

OCTOBER



AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TUESDAY, OCTOBER 19, 1993, 10:00 A.M. - 1:00 P.M.

SENATE FINANCE COMMITTEE ROOM - M-451

1. Approval of Minutes - Meeting September 28, 1993
2. Review of Legislative Rules:
 - a. Embalmers and Funeral Directors, Board of
Rules of the WV Board of Embalmers and Funeral
Directors
 - b. Board of Osteopathy
Rules and Regulations for Osteopathic Physician
Assistants
 - c. Board of Osteopathy
Licensing, Disciplinary and Complaint Procedures,
Osteopathic Physicians
 - d. Highways, Division of
Traffic and Safety Rules and Regulations
 - e. Board of Physical Therapy
General Provisions
 - f. Board of Physical Therapy
Contested Case Hearing Procedures
 - g. Board of Medicine
Licensing, Disciplinary and Complaint Procedures,
Physicians; Podiatrists
 - h. Nursing Home Administrators Licensing Board
Rules of the Board
 - i. Board of Examiners in Counseling
Licensing Rules
 - j. Governor's Committee on Crime, Delinquency and
Correction
Protocol for Law Enforcement Response to Domestic
Violence
 - k. Commissioner of Banking
Acquisition of Property by Financial Institutions
and Valuation of Real Estate Owned by State-
Chartered Banks

1. Division of Corrections
Parole Supervision
 - m. Board of Examiners for Registered Professional Nurses
Standards for Professional Nursing Practice
 - n. Board of Examiners for Registered Professional Nurses
Disciplinary Action
 - o. Board of Investments
Rules for the Administration of the Consolidated
Pension Fund
 - p. Board of Investments
Rules for the administration of the Consolidated
Fund by the WV State Board of Investments
3. Other Business:

Tuesday, October 19, 1993

10:00 a.m. - 5:00 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

Manchin, Chairman
Grubb
Anderson
Macnaughtan (absent)
Minard
Boley

Gallagher, Chairman
Douglas
Compton
Huntwork
Burk
Faircloth

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

The minutes of the September 28, 1993, meeting were approved.

Mr. Manchin stated that the rules proposed by the Board of Osteopathy, Rules and Regulations for Osteopathic Physician Assistants, and Licensing, Disciplinary and Complaint Procedures, Osteopathic Physicians, and the rules proposed by Board of Examiners for Registered Professional Nurses, Standards for Professional Nursing Practice, and Disciplinary Action, had been removed from the agenda.

Mr. Gallagher requested unanimous consent that Delegate Nancy Kessel be permitted to address the Committee regarding the Emergency Rule Decision by the Secretary of State which disapproved the emergency rule proposed by the Department of Motor Vehicles, Motor Vehicle Alcohol Test and Lock Program. There being no objection, Ms. Kessel addressed the Committee regarding the need for an emergency rule. Mr. Gallagher then requested unanimous consent that Renee Coe, Deputy Secretary of State, be permitted to address the Committee and explain the reasons behind the Emergency Rule Decision. Ms. Coe addressed the Committee and responded to questions from the Committee.

Mr. Gallagher moved that the Committee send a letter to the Secretary of State requesting that the Secretary reconsider his decision regarding the emergency rule. The motion was adopted.

Mr. Gallagher moved, based on Ms. Coe's assertion that the Secretary of State would not reconsider his decision, that the Committee's staff be directed to file a writ with the State Supreme Court requesting the Court to review the Secretary of State's emergency rule decision. The motion was adopted.

Mr. Manchin stated that the rule proposed by the Air Pollution Control Commission, Regulations to Prevent and Control Particulate Air Pollution from Manufacturing Process Operations, had been placed on the agenda.

Jennifer Bailey, Counsel to the Senate Judiciary Committee, explained the proposed rule and answered questions from the Committee. Dale Farley, Chief of the Office of Air Quality of the Division of Environmental Protection, George Tabit, Plant Manager for Elkem Metals Company, Dr. Bob Allenbach, Director of Safety, Health and Environment with Elkem and Larry Slayton, local union representative, discussed the proposed rule and answered questions from the Committee.

Mr. Minard moved that the proposed rule be approved. The motion was adopted.

Ms. Douglas moved that the Committee request authorization from the Joint Committee on Government and Finance to tour the Elkem Metals plant and to be reimbursed for expenses. The motion was adopted.

Debra Graham, Committee Counsel, explained that the rule proposed by the Board of Embalmers and Funeral Directors, Rules of the WV Board of Embalmers and Funeral Directors, had been laid over at the last meeting to allow language to be developed on the disposal of infectious medical wastes. She distributed language for a proposed modification to the proposed rule relating to infectious medical waste. Henry Melton, representing the Board of Embalmers, stated that the Board would agree to the proposed modification.

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

Ms. Graham explained that the rule proposed by the Division of Highways, Traffic and Safety Rules and Regulations, had been laid over from the last meeting to allow the Committee to request that representatives from the Division of Highways and the Division of Public Safety be present to answer questions regarding the proposed rule. Fred VanKirk, Commissioner, addressed the Committee and responded to questions.

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

Marjorie Martorella, Counsel to the House Committee on Government Organization, told the Committee that the rule proposed by the Board of Physical Therapy, General Provisions, had been laid over at the last meeting. She distributed and explained proposed modifications and answered questions from the Committee.

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

Ms. Martorella explained that the Board of Physical Therapy intends to withdraw its proposed legislative rule on Contested Case Hearing Procedures and refile it as a procedural rule. No action was taken on the proposed rule.

Ms Graham reviewed her abstract on the rule proposed by the Board of Medicine, Licensing, Disciplinary and Complaint Procedures, Physicians; Podiatrists, and stated that the Board has agreed to technical modifications, as well as a modification suggested by Mr. Gallagher. Deborah Roedecker, General Counsel to the Board, responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the Nursing Home Administrators Licensing Board, Rules of the Board, and stated that the Board has agreed to technical modifications. She also stated that there was a disagreement on whether or not the Board has the authority to place a grandfather provision in the proposed rule. Alberta Puckett, Executive Director of the Board, responded to questions from the Committee and agreed to modify the proposed rule by deleting the grandfather provisions.

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

Ms. Graham explained her abstract on the rule proposed by the Board of Examiners in Counseling, Licensing Rules, and stated that the Board has agreed to technical modifications.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Governor's Committee on Crime, Delinquency and Correction, Protocol for Law Enforcement Response to Domestic Violence, and stated that the Committee has agreed to technical modifications.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed the rule proposed by the Commissioner of Banking, Acquisition of Property by Financial Institutions and Valuation of Real Estate Owned by State-Chartered Banks, and stated that the Commissioner has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the Division of Corrections, Parole Supervision, and stated that she felt that certain provisions in a Division Policy Directive needed to be in the proposed rule. Ray Swach, representing the Division of Corrections, agreed to modify the proposed rule to include those provisions.

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

Alison Patient, Counsel to the House Finance Committee, stated that she had not completed the abstract on the rule proposed by the Board of Investments, Rules for the Administration of the Consolidated Pension Fund, because certain provisions of the proposed rule are being litigated. No action was taken on the proposed rule.

Ms. Patient reviewed her abstract on the rule proposed by the Board of Investments, Rules for the administration of the Consolidated Fund by the WV State Board of Investments.

Ms. Douglas moved that the proposed rule be approved. The motion was adopted.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 10-19-93

TIME: 10 AM - 5 PM

NAME

Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Brian Gallagher, Co-Chair

Burk, Robert W., Jr.

Faircloth, Larry V.

Douglas, Vickie

Compton, Mary P.

Huntwork, John

Burdette, Keith, President

Joe Manchin, III Co-Chair

Anderson, Leonard

Grubb, David

Minard, Joseph

Macnaughtan, Don

Boley, Donna

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RE:

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Legislative Rule-Making Review DATE: 10/19/93

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
DL Rodecker		WV Bd of Med	
Mary DeLoe		WV Bureau of Public Health	X
Tom Harward		W. Va. PA. Association	X
Tayla Wallace		Concerned Nurses of West Va.	X
Roger K. Price		WV Federal Director Assn	
Larry Skayton		OCAW Local 329	X
Eugene Hogan		Elkem Metals Co	?
CR Scherbach		" " "	
T. Hager			
Russell Zerkner		ERM (ELKEM)	
Robert Q. Mebsky		Elkem Metals	X
Joseph W. Powell		W.Va. AFL-CIO	X
Scott Dismukes		American Allays	X
Tim Winslow		WV Div of Banking	X
DALE FALEY		WV DEP/OAG	Will answer
Jon Fairchild		WV BRN	QUESTIONS NEEDED if needed
Albetta Becht		N.H.A.L.B.	if needed
RAY SWARTH		DOC	

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: LRMRC

DATE: 10-19-93

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
HENRY LOWERY		DOL	
Rachel G. Byrd		WVA - WVONE	if needed
Laura Rhoad		WVBOE	if needed
Carol Egnatoff		WVBOE - AG's office	if needed
FRANKIE S. CAYTON		WV BPT	" "
Charles L. Miller		} WV DOT & DOT	" "
Fred Van Kirk			
Dan Blackwood		Bd of Substans	
Sharon Lanette		" "	
H. E. Melton		DMV	"
Jane Cline		Bd of Counselor Examiners	if necessary
Pat Pomy			

Hand-out 10-19-93
meeting

5.3. An embalmer or funeral director shall handle body fluids, discarded sharps used in the preparation of bodies for burial, or biological or biologically-contaminated waste materials received with a body to be prepared for burial or cremation in a manner which complies with the provisions of Infectious Medical Waste, 64 CSR 56 for generators of infectious medical waste, as defined in that rule, specifically, Subsections 5.1; 5.2, except for 5.2.8 and 5.3; all of Section 6; Subsection 7.4; all of Section 8; and Subsections 12.1, 12.2, and 12.9 as though the body fluids, sharps and biological or biologically-contaminated waste materials were infectious medical waste and the embalming or funeral establishment were a small quantity generator of infectious medical waste as defined in Infectious Medical Waste, 64 CSR 56, except that any references to the [who] of the board. [of embalmers and funeral directors]

An embalmer or funeral director shall treat body fluids, sharps, and biological or biologically-contaminated waste materials received with a body to be prepared for burial or cremation as required by Section 10 of Infectious Medical Waste, 64 CSR 56, or shall arrange for treatment and disposition of the body fluids, sharps or biological or biologically-contaminated waste materials received with a body to be prepared for burial or cremation by a treatment facility appropriately licensed or otherwise authorized by the agency having lawful jurisdiction.

An embalmer or funeral director shall utilize a lawful transporter of infectious medical waste for the transport of body fluids, sharps or biological or biologically-contaminated waste materials received with a body to be prepared for burial or cremation to a treatment facility or may transport the waste themselves, according to the provisions of Infectious Medical Waste, 64 CSR 56, regarding the transport of infectious medical waste by small quantity generators.