

**SEPTEMBER**



## **AGENDA**

### **LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

**TUESDAY, SEPTEMBER 28, 1993 - 12:30 P.M. - 4:30 P.M.**

**SENATE FINANCE COMMITTEE ROOM - M-451**

1. Approval of Minutes - Meeting August 9, 1993
2. Review of Legislative Rules:
  - a. Embalmers and Funeral Directors, Board of  
Rules of the WV Board of Embalmers and Funeral  
Directors
  - b. Environmental Protection, Division of  
Solid Waste Landfill Closure Assistance Program  
Regulations
  - c. Environmental Protection, Division of  
Assessment of Civil Administrative Penalties
  - d. Environmental Protection, Division of  
Monitoring Well Regulations
  - e. Agriculture, Department of  
Regulations Governing Auctioneers
  - f. Office of Miners' Health, Safety & Training  
First-Aid Training of Shaft and/or Slope Employees
  - g. Labor, Division of  
Elevator Safety Act
  - h. Accountancy, Board of  
Board Rules and Rules of Professional Conduct
  - i. Health, Division of  
Cancer Registry
  - j. Natural Resources, Division of  
Regulations Concerning Prohibitions When Hunting  
and Trapping
  - k. Natural Resources, Division of  
Special Fishing Regulations
  - l. Board of Osteopathy  
Rules and Regulations for Osteopathic Physician  
Assistants

- m. Board of Osteopathy  
Licensing, Disciplinary and Complaint Procedures,  
Osteopathic Physicians
- n. Secretary of State  
Official Election Forms and Vendor Authorization
- o. Highways, Division of  
Traffic and Safety Rules and Regulations
- p. Board of Dental Examiners  
Rules and Regulations for the West Virginia Board  
of Dental Examiners
- q. Family Protection Services Board  
Operation of Family Protection Services Board and  
Licensure and Funding of Domestic Violence  
Programs
- r. Board of Physical Therapy  
General Provisions
- s. Board of Physical Therapy  
Contested Case Hearing Procedures
- t. Division of Tax  
Bingo Rules
- u. Racing Commission  
Greyhound Rules
- v. Racing Commission  
Thoroughbred Rules

3. Other Business:

**SPECIAL MEETING**

Tuesday, September 28, 1993

12:30 - 4:30 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

Manchin, Chairman  
Grubb  
Anderson  
Macnaughtan  
Minard  
Boley

Gallagher, Chairman  
Douglas  
Compton  
Huntwork  
Burk  
Faircloth

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

The minutes of the August 9, 1993, meeting were approved.

Debra Graham, Committee Counsel, explained the rule proposed by the Board of Embalmers and Funeral Directors, Rules of the WV Board of Embalmers and Funeral Directors, and answered questions from the Committee. She stated that the Board has agreed to technical modifications. Henry Melton, a member of the Board, responded to questions from the Committee. Joe Wyatt, representing the Bureau of Public Health's Medical Infectious Waste Program, responded to questions from the Committee regarding the disposal of sharps and body fluids by embalmers and funeral directors.

Mr. Anderson moved that the proposed rule be placed at the foot of the agenda. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Environmental Protection, Solid Waste Landfill Closure Assistance Program Regulations. She stated that the agency has agreed to technical modifications. Randy Huffman, Assistant Chief, Office of Waste Management, answered questions from the Committee.

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

Ms. Graham explained the rule proposed by the Division of Environmental Protection, Assessment of Civil Administrative Penalties. She stated that, in her opinion, the Division had exceeded the scope of its authority in promulgating a rule for more than one agency. She stated that the Division has agreed to modify the rule to make it apply only to the Division and to encompass the technical modifications suggested by Counsel. Patrick Campbell, representing the Division, answered questions from the Committee, including questions related to the application of the civil administrative penalties to individuals.

Ms. Boley moved that the proposed rule be moved to the foot of the agenda. The motion was rejected.

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

Ms. Graham reviewed her abstract on the rule proposed by the Division of Environmental Protection, Monitoring Well Regulations, and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the Department of Agriculture, Regulations Governing Auctioneers, and answered questions from the Committee. She stated that the Department has agreed to technical modifications. Bob Williams, representing the Department of Agriculture, responded to questions from the Committee and agreed to further modify the proposed rule to clarify Section 6 of the proposed rule relating to continuing education.

Ms. Compton moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Office of Miners' Health, Safety & Training, First-Aid Training of Shaft and/or Slope Employees, and answered questions from the Committee. She stated that the Office has agreed to technical modifications. Doug Conaway, representing the Office, answered questions from the Committee.

Mr. Minard and Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Division of Labor, Elevator Safety Act, and responded to questions from the Committee. She stated that the Division has agreed to technical modifications. Andy Brown, Assistant to the Labor Commissioner, also responded to questions from the Committee.

Ms. Douglas 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 Accountancy, Board Rules and Rules of Professional Conduct, and told the Committee that the Board has agreed to technical modifications and is requesting the authority to make an additional modification to the proposed rule regarding experience requirements. Donald McIver, President of the Board, explained the need for the additional modification.

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

Ms. Graham explained the rule proposed by the Division of Health, Cancer Registry, and stated that the Division has agreed to technical modifications. Loretta Haddy, Director of Surveillance and Disease Control, answered questions from the Committee and agreed to further modify the proposed rule regarding staging and standardization of data.

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

Ms. Graham reviewed her abstract on the rule proposed by the Division of Natural Resources, Regulations Concerning Prohibitions When Hunting and Trapping.

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

Ms. Graham explained the rule proposed by the Division of Natural Resources, Special Fishing Regulations, and stated that the Division has agreed to technical modifications. Bernie Dowler, representing the Division, answered questions from the Committee.

Mr. Minard 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 Osteopathy, Rules and Regulations for Osteopathic Physician Assistants, and answered questions from the Committee. She stated that the Board has agreed to modifications. There was no representative of the Board present to respond to questions from the Committee.

Mr. Gallagher moved that the proposed rule and the Board's second rule, Licensing, Disciplinary and Complaint Procedures, Osteopathic Physicians, be placed at the foot of the agenda. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Secretary of State, Official Election Forms and Vendor Authorization, and stated that the Secretary of State has agreed to technical modifications. There was no representative of the Secretary of State's Office present to respond to questions from the Committee.

Ms. Compton moved that the proposed rule be placed at the foot of the agenda. The motion was adopted.

Ms. Graham explained the rule proposed by the Division of Highways, Traffic and Safety Rules and Regulations, and stated that the Division has agreed to technical modifications and is also requesting an additional modification on combination length. Leff Moore, representing the West Virginia Manufactured Housing Association, explained the additional modification requested by the Board and responded to questions from the Committee. He requested that the Committee ask the Secretary of State to reconsider the Emergency Rule Decision rejecting the Divisions request to file the proposed rule as an emergency rule. Mr. Manchin explained that staff has already discussed the issue with the Secretary of State's Office and that the Office can take no further action. Ms. Graham related her discussion with the Office. Mr. Manchin directed Counsel to recontact the Secretary of State's office regarding this issue. Dan Blackwood, representing the Division of Highways, answered questions from the Committee and agreed to modify the proposed rule to require movers of mobile homes to reimburse police or enforcement officers for all costs associated with escort services.

Mr. Minard 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 Dental Examiners, Rules and Regulations for the West Virginia Board of Dental Examiners, and stated that the Board has agreed to a technical modification.

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

Mr. Manchin told the Committee that Bill Harrington, Deputy Secretary of State, was present to answer questions on the rule proposed by the Secretary of State, Official Election Forms and Vendor Authorization, and asked Mr. Harrington to respond to questions from the Committee. Mr. Harrington answered questions from the Committee.

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

Marjorie Martorella, counsel for the House Government Organization Committee, explained the rule proposed by the Family Protection Services Board, Operation of Family Protection Services Board and Licensure and Funding of Domestic Violence Programs. She told members of the Committee that the Board had agreed to modifications to the proposed rule.

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

Mr. Faircloth moved that the Committee reconsider its action whereby it approved, as modified, the rule proposed by the Division of Highways, Traffic and Safety Rules and Regulations. The motion was adopted.

Mr. Macnaughtan moved that the proposed rule lie over until the Committee's next meeting and that Commissioner Fred Vankirk, Charles Miller, Secretary of the Transportation, and Colonel Thomas L. Kirk, of the Division of Public Safety, be asked to attend the meeting to respond to questions regarding the safety issues involved in transporting mobile homes on the State's highways. The motion was adopted.

Ms. Martorella reviewed her abstract on the rule proposed by the Board of Physical Therapy, General Provisions, and answered questions from the Committee. Frankie Cayton, Executive Secretary of the Board, responded to questions from the Committee.

Mr. Macnaughtan moved that the proposed rule and the second rule proposed by the Board of Physical Therapy, Contested Case Hearing Procedures, lie over until the Committee's next meeting. The motion was adopted.

The meeting was adjourned.



ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Sept 28, 1993

TIME: 12:30 p.m.

NAME

Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Brian Gallagher, Co-Chair

Burk, Robert W., Jr.

Faircloth, Larry V.

Douglas, Vickie

Compton, Mary P.

Huntwork, John

Burdette, Keith, President

Joe Manchin, III Co-Chair

Anderson, Leonard

Grubb, David

Minard, Joseph

Macnaughtan, Don

Boley, Donna

TOTAL

✓			
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✓			

RE: Special meeting

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REGISTRATION OF PUBLIC

COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: Sept. 28, 1993

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<u>Please print or write plainly</u>			
David B. McMahon	1033 Quarrier St R	W. Va. Legal Service Allgh	✓
Ray Howard	Health + Hum Res	Charleston	✓
SCOTT ICARD	CHAS	APP. POWER Co.	
George Greenbaum	Steph + Johnson		
James G. Anderson II	Roberts 1459 Belling, WV 25861	W. Va. Bd of Dental Exam	✓
PAM MOYERS SCOTT	PO BOX 43 WILLIAMSBURG, WV 25409	WV ASSOC OF PAs	✓
Robert Williams		WV Dept. of Agriculture	
Joe Wyatt	815 Quarrier St Ch	Bureau of Pub Health	
Troy GINTERS	#10 HAZE ST Chas WV	Rose + Guesenby Fund Home	
J.D. Blackwood	Bldg 5 Room 304	WV DOW	
✓ Henry MELTON	BECKLEY	Board of Embalmers	
Joseph F. FORD	FAIRMONT	" "	
Charles F. GREGG	WEIRTON	" "	
ROBERT RODECKER	P.O. Box 2151 Chas 25328	WVADA	✓
Patrick Campbell	1201 Greenbrier St Chas 25311	WV DEP	
Sharon Swick	109 Alabaster Lane	Board of Em.	
Diane Camp	179 Sumner St Chas	" "	
Diane Camp	Bldg 6 - Rm 850	Fam. Prot. Serv. Bd.	

REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: Sept 28, 1993

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly <u>LEFF MOORE</u>	<u>205-1st Ave Nitro, VA</u>	<u>VV Mfg &amp; Ausmng Assoc</u>	<input checked="" type="checkbox"/>
<u>Andy Brown</u>	<u>Capitol</u>	<u>Division of Labor</u>	

REGISTRATION OF PUBLIC

COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg Rule-Making

DATE: 9-28-93

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
DIANE REESE	Sutton, WV	Family Protection Service Bd	
ROGER K. PRICE	Charleston	W.V.A. Funeral Directors Assn.	
DON McIVER	CHS.	WV Bd. of Accountancy	
BILL DANIEL	CHS	WV DNR LAW	IF NEEDED
BERNIE DOWLER	!!	" WILDLIFE	" "
Beverly Keener	Bureau of Public Health - Chas.	Div. of Surveillance & Dis. Control	If needed
Randy Hoffman	Hansford St	WVDFP OWM	if needed

REGISTRATION OF PUBLIC

AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: Sept 28, 1993

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly Betty Atkins	Chas WV	Protect. Fund Fam. Services	<input checked="" type="checkbox"/>
<del>MARTHA HINCHON</del>	Chas. WV	Fam Prot. Services Bd.	
Margaret Sutton	Fairmont WV	Dam. Prot. Bd	
Marian Hunter	Chas. WV	Bureau of Public Health	<input checked="" type="checkbox"/>

Hand out 9/28/93

## **FAMILY PROTECTION SERVICES BOARD DISTRIBUTION FORMULA**

1. Total amount of funds available from collections over the past fiscal year is determined. A conservative projection of collections for the last two or three months of the fiscal year will be made since grant amounts will be announced prior to the receipt of all collections.
2. The five percent (5%) administrative fee is subtracted from the total amount. This fee will be used for the Board's operation.
3. One-half of the total available for distribution to shelter/programs is extracted. This amount is distributed in equal shares to every licensed shelter/program. It is dispersed during the first half of the fiscal year.
4. The remaining half of the funds available for distribution is allotted according to a formula which is based on the following criteria. It is dispersed during the second half of the fiscal year.

### **CRITERIA**

- a. Distributing funds in a fair and equitable manner.
- b. Implementation of the law.
- c. Rewarding programs for successful grant writing and fund raising work.
- d. Acknowledging the size and associated costs of programs.

### **SECOND HALF FORMULA**

- The prior fiscal year total cash budget is determined for all shelters/programs. That amount is divided into two portions. One, a sixty-five percent (65%) portion and the second, a thirty-five percent (35%) portion. The 65% portion relates to the rewarding of programs for successful grant writing and fund raising. The 35% portion relates to the acknowledgement of the size of the shelter/program. This is determined by the number of beds available at each shelter.
- The percentage of each shelter/program of the total cash budget for all shelters/programs is determined.
- The percentage of each shelter/program of the total cash budget is then applied to the 65% and 35% portions to determine each award to be made.

NOTE: Programs which do not have shelter beds will not receive an allocation for beds, i.e., the 35% portion.

**FISCAL YEAR 93-94 ALLOCATION**

● Total Available for FY 93-94	\$545,000
● Five percent (5%) Administrative Fee	<u>-27,250</u>
● Funds Available for Shelter/Programs	\$517,750
● Equal Share Total Available (1st Half) (\$19,913 To Each Shelter/Program)	\$258,875
● 65% of 2nd Half - Cash Budget	\$168,269
● 35% of 2nd Half - Bed Capacity	\$ 90,607

NOTE: There are 161 available beds statewide, giving and allocation of \$563 per bed.