

JULY 16

July 16, 1991

12:00 Noon - 3:00 p.m.

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Wooton, Chairman
Chafin (absent)
Manchin, J.
Tomblin
Wiedebusch (absent)
Boley

Grubb, Chairman
Burk
Faircloth
Roop
Love
Gallagher

The meeting was called to order by Mr. Wooton, Co-Chairman.

The minutes of the May 6, 1991 meeting were approved.

Michael McThomas, Committee Associate Counsel, reviewed his abstract on the rule proposed by the Public Energy Authority, Establishment of Fee Schedule and Cost Allocations to the Issuance of Bonds by the WV Public Energy Authority. He stated that the proposed rule did not take into account legislation passed during the 1990 Legislative Session and that he had rewritten the proposed rule to conform to the current law. Mr. McThomas stated that the Authority has agreed to his modifications. David Cecil, Counsel for the Authority, reiterated that the Authority agrees with Mr. McThomas' modifications and answered questions from the Committee.

Mr. Roop moved that the proposed rule be approved as modified. The motion was adopted.

Mr. McThomas explained the rule proposed the Public Energy Authority, Establishment of Rules and Procedure for the Exercise of the Powers of Eminent Domain for Qualified Projects. He told the Committee that this proposed rule also needs major modifications in order to bring it into compliance with current law. He stated that the Authority has also agreed to the modifications.

Mr. Roop moved that the proposed rule be approved as modified. The motion was adopted.

Debra Graham, Committee Counsel, reviewed her abstract on the rule proposed by the Ethics Commission, Private Gain. Richard Alker, Executive Director of the Ethics Commission, responded to questions from the Committee. There was extensive discussion on the proposed rule.

Mr. Roop moved that the proposed rule lie over until the Committee's next meeting and that Mr. Alker provide the Committee with information regarding similar federal regulations and regulations from other states as well as possible tax consequences concerning the accounting provisions of the proposed rule. The motion was adopted.

Ms. Graham explained the rule proposed by the Division of Health, Specialized Health Procedures in Public Schools. She explained a section of the rule which exceeds the Division's scope of authority and stated that the Division has agreed to modify that section. Kay Howard, of the Regulatory Development Section, answered questions from the Committee.

Mr. Roop moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Health Care Cost Review Authority, Review for Automatic Rate Changes. She stated that the Authority has agreed to minor technical modifications. Larry Fizer, Chairman of the Authority, responded to questions from the Committee.

Mr. Roop moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Division of Natural Resources, Special Fishing Regulations. She told the Committee that the use of the term "handicapped" in the proposed rule creates an appearance of conflict with the code and that the Division has agreed to modify the proposed rule by using more explicit terminology. Bob Miles, of the Division of Natural Resources, answered questions from the Committee.

Mr. Love moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Tourism and Parks, Rules Governing Public Use of WV State Parks, State Forests, and State Hunting and Fishing Areas under the Division of Tourism and Parks. She stated that the Division has agreed to minor technical modifications. Rich Hartman, Administrative Assistant of the Division, addressed the Committee regarding the proposed rule and responded to questions.

Mr. Love moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Mr. Wooton read a letter from Chuck Polan, Secretary of the Department of Administration, withdrawing the rule proposed by the Department, Smoking Restriction Guidelines for West Virginia State Buildings. Mr. McThomas reviewed his reasons for informing the Department that the proposed rule exceeded the scope of their authority.

Mr. McThomas told the Committee that he is still having discussions with the Human Rights Commission on their proposed rule, Exemption of private clubs. He stated that agreement has not been reached on modifications because of differing interpretations.

Mr. Grubb moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Mr. McThomas explained the rule proposed by the Human Rights Commission, Rules Regarding Sexual Harassment and stated that the Commission has agreed to modifications to the proposed rule. Mary Catherine Buchmelter of the Civil Rights Division of the Commission, responded to questions from the Committee.

Mr. Gallagher moved that the proposed rule be approved as modified. The motion was adopted.

Mr. McThomas reviewed his abstract on the rule proposed by the Human Rights Commission, Rules Regarding Religious Discrimination. He stated that the Commission has agreed to modify the proposed rule. Ms. Buchmelter answered questions from the Committee.

Mr. Grubb moved that the proposed rule be approved as modified. The motion was rejected.

Mr. McThomas explained the rule proposed by the Tax Department, Property Valuation Training and Procedures Commission, Tax Map Sales and stated that the Department has agreed to modifications to the proposed rule. Robert Hoffman, Director, Property Division, answered questions from the Committee.

Mr. Roop moved that the proposed rule be approved as modified. The motion was adopted.

Mr. McThomas reviewed the abstract on the rule proposed by the Tax Department, Bingo Rules and Regulations and he stated that the Department has agreed to modify the proposed rule. John Montgomery, of the Legal Division of the Tax Department, responded to questions from the Committee.

Mr. Love asked unanimous consent that the rule lie over until the Committee's next meeting and that Mr. Montgomery provide an answer as to whether or not the agency will agree to modify the rule with regard to changing the acceptable means of payment for bingo games and cashing checks out of bingo funds. There was no objection so the rule was laid over until the Committee's next meeting.

Ms. Graham reviewed her abstract on the rule proposed by the Department of Agriculture, Wood Destroying Insect Treatment Standards. She stated that the Department has agreed to minor technical modifications. Bob Frame, Director of the Department, answered questions from the Committee.

Mr. Roop moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed the rule proposed by the Ethics Commission, Gifts and stated that the Commission has agreed to technical modifications to the proposed rule. Mr. Alker responded to questions from the Committee and as a result of the questions agreed to further modify the proposed rule by deleting Subsection 7.1.

Mr. Love moved that prior to the Committee's next meeting, the Commission review the proposed rule as it applies to public officials and the acceptance of nominal gifts. The motion was adopted.

The meeting was adjourned.

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Tuesday, July 16, 1991
12:00 Noon to 3:00 p.m.

BECKLEY HYLTON HOTEL
BECKLEY, WEST VIRGINIA

1. Approval of Minutes - Meeting May 6, 1991
2. Review of Legislative Rules:
 - a. Public Energy Authority - Establishment of Fee Schedule and Cost Allocations to the Issuance of Bonds by the WV Public Energy Authority, Series 1
 - b. Public Energy Authority - Establishment of Rules and Procedure for the Exercise of the Powers of Eminent Domain for Qualified Projects
 - c. Ethics Commission, WV, Dept. of Admr. - Private Gain, Series 6
 - d. Ethics Commission, WV, Dept. of Admr. - Gifts, Series 7
 - e. Ethics Commission, WV, Dept. of Admr. - Interest in Public Contracts, Series 8
 - f. Ethics Commission, WV, Dept. of Admr. - Voting, Series 9
 - g. Ethics Commission, WV, Dept. of Admr. - Contributions, Series 10
 - h. Ethics Commission, Wv, Dept. of Admr. - Employment, Series 11
 - i. Ethics Commission, WV, Dept. of Admr. - Lobbying, Series 12
 - j. Health, Division of - Specialized Health Procedures in Public Schools
 - k. Health Care Cost Review Authority - Review for Automatic Rate Changes
 - l. Natural Resources, Division of - Special Fishing Regulations

- m. Tourism and Parks, Division of - Rules Governing Public Use of WV State Parks, State Forests, and State Hunting and Fishing Areas under the Division of Tourism and Parks
- n. Administration, Dept. of - Smoking Restriction Guidelines for West Virginia State Buildings.
- o. Human Rights Commission, WV - Rules regarding exemption of private clubs
- p. Human Rights Commission, WV - Rules regarding sexual harassment
- q. Human Rights Commission, WV - Rules Regarding Religious Discrimination
- r. Tax, Dept. of, Property Valuation Training and Procedures Commission - Tax Map Sales
- s. Tax, Dept. of - Bingo Rules and Regulations
- t. Agriculture, Dept. of - Wood Destroying Insect Treatment Standards

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The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 7-16-91

TIME: 12:00 Noon - 3 p.m.

NAME

Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Grubb, David, Co-Chair

Burk, Robert W., Jr.

Faircloth, Larry V.

Brian A. Gallagher

Love, Sam

Roop, Jack

Burdette, Keith, President

Wooton, William, Co-Chair

Chafin, Truman H.

Manchin, Joe, III

Tomblin, Earl Ray

Boley, Donna

Wiedebusch, Larry X

TOTAL

Present	Absent	Yeas	Nays
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			

RE:

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Legislative Rule-Making Review

DATE: Tuesday, July 16, 1991

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
JOHN MONTGOMERY	NITRO, WV	—	YES - ETHICS COMM. RULE ON EMPLOYMENT
JOHN MONTGOMERY	CHARLESTON, WV	TAX DEPT	AS NEEDED
Rick Hartman	"	Tourism + Parks	As needed
Ray Howard	"	Health + Hum. Resources	If needed
Don Andrews	"	Tourism + Parks	If needed
JOHN LAW	"	WVA, WPA	"
RICK ALKER	CHAS	WV ETHICS COMM	
LARRY C. FIZER	CHAS	HCCRA	
BARBARA SMITH	Charleston	WV Dept. Agriculture	If asked
Robert Frame	Charleston	WV Dept of Agriculture	If needed to answer ques
Buck melter			