

DECEMBER

9

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 12-9-96

TIME: 9:10 AM

<u>NAME</u>	<u>Present</u>	<u>Absent</u>	<u>Yeas</u>	<u>Nays</u>
Chambers, Robert "Chuck", Speaker				
Douglas, Vickie, Co-Chair	✓			
Linch, Larry, Vice-Chair	✗			
Compton, Mary Pearl	✓			
Faircloth, Larry V.	✓			
Gallagher, Brian	✓			
Riggs, Dale	✓			
Tomblin, Earl Ray, President				
Ross, Michael, Co-Chair	✓			
Grubb, David, Vice-Chair				
Anderson, Leonard	✓			
Boley, Donna	✓			
Buckalew, Jack	✓			
Macnaughtan, Don				
TOTAL				

RE: Attorneys

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: _____

DATE: _____

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
RANDY L. ELORIDGE	1016 KAMAYNA BLDG. STE 501	LWEDA	
CHRIS QUASEBARTH ✓	DIVISION OF LABOR	MANUFACTURED HOUSING BOARD	✓ IF NEEDED
JACK ALBERT	CHARLESTON	AARP	
DALE FARLEY	OFFICE OF AIR QUALITY CHARLESTON	OFFICE OF AIR QUALITY, DEP	✓ IF REQUESTED
BRITT LUDWIG	H	H	
TIM HRYNIAK	1124 SMITH ST., PITON	OFFICE OF THE INS. COM'ER	
Ken Politan	10 McJunkin Rd Nitro	WUDEP	
Ted Glance	709 Pike St. Becksville	WV Bd of PESH	✓ IF Requested
Kay Howard ✓	Charleston	DHAR	IF Needed
HUGAT ANDERSON ✓	4199 WASH. ST. W	WVSO #1	IF NECESSARY
KARRY ABSTEIN	1716 Penn. Ave. Chap, WV	Pd Barbours Cosmetologists	if needed
Tom Susman	834 Greenhall Ave ^{S.C.}	General Rule FW	IF Needed
K.O. DAMRON	1624 Kan Blvd E, Chan	WV MINING & RECLAM	IF REQUESTED

Monday, December 9, 1996

9:00 a.m. - 12:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Ross, Chairman
Grubb, Vice Chairman (absent)
Anderson
Boley
Buckalew
Macnaughtan (absent)

Douglas, Chairman
Linch, Vice Chairman (absent)
Compton
Faircloth
Gallagher
Riggs

The meeting was called to order by Ms. Douglas, Co-Chairman.

The minutes of the November 18, 1996, meeting were approved.

Rita Pauley, Associate Counsel, explained that the rule proposed by the WV Economic Development Authority, General Administration of the West Virginia Capitol Company Act: Establishment of the Procedures to Implement the Act, had been before the Committee at a prior meeting and that it had been laid over to allow the Authority time to review and prepare extensive modifications. She reviewed the proposed modifications for the Committee.

Mr. Ross 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 Commission for the Deaf and Hard of Hearing, Fees for Qualified Interpreters, and stated that the Commission has agreed to technical modifications. Ms. Graham and Kay Howard, Regulatory Development, Department of Health and Human Resources, responded to questions from the Committee.

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

Ms. Graham explained to the Committee that the rule proposed by the Division of Labor, Manufactured Housing Construction and Safety Standards, had been laid over from a prior meeting. Chris Quaesbarth, Deputy Commissioner, addressed the Committee and responded to questions from the Committee. Leff Moore, WV Manufactured Housing Association, stated the Association's position and he and Jack Albert, representing the American Association of Retired Persons, answered questions from the Committee.

Mr. Anderson moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

Ms. Graham stated that the rule proposed by the Board of Barbers & Cosmetologists, Schedule of Fees, had been laid over from the Committee's November meeting and she responded to questions from the Committee. Larry Absten, Executive Director of the Board, responded to questions from the Committee.

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

Ms. Douglas told the Committee that the rule proposed by the Division of Environmental Protection, Office of Air Quality, To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, had been removed from the agenda.

Ms. Graham reviewed her abstract on the rule proposed by the Board of Examiners of Psychologists, Fees, and stated that she has technical modifications to suggest. Ted Glance, Executive Director of the Board, stated that he would agree to the technical modifications. He explained the reasons behind the increase in fees and answered questions from the Committee.

Mr. Gallagher moved that the Committee request that the agency withdraw the proposed rule. After Ms. Graham explained the consequences of the motion, the motion was adopted.

Ms. Graham explained the rule proposed by the Board of Examiners of Psychologists, Qualifications for Licensure as a Psychologist and/or School Psychologist, and stated that she had technical modifications to suggest.

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

Joe Altizer, Associate Council, reviewed his abstract on the rule proposed by the Division of Environmental Protection, Office of Water Resources, WV/NPDES Regulations for Coal Mining Facilities, and stated that the Division has agreed to technical modifications. K.O. Dameron, West Virginia Coal Mining and Reclamation Association and Ken Politan, Office of Water Resources answered questions from the Committee. Mr. Altizer distributed and explained a suggested modification from Mr. Riggs, which would add a new subsection 2.6 defining the term "Best Professional Judgement" or "BPJ" and a new subsection 2.13 defining the term "Coal Mining Operation".

Mr. Riggs moved that the Committee approve the proposed modification. The motion was adopted.

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

Ms. Graham explained the rule proposed by the Division of Banking, Regulations Pertaining to the WV Consumer Credit and Protection Act.

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

Ms. Graham reviewed her abstract on the rule proposed by the Division of Banking, Rules Pertaining to the WV Consumer Credit and Protection Act and the Industrial Loan Company Act.

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

Ms. Graham reviewed her abstract on the rule proposed by the Division of Banking, Rules Pertaining to the WV Industrial Loan Company Act.

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

Ms. Graham explained the rule proposed by the Division of Banking, Regulations Governing the Operations of State Chartered Financial Institutions in West Virginia, and stated that the Division has agreed to technical modifications.

Mr. Buckalew 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 Banking, Rules Pertaining to WV Regulated Consumer Lenders, and stated that the Division has agreed to technical modifications. She responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the Division of Banking, Regulations Pertaining to the WV Consumer Credit and Protection Act and stated that the Division has agreed to technical modifications.

Mr. Gallagher 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 Banking, Rules of Reverse Mortgage Loans, and stated that the Division has agreed to technical modifications. She and Sharon Bias, Banking Commissioner, responded to questions from the Committee.

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

Mr. Altizer explained the rule proposed by the Division of Environmental Protection, Office of Air Quality, Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63.

DECEMBER 10

Sunday, December 10, 1995

4:00 p.m. - 7:00 p.m. Legislative Rule-Making Review Committee
(Code §29A-3-10)

Earl Ray Tomblin Robert "Chuck" Chambers,
ex officio nonvoting member ex officio nonvoting member

Senate

House

Ross, Chairman
Grubb, Vice Chairman
Anderson
Boley (absent)
Buckalew
Macnaughtan

Douglas, Chairman
Linch, Vice Chairman
Compton
Faircloth
Gallagher
Riggs

Mr. Ross called the meeting to order.

The minutes for the November 14 and 15, 1995, meetings were approved.

Debra Graham, Committee Counsel, advised the Committee regarding the work which must be completed by the Committee and its staff prior to the Committee submitting its report to the Legislature.

Joe Altizer, Associate Counsel, explained that the rule proposed by the Department of Environmental Protection (DEP), Waste Tire Management Rule, had been laid over at the Committee's June meeting and that the Division has submitted proposed modifications to the proposed rule as originally submitted. Mr. Altizer explained the proposed modifications and responded to questions.

Walter Dial, of Appalachian Tire Products, addressed the Committee and responded to questions.

Mike Comer, of Office of Waste Management, and Roger Hall, of the Department of Environmental Protection, answered questions from the Committee.

Mr. Riggs moved that Section 3.8.3.c. of the proposed rule be modified to delete the word "waste" and insert in lieu thereof the word "used". The motion was adopted.

Mr. Gallagher moved that the proposed rule be placed at the foot of the rules on the agenda. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by DEP, Surface Mining Reclamation Rules and stated that the Division has agreed to technical modifications.

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

Mr. Altizer explained to the Committee that there is a recent court decision which could affect the rule proposed by the DEP, Solid Waste Management Regulations. He stated that in his opinion the Committee should proceed with its consideration of the proposed rule pending appeal.

Mr. Macnaughtan moved that the proposed rule lie over until the Committee's January meeting to allow counsel an opportunity to determine which amendments contained in the proposed rule are required by federal regulations. The motion was adopted.

Mr. Altizer explained the rule proposed by the DEP, Sewage Sludge Management Rule, and responded to questions.

Mr. Macnaughtan moved that the proposed rule be amended to reinsert Table III and all references to Table III and to adjust the numbers in the table by changing the concentration of Arsenic to 12.5 and Nickel to 74. The Motion was adopted.

Clifton Browning, State Sewage Sludge Coordinator, for DEP, addressed the Committee and responded to questions.

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

Mr. Altizer reviewed his abstract on the rule proposed by the DEP, Regulation to Prevent and Control Air Pollution from the Emission of Volatile Organic Compounds, and stated that the Division has agreed to technical modifications, and he responded to questions.

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

Mr. Altizer explained the rule proposed by the DEP, Requirements Governing Water Quality Standards, and stated that the Division has agreed to technical modifications. He responded to questions from the Committee.

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

Mr. Gallagher, having voted on the prevailing side, moved that the Committee reconsider its action whereby it approved as amended the rule proposed by the DEP, Sewage Sludge Management Rule. The motion was adopted.

Mr. Gallagher, having voted on the prevailing side, moved that the Committee reconsider its action whereby it approved Mr. Macnaughtan's amendment to the proposed rule. The motion was adopted.

Mr. Gallagher moved that Table 3 be modified to provide new metal concentrations, which are as follows: Arsenic 18, Cadmium 5, Chromium 300, Copper 300, Lead 70, Mercury 4, Molybdenum 4, Nickel 74, Selenium 7, and Zinc 500; and that the rule be further modified to require the DEP to refile the rule with the Legislative Rule-Making Review Committee within the next two years. The motion was adopted.

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

The meeting was adjourned.

DECEMBER 12

Tuesday, December 12, 1995

4:00 p.m.-8:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Ross, Chairman
Grubb, Vice Chairman
Anderson
Boley
Buckalew
Macnaughtan

Douglas, Chairman
Linch, Vice Chairman
Compton
Faircloth
Gallagher
Riggs

The meeting was called to order by Ms. Douglas, Co-Chairman.

The minutes of the December 10, 1995, public hearing and meeting were approved.

Debra Graham, Committee Counsel, reviewed her abstract on the rule proposed by the Division of Health, AIDS-Related Medical Testing and Confidentiality, and stated that the Division has agreed to technical modifications. Loretta Haddy, representing the Division of Health, responded to questions from the Committee.

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

Kay Howard, Regulatory Development, Division of Health, explained that through a staffing error, the rule proposed by the Division of Health, Residential Board and Care Homes was filed with the Committee one week after the statutory filing deadline. She distributed a letter from the Commissioner of the Department of Health and Human Services requesting that the Committee accept the filing of the proposed rule.

Ms. Compton moved that the proposed rule be accepted for filing with the Committee. The motion was adopted.

Joe Altizer, Associate Counsel, reviewed further modifications to the rule proposed by the Division of Environmental Protection, Waste Tire Management Rule, and responded to questions from the Committee. Dick Cooke, representing the Office of Waste Management, answered questions from the Committee.

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

Mr. Buckalew moved that the Committee reconsider its action whereby it approved, as modified, the rule proposed by the Division of Environmental Protection, Regulation to Prevent and Control Air Pollution from the Emission of Volatile Organic Compounds. The motion was adopted.

Mr. Buckalew moved that the Committee reconsider its action whereby it approved modifications to the proposed rule. The motion was adopted.

Karen Price and David Youssy, West Virginia Manufacturers Association, and Dale Farley, Office of Air Quality, Norm Steenstra, West Virginia Environmental Council, addressed the Committee regarding the proposed rule and responded to questions from the Committee.

Mr. Buckalew moved that the Committee request that the Division withdraw the proposed rule. A roll call vote was demanded. The motion was adopted 7-5.

Mr. Buckalew moved that the Committee reconsider its action whereby it approved, as modified, the rule proposed by the Division of Environmental Protection, Requirements Governing Water Quality Standards. The motion was adopted.

Mr. Youssy responded to questions from the Committee.

Mr. Buckalew moved that the Committee request that the Division withdraw the proposed rule.

Mr. Buckalew asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Buckalew moved that the amendments offered by the West Virginia Manufacturers Association be amended into the rule.

Mr. Altizer explained the amendments proposed by the West Virginia Manufacturers Association.

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

Rita Stuart, Associate Counsel, reviewed her abstract on the rule proposed by the Governor's Committee on Crime, Delinquency and Correction, Basic Training Academy, Annual In-Service and Biennial In-Service Training Standards, and stated that the Governor's Committee has agreed to technical modifications.

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

Ms. Stuart explained the rule proposed by the Secretary of State, Guidelines for the Use of Nicknames and Other Designations on the Ballot, and stated that the Secretary of State has agreed to technical modifications.

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

Ms. Stuart reviewed her abstract on the rule proposed by the Secretary of State, Absentee Voting by Military Voters who are Members of Reserve Units Called to Active Duty.

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

Ms. Stuart explained the rule proposed by the Secretary of State, Numbered Divisions for the Election of Circuit Judges, and stated that the Secretary of State has agreed to technical modifications.

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

Ms. Stuart reviewed her abstract on the rule proposed by the Secretary of State, Combined Voter Registration and Driver Licensing Fund.

Mr. Buckalew moved that the proposed rule be approved. The motion was adopted. Ms. Boley voted "No".

Ms. Stuart explained the rule proposed by the Secretary of State, Official Election Forms and Vendor Authorization.

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

Ms. Stuart reviewed her abstract on the rule proposed by the Secretary of State, Procedures for Handling Ballots and Counting Write-In Votes in Counties Using Punch Card or Optical Scan Ballots, and stated that the Secretary of State has agreed to technical modifications. Mary Ratliff, Deputy Secretary of State, addressed the Committee regarding the proposed rule.

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

Ms. Stuart explained the rule proposed by the Secretary of State, Standard Size & Format for Rules and Procedures for Publication of the State Register or Parts of the State Register, and stated that the Secretary of State has agreed to technical modifications.

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

Ms. Stuart reviewed her abstract on the rule proposed by the State Election Commission, Regulation of Campaign Finances, and stated that the Commission has agreed to technical modifications. She and Bill Harrington, Chief of Staff, Secretary of State Office, responded to questions from the Committee.

Mr. Riggs moved that Section 6.7 of the proposed rule be modified to increase \$5 to \$500 and to increase the number of copies from 50 to 2500. The motion was defeated.

Ms. Compton moved that the proposed rule be approved as modified. A roll call was demanded. The motion was adopted on a vote of 6 to 4.

Ms. Stuart explained the rule proposed by the State Police, West Virginia State Police Professional Standards Investigations and stated that the State Police has agreed to technical modifications.

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

The meeting was adjourned.