the rules proposed by the Cable Television Advisory Board - Implementing Regulations and Franchising Procedures - had been laid over from the previous meeting in order to allow members to prepare amendments to the proposed rules. No amendments were proposed.

Mr. Wooten moved that the proposed rules be approved as modified. The motion was adopted.

Mr. Grubb made a preliminary statement regarding the rule proposed by the Division of Energy - West Virginia Surface Mining Reclamation Regulations. Mr. Woody Wayland, Commissioner of the Department of Energy and Roger Hall, Administrator, Division of Energy, addressed the Committee regarding the proposed rule.

Michael McThomas, Associate Counsel, reviewed Section 12.2 (c)(4) of the proposed rule which conflicts with the statute. Mr. Hall stated that the Division would modify the proposed rule in accordance with Mr. McThomas' suggestions.

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Mr. Grubb moved to amend the proposed rule on page 1 by striking all of Section 12.3.4 and inserting in lieu thereof a new Section 12.3.4 which would require site specific bonding.

After discussion, Mr. Grubb asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

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