

SB 350

FILED

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OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2004

**ENROLLED**

Committee Substitute for  
**SENATE BILL NO. 350**

(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. 350

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

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

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AN ACT to amend and reenact article 10, chapter 64 of the code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; continuing rules previously promulgated by state agencies and boards; legislative mandate or authorization for the promulgation of certain legislative rules; 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 economic development authority to promulgate a legislative rule relating to the general administration of the West Virginia venture capital act; authorizing the economic development authority to promulgate a legislative rule relating to economic development and technology advancement centers; authorizing the infrastructure and jobs development council to promulgate a legislative rule relating to council; authorizing the division of labor to promulgate a legislative rule relating to psychophysiological detection of deception examinations; disapproving the manufactured housing construction and safety standards board to promulgate a legislative rule relating to the board; authorizing the office of miners' health, safety and training to promulgate a legislative rule relating to reporting requirements for independent contractors; authorizing the division of natural resources to promulgate a legislative rule relating to public land corporation rule controlling sale, lease, exchange or transfer of land and minerals; authorizing the division of natural resources to promulgate a legislative rule relating to revocation of hunting and fishing licenses; authorizing the division of natural resources to promulgate a legislative rule relating to special motorboating regulations; and authorizing the division of natural resources to promulgate a legislative rule relating to special fishing.

*Be it enacted by the Legislature of West Virginia:*

That article 10, chapter 64 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO PROMULGATE LEGISLATIVE RULES.**

**§64-10-1. Economic development authority.**

- 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 three, article two, chapter five-e of
- 4 this code, modified by the economic development author-
- 5 ity to meet the objections of the legislative rule-making

6 review committee and refiled in the state register on the  
7 twenty-second day of December, two thousand three,  
8 relating to the economic development authority (general  
9 administration of the West Virginia venture capital act,  
10 117 CSR 3), is authorized with the following amendments:

11 On page one, subsection 1.5, after the words "Series 3,"  
12 by striking out the remainder of the sentence and inserting  
13 in lieu thereof the words "§117-3-1, *et seq.*";

14 On page two, section two, subsection 2.10, line 3, by  
15 striking the word "Subdivision" and inserting the word  
16 "Subsection";

17 On page four, section four, subdivision 4.2.a, line 3,  
18 following the word "with" by striking the word "Subdivi-  
19 sion" and inserting the word "Subsection";

20 On page six, subdivision 5.2.c.9., line one by striking the  
21 words "A signed commitment" and inserting in lieu  
22 thereof the words "An irrevocable letter of credit";

23 On page six, paragraph 5.2.c.9, line three, after the  
24 words "certified check for", by striking out the word "the"  
25 and inserting in lieu thereof the word "any", and after the  
26 word "call", by striking out the comma and the words "if  
27 required by the Authority";

28 On page six, subdivision 5.2.c.9, line three, following the  
29 words "by the authority", by inserting a colon and the  
30 words "*Provided*, That the economic development author-  
31 ity may authorize a reduction in the amount of the irrevocable  
32 letter of credit to correspond to a payment made  
33 towards the proposed investment";

34 On page twelve, subdivision 7.4.1, line six, after the  
35 words "applicable where", by striking out the remainder  
36 of the subdivision and inserting in lieu thereof the words  
37 "the Fund Manager's economic relationship is solely the  
38 result of the fact that the Fund Manager has made a

39 previous investment in the West Virginia Business pursu-  
40 ant to the Act or this Rule.”;

41 On page twelve, subdivision 7.4.2, line seven, after the  
42 words “applicable where”, by striking out the remainder  
43 of the subdivision and inserting in lieu thereof the words  
44 “the investor’s economic relationship is solely the result of  
45 the fact that the Fund Manager has made a previous  
46 investment in the West Virginia Business pursuant to the  
47 Act or this Rule.”;

48 And,

49 On page sixteen, section ten, subsection 10.10, line 1,  
50 following the words “described in” by striking the words  
51 “Section 10” and inserting “this section”.

52 (b) The legislative rule filed in the state register on the  
53 first day of August, two thousand three, authorized under  
54 the authority of section five, article one, chapter five-e of  
55 this code, modified by the economic development author-  
56 ity to meet the objections of the legislative rule-making  
57 review committee and refiled in the state register on the  
58 twenty-second day of December, two thousand three,  
59 relating to the economic development authority (economic  
60 development and technology advancement centers, 117  
61 CSR 4), is authorized with the following amendments:

62 On page five, section four, subdivision 4.1.2, line 1,  
63 following the word “Per” by striking the word “Investor”  
64 and inserting the word “Center”;

65 On page five, section four, subdivision 4.1.2, line 1,  
66 following the word “single” by striking the words “Inves-  
67 tor in a Center” and inserting the word “Center”;

68 On page five, section four, subsection 4.3, line 7, follow-  
69 ing the word “subdivision” by striking “6.4.f” and insert-  
70 ing “4.4.f”;

71 And,

72 On page nine, section six, subsection 6.8, following the  
73 words “described in” by striking the word “Sections” and  
74 inserting the word “Subsections.”

**§64-10-2. Infrastructure and jobs development council.**

1 The legislative rule filed in the state register on the  
2 twenty-third day of June, two thousand three, authorized  
3 under the authority of section four, article fifteen-a,  
4 chapter thirty-one of this code, modified by the infrastruc-  
5 ture and jobs development council to meet the objections  
6 of the legislative rule-making review committee and  
7 refiled in the state register on the fourteenth day of  
8 August, two thousand three, relating to the infrastructure  
9 and jobs development council (infrastructure and jobs  
10 development council, 167 CSR 1), is authorized with the  
11 following amendments:

12 On page nine, section five, subdivision 5.13.6, line 9,  
13 following the citation “WVC 22C-2-1 *et. seq.*” by inserting  
14 words “and WVC 16-13C-1 *et seq.*”;

15 On page nine, section five, subdivision 5.13.6, line 11,  
16 following the word “State” by striking the words “as  
17 delineated”;

18 And,

19 On page nine, section five, subdivision 5.13.6, line 13,  
20 following the word “Code” by striking the word “in”.

**§64-10-3. Division of labor.**

1 The legislative rule filed in the state register on the first  
2 day of August, two thousand three, authorized under the  
3 authority of section five-c, article five, chapter twenty-one  
4 of this code, modified by the division of labor to meet the  
5 objections of the legislative rule-making review committee  
6 and refiled in the state register on the fifth day of Decem-  
7 ber, two thousand three, relating to the division of labor  
8 (psychophysiological detection of deception examinations,

9 limitations of use, requirements, licenses and penalties, 42  
10 CSR 6), is authorized with the following amendments:

11 On page one, subsection 1.1, line one, after the words  
12 “W. Va. Code”, by striking out the words “§21-5-5(c)” and  
13 inserting in lieu thereof the words “§21-5-5c”;

14 On page one, subsection 1.1, line three, after the words  
15 “W. Va. Code”, by striking out the words “§21-5-5(a)-(d)”  
16 and inserting in lieu thereof the words “§§21-5-5a, -5b, -  
17 5c, and -5d”;

18 On page one, subsection 2.4, line three, after the words  
19 “W. Va. Code”, by striking out the words “§21-5-5c(c)”  
20 and inserting in lieu thereof the words “§§21-5-5a, -5b, -  
21 5c, and -5d”;

22 On page two, subsection 3.1, line two, after the words  
23 “issue a license”, by striking out the word “to”;

24 On page two, subsection 3.1, line five, after the words  
25 “W. Va. Code”, by striking out the words “§21-5-5a, b, c,  
26 and d” and inserting in lieu thereof the words “§§21-5-5a,  
27 -5b, -5c, and -5d”;

28 On page two, subsection 3.3, line one, after the words  
29 “Subsection 3.2”, by inserting the words “of this section”;

30 On page three, subdivision 3.10(b), line one, after the  
31 words “in the violation of.”, by striking out the words  
32 “this article” and inserting in lieu thereof the words “W.  
33 Va. Code §§21-5-5a, -5b, -5c, and -5d”;

34 On page three, subdivision 3.10(c), line one, after the  
35 words “The licensee”, by striking out the word “is” and  
36 inserting in lieu thereof the words “has been”;

37 On page three, subdivision 3.10(d), line one, after the  
38 words “The licensee”, by striking out the word “makes”  
39 and inserting in lieu thereof the words “has been”, and  
40 after the words “false promises”, by striking out the word

41 “cause” and inserting in lieu thereof the words “has  
42 caused”;

43 On page four, subdivision 3.10(f), line one, after the  
44 words “The licensee”, by striking out the word “allows”  
45 and inserting in lieu thereof the words “has allowed”;

46 On page four, subdivision 3.10(g), line one, after the  
47 words “The licensee”, by striking out the word “fails” and  
48 inserting in lieu thereof the words “has failed”;

49 On page four, subdivision 4.2, line one, after the words  
50 “The intern”, by striking out the words “shall have” and  
51 inserting in lieu thereof the word “has”;

52 On page four, subparagraph 4.2.1.b.(1), line one, after the  
53 words “W. Va. Code”, by striking out the words “§21-5-5a,  
54 b, c, and d” and inserting in lieu thereof the words “§§21-  
55 5-5a, -5b, -5c, and -5d”;

56 On page six, paragraph 4.2.3.A, line three, after the word  
57 “but”, by striking out the word “compliance” and insert-  
58 ing in lieu thereof the words “must comply” and, after the  
59 words “with all other”, by striking out the rest of the  
60 paragraph and inserting in lieu thereof the words “re-  
61 quirements of this subsection”;

62 On page six, subsection 5.1, line one, after the words  
63 “issue a license”, by inserting the words “without exami-  
64 nation” and, after the words “applicant who is”, by  
65 striking out the words “an examiner” and inserting in lieu  
66 thereof the word “a”;

67 On page six, subsection 5.1, line two, after the word  
68 “licensed”, by inserting the word “examiner”;

69 On page six, subsection 5.1, line three, by striking out the  
70 words “without examination”;

71 On page seven, section 6, line two, by striking out the  
72 words “this article, it is the policy of the Commissioner



73 that” and inserting in lieu thereof the words “W. Va. Code  
74 §§21-5-5a, -5b, -5c, and -5d,”;

75 On page eight, subdivision 8.1.(b), line three, after the  
76 words “unfit for the”, by striking out the word “an”;

77 And,

78 On page nine, subdivision 8.2.(c), line two, after the  
79 words “record of the”, by striking out the term “PDD” and  
80 inserting in lieu thereof the words “psychophysiological  
81 detection of deception”.

**§64-10-4. Manufactured housing construction and safety standards board.**

1 The legislative rule filed in the state register on the first  
2 day of August, two thousand three, authorized under the  
3 authority of section four, article nine, chapter twenty-one  
4 of this code, modified by the manufactured housing  
5 construction and safety standards board to meet the  
6 objections of the legislative rule-making review committee  
7 and refiled in the state register on the fifth day of Decem-  
8 ber, two thousand three, relating to the manufactured  
9 housing construction and safety standards board (West  
10 Virginia manufactured housing construction and safety  
11 standards board, 42 CSR 19), is not authorized.

**§64-10-5. Office of miners health, safety and training.**

1 The legislative rule filed in the state register on the  
2 eighth day of November, two thousand two, authorized  
3 under the authority of section six, article one, chapter  
4 twenty-two-a of this code, modified by the office of miners  
5 health, safety and training to meet the objections of the  
6 legislative rule-making review committee and refiled in  
7 the state register on the fourteenth day of April, two  
8 thousand three, relating to the office of miners health,  
9 safety and training (reporting requirements for independ-  
10 ent contractors, 56 CSR 10), is authorized.

**§64-10-6. Division of natural resources.**

1 (a) The legislative rule filed in the state register on the  
2 eleventh day of September, two thousand three, authorized  
3 under the authority of section seven, article one, chapter  
4 twenty of this code, modified by the division of natural  
5 resources to meet the objections of the legislative rule-  
6 making review committee and refiled in the state register  
7 on the twenty-sixth day of January, two thousand four,  
8 relating to the division of natural resources (public land  
9 corporation rule controlling the sale, lease, exchange or  
10 transfer of land and minerals, 58 CSR 2), is authorized.

11 (b) The legislative rule filed in the state register on the  
12 second day of July, two thousand three, authorized under  
13 the authority of section seven, article one, chapter twenty  
14 of this code, modified by the division of natural resources  
15 to meet the objections of the legislative rule-making  
16 review committee and refiled in the state register on the  
17 fifteenth day of September, two thousand three, relating  
18 to the division of natural resources (revocation of hunting  
19 and fishing licenses, 58 CSR 23), is authorized with the  
20 following amendment:

21 On page 1, subsection 2.4, on the first line by striking out  
22 the words "Class A-1-L" and inserting in lieu thereof the  
23 words "Lifetime Class A-1".

24 (c) The legislative rule filed in the state register on the  
25 tenth day of July, two thousand three, authorized under  
26 the authority of section twenty-two, article seven, chapter  
27 twenty of this code, relating to the division of natural  
28 resources (special motorboating regulations, 58 CSR 27),  
29 is authorized.

30 (d) The legislative rule filed in the state register on the  
31 fourteenth day of July, two thousand three, authorized  
32 under the authority of section seventeen, article one,  
33 chapter twenty of this code, relating to the division of  
34 natural resources (special fishing, 58 CSR 61), is autho-  
35 rized with the following amendment:

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36 On page one, section 3, by striking out all of subsection  
37 3.1 and renumbering the remaining subsections.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *5<sup>th</sup>* .....  
Day of *April* ....., 2004.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

DATE 3/22/04  
TIME 4:00pm