

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 369

BY SENATOR WOODRUM

[Reported February 25, 2025, from the Committee on
the Judiciary]

1 A BILL to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended,
2 relating to authorizing certain miscellaneous agencies and boards to promulgate
3 legislative rules; authorizing the rules as filed, as modified, and as amended by the
4 Legislative Rule-Making Review Committee, and as amended by the Legislature;
5 authorizing the Department of Agriculture to promulgate a legislative rule relating to state
6 aid for fairs and festivals; authorizing the Department of Agriculture to promulgate a
7 legislative rule relating to the inspection of meat and poultry; authorizing the Department
8 of Agriculture to promulgate a legislative rule relating to licensing and other fees;
9 authorizing the Department of Agriculture to promulgate a legislative rule relating to
10 manufacture-grade milk; authorizing the Department of Agriculture to promulgate a
11 legislative rule relating to employment reference and inquiries and background checks;
12 authorizing the Department of Agriculture to promulgate a legislative rule relating to fish
13 processing; authorizing the Department of Agriculture to promulgate a legislative rule
14 relating to select plant-based derivatives and select plant-based derivative products;
15 authorizing the Department of Agriculture to promulgate a legislative rule relating to the
16 Rural Rehabilitation Program; authorizing the Department of Agriculture to promulgate a
17 legislative rule relating to raw milk; authorizing the Board of Architects to promulgate a
18 legislative rule relating to registration of architects; authorizing the Board of Architects to
19 promulgate a legislative rule relating to fees for registration of architects; authorizing the
20 State Auditor to promulgate a legislative rule relating to Local Government Purchasing
21 Card Program; authorizing the State Auditor to promulgate a legislative rule relating to
22 private trust companies; authorizing the Board of Barbers and Cosmetologists to
23 promulgate a legislative rule relating to the operation of barber, cosmetology, nail
24 technology, aesthetic, hair styling, and waxing salons and schools; authorizing the Board
25 of Barbers and Cosmetologists to promulgate a legislative rule relating to the schedule of
26 fees; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule

relating to the schedule of fines; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the Board of Dentistry to promulgate a legislative rule relating to mobile dental facilities and portable dental units; authorizing the Election Commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holders, and funeral establishment requirements; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to general provisions; authorizing the Board of Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to fees for services rendered by the board; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to competency standards for advanced practice by occupational therapists and occupational therapy assistants; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to request for waiver of licensing fees for certain individuals; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to telehealth practice requirements and definitions; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to a waiver of initial licensing fees for certain initial licensure applicants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations

governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the application of waiver of initial licensing fees for certain individuals; authorizing the Board of Examiners of Psychologists to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to renewal of licensure or certification; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for registration and renewal of appraisal management companies; authorizing the Real Estate Commission to promulgate a legislative rule relating to licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business; authorizing the Real Estate Commission to promulgate a legislative rule relating to the application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Commission to promulgate a legislative rule relating to consideration of prior criminal convictions in initial license eligibility determination; authorizing the Board of Registered Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to criteria for licensure; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to telehealth practice requirements and definitions; authorizing the Board of Sanitarians to promulgate a legislative rule relating to the practice of public health sanitation; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative

rule relating to speech-language pathology and audiology assistants; authorizing the State Conservation Committee to promulgate a legislative rule relating to the State Conservation Committee Grant Program; and authorizing the Hope Scholarship Board to promulgate a legislative rule relating to the Hope Scholarship Program.

Be it enacted by the Legislature of West Virginia:

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

§64-9-1. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 25, 2024, authorized under the authority of §19-7-11 of this code, relating to the Department of Agriculture (state aid for fairs and festivals, 61 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on June 25, 2024, authorized under the authority of §19-2B-3 of this code, relating to the Department of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

(c) The legislative rule filed in the State Register on July 25, 2024, authorized under the authority of §19-1-4b of this code, relating to the Department of Agriculture (licensing and other fees, 61 CSR 18), is authorized.

(d) The legislative rule filed in the State Register on August 2, 2024, authorized under the authority of §19-11E-8 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 18, 2024, relating to the Department of Agriculture (West Virginia manufacture-grade milk, 61 CSR 19), is authorized.

(e) The legislative rule filed in the State Register on August 6, 2024, authorized under the authority of §19-1-3b of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

October 16, 2024, relating to the Department of Agriculture (employment reference and inquiries and background checks, 61 CSR 20), is authorized with amendment set forth below:

On page 5, by striking out all of subsection 9.1. and inserting in lieu thereof a new subsection 9.1. to read as follows:

9.1. The following provisions apply to current employees and individuals seeking employment at the WVDA who have not been previously employed by the Department.;

On page 5, paragraph 9.1.a.4., after the word “his” by inserting the words “or her”;
And,

On page 5, subdivision 9.1.b., after the word “or” by inserting the word “an”.

(f) The legislative rule filed in the State Register on July 30, 2024, authorized under the authority of §19-29-1 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2024, relating to the Department of Agriculture (West Virginia fish processing, 61 CSR 23A), is authorized with amendment set forth below:

On page 19, by adding a new subsection designated 21.4. to read as follows:

“21.4. Up to 20,000 pounds of fish per calendar year slaughtered and/or processed at an official plant are exempt from the antemortem, postmortem, and processing inspection, provided that the fish are slaughtered and processed at an establishment licensed by the Commissioner of Agriculture and approved for fish slaughter operations.”

(g) The legislative rule filed in the State Register on August 15, 2024, authorized under the authority of §19-12E-12 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 3, 2024, relating to the Department of Agriculture (select plant-based derivatives and select plant-based derivative products, 61 CSR 30), is authorized with the amendment set forth below:

43 On page 20, subdivision 13.3.c. after the word “hemp” by inserting the words “and
44 kratom”.

45 (h) The legislative rule filed in the State Register on July 29, 2024, authorized under
46 the authority of §19-1-11 of this code, relating to the Department of Agriculture (Rural
47 Rehabilitation Program, 61 CSR 33), is authorized.

48 (i) The legislative rule filed in the State Register on August 15, 2024, authorized under
49 the authority of §19-1-7 of this code, modified by the Department of Agriculture to meet the
50 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
51 December 2, 2024, relating to the Department of Agriculture (raw milk, 61 CSR 41), is authorized.

§64-9-2. Board of Architects.

1 (a) The legislative rule filed in the State Register on August 2, 2024, authorized under the
2 authority of §30-12-1 of this code, modified by the Board of Architects to meet the objections of
3 the Legislative Rule-Making Review Committee and refiled in the State Register on August 28,
4 2024, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized.

5 (b) The legislative rule filed in the State Register on August 2, 2024, authorized under the
6 authority of §30-12-3 of this code, relating to the Board of Architects (fees for registration of
7 architects, 2 CSR 03), is authorized.

§64-9-3. State Auditor.

1 (a) The legislative rule filed in the State Register on March 22, 2024, authorized under the
2 authority of §6-9-2a of this code, relating to the State Auditor (Local Government Purchasing Card
3 Program, 155 CSR 06), is authorized.

4 (b) The legislative rule filed in the State Register on August 13, 2024, authorized under
5 the authority of §311-1-13 of this code, modified by the State Auditor to meet the objections of the
6 Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2024,
7 relating to the State Auditor (private trust companies, 155 CSR 12), is authorized.

§64-9-4. Board of Barbers and Cosmetologists.

1 (a) The legislative rule filed in the State Register on August 14, 2024, authorized under
2 the authority of §30-27-6 of this code, modified by the Board of Barbers and Cosmetologists to
3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on October 10, 2024, relating to the Board of Barbers and Cosmetologists (operation of
5 barber, cosmetology, nail technology, aesthetic, hair styling, and waxing salons and schools, 3
6 CSR 05), is authorized.

7 (b) The legislative rule filed in the State Register on August 20, 2024, authorized under
8 the authority of §30-27-6 of this code, modified by the Board of Barbers and Cosmetologists to
9 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
10 Register on October 11, 2024, relating to the Board of Barbers and Cosmetologists (schedule of
11 fees, 3 CSR 06), is authorized.

12 (c) The legislative rule filed in the State Register on August 20, 2024, authorized under
13 the authority of §30-1-8 of this code, modified by the Board of Barbers and Cosmetologists to
14 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
15 Register on October 8, 2024, relating to the Board of Barbers and Cosmetologists (schedule of
16 fines, 3 CSR 07), is authorized.

§64-9-5. Board of Chiropractic Examiners.

1 The legislative rule filed in the State Register on October 18, 2024, authorized under the
2 authority of §30-1-24 of this code, relating to the Board of Chiropractic Examiners (consideration
3 of prior criminal convictions in initial licensure determinations, 4 CSR 08), is authorized.

§64-9-6. Board of Dentistry.

1 (a) The legislative rule filed in the State Register on July 23, 2024, authorized under
2 the authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of
3 the Legislative Rule-Making Review Committee and refiled in the State Register on November

15, 2024, relating to the Board of Dentistry (continuing education requirements, 5 CSR 11), is authorized with the amendment set forth below:

“On page 8, subdivision 3.9.2., after the word “least”, by striking out the number “3” and inserting in lieu thereof the number “2”;

And,

On page 8, subdivision 3.9.2., by striking out the following “drug diversion training and best practice prescribing of controlled substances training and training on prescribing and administration of an opioid antagonist “ and inserting in lieu thereof “infection control training”.”

(b) The legislative rule filed in the State Register on July 22, 2024, authorized under the authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 15, 2024, relating to the Board of Dentistry (mobile dental facilities and portable dental units, 5 CSR 14), is authorized.

§64-9-7. Election Commission.

The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §3-1A-5 of this code, modified by the Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2025, relating to the Election Commission (regulation of campaign finance, 146 CSR 03), is authorized.

§64-9-8. Board of Funeral Service Examiners.

The legislative rule filed in the State Register on August 29, 2024, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 22, 2024, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders, and funeral establishment requirements, 6 CSR 01), is authorized.

§64-9-9. Massage Therapy Licensure Board.

1 The legislative rule filed in the State Register on August 30, 2024, authorized under the
2 authority of §30-37-6 of this code, relating to the Massage Therapy Licensure Board (general
3 provisions, 194 CSR 01), is authorized.

§64-9-10. Board of Medicine.

1 The legislative rule filed in the State Register on April 1, 2024, authorized under the
2 authority of §30-1-23 of this code, relating to the Board of Medicine (waiver of initial licensing fees
3 for certain initial licensure applicants, 11 CSR 13), is authorized.

§64-9-11. Board of Occupational Therapy.

1 (a) The legislative rule filed in the State Register on June 4, 2024, authorized under the
2 authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (fees for services
3 rendered by the Board, 13 CSR 03), is authorized.

4 (b) The legislative rule filed in the State Register on June 4, 2024, authorized under the
5 authority of §30-28-7 of this code, modified by the Board of Occupational Therapy to meet the
6 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
7 August 29, 2024, relating to the Board of Occupational Therapy (competency standards for
8 advanced practice by occupational therapists and occupational therapy assistants, 13 CSR 05),
9 is authorized.

10 (c) The legislative rule filed in the State Register on January 10, 2024, authorized under
11 the authority of §30-28-6 of this code, relating to the Board of Occupational Therapy (request for
12 waiver of licensing fees for certain individuals, 13 CSR 07), is authorized.

13 (d) The legislative rule filed in the State Register on January 10, 2024, authorized under
14 the authority of §30-28-7 of this code, modified by the Board of Occupational Therapy to meet the
15 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
16 August 29, 2024, relating to the Board of Occupational Therapy (consideration of prior criminal
17 convictions in initial licensure determinations, 13 CSR 08), is authorized.

(e) The legislative rule filed in the State Register on June 4, 2024, authorized under the authority of §30-1-26 of this code, modified by the Board of Occupational Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 29, 2024, relating to the Board of Occupational Therapy (telehealth practice, requirements, and definitions, 13 CSR 09), is authorized.

§64-9-12. Board of Osteopathic Medicine.

The legislative rule filed in the State Register on November 15, 2023, authorized under the authority of §30-1-23 of this code, relating to the Board of Osteopathic Medicine (waiver of initial licensing fees for certain initial licensure applicants, 24 CSR 08), is authorized.

§64-9-13. Board of Pharmacy.

(a) The legislative rule filed in the State Register on August 29, 2024, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 16, 2024, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 29, 2024, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 16, 2024, relating to the Board of Pharmacy (Uniform Controlled Substances Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on August 29, 2024, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 16, 2024, relating to the Board of Pharmacy (regulations governing pharmacy permits, 15 CSR 15), is authorized.

(d) The legislative rule filed in the State Register on July 24, 2024, authorized under the authority of §30-1-23 of this code, relating to the Board of Pharmacy (application of waiver of initial licensing fees for certain individuals, 15 CSR 18), is authorized.

§64-9-14. Board of Examiners of Psychologists.

The legislative rule filed in the State Register on August 13, 2024, authorized under the authority of §30-21-6 of this code, modified by the Board of Examiners of Psychologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 28, 2024, relating to the Board of Examiners of Psychologists (consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals, 17 CSR 07), is authorized.

§64-9-15. Real Estate Appraiser Licensing and Certification Board.

(a) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §30-38-9 of this code, modified by the Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2024, relating to the Real Estate Appraiser Licensing and Certification Board (requirements for licensure and certification, 190 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §30-38-9 of this code, modified by the Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2024, relating to the Real Estate Appraiser Licensing and Certification Board (renewal of licensure or certification, 190 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §30-38-9 of this code, modified by the Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2024, relating to the Real Estate Appraiser Licensing

and Certification Board (requirements for registration and renewal of appraisal management companies, 190 CSR 05), is authorized.

§64-9-16. Real Estate Commission.

(a) The legislative rule filed in the State Register on August 14, 2024, authorized under the authority of §30-40-8 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 15, 2024, relating to the Real Estate Commission (licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business, 174 CSR 01), is authorized with the amendment set forth below:

On page 2, subsection 3.1., by striking out the word “biannual” and inserting in lieu thereof the word “biennial”.

(b) The legislative rule filed in the State Register on June 27, 2024, authorized under the authority of §30-1-23 of this code, relating to the Real Estate Commission (application for waiver of initial licensing fees for certain individuals, 174 CSR 06), is authorized with the amendment set forth below:

On page 2, subdivision 2.7. by striking out “§30-1-22” and inserting in lieu thereof “§30-01-23”.

(c) The legislative rule filed in the State Register on August 9, 2024, authorized under the authority of §30-1-24 of this code, relating to the Real Estate Commission (consideration of prior criminal convictions in initial license eligibility determination, 174 CSR 07), is authorized.

§64-9-17. Board of Registered Nurses.

The legislative rule filed in the State Register on August 23, 2024, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

§64-9-18. Board of Respiratory Care.

(a) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §30-34-6 of this code, relating to the Board of Respiratory Care (criteria for licensure, 30 CSR 01), is authorized with the amendments set forth below:

On page 1, by striking out all of subsection 2.4.;

On page 1, paragraph 3.1.2., by striking out the words "On or after July 1, 2022 holds" and inserting in lieu thereof the word "Holds".;

On page 1, paragraph 3.1.3., by striking out the words "Prior to July 1, 2022 holds" and inserting in lieu thereof the word "Holds".;

On page 2, subsection 3.3, by deleting the subsection in its entirety.;

On page 2, subsection 4.1, after the words "Respiratory therapists" by striking out the words "licensed prior to July 1, 2022,".;

And,

On page 2, subsection 4.2, by striking out the subsection in its entirety.

(b) The legislative rule filed in the State Register on February 27, 2024, authorized under the authority of §30-1-23 of this code, modified by the Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 9, 2024, relating to the Board of Respiratory Care (consideration of prior criminal convictions in initial licensure determinations, 30 CSR 10), is authorized.

(c) The legislative rule filed in the State Register on January 26, 2024, authorized under the authority of §30-1-26 of this code, modified by the Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 9, 2024, relating to the Board of Respiratory Care (telehealth practice requirements and definitions, 30 CSR 11), is authorized with the amendment set forth below:

On page 2, subdivision 5.2.4. by striking out the word "statue" and inserting in lieu thereof the word "statute".

§64-9-19. Board of Sanitarians.

1 The legislative rule filed in the State Register on August 30, 2024, authorized under the
2 authority of §30-17-6 of this code, modified by the Board of Sanitarians to meet the objections of
3 the Legislative Rule-Making Review Committee and refiled in the State Register on November
4 18, 2024, relating to the Board of Sanitarians (the practice of public health sanitation, 20 CSR
5 04), is authorized.

§64-9-20. Board of Examiners for Speech-Language Pathology and Audiology.

1 The legislative rule filed in the State Register on July 22, 2024, authorized under the
2 authority of §30-32-7 of this code, modified by the Board of Examiners for Speech-Language
3 Pathology and Audiology to meet the objections of the Legislative Rule-Making Review
4 Committee and refiled in the State Register on November 14, 2024, relating to the Board of
5 Examiners for Speech-Language Pathology and Audiology (speech-language pathology and
6 audiology assistants, 29 CSR 02), is authorized.

§64-9-21. State Conservation Committee.

1 The legislative rule filed in the State Register on October 30, 2023, authorized under the
2 authority of §19-21A-4 of this code, relating to the State Conservation Committee (State
3 Conservation Committee grant program, 63 CSR 03), is authorized.

§64-9-22. Hope Scholarship Board.

1 The legislative rule filed in the State Register on August 9, 2024, authorized under the
2 authority of §18-31-9 of this code, modified by the Hope Scholarship Board to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on November
4 20, 2024, relating to the Hope Scholarship Board (Hope Scholarship Program, 112 CSR 18), is
5 authorized.