

SEPTEMBER 14



Monday, September 14, 2009

10:00 a.m. to 12:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Richard Thompson
ex officio nonvoting member

Senate

House

Minard, Chairman
Snyder, Vice Chair
Prezioso
Unger
Boley
Facemyer

Absent

Brown, Chairman
Poling, Vice Chair
Miley
Talbot
Overington
Sobonya

The meeting was called to order by Senator Minard, Chair.

Delegate Brown moved that the minutes of the August 10, 2009, meeting be approved. The motion was adopted.

Jay Lazell, Associate Counsel, explained his abstract on the rule proposed by the **Division of Water and Waste Management - DEP, National Pollution Discharge Elimination (NPDES) Program, 47CSR10**, and stated that the Division has agreed to technical modifications and responded to questions from the Committee.

Yegesh Patel with the Department of Environmental Protection responded to questions from the Committee.

Don Michael with the West Virginia Farm Bureau addressed the Committee and responded to questions.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Lazell reviewed his abstract on the rule proposed by the **Division of Water and Waste Management - DEP, Requirements Governing Groundwater Standards, 47CSR12**, and stated that the Division has agreed to technical modifications and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Lazell explained his abstract on the rule proposed by the **Division of Water and Waste Management - DEP, Water Pollution Control Permit Fee Schedule, 47CSR26**, and stated that the Division has agreed to technical modifications and responded to questions from the Committee.

Mr. Patel responded to questions from the Committee.

Delegate Brown moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

Mr. Lazell reviewed his abstract on the rule proposed by the **Division of Water and Waste Management - DEP, WV/NPDES Rules for Coal Mining Facilities, 47CSR30**, and stated that the Division has agreed to technical modifications and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Debra Graham, Chief Counsel, explained her abstract on the rule proposed by the **Consolidated Public Retirement Board, Teachers' Retirement System, 162CSR4**, and stated that the Board has agreed to technical modifications and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Miss Graham reviewed her abstract on the rule proposed by the **Consolidated Public Retirement Board, Public Employees Retirement System, 162CSR5**, and stated that the Board has agreed to technical modifications.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Miss Graham explained her abstract on the rule proposed by the **Consolidated Public Retirement Board, Refund, Reinstatement and Loan Interest Factors, 162CSR7**, and stated that the Board has agreed to technical modifications.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Miss Graham reviewed her abstract on the rule proposed by the **Consolidated Public Retirement Board, West Virginia State Police, 162CSR9**, and stated that the Board has agreed to technical modifications and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Miss Graham explained her abstract on the rule proposed by the **Division of Natural Resources, Special Fishing Rule, 58CSR61**.

Delegate Brown moved that the proposed rule be approved. The motion was adopted.

Miss Graham reviewed her abstract on the rule proposed by the **WV Department of Agriculture**, Animal Disease Control, **61CSR1**, and stated that the Department has agreed to technical modifications.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Miss Graham explained her abstract on the rule proposed by the **WV Department of Agriculture**, West Virginia Shellfish Rule, **61CSR23B**, and stated that the Department has agreed to technical modifications and responded to questions from the Committee.

Steve Hannah, Deputy Commissioner for the Department of Agriculture, responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Lazell reviewed the modification agreement on the rule proposed by the **Division of Water and Waste Management - DEP, Water Pollution Control Permit Fee Schedule, 47CSR26**, and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Brian Skinner, Associate Counsel, explained his abstract on the rule proposed by the **Hatfield-McCoy Regional Recreation Authority, Rules for Use of Facilities, 204CSR1**, and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved. The motion was adopted.

Mr. Skinner reviewed his abstract on the rule proposed by the **Board of Trustees of the Outdoor Heritage Conservation Fund, Rules on Procedures and Guidelines of the Operation and Program of the Outdoor Heritage Conservation Fund, 205CSR1**, and stated that the Department has agreed to technical modifications.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Skinner explained his abstract on the rule proposed by the **Real Estate Appraiser Licensing & Certification Board, Requirements for Licensure or Certification, 190CSR2**, and responded to questions from the Committee.

Senator Minard moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

Rita Pauley, Associate Counsel, reviewed her abstract on the rule proposed by the **Secretary of State, Vote-by-Mail Pilot Project Phase 1: Class IV Early Voting by Mail, 153CSR38**, and stated that the Department has agreed to technical modifications and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Skinner explained the modification agreement on the rule proposed by the **Real Estate Appraiser Licensing & Certification Board, Requirements for Licensure or Certification, 190CSR2** and responded to questions from the Committee.

Senator Snyder moved the agreed to modifications. The motion was adopted.

Greg Skinner with the Attorney General's Office responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Mrs. Pauley reviewed her abstract on the rule proposed by the **Secretary of State, Vote by Mail Pilot Project Phase 2: Voting by Mail, 153CSR39**, and stated that the Office has agreed to technical modifications and responded to questions from the Committee.

Delegate Brown moved that the proposed rule be approved as modified. The motion was adopted.

Senator Prezioso moved to adjourn the meeting. The motion was adopted.

SEPTEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
September 14, 15 and 16, 2009

Monday, September 14, 2009

10:00 am - 12:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Thompson, ex
officio nonvoting member

Senate

Minard, Chair
Snyder, Vice Chair
Prezioso
Unger
Boley
Facemyer

✓
✓
✓

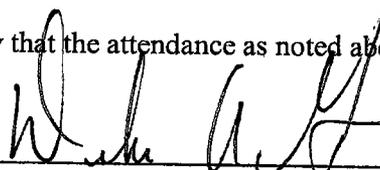
✓
✓

House

Brown, Chair
Poling, D., Vice Chair
Miley
Talbot
Overington
Sobonya

✓
✓
✓
✓
✓
✓

I certify that the attendance as noted above is correct.



Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819 ASAP, due to payroll deadline.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, September 14, 2009
10:00 a.m. to 12:00 p.m.
Senate Judiciary Committee Room

1. **Approval of Minutes** - Meetings of August 10, 2009
2. **Review of Legislative Rules:**
 - a. **Consolidated Public Retirement Board**
Teachers' Retirement System
162CSR4
 - b. **Consolidated Public Retirement Board**
Public Employees Retirement System
162CSR5
 - c. **Consolidated Public Retirement Board**
Refund, Reinstatement and Loan Interest Factors
162CSR7
 - d. **Consolidated Public Retirement Board**
West Virginia State Police
162CSR9
 - e. **Natural Resources, Division of**
Special Fishing Rule
58CSR61
 - f. **Agriculture, WV Department of**
Animal Disease Control
61CSR1
 - g. **Agriculture, WV Department of**
West Virginia Shellfish Rule
61CSR23B
 - h. **Hatfield-McCoy Regional Recreation Authority**
Rules for Use of Facilities
204CSR1
 - i. **Outdoor Heritage Conservation Fund, Board of Trustees of the**
Rules on Procedures and Guidelines of the Operation and
Program of the Outdoor Heritage Conservation Fund
205CSR1

- j. **Real Estate Appraiser Licensing & Certification Board**
Requirements for Licensure or Certification
190CSR2
- k. **Secretary of State**
Vote-by-Mail Pilot Project Phase 1: Class IV Early Voting by Mail
153CSR38
- l. **Secretary of State**
Vote by Mail Pilot Project Phase 2: Voting by Mail
153CSR39
- m. **Secretary of State**
Early Voting in Person Satellite Precincts
153CSR13
- n. **Transportation, WV Department of**
Valuation of Used Rolling Stock and Equipment
172CSR2
- o. **Highways, WV Virginia Division of**
Use of State Road Rights of Way and Adjacent Areas
157CSR6
- p. **Highways, WV Virginia Division of**
Transportation of Hazardous Wastes Upon the Roads & Highways
157CSR7
- q. **Water and Waste Management, Division of - DEP**
National Pollution Discharge Elimination (NPDES) Program
47CSR10
- r. **Water and Waste Management, Division of - DEP**
Requirements Governing Groundwater Standards
47CSR12
- s. **Water and Waste Management, Division of - DEP**
Water Pollution Control Permit Fee Schedule
47CSR26
- t. **Water and Waste Management, Division of - DEP**
WV/NPDES Rules for Coal Mining Facilities
47CSR30
- u. **Licensed Practical Nurses, WV Board of Examiners for**
Policies and procedures for development and maintenance of education programs in practical nursing
10CSR1

- v. **Osteopathy, WV Board of**
Licensing Procedures for Osteopathic Physicians
24CSR1

- w. **Osteopathy, WV Board of**
Fees for Service Rendered by the Board of Osteopathy
24CSR5

- z. **Tourism, Division of**
Direct Advertising Grants Program
144CSR1

- aa. **Medicine, Board of**
*Fees for Services Rendered by the Board of Medicine Including
Assistance to the Board-Designated Physician Health Program
for Physicians, Podiatrists and Physician Assistants*
11CSR4

3. **Other Business**

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, September 14, 2009
10:00 a.m. to 12:00 p.m.
Senate Judiciary Committee Room

1. **Approval of Minutes - Meetings of August 10, 2009**

2. **Review of Legislative Rules:**
 - a. **Consolidated Public Retirement Board**
Teachers' Retirement System
162CSR4
 - Approve as Modified

 - b. **Consolidated Public Retirement Board**
Public Employees Retirement System
162CSR5
 - Approve as Modified

 - c. **Consolidated Public Retirement Board**
Refund, Reinstatement and Loan Interest Factors
162CSR7
 - Approve as Modified

 - d. **Consolidated Public Retirement Board**
West Virginia State Police
162CSR9
 - Approve as Modified

 - e. **Natural Resources, Division of**
Special Fishing Rule
58CSR61
 - Approve

 - f. **Agriculture, WV Department of**
Animal Disease Control
61CSR1
 - Approve as Modified

 - g. **Agriculture, WV Department of**
West Virginia Shellfish Rule
61CSR23B
 - Approve as Modified

- h. **Hatfield-McCoy Regional Recreation Authority**
Rules for Use of Facilities
204CSR1
- Approve
- i. **Outdoor Heritage Conservation Fund, Board of Trustees of the**
Rules on Procedures and Guidelines of the Operation and
Program of the Outdoor Heritage Conservation Fund
205CSR1
- Approve as Modified
- j. **Real Estate Appraiser Licensing & Certification Board**
Requirements for Licensure or Certification
190CSR2
- Approve
- k. **Secretary of State**
Vote-by-Mail Pilot Project Phase 1: Class IV Early Voting
by Mail
153CSR38
- Approve as Modified
- l. **Secretary of State**
Vote by Mail Pilot Project Phase 2: Voting by Mail
153CSR39
- Approve as Modified
- m. **Secretary of State**
Early Voting in Person Satellite Precincts
153CSR13
- Approve as Modified
- n. **Transportation, WV Department of**
Valuation of Used Rolling Stock and Equipment
172CSR2
- Approve
- o. **Highways, WV Virginia Division of**
Use of State Road Rights of Way and Adjacent Areas
157CSR6
- Approve as Modified

- p. **Highways, WV Virginia Division of**
Transportation of Hazardous Wastes Upon the Roads & Highways
157CSR7
- Approve as Modified
- q. **Water and Waste Management, Division of - DEP**
National Pollution Discharge Elimination (NPDES) Program
47CSR10
- Approve as Modified
- r. **Water and Waste Management, Division of - DEP**
Requirements Governing Groundwater Standards
47CSR12
- Approve as Modified
- s. **Water and Waste Management, Division of - DEP**
Water Pollution Control Permit Fee Schedule
47CSR26
- Approve as Modified
- t. **Water and Waste Management, Division of - DEP**
WV/NPDES Rules for Coal Mining Facilities
47CSR30
- Approve as Modified
- u. **Licensed Practical Nurses, WV Board of Examiners for**
*Policies and procedures for development and maintenance of
education programs in practical nursing*
10CSR1
- Approve as Modified
- v. **Osteopathy, WV Board of**
Licensing Procedures for Osteopathic Physicians
24CSR1
- Approve as Modified
- w. **Osteopathy, WV Board of**
Fees for Service Rendered by the Board of Osteopathy
24CSR5
- Approve as Modified

z. **Tourism, Division of**
Direct Advertising Grants Program
144CSR1

- Approve

aa. **Medicine, Board of**
Fees for Services Rendered by the Board of Medicine Including Assistance to the Board-Designated Physician Health Program for Physicians, Podiatrists and Physician Assistants
11CSR4

- Approve

3. **Other Business**

SEPTEMBER INTERIM ATTENDANCE

Legislative Interim Meetings

September 14, 15 & 16, 2009

Monday, September 14, 2009

10:00 a.m. - 12:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex officio nonvoting member

Richard Thompson, ex officio nonvoting member

Senate

House

Minard, Chair

Snyder, Vice Chair

Prezioso

Unger

Boley

Facemyer

✓
✓
✓

✓
✓

Brown, Chair

Poling, Vice Chair

Miley

Talbott

Overington

Sobonya

✓
✓
✓
✓
✓
✓

Minard called to order
August minutes approved

Water & Waste Mgt 47 CSR 10

Jay explained

responded to questions

Don Michael, WV Farm Bureau addressed the C

Brown

Approve or mod

Water & Waste Mgt 47 CSR 12

Jay explained

Approve as modified.

Brown

Brown

Kit explained
Approved as modified

SOS 153 CSR 38

RE - agreement

will have divisions

Brown

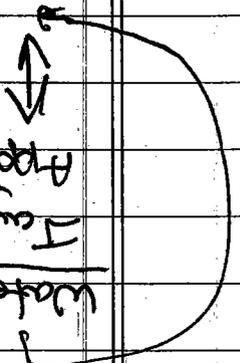
Outdoor Heritage
Brian explained
Approved as modified

Brown

Hatfield May 204 CSR
Brian explained & responded to questions
Approved

Brown

Water & Waste Mgt 47 CSR 26
Jay explained & responded to questions
Foot of the agenda
I agreed to modifications
Water & Waste Mgt 47 CSR 30
Jay explained
Approved as modified
My rules



Snyder
adopted

Modify to put language back in regarding 3rd
classification

Brown

Brian Skinner, AG's off
Approved as mod.ified.

SOS 153 CSR 13

Brown

Rita explained & responded to q's
Approve a mod.ified

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, September 14, 2009
10:00 a.m. to 12:00 p.m.
Senate Judiciary Committee Room

1. **Approval of Minutes - Meetings of August 10, 2009**
2. **Review of Legislative Rules:**

Approved as modified

Consolidated Public Retirement Board
Teachers' Retirement System
162CSR4

- Approve as Modified

Approved as modified

Consolidated Public Retirement Board
Public Employees Retirement System
162CSR5

- Approve as Modified

Approved as modified

Consolidated Public Retirement Board
Refund, Reinstatement and Loan Interest Factors
162CSR7

- Approve as Modified

Approved as modified

Consolidated Public Retirement Board
West Virginia State Police
162CSR9

- Approve as Modified

Approved

Natural Resources, Division of
Special Fishing Rule
58CSR61

- Approve

Approved as modified

Agriculture, WV Department of
Animal Disease Control
61CSR1

- Approve as Modified

Approved as modified

Agriculture, WV Department of
West Virginia Shellfish Rule
61CSR23B

- Approve as Modified

Approved ✓

Hatfield-McCoy Regional Recreation Authority
Rules for Use of Facilities
204CSR1

- Approve

*Approved ✓
as modified*

Outdoor Heritage Conservation Fund, Board of Trustees of the
Rules on Procedures and Guidelines of the Operation and
Program of the Outdoor Heritage Conservation Fund
205CSR1

- Approve as Modified

*Foot of ✓
the agenda*

Real Estate Appraiser Licensing & Certification Board
Requirements for Licensure or Certification
190CSR2

- Approve

*Approved ✓
as modified*

Secretary of State
Vote-by-Mail Pilot Project Phase 1: Class IV Early Voting
by Mail
153CSR38

- Approve as Modified

l. **Secretary of State**
Vote by Mail Pilot Project Phase 2: Voting by Mail
153CSR39

- Approve as Modified

~~*Laid over*~~

Secretary of State
Early Voting in Person Satellite Precincts
153CSR13

- Approve as Modified

n. **Transportation, WV Department of**
Valuation of Used Rolling Stock and Equipment
172CSR2

- Approve

o. **Highways, WV Virginia Division of**
Use of State Road Rights of Way and Adjacent Areas
157CSR6

- Approve as Modified

p. **Highways, WV Virginia Division of**
Transportation of Hazardous Wastes Upon the Roads & Highways
157CSR7

- Approve as Modified

Approved ✓
as modified

Water and Waste Management, Division of - DEP
National Pollution Discharge Elimination (NPDES) Program
47CSR10

- Approve as Modified

Approved ✓
as modified

Water and Waste Management, Division of - DEP
Requirements Governing Groundwater Standards
47CSR12

- Approve as Modified

~~Foot of~~
~~agenda~~

d. **Water and Waste Management, Division of - DEP**
Water Pollution Control Permit Fee Schedule
47CSR26

- Approve as Modified

Approved ✓
as modified

Water and Waste Management, Division of - DEP
WV/NPDES Rules for Coal Mining Facilities
47CSR30

- Approve as Modified

u. **Licensed Practical Nurses, WV Board of Examiners for**
Policies and procedures for development and maintenance of
education programs in practical nursing
10CSR1

- Approve as Modified

v. **Osteopathy, WV Board of**
Licensing Procedures for Osteopathic Physicians
24CSR1

- Approve as Modified

w. **Osteopathy, WV Board of**
Fees for Service Rendered by the Board of Osteopathy
24CSR5

- Approve as Modified

z. **Tourism, Division of**
Direct Advertising Grants Program
144CSR1

- Approve

aa. **Medicine, Board of**
*Fees for Services Rendered by the Board of Medicine Including
Assistance to the Board-Designated Physician Health Program
for Physicians, Podiatrists and Physician Assistants*
11CSR4

- Approve

3. **Other Business**

SEPTEMBER INTERIM ATTENDANCE

Legislative Interim Meetings
September 14, 15 & 16, 2009

Monday, September 14, 2009

10:00 a.m. - 12:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Richard Thompson, ex
officio nonvoting member

Senate

House

Minard, Chair	✓
Snyder, Vice Chair	✓
Prezioso	✓
Unger	✓
Boley	✓
Facemyer	✓

Brown, Chair	✓
Poling, Vice Chair	✓
Miley	✓
Talbott	✓
Overington	✓
Sobonya	✓

- Minard called meeting to order
- Moved minutes - Approved
- Water & Waste 47CSR10
Jay explained & responded to ?'s
Yagesh Patel w/DEP responded to ?'s
Don Michael w/ WV Farm Bureau addressed
the Committee & responded to ?'s
Brown moved rule as modified
Motion Adopted

- Water & Waste 47CSR12

Jay explained

Brown moved rule as modified
Approved

- Water & Waste 47CSR26

Jay explained & responded to ?'s

Yagesh Patel w/DEP responded to ?'s

Brown moved to the foot of the agenda
Approved

- Water & Waste 47CSR30

Jay explained & responded to ?'s

Brown moved rule as modified
Approved

- CPRB 162CSR4

Debra explained & responded to ?'s

Brown moved rule as modified
Approved

- CPRB 162CSR5

Debra explained

Brown moved rule as modified
Approved

- CPRB 162CSR7

Debra explained

Brown moved rule as modified

Approved

- CPRB 162CSR9

Debra explained & responded to ?'s

Brown moved rule as modified

Approved

- Natural Resources 58CSR161

Debra explained

Brown moved rule

Approved

- Agriculture 61CSR1

Debra explained

Brown moved rule as modified

Approved

- Agriculture 61CSR23B

Debra explained & responded to ?'s

Steve Hannah, Deputy Commissioner, responded to ?'s

Brown moved rule as modified

Approved

Real Estate

Continued — 190CSR 2

Brian explained agreement for modifications
agreed to remove language regarding...

Pg. 26 & 27 ^{agreed to}

Snyder moved modification — Approved

Brian responded to ?'s

Meg Skinner w/ AG office responded to ?'s

Brown moved rule as modified
Approved

Secretary of State 153CSR.39

Rita explained & responded to ?'s

Brown moved rule as modified
Approved

Duenjosa moved to adjourn
Approved

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: Sept 14, 2009

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
Terrell Ellis	P. O. Box 1925 Charleston WV 25327	OHCF	205	
MARC HARMAN	2106 KANAWHA Blvd. E A102 Charleston, WV 25311	WV Poultry Assoc.	47CSR 26 (FEED-DEP)	X
Harry Shaffer	P.O. Box 38 Madison, WV 25130	Hatfield-McCoy Reg. Rec. Auth	204	
Lynette Anderson	101 Dee Dr. Charleston WV	APN Board	10 CSR1	✓

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: Sept. 14, 2009

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
Don Michael	Rt. 1 Box 21-P Ravenswood, WV 26106	WV Farm Bureau	47CSR10	X
Bill Timmermeyer	WV DEP 601 5th Street SE Charleston, WV	WV DEP	48CSR12	
Yogesh Patel	WV DEP 601 5th street S.E Charleston, WV	WV DEP	47CSR10 47CSR26	