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REGULAR SESSION, 1997



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 209

(By Senator ROSS, ET AL)



PASSED APRIL 12, 1997

In Effect FROM Passage

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SENATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 209

(SENATORS ROSS, ANDERSON, MACNAUGHTAN, BOLEY AND
BUCKALEW, *original sponsors*)

[Passed April 12, 1997; in effect from passage.]

AN ACT to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the

form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; disapproving the promulgation of a legislative rule; authorizing the commissioner of agriculture to promulgate a legislative rule relating to animal disease control; authorizing the secretary of state to promulgate a legislative rule relating to agencies designated to provide registration services; authorizing the secretary of state to promulgate a legislative rule relating to procedures for the recount of election returns; authorizing the secretary of state to promulgate a legislative rule relating to trademarks and service marks; authorizing the governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to the protocol for law-enforcement response to domestic violence; authorizing the governor's committee on crime, delinquency and correction to promulgate a legislative rule relating to the basic training academy and annual in-service and biennial in-service training standards; authorizing the cable television advisory board to promulgate a legislative rule relating to implementing regulations; authorizing and directing the cable television advisory board to amend and promulgate a legislative rule relating to the calculation and collection of late fees; authorizing the auditor to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the auditor; authorizing the commission for the deaf and hard of hearing to promulgate a legislative rule relating to fees for qualified interpreters; authorizing the board of dental examiners to promulgate a legislative rule relating to rules of the board; authorizing the board of licensed practical nurses to promulgate a legislative rule relating to legal standards of nursing practice for the licensed practical nurse; authorizing the board of medicine to promulgate a legislative rule relating to the formation and approval of professional limited liability companies; authorizing the nursing home administrators licensing board to promulgate a legislative rule

relating to the board; authorizing the board of pharmacy to promulgate a legislative rule relating to the registration of pharmacy technicians; authorizing the board of pharmacy to promulgate a legislative rule relating to controlled substances monitoring; authorizing the board of accountancy to promulgate a legislative rule relating to the board and rules of professional conduct; authorizing the board of barbers and cosmetologists to promulgate a legislative rule relating to a schedule of fees; authorizing the board of barbers and cosmetologists to promulgate a legislative rule relating to procedures, criteria and curricula for the examination and licensure of barbers, cosmetologists, manicurists and aestheticians; authorizing the board of examiners of psychologists to promulgate a legislative rule relating to qualifications for licensure as a psychologist or school psychologist; disapproving the promulgation of a legislative rule of the board of examiners of psychologists relating to fees; authorizing the public service commission to promulgate a legislative rule relating to use of the number "911"; authorizing the real estate appraiser licensure and certification board to promulgate a legislative rule relating to the requirements for licensure and certification; authorizing the real estate appraiser licensure and certification board to promulgate a legislative rule relating to the renewal of licensure or certification; authorizing the board of respiratory care to promulgate a legislative rule relating to procedures for the licensure application process; authorizing the board of respiratory care to promulgate a legislative rule relating to the establishment of fees; authorizing the board of respiratory care to promulgate a legislative rule relating to continuing education requirement; authorizing the economic development authority to promulgate a legislative rule relating to the general administration of the West Virginia capital company act: establishment of the application procedures to implement the act; and authorizing the family protection services board to promulgate a legislative rule relating to the operation of the board and the licensure and funding of domestic violence programs.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

§64-9-1. Commissioner of agriculture.

1 The legislative rule filed in the state register on the
2 twenty-third day of April, one thousand nine hundred
3 ninety-six, authorized under the authority of section two,
4 article nine, chapter nineteen of this code, modified by the
5 commissioner of agriculture to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the fourth day of October, one
8 thousand nine hundred ninety-six, relating to the commis-
9 sioner of agriculture (animal disease control, 61 CSR 1), is
10 authorized.

§64-9-2. Secretary of state.

1 (a) The legislative rule filed in the state register on the
2 twenty-sixth day of August, one thousand nine hundred
3 ninety-six, authorized under the authority of section
4 thirteen, article two, chapter three of this code, relating to
5 the secretary of state (agencies designated to provide voter
6 registration services, 153 CSR 28), is authorized.

7 (b) The legislative rule filed in the state register on the
8 twenty-eighth day of August, one thousand nine hundred
9 ninety-six, authorized under the authority of section six,
10 article one-a, chapter three of this code, modified by the
11 secretary of state to meet the objections of the legislative
12 rule-making review committee and refiled in the state
13 register on the twenty-fifth day of October, one thousand
14 nine hundred ninety-six, relating to the secretary of state
15 (procedures for recount of election returns, 153 CSR 20),
16 is authorized.

17 (c) The legislative rule filed in the state register on the
18 thirtieth day of August, one thousand nine hundred
19 ninety-six, authorized under the authority of section ten,

20 article two, chapter forty-seven of this code, modified by
21 the secretary of state to meet the objections of the legisla-
22 tive rule-making review committee and refiled in the state
23 register on the twenty-fourth day of October, one thou-
24 sand nine hundred ninety-six, relating to the secretary of
25 state (trademarks and service marks, 153 CSR 29), is
26 authorized.

§64-9-3. Governor's committee on crime, delinquency and correction.

1 (a) The legislative rule filed in the state register on the
2 twenty-eighth day of August, one thousand nine hundred
3 ninety-six, authorized under the authority of section nine,
4 article two-a, chapter forty-eight of this code, modified by
5 the governor's committee on crime, delinquency and
6 correction to meet the objections of the legislative
7 rule-making review committee and refiled in the state
8 register on the twenty-fourth day of October, one thou-
9 sand nine hundred ninety-six, relating to the governor's
10 committee on crime, delinquency and correction (protocol
11 for law-enforcement response to domestic violence, 149
12 CSR 3), is authorized.

13 (b) The legislative rule filed in the state register on the
14 twenty-eighth day of August, one thousand nine hundred
15 ninety-six, under the authority of section three, article
16 twenty-nine, chapter thirty of this code, modified by the
17 governor's committee on crime, delinquency and correc-
18 tion to meet the objections of the legislative rule-making
19 review committee and refiled in the state register on the
20 twenty-fifth day of February, one thousand nine hundred
21 ninety-seven, relating to the governor's committee on
22 crime, delinquency and correction (basic training acad-
23 emy, annual in-service and biennial in-service training
24 standards, 149 CSR 2), is authorized.

§64-9-4. Cable television advisory board.

1 (a) The legislative rule filed in the state register on the
2 twenty-seventh day of August, one thousand nine hundred
3 ninety-six, authorized under the authority of section
4 twenty-six, article eighteen, chapter five of this code,
5 modified by the cable television advisory board to meet

6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the eigh-
8 teenth day of October, one thousand nine hundred
9 ninety-six, relating to the cable television advisory board
10 (implementing regulations, 187 CSR 2), is authorized.

11 (b) The Legislature hereby authorizes and directs the
12 cable television advisory board to amend and promulgate
13 the legislative rule promulgated and final filed in the state
14 register on the seventh day of June, one thousand nine
15 hundred ninety-six, under the authority of section twenty-
16 six, article eighteen, chapter five of this code, relating to
17 the cable television advisory board (calculation and
18 collection of late fees, 187 CSR 6), is authorized with the
19 following amendment:

20 "On page one, by striking out all of section three and
21 inserting in lieu thereof the following:

22 '3.1. Cable operators electing to charge late fees may
23 charge a fixed fee of not more than two dollars on the
24 unpaid balance after the scheduled due date.'"

§64-9-5. Auditor.

1 The legislative rule filed in the state register on the
2 thirtieth day of August, one thousand nine hundred
3 ninety-six, under the authority of section ten, article
4 three, chapter twelve of this code, modified by the auditor
5 to meet the objections of the legislative rule-making
6 review committee and refiled in the state register on the
7 fourth day of December, one thousand nine hundred
8 ninety-six, relating to the auditor (standards for requis-
9 tions for payment issued by state officers on the auditor,
10 155 CSR 1), is authorized.

§64-9-6. Commission for the deaf and hard of hearing.

1 The legislative rule filed in the state register on the
2 twenty-ninth day of August, one thousand nine hundred
3 ninety-six, under the authority of section nine, article
4 fourteen-a, chapter five of this code, modified by the
5 commission for the deaf and hard of hearing to meet the

6 objections of the legislative rule-making review committee
7 and refiled in the state register on the twenty-sixth day of
8 February, one thousand nine hundred ninety-seven,
9 relating to the commission for the deaf and hard of
10 hearing (fees for qualified interpreters, 192 CSR 1), is
11 authorized.

§64-9-7. Board of dental examiners.

1 The legislative rule filed in the state register on the
2 twenty-first day of June, one thousand nine hundred
3 ninety-six, under the authority of section four-a, article
4 four, chapter thirty of this code, modified by the board of
5 dental examiners to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-third day of October, one thousand
8 nine hundred ninety-six, relating to the board of dental
9 examiners (rules for the West Virginia board of dental
10 examiners, 5 CSR 1), is authorized.

§64-9-8. Board of licensed practical nurses.

1 The legislative rule filed in the state register on the
2 fifteenth day of July, one thousand nine hundred
3 ninety-six, under the authority of section five, article
4 seven-a, chapter thirty of this code, modified by the board
5 of licensed practical nurses to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-fourth day of September,
8 one thousand nine hundred ninety-six, relating to the
9 board of licensed practical nurses (legal standards of
10 nursing practice for the licensed practical nurse, 10 CSR
11 3), is authorized.

§64-9-9. Board of medicine.

1 The legislative rule filed in the state register on the
2 ninth day of September, one thousand nine hundred
3 ninety-six, under the authority of section one thousand
4 three hundred four, article thirteen, chapter thirty-one-c
5 of this code, modified by the board of medicine to meet the
6 objections of the legislative rule-making review committee

7 and refiled in the state register on the thirteenth day of
8 February, one thousand nine hundred ninety-seven,
9 relating to the board of medicine (formation and approval
10 of professional limited liability companies, 11 CSR 7), is
11 authorized.

§64-9-10. Nursing home administrators licensing board.

1 The legislative rule filed in the state register on the
2 twenty-first day of May, one thousand nine hundred
3 ninety-six, under the authority of section seven, article
4 twenty-five, chapter thirty of this code, modified by the
5 nursing home administrators licensing board to meet the
6 objections of the legislative rule-making review committee
7 and refiled in the state register on the fourteenth day of
8 November, one thousand nine hundred ninety-six, relating
9 to the nursing home administrators licensing board (rules
10 of the nursing home administrators licensing board, 21
11 CSR 1), is authorized.

§64-9-11. Board of pharmacy.

1 (a) The legislative rule filed in the state register on the
2 seventh day of January, one thousand nine hundred
3 ninety-seven, under the authority of section five-a, article
4 three, chapter thirty of this code, modified by the board of
5 pharmacy to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-sixth day of February, one thou-
8 sand nine hundred ninety-seven, relating to the board of
9 pharmacy (registration of pharmacy technicians, 15 CSR
10 7), is authorized.

11 (b) The legislative rule filed in the state register on the
12 eighth day of August, one thousand nine hundred
13 ninety-six, under the authority of section six, article nine,
14 chapter sixty-a of this code, modified by the board of
15 pharmacy to meet the objections of the legislative
16 rule-making review committee and refiled in the state
17 register on the twenty-second day of November, one
18 thousand nine hundred ninety-six, relating to the board of
19 pharmacy (controlled substances monitoring, 15 CSR 8),

20 is authorized.

§64-9-12. Board of accountancy.

1 The legislative rule filed in the state register on the
2 thirtieth day of August, one thousand nine hundred
3 ninety-six, under the authority of section three, article
4 nine, chapter thirty, of this code, modified by the board of
5 accountancy to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-seventh day of February, one
8 thousand nine hundred ninety-seven, relating to the board
9 of accountancy (board rules and rules of professional
10 conduct, 1 CSR 1), is authorized.

§64-9-13. Board of barbers and cosmetologists.

1 (a) The legislative rule filed in the state register on the
2 twenty-ninth day of August, one thousand nine hundred
3 ninety-six, under the authority of section one, article
4 twenty-seven, chapter thirty of this code, modified by the
5 board of barbers and cosmetologists to meet the objections
6 of the legislative rule-making review committee and
7 refiled in the state register on the twenty-seventh day of
8 December, one thousand nine hundred ninety-six, relating
9 to the board of barbers and cosmetologists (schedule of
10 fees, 3 CSR 6), is authorized.

11 (b) The legislative rule filed in the state register on the
12 twenty-ninth day of August, one thousand nine hundred
13 ninety-six, under the authority of section one, article
14 twenty-seven, chapter thirty of this code, modified by the
15 board of barbers and cosmetologists to meet the objections
16 of the legislative rule-making review committee and
17 refiled in the state register on the twenty-seventh day of
18 December, one thousand nine hundred ninety-six, relating
19 to the board of barbers and cosmetologists (procedures,
20 criteria and curricula for examination and licensure of
21 barbers, cosmetologists, manicurists and aestheticians, 3
22 CSR 1), is authorized.

§64-9-14. Board of examiners of psychologists.

1 (a) The legislative rule filed in the state register on the
2 thirtieth day of August, one thousand nine hundred
3 ninety-six, under the authority of section six, article
4 twenty-one, chapter thirty of this code, modified by the
5 board of examiners of psychologists to meet the objections
6 of the legislative rule-making review committee and
7 refiled in the state register on the twenty-eighth day of
8 February, one thousand nine hundred ninety-seven,
9 relating to the board of examiners of psychologists
10 (qualifications for licensure as a psychologist or school
11 psychologist, 17 CSR 3), is authorized.

12 (b) The legislative rule filed in the state register on the
13 thirtieth day of August, one thousand nine hundred
14 ninety-six, authorized under the authority of section six,
15 article twenty-one, chapter thirty of this code, relating to
16 the board of examiners of psychologists (fees, 17 CSR 1),
17 is disapproved, and not authorized for promulgation.

§64-9-15. Public service commission.

1 The legislative rule filed in the state register on the
2 twenty-sixth day of August, one thousand nine hundred
3 ninety-six, under the authority of section ten, article six,
4 chapter twenty-four of this code, modified by the public
5 service commission to meet the objections of the legisla-
6 tive rule-making review committee and refiled in the state
7 register on the eighth day of January, one thousand nine
8 hundred ninety-seven, relating to the public service
9 commission (rules and regulations for the use of the
10 number "911", 150 CSR 15), is authorized.

§64-9-16. Real estate appraiser licensure and certification board.

1 (a) The legislative rule filed in the state register on the
2 thirty-first day of July, one thousand nine hundred
3 ninety-six, under the authority of section thirty, article
4 fourteen, chapter thirty of this code, modified by the real
5 estate appraiser licensure and certification board to meet
6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the twenty-

8 third day of December, one thousand nine hundred
9 ninety-six, relating to the real estate appraiser licensure
10 and certification board (requirements for licensure and
11 certification, 190 CSR 2), is authorized.

12 (b) The legislative rule filed in the state register on the
13 thirty-first day of July, one thousand nine hundred
14 ninety-six, under the authority of section six, article
15 fourteen, chapter thirty of this code, modified by the real
16 estate appraiser licensure and certification board to meet
17 the objections of the legislative rule-making review
18 committee and refiled in the state register on the twenty-
19 third day of December, one thousand nine hundred
20 ninety-six, relating to the real estate appraiser licensure
21 and certification board (renewal of licensure or certifica-
22 tion, 190 CSR 3), is authorized.

§64-9-17. Board of respiratory care.

1 (a) The legislative rule filed in the state register on the
2 twenty-fifth day of July, one thousand nine hundred
3 ninety-six, under the authority of section six, article
4 thirty-four, chapter thirty of this code, modified by the
5 board of respiratory care to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-ninth day of October, one
8 thousand nine hundred ninety-six, relating to the board of
9 respiratory care (procedures for licensure application
10 process, 30 CSR 1), is authorized.

11 (b) The legislative rule filed in the state register on the
12 thirtieth day of August, one thousand nine hundred
13 ninety-six, under the authority of section six, article
14 thirty-four, chapter thirty of this code, modified by the
15 board of respiratory care to meet the objections of the
16 legislative rule-making review committee and refiled in
17 the state register on the twenty-ninth day of October, one
18 thousand nine hundred ninety-six, relating to the board of
19 respiratory care (establishment of fees, 30 CSR 2), is
20 authorized.

21 (c) The legislative rule filed in the state register on the

22 thirtieth day of August, one thousand nine hundred
23 ninety-six, under the authority of section five, article
24 thirty-four, chapter thirty of this code, modified by the
25 board of respiratory care to meet the objections of the
26 legislative rule-making review committee and refiled in
27 the state register on the twenty-ninth day of October, one
28 thousand nine hundred ninety-six, relating to the board of
29 respiratory care (continuing education requirements, 30
30 CSR 3), is authorized with the following amendment:

31 "On page two, section 4.3, line two, after the word
32 'subsection' by striking out '2.5' and inserting in lieu
33 thereof '2.1'."

§64-9-18. Economic development authority.

1 The legislative rule filed in the state register on the
2 thirteenth day of February, one thousand nine hundred
3 ninety-six, under the authority of section five, article one,
4 chapter five-e of this code, modified by the economic
5 development authority to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the thirteenth day of December, one
8 thousand nine hundred ninety-six, relating to the eco-
9 nomic development authority (general administration of
10 the West Virginia capital company act: establishment of
11 the application procedures to implement the act, 117 CSR
12 1), is authorized.

§64-9-19. Family protection services board.

1 The legislative rule filed in the state register on the
2 thirtieth day of August, one thousand nine hundred
3 ninety-six, under the authority of section thirteen, article
4 two-c, chapter forty-eight of this code, modified by the
5 family protection services board to meet the objections of
6 the legislative rule-making review committee and refiled
7 in the state register on the twenty-sixth day of February,
8 one thousand nine hundred ninety-seven, relating to the
9 family protection services board (operation of family
10 protection services board and licensure and funding of
11 domestic violence programs, 191 CSR 1), is authorized.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schorover
.....
Chairman Senate Committee

Mark Fontana
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Barrett Holmes
.....
Clerk of the Senate

Bryson B. Bux
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

PK
.....
Speaker House of Delegates

The within *is approved* this the *2nd*
May day of, 1997.

Earl K. Rayburn
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 8/22/97

Time 3:31 pm