

SB 327

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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

Committee Substitute for
SENATE BILL NO. 327

(By Senator Ross, et al)

PASSED March 13, 2004

In Effect From Passage

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 327

(SENATORS ROSS, MINARD, SNYDER, UNGER, BOLEY AND
MINEAR, *original sponsors*)

[Passed March 13, 2004; in effect from passage.]

AN ACT to amend and reenact §64-1-1 of the code of West Virginia, 1931, as amended, and to amend and reenact article 2, chapter 64 of said code, 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 or 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 certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules

with various modifications presented to and recommended by the legislative rule-making review committee and as amended by the Legislature; disapproving certain legislative rules; authorizing the department of administration to promulgate a legislative rule relating to leasing space on behalf of state spending units; authorizing the department of administration to promulgate a legislative rule relating to parking; authorizing the consolidated public retirement board to promulgate a legislative rule relating to general provisions; authorizing the consolidated public retirement board to promulgate a legislative rule relating to benefit determination and appeal; authorizing the consolidated public retirement board to promulgate a legislative rule relating to the teachers defined benefit plan; authorizing the consolidated public retirement board to promulgate a legislative rule relating to the West Virginia state police disability determination and appeal process; authorizing the board of risk and insurance management to promulgate a legislative rule relating to the public entities insurance program; and disapproving the board of risk and insurance management legislative rule relating to the terms and conditions pertaining to members of self-insurance pools who wish to participate in state insurance programs.

Be it enacted by the Legislature of West Virginia:

That §64-1-1 of the code of West Virginia, 1931, as amended, be reenacted; and that article 2, chapter 64 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL LEGISLATIVE AUTHORIZATION.

§64-1-1. Legislative authorization.

1 Under the provisions of article three, chapter
2 twenty-nine-a of the code of West Virginia, the Legislature
3 expressly authorizes the promulgation of the rules de-
4 scribed in articles two through eleven, inclusive, of this
5 chapter, subject only to the limitations set forth with
6 respect to each such rule in the section or sections of this
7 chapter authorizing its promulgation. Legislative rules

8 promulgated pursuant to the provisions of articles one
 9 through eleven, inclusive, of this chapter in effect at the
 10 effective date of this section shall continue in full force
 11 and effect until reauthorized in this chapter by legislative
 12 enactment or until amended by emergency rule pursuant
 13 to the provisions of article three, chapter twenty-nine-a of
 14 this code.

**ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION
 TO PROMULGATE LEGISLATIVE RULES.**

§64-2-1. Department of administration.

1 (a) The legislative rule filed in the state register on the
 2 first day of August, two thousand three, authorized under
 3 the authority of section forty-two, article three, chapter
 4 five-a of this code, modified by the department of adminis-
 5 tration to meet the objections of the legislative rule-
 6 making review committee and refiled in the state register
 7 on the twenty-third day of January, two thousand four,
 8 relating to the department of administration (leasing space
 9 on behalf of state spending units, 148 CSR 2), is authorized
 10 with the following amendments:

11 On page one, subdivision 1.1, on the ninth line, by
 12 striking out the words "those spending units who are
 13 exempt or who have independent leasing authority." and
 14 inserting in lieu thereof the words "the division of high-
 15 ways, the higher education policy commission, the lottery
 16 commission, or a spending unit of the state with independ-
 17 ent leasing authority pursuant to the code of West Vir-
 18 ginia. This exemption does not apply to the office space of
 19 spending units of the executive branch."

20 On page one, subsection 2.1, by designating the first
 21 paragraph as subdivision 2.1.a and by designating the
 22 second paragraph as subdivision 2.1.b;

23 On page one, subsection 2.2, line three, after the words
 24 "describing the space" by striking out the remainder of the
 25 subsection and by inserting in lieu thereof the words "and

26 a letter justifying the agency's need for leasing the new
27 space.”;

28 On page two, subdivision 4.2.b, line three, after the word
29 “considered”, by inserting the words “by the leasing
30 officer”;

31 On page two, subdivision 4.2.c, line two, by inserting the
32 words “Class II”;

33 On page two, section four, following subsection 4.3, by
34 inserting the following and renumbering the remaining
35 subsections:

36 “4.4. Notification.

37 The Leasing Office shall provide written notification of
38 its site selection recommendation to the spending unit
39 within thirty (30) days of the evaluation of the spending
40 unit's request for space which includes the review of bids,
41 evaluation of bids by the Leasing Office and any negotia-
42 tions conducted by the Leasing Office pursuant to Subsec-
43 tion 4.3 of this rule prior to final location selection.”

44 On page two, section four, subsection 4.4, by striking the
45 second paragraph;

46 On page two, subsection 4.5, after the period, by insert-
47 ing the words “The leasing office shall provide written
48 notification to the spending unit regarding the agency's
49 authorization to occupy the space within thirty (30) days
50 of an evaluation period.”;

51 On page three, section six, subsection 6.3, line 1, follow-
52 ing the word “Administration” by inserting “or the
53 Director of the Purchasing Division of the Department of
54 Administration”;

55 On page three, section six, subsection 6.3, line seven,
56 following the word “Administration” by inserting “or the
57 Director of the Purchasing Division”;

58 On page three, section six, subsection 6.3, line nine,
59 following the word "Secretary" and the comma, by
60 inserting the words "the Director";

61 On page three, section six, subsection 6.3, line 14,
62 following the word "Secretary", by inserting the words "or
63 Director";

64 On page three, section six, subsection 6.4, line two,
65 following the word "Administration" by inserting "or the
66 Director of the Purchasing Division";

67 On page four, section seven, subsection 7.1, line seven,
68 following the word "Administration" by inserting "or the
69 Director of the Purchasing Division"; and

70 On page four, section ten, subsection 10.1, line five,
71 following the word "Administration" by inserting "or the
72 Director of the Purchasing Division"."

73 On page four, subsection 11.1, line two, after the words
74 "other emergency situation", by inserting the words "as
75 determined by the Secretary,";

76 On page four, subsection 11.1, line three, after the
77 period, by inserting the words "In the event of a natural
78 disaster or emergency situation, the Secretary of Adminis-
79 tration shall continue to have the authority to select and to
80 acquire by contract or lease, in the name of the State, all
81 grounds, buildings, office space or other space for and on
82 behalf of any spending unit.";

83 On page four, subsection 11.2, by striking out the entire
84 subsection and by renumbering the subsequent subsec-
85 tions;

86 On page four, subsection 11.3, line one, by striking out
87 the words "At no time does the" and inserting in lieu
88 thereof the word "The", and after the words "spending
89 unit", by inserting the words "does not";

90 On page four, subsection 11.4, line one, by striking out
91 the words "To the degree" and by inserting in lieu thereof
92 the word "When";

93 On page four, subsection 11.4, line three, after the word
94 "unit", by striking out the words "shall get" and by
95 inserting in lieu thereof the words "will obtain";

96 On page five, subsection 11.5, line one, by striking out
97 the words "To the degree" and by inserting in lieu thereof
98 the word "When";

99 And,

100 On page five, subsection 11.5, line two, after the words
101 "will put a", by inserting the words "Class II".

102 (b) The legislative rule filed in the state register on the
103 first day of August, two thousand three, authorized under
104 the authority of section five, article four, chapter five-a of
105 this code, modified by the department of administration to
106 meet the objections of the legislative rule-making review
107 committee and refiled in the state register on the twenty-
108 third day of January, two thousand four, relating to the
109 department of administration (parking, 148 CSR 6), is
110 authorized with the following amendment:

111 On page two, subsection 5, on the eleventh line, by
112 adding after "2007." the following sentence: "The maxi-
113 mum fee that can be charged thereafter for parking is
114 twenty dollars (\$20.00) per month."

§64-2-2. Consolidated public retirement board.

1 (a) The legislative rule filed in the state register on the
2 twenty-eighth day of July, two thousand three, authorized
3 under the authority of section one, article ten-d, chapter
4 five of this code, modified by the consolidated public
5 retirement board to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the thirtieth day of October, two thousand

8 three, relating to the consolidated public retirement board
9 (general provisions, 162 CSR 1), is authorized.

10 (b) The legislative rule filed in the state register on the
11 twenty-eighth day of July, two thousand three, authorized
12 under the authority of section one, article ten-d, chapter
13 five of this code, modified by the consolidated public
14 retirement board to meet the objections of the legislative
15 rule-making review committee and refiled in the state
16 register on the thirtieth day of October, two thousand
17 three, relating to the consolidated public retirement board
18 (benefit determination and appeal, 162 CSR 2), is autho-
19 rized.

20 (c) The legislative rule filed in the state register on the
21 twenty-eighth day of July, two thousand three, authorized
22 under the authority of section one, article ten-d, chapter
23 five of this code, modified by the consolidated public
24 retirement board to meet the objections of the legislative
25 rule-making review committee and refiled in the state
26 register on the thirtieth day of October, two thousand
27 three, relating to the consolidated public retirement board
28 (teachers defined benefit plan, 162 CSR 4), is authorized.

29 (d) The legislative rule filed in the state register on the
30 twenty-eighth day of July, two thousand three, authorized
31 under the authority of section one, article ten-d, chapter
32 five of this code, modified by the consolidated public
33 retirement board to meet the objections of the legislative
34 rule-making review committee and refiled in the state
35 register on the thirtieth day of October, two thousand
36 three, relating to the consolidated public retirement board
37 (West Virginia state police disability determination and
38 appeal process, 162 CSR 9), is authorized.

§64-2-3. Board of risk and insurance management.

1 (a) The legislative rule filed in the state register on the
2 first day of August, two thousand three, authorized under
3 the authority of section one, article twelve, chapter

4 twenty-nine of this code, modified by the board of risk and
5 insurance management to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-third day of January, two
8 thousand four, relating to the board of risk and insurance
9 management (public entities insurance program, 115 CSR
10 2), is authorized.

11 (b) The legislative rule filed in the state register on the
12 first day of August, two thousand three, authorized under
13 the authority of section fourteen, article twelve, chapter
14 twenty-nine of this code, modified by the board of risk and
15 insurance management to meet the objections of the
16 legislative rule-making review committee and refiled in
17 the state register on the twenty-third day of January, two
18 thousand four, relating to the board of risk and insurance
19 management (terms and conditions pertaining to members
20 of self insurance pools who wish to participate in state
21 insurance programs, 115 CSR 7), is not authorized.

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

Calvin R. Mc
.....
Chairman Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell E. Holm
.....
Clerk of the Senate

Greg D. Boy
.....
Clerk of the House of Delegates

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

Robert Skiff
.....
Speaker House of Delegates

The within is approved this the 5th
Day of April, 2004.

Bob Wise
.....
Governor

PRESENTED TO THE

GOVERNOR

DATE

3/22/04

TIME

4:00 pm