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SB 276

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 276**

(SENATORS MINARD, FANNING, PREZIOSO,  
UNGER AND BOLEY, *original sponsors*)

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[Passed March <sup>5</sup>2, 2007; in effect from passage.]

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**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 276**

(SENATORS MINARD, FANNING, PREZIOSO,  
UNGER AND BOLEY, *original sponsors*)

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[Passed March 5, 2007; in effect from passage.]

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AN ACT to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the Department of Military Affairs and Public Safety;

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; authorizing Division of Corrections to promulgate a legislative rule relating to parole supervision; authorizing State Fire Commission to promulgate a legislative rule relating to the State Building Code; authorizing State Fire Commission to promulgate legislative rule relating to certification and evaluation of local fire departments; authorizing Division of Homeland Security and Emergency Management to promulgate legislative rule relating to mine and industrial accident rapid response system; authorizing Regional Jail and Correctional Facility Authority to promulgate legislative rule relating to criteria and procedures for determination of projected cost per day for inmates incarcerated in regional jails and operated by authority; and authorizing State Police to promulgate a legislative rule relating to the West Virginia DNA Data Bank.

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

That article 6, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6. AUTHORIZATION FOR THE DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.**

**§64-6-1. Division of Corrections.**

1       The legislative rule filed in the State Register on the  
2       twenty-eighth day of July, two thousand six, authorized  
3       under the authority of section two, article thirteen,  
4       chapter sixty-two of this code relating to the Division of  
5       Corrections (parole supervision, 90 CSR 2) is authorized  
6       with the following amendments:

7       On page one, section two, by striking out “2.1.”;

8       On pages one and two, section two, by redesignating  
9       subdivisions a. through r. as subdivisions 2.1. through  
10      2.18;

11      On page two, subdivision 2.1.r., line four, after the  
12      word “jurisdictions,” by striking out the word “you”  
13      and inserting in lieu thereof the words “the parolee”;

14      On page two, section four, by striking out “4.1.”;

15      And,

16      On pages two and three, section four, by redesignating  
17      subdivisions a. through e. as subdivisions 4.1. through  
18      4.5.

**§64-6-2. State Fire Commission.**

1       (a) The legislative rule filed in the State Register on  
2       the twenty-sixth day of July, two thousand six,  
3       authorized under the authority of section five-b, article  
4       three, chapter twenty-nine of this code relating to the  
5       State Fire Commission (State Building Code, 87 CSR 4)  
6       is authorized.

7 (b) The legislative rule filed in the State Register on  
8 the twenty-sixth day of July, two thousand six,  
9 authorized under the authority of section five, article  
10 three, chapter twenty-nine of this code, modified by the  
11 State Fire Commission to meet the objections of the  
12 Legislative Rule-Making Review Committee and refiled  
13 in the State Register on the second day of November,  
14 two thousand six, relating to the State Fire Commission  
15 (certification and evaluation of local fire departments,  
16 87 CSR 6) is authorized with the following amendments:

17 On page four, by striking out subsection 5.2 in its  
18 entirety and by renumbering the remaining subsections  
19 accordingly; and

20 On page nine, subdivision 10.2.f., following the word  
21 "subsection" by striking out "3.3" and inserting in lieu  
22 thereof "3.2"; and

23 On page twelve, subsection 12.3, line eight, following  
24 the word "subdivision", by striking out "10.2.b" and  
25 inserting in lieu thereof "10.3.b".

**§64-6-3. Homeland Security and Emergency Management.**

1 The legislative rule filed in the State Register on the  
2 first day of May, two thousand six, authorized under the  
3 authority of section five, article five-b, chapter fifteen  
4 of this code, modified by the Division of Homeland  
5 Security and Emergency Management to meet the  
6 objections of the Legislative Rule-Making Review  
7 Committee and refiled in the State Register on the  
8 nineteenth day of January, two thousand seven, relating  
9 to the Division of Homeland Security and Emergency  
10 Management (mine and industrial accident rapid  
11 response system, 170 CSR 1) is authorized with the

12 following amendments:

13 On page one, subsection 1.1, line one, by striking out  
14 the word “coordinating” and inserting in lieu thereof  
15 the words “to coordinate”;

16 On page one, subsection 1.1, lines two through four,  
17 by striking out the word “governing” and inserting in  
18 lieu thereof the words “to govern”;

19 On page two, subsection 2.2., line one, after the word  
20 “means”, by inserting the words “Mine and Industrial  
21 Accident Emergency Operations Center, including”;

22 On pages two and three, by striking out subsections  
23 2.6., 2.7. and 2.8. in their entirety;

24 On page three, by striking out section three in its  
25 entirety and by renumbering the following sections  
26 accordingly;

27 On page three, subsection 4.1., line three, by  
28 capitalizing the word “director”;

29 On page three, subsection 4.2., line two, by striking  
30 out the word “Such”, by capitalizing the word  
31 “recording” and by inserting a comma after the word  
32 “automatic”;

33 On page three, subsection 4.2., lines three and four, by  
34 striking out the words “to include” and inserting in lieu  
35 thereof the word “including” and by striking out the  
36 words “appropriate, approved and authorized”;

37 On page three, subsection 4.2., line four, after the  
38 words “representative of” by inserting the word “a”, by

39 striking out the words “regulatory, enforcement, or  
40 investigative agencies” and inserting in lieu thereof the  
41 words “government agency responsible for enforcing  
42 rules and regulations and investigating violations  
43 relating to mining and industrial safety”;

44 On page three, subsection 4.2., line five, by striking  
45 out the words “Such requests” and inserting in lieu  
46 thereof the words “The request”, by striking out the  
47 words “the nature of the need for such” and inserting in  
48 lieu thereof the words “why the” and, after the word  
49 “information”, by inserting the words “is needed”;

50 On page three, subsection 5.1., line one, by striking  
51 out the words “shall be” and inserting in lieu thereof  
52 the word “is”;

53 On page three, subsection 5.1., line two, by striking  
54 out the word “purposes” and inserting in lieu thereof  
55 the word “purpose” and after “§29B-1” by inserting “-  
56 1”;

57 On page four, by striking out subsection 5.2. in its  
58 entirety and by renumbering the remaining subsections  
59 accordingly;

60 On page four, subsection 5.3., by striking out the word  
61 “should” and inserting in lieu thereof the word “must”;

62 On page four, subsection 5.4., after “W. Va. Code  
63 §29B-1” by inserting “-1” and, after the words “et seq.”  
64 by striking out the remainder of the subsection;

65 On page four, subsection 6.1., after the word  
66 “considered”, by striking out the word “a” and, after  
67 the word “requests” by inserting the words “in

68 writing”;

69 And,

70 On page four, by striking out subsection 6.2. in its  
71 entirety and renumbering the remaining subsection  
72 accordingly.

**§64-6-4. Regional Jail and Correctional Facility Authority.**

1 The legislative rule filed in the State Register on the  
2 twenty-eighth day of July, two thousand six, authorized  
3 under the authority of section ten, article twenty,  
4 chapter thirty-one of this code, modified by the  
5 Regional Jail and Correctional Facility Authority to  
6 meet the objections of the Legislative Rule-Making  
7 Review Committee and refiled in the State Register on  
8 the eighteenth day of January, two thousand seven,  
9 relating to the Regional Jail and Correctional Facility  
10 Authority (criteria and procedures for determination of  
11 projected cost per day for inmates incarcerated in  
12 regional jails operated by the Authority, 94 CSR 7) is  
13 authorized with the following amendments:

14 On page one, subsection 2.1., line one, by striking out  
15 “establishes” and inserting in lieu thereof “shall  
16 establish”;

17 On page one, subsection 2.1., line three, after the word  
18 “including”, by inserting a comma;

19 On page one, subsection 2.1, line six, after the period  
20 by inserting the following:

21 “Provided, that an operational reserve fund may not  
22 exceed the amount of three months of anticipated



23 operational expenditures.”

24 On page one, section three, by striking out “3.1.”;

25 On page one, section three, line two, after the word  
26 “entity” by inserting the words “who has or may have”  
27 and, after the word “inmate”, by striking out the words  
28 “may be”;

29 On page one, subsection 4.1., after the word  
30 “Authority”, by striking out the word “prepares” and  
31 inserting in lieu thereof the words “shall prepare”, after  
32 the word “statement” by changing the period to a  
33 comma and striking out the words “This statement” and  
34 inserting in lieu thereof the word “which”, and, after  
35 the word “at”, by inserting the word “a”;

36 And,

37 On page one, subsection 4.1, line three, after the word  
38 “charges”, by inserting the words “per entity”.

**§64-6-5. State Police.**

1 The legislative rule filed in the State Register on the  
2 twenty-eighth day of July, two thousand six, authorized  
3 under the authority of section four, article two-b,  
4 chapter fifteen of this code, modified by the State Police  
5 to meet the objections of the Legislative Rule-Making  
6 Review Committee and refiled in the State Register on  
7 the twenty-third day of October, two thousand six,  
8 relating to the State Police (West Virginia DNA Data  
9 Bank, 81 CSR 9) is authorized.

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

*Wandy White*  
.....  
Chairman Senate Committee

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

Originated in the Senate.

In effect from passage.

*Parrell Chalmer*  
.....  
Clerk of the Senate

*Samuel D. Day*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

.....  
Speaker House of Delegates

The within *is appended* ..... this  
the *19th* Day of *March* ....., 2007.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 14 2007

Time 3:10 pm