

NOVEMBER 13

Sunday, November 13, 2005

4:00 p.m. to 5:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Senate

Minard, Chairman
Fanning, Vice Chair
Prezioso
Unger
Boley
Minear

Robert "Bob" Kiss
ex officio nonvoting member

House

Mahan, Chairman
Palumbo, Vice Chair
Cann
Pino
Armstead
Overington

The meeting was called to order by Ms. Mahan, Vice Chair.

Due to a lack of quorum the meeting was adjourned.

NOVEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
November 13, 14 and 15, 2005

Sunday, November 13, 2005

4:00 - 5:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member _____

Robert S. Kiss, ex
officio nonvoting member _____

Senate
Minard, Chair _____
Fanning, Vice Chair _____
Prezioso _____
Unger _____
Boley _____
Minear _____

House
Mahan, Chair _____
Palumbo, Vice Chair _____
Cann _____
Pino _____
Armstead _____
Overington _____

I certify that the attendance as noted above is correct.

Staff Person

Debra Graham

DUE TO A PAYROLL DEADLINE, TURN ATTENDANCE SHEET IN AS SOON AS MEETING IS OVER.

Please return to Brenda in Room 132-E or Fax to 347-4819.

NOVEMBER INTERIM ATTENDANCE

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Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member _____

Robert "Bob" Kiss, ex
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Senate

House

Minard, Chair _____

Mahan, Chair _____

Fanning, Vice Chair _____

Palumbo, Vice Chair _____

Prezioso _____

Cann _____

Unger _____

Pino _____

Boley _____

Armstead _____

Minear _____

Overington _____

715

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Sunday, November 13, 2005
4:00 p.m. to 5:00 p.m.
Senate Finance Committee Room

1. **Approval of Minutes** - Meetings of October 4, 2005
2. **Review of Legislative Rules:**
 - a. **Division of Natural Resources**
Lifetime Hunting, Trapping and Fishing Licenses
58CSR67
 - Laid Over
 - b. **Consolidated Public Retirement Board**
Benefit Determination and Appeal
162CSR2
 - c. **Consolidated Public Retirement Board**
Teachers' Defined Benefit Plan
162CSR4
 - d. **Consolidated Public Retirement Board**
Service Credit for Accrued and Unused Sick and Annual Leave
162CSR8
 - e. **Consolidated Public Retirement Board**
West Virginia State Police
162CSR9
 - f. **Consolidated Public Retirement Board**
Deputy Sheriff Retirement System
162CSR10
 - g. **Division of Motor Vehicles**
Denial Suspension, Restriction or NonRenewal of Driving Privileges
91CSR5
 - h. **Division of Motor Vehicles**
Motor Vehicle Dealers and Other Business Regulated by the Division of Motor Vehicles
91CSR6

- i. **WV Board of Optometry**
Rules of the West Virginia Board of Optometry
14CSR1
- j. **WV Board of Optometry**
Schedule of Fees
14CSR5
- k. **State Tax Department**
*Valuation of Active and Reserve Coal Property for Ad Valorem
Property Tax Purposes*
110CSR1I
- l. **State Tax Department**
*Business Registration Certificate - Suspension, Cancellation,
Refusal to Renew or Refusal to Issue for Failure to Pay
Personal Property Taxes*
110CSR12D
- m. **Department of Agriculture**
Animal Disease Control
61CSR1
- n. **Department of Agriculture**
Certified Pesticide Applicator Rules
61CSR12A
- o. **Department of Agriculture**
*Integrated Pest Management Programs in Schools and Day Care
Centers/Facilities*
61CSR12J

3. Other Business

Rehabilitation Services, Division of
Ron Yost Personal Assistance Services Act Board
198CSR1

- Reconsideration

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Sunday, November 13, 2005
4:00 p.m. to 5:00 p.m.
Senate Finance Committee Room

1. **Approval of Minutes** - Meetings of October 4, 2005
2. **Review of Legislative Rules:**
 - a. **Division of Natural Resources**
Lifetime Hunting, Trapping and Fishing Licenses
58CSR67
 - * Laid Over
 - * Approve
 - a. **Consolidated Public Retirement Board**
Benefit Determination and Appeal
162CSR2
 - * Approve as Modified
 - c. **Consolidated Public Retirement Board**
Teachers' Defined Benefit Plan
162CSR4
 - * Approve as Modified
 - d. **Consolidated Public Retirement Board**
Service Credit for Accrued and Unused Sick and Annual Leave
162CSR8
 - * Approve as Modified
 - e. **Consolidated Public Retirement Board**
West Virginia State Police
162CSR9
 - * Approve as Modified
 - f. **Consolidated Public Retirement Board**
Deputy Sheriff Retirement System
162CSR10
 - * Approve as Modified

- g. **Division of Motor Vehicles**
Denial Suspension, Restriction or NonRenewal of Driving Privileges
91CSR5
- * Approve as Modified
- h. **Division of Motor Vehicles**
Motor Vehicle Dealers and Other Business Regulated by the Division of Motor Vehicles
91CSR6
- * Approve as Modified
- i. **WV Board of Optometry**
Rules of the West Virginia Board of Optometry
14CSR1
- * Approve
- j. **WV Board of Optometry**
Schedule of Fees
14CSR5
- * Approve
- k. **State Tax Department**
Valuation of Active and Reserve Coal Property for Ad Valorem Property Tax Purposes
110CSR1I
- * Approve
- l. **State Tax Department**
Business Registration Certificate - Suspension, Cancellation, Refusal to Renew or Refusal to Issue for Failure to Pay Personal Property Taxes
110CSR12D
- * Approve as Modified
- m. **Department of Agriculture**
Animal Disease Control
61CSR1
- * Approve as Modified

n. **Department of Agriculture**
Certified Pesticide Applicator Rules
61CSR12A

* Approve as Modified

o. **Department of Agriculture**
*Integrated Pest Management Programs in Schools and Day Care
Centers/Facilities*
61CSR12J

* Approve as Modified

3. **Other Business**

Rehabilitation Services, Division of
Ron Yost Personal Assistance Services Act Board
198CSR1

- Reconsideration
- Approve as Modified

NOVEMBER 14

Monday, November 14, 2005

9:00 a.m. to 11:00 a.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Robert "Bob" Kiss
ex officio nonvoting member

Senate

House

Minard, Chairman Absent
Fanning, Vice Chair
Prezioso
Unger
Boley Absent
Minear Absent

Mahan, Chairman
Palumbo, Vice Chair
Cann
Pino
Armstead
Overington

The meeting was called to order by Ms. Mahan, Co-Chair.

Mr. Palumbo moved that the Committee reconsider its action whereby it approved the **Division of Rehabilitation Services, Ron Yost Personal Assistance Services Act Board, 198CSR1**, proposed rule as modified. The motion was adopted.

Debra Graham, Chief Counsel, explained the need for proposed modification.

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

Brian Skinner, Associate Counsel, explained his abstract on the rule proposed by the **WV Board of Occupational Therapy, Administrative Rules of the Board of Occupational Therapy and Licensure of Occupational Therapists and Occupational Therapy Assistants, 13CSR1**, and stated that the Board has agreed to technical modifications.

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

Mr. Skinner reviewed his abstract on the rule proposed by the **Department of Administration - Purchasing Department, Cannibalization of State Property, 148CSR16**, and stated that the Board has agreed to technical modifications.

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

Mr, Skinner explained his abstract on the rule proposed by the **Department of Administration - Purchasing Department, Waste Disposal of State Property, 148CSR17**, and stated that the Board has agreed to technical modifications.

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

Joe Altizer, Associate Counsel, reviewed his abstract on the rule proposed by the **Office of Air Quality, Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61, 45CSR15** and responded to question.

Jim Mason with the Office of Air Quality responded to question from the Committee.

Tim Mallon, Environmental Affairs Manager, with Appalachian Power responded to question from the Committee.

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

Mr. Altizer explained his abstract on the rule proposed by the **Office of Air Quality, Standards of Performance for New Stationary Sources pursuant to 40 CFR part 60, 45CSR16**.

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

Mr. Altizer reviewed his abstract on the rule proposed by the **Office of Air Quality, To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25**, and stated that the Board has agreed to technical modifications.

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

Mr. Altizer explained his abstract on the rule proposed by the **Office of Air Quality, Acid Rain Provisions and Permits, 45CSR33**.

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

Mr. Altizer reviewed his abstract on the rule proposed by the **Office of Air Quality, Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34**.

Mr. Palumbo moved that the proposed rule be approved.

The meeting was adjourned.

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November 13, 14 and 15, 2005

Monday, November 14, 2005

9:00 - 11:00 a.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member _____

Robert S. Kiss, ex
officio nonvoting member _____

Senate

Minard, Chair _____

Fanning, Vice Chair

Prezioso

Unger

Boley _____

Minear _____

House

Mahan, Chair

Palumbo, Vice Chair

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I certify that the attendance as noted above is correct.



Staff Person

Debra Graham

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LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, November 14, 2005
9:00 a.m. to 11:00 a.m.
Senate Finance Committee Room

1. Review of Legislative Rules:

- a. **Board of Occupational Therapy**
Administrative Rules of the Board of Occupational Therapy and Licensure of Occupational Therapists and Occupational Therapy Assistants
13CSR1
- b. **Department of Administration - Leasing Section**
Leasing Space on Behalf of State Spending Units
148CSR2
- c. **Department of Administration - Purchasing Division**
Cannibalization of State Property
148CSR16
- d. **Department of Administration - Purchasing Division**
Waste Disposal of State Property
148CSR17
- e. **Board of Dental Examiners**
Fees Established by the Board
5CSR3
- f. **Board of Dental Examiners**
Dental Advertising
5CSR8
- g. **State Conservation Commission**
State Conservation Committee Regulations
63CSR1
- h. **Racing Commission**
Greyhound Racing
178CSR2
- i. **Office of Air Quality - DEP**
Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61
45CSR15

- j. **Office of Air Quality - DEP**
Standards of Performance for New Stationary Sources pursuant to 40 CFR part 60.
45CSR16
- k. **Office of Air Quality - DEP**
To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities
45CSR25
- l. **Office of Air Quality - DEP**
Acid Rain Provisions and Permits
45CSR33
- m. **Office of Air Quality - DEP**
Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63
45CSR34
- n. **Office of Air Quality - DEP**
Control of Annual Sulfur Dioxide Emissions to Mitigate Interstate Transport of Fine Particulate Matter and Sulfur Dioxide
45CSR41

2. **Other Business**

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, November 14, 2005
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1. **Review of Legislative Rules:**

- a. **Board of Occupational Therapy**
*Administrative Rules of the Board of Occupational Therapy and
Licensure of Occupational Therapists and Occupational Therapy
Assistants*
13CSR1
 - * Approve as Modified

- b. **Department of Administration - Leasing Section**
Leasing Space on Behalf of State Spending Units
148CSR2
 - * Approve as Modified

- c. **Department of Administration - Purchasing Division**
Cannibalization of State Property
148CSR16
 - * Approve as Modified

- d. **Department of Administration - Purchasing Division**
Waste Disposal of State Property
148CSR17
 - * Approve as Modified

- e. **Board of Dental Examiners**
Fees Established by the Board
5CSR3
 - * Approve

- f. **Board of Dental Examiners**
Dental Advertising
5CSR8
 - * Approve as Modified

- g. **State Conservation Commission**
State Conservation Committee Regulations
63CSR1
- * Approve as Modified
- h. **Racing Commission**
Greyhound Racing
178CSR2
- * Approve as Modified
- i. **Office of Air Quality - DEP**
Emission Standards for Hazardous Air Pollutants Pursuant to
40 CFR Part 61
45CSR15
- * Approve as Modified
- j. **Office of Air Quality - DEP**
Standards of Performance for New Stationary Sources pursuant
to 40 CFR part 60.
45CSR16
- * Approve as Modified
- k. **Office of Air Quality - DEP**
To Prevent and Control Air Pollution from Hazardous Waste
Treatment, Storage, or Disposal Facilities
45CSR25
- * Approve as Modified
- l. **Office of Air Quality - DEP**
Acid Rain Provisions and Permits
45CSR33
- * Approve
- m. **Office of Air Quality - DEP**
Emission Standards for Hazardous Air Pollutants for Source
Categories Pursuant to 40 CFR Part 63
45CSR34
- * Approve as Modified

n. **Office of Air Quality - DEP**
*Control of Annual Sulfur Dioxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and Sulfur
Dioxide*
45CSR41

* Approve as Modified

2. **Other Business**

NOVEMBER INTERIM ATTENDANCE

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officio nonvoting member

Robert "Bob" Kiss, ex
officio nonvoting member

Senate

House

Minard, Chair	_____
Fanning, Vice Chair	✓
Prezioso	✓
Unger	✓
Boley	_____
Minear	_____

Mahan, Chair	✓
Palumbo, Vice Chair	✓
Cann	✓
Pino	✓
Armstead	✓
Overington	✓

Ron Gost

Palumbo adopted
Reconsider action whereby passed out approved as modified

I explained proposed mod

Palumbo adopted
Approve as mod

Occupational Therapy

Brian explained

Palumbo adopted
Approve as mod

Admin - Purchasing Contract

Palumbo adopted
Approve as mod

DOA - Purchasing - Waste

Brian explained

Approve as mod

Palumbo
adopted

OAQ - Em Stds for Perf

Joe explained

Joe Mason, Div of Air Quality responded to
questions

Tim Allen, Environmental Affairs ^{MDV} ~~Board~~

Approve

Palumbo
Adopted

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, November 14, 2005
9:00 a.m. to 11:00 a.m.
Senate Finance Committee Room

1. Review of Legislative Rules:

Ren Yast - approve as modified

Approved as modified

Board of Occupational Therapy
Administrative Rules of the Board of Occupational Therapy and Licensure of Occupational Therapists and Occupational Therapy Assistants
13CSR1

* Approve as Modified

Removed from agenda

b. **Department of Administration - Leasing Section**
Leasing Space on Behalf of State Spending Units
148CSR2

* Approve as Modified

Approved as modified

c. **Department of Administration - Purchasing Division**
Cannibalization of State Property
148CSR16

* Approve as Modified

Approved as modified

d. **Department of Administration - Purchasing Division**
Waste Disposal of State Property
148CSR17

* Approve as Modified

Removed

e. **Board of Dental Examiners**
Fees Established by the Board
5CSR3

* Approve

Removed

f. **Board of Dental Examiners**
Dental Advertising
5CSR8

* Approve as Modified

Removed^{g.}

State Conservation Commission
State Conservation Committee Regulations
63CSR1

* Approve as Modified

Removed^{h.}

Racing Commission
Greyhound Racing
178CSR2

* Approve as Modified

Removed^{i.}

Office of Air Quality - DEP
Emission Standards for Hazardous Air Pollutants Pursuant to
40 CFR Part 61
45CSR15

* Approve as Modified

Approved^{j.}

Office of Air Quality - DEP
Standards of Performance for New Stationary Sources pursuant
to 40 CFR part 60.
45CSR16

* Approve as Modified

Approved
as mod. hel^{k.}

Office of Air Quality - DEP
To Prevent and Control Air Pollution from Hazardous Waste
Treatment, Storage, or Disposal Facilities
45CSR25

* Approve as Modified

Approved^{l.}

Office of Air Quality - DEP
Acid Rain Provisions and Permits
45CSR33

* Approve

Approved^{m.}

Office of Air Quality - DEP
Emission Standards for Hazardous Air Pollutants for Source
Categories Pursuant to 40 CFR Part 63
45CSR34

* Approve as Modified

n. **Office of Air Quality - DEP**
*Control of Annual Sulfur Dioxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and Sulfur
Dioxide*
45CSR41

* Approve as Modified

2. **Other Business**

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Cann
Pino
Armstead
Overington

- Meeting called to Order by Mahan, Chair
- Reconsider 198CSR1 Rehabilitation Services
Debra Explained
Palumbo: Fanning moved
Approved as modified
 - OCC Therapy 13CSR1
Brian Explained
Palumbo moved
Approved as modified
 - Admin 148 CSR16
Brian Explained
Palumbo moved
Approved as modified

- Admin 148 CSR 17

Brian Explained

Palumbo moved

Approved as modified

JOE/Shell vs. must remove his technical modifications on most ^{of his} rules

- Air 45 CSR 15

JOE Explained and answered questions

Jim Mason w/ Air Quality answered questions

Tim Mallow, Environmental Affairs manager, Appalachia Power answered questions

Del. Carr asked for ~~copy~~ sheet w/ details on costs to WV

Sen. Unge request for power price increases / offsets and contact sheets

Palumbo ^{moved} approved

- Air 45 CSR 16

JOE Explained

Palumbo moved

Approved

- Air 45 CSR 25

JOE Explained and answered questions

Palumbo moved

Approve as modified

- Air 45 CSR 33

JOE Explained

Palumbo moved

Approve

- Air 45CSR34
Joe Explained
Palumbo moved
Approved

Armstead moved ajourn

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, November 14, 2005
9:00 a.m. to 11:00 a.m.
Senate Finance Committee Room

1. *Reconsideration of 198CSR1 Rehab Services / Ron Yost*
Review of Legislative Rules:

- a. **Board of Occupational Therapy**
✓ *Administrative Rules of the Board of Occupational Therapy and Licensure of Occupational Therapists and Occupational Therapy Assistants*
13CSR1

* Approve as Modified

- removed*
b. **Department of Administration - Leasing Section**
Leasing Space on Behalf of State Spending Units
148CSR2

* Approve as Modified

- c. ✓ **Department of Administration - Purchasing Division**
Cannibalization of State Property
148CSR16

* Approve as Modified

- d. ✓ **Department of Administration - Purchasing Division**
Waste Disposal of State Property
148CSR17

* Approve as Modified

- removed Rita*
e. **Board of Dental Examiners**
Fees Established by the Board
5CSR3

* Approve

- removed Rita*
f. **Board of Dental Examiners**
Dental Advertising
5CSR8

* Approve as Modified

removed Rita
g. **State Conservation Commission**
State Conservation Committee Regulations
63CSR1

* Approve as Modified

removed Rita
h. **Racing Commission**
Greyhound Racing
178CSR2

* Approve as Modified

i. **Office of Air Quality - DEP**
✓ Emission Standards for Hazardous Air Pollutants Pursuant to
40 CFR Part 61
45CSR15

* Approve ~~as Modified~~

j. **Office of Air Quality - DEP**
✓ Standards of Performance for New Stationary Sources pursuant
to 40 CFR part 60.
45CSR16

* Approve ~~as Modified~~

k. **Office of Air Quality - DEP**
✓ To Prevent and Control Air Pollution from Hazardous Waste
Treatment, Storage, or Disposal Facilities
45CSR25

* Approve as Modified

l. **Office of Air Quality - DEP**
✓ Acid Rain Provisions and Permits
45CSR33

* Approve

m. **Office of Air Quality - DEP**
✓ Emission Standards for Hazardous Air Pollutants for Source
Categories Pursuant to 40 CFR Part 63
45CSR34

* Approve ~~as Modified~~

removed R. **Office of Air Quality - DEP**

Control of Annual Sulfur Dioxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and Sulfur
Dioxide
45CSR41

* Approve as Modified

2. **Other Business**

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making Review Committee Date November 14, 2005
Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.
Jim Mason	601 57 th Street E Ches	WUPEP DAQ	
Tim Mallan	P.O. Box 1986 Martinsburg, WV 25329	Appalachian Power	

**TITLE 198
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF REHABILITATION SERVICES

SERIES 1
RON YOST PERSONAL ASSISTANCE SERVICES ACT BOARD**

§198-1-1. General.

1.1. Scope This rule is being filed pursuant to W. Va. Code §29A-3-1 et seq. and 18-10L-6. This rule establishes procedures and standards applicable to the implementation of the Ron Yost Personal Assistance Services Act.

1.2. Authority. — W. Va. Code §18-10L-6.

1.3. Filing Date. — .

1.4. Effective Date. — .

§198-1-2. Description of Program.

2.1. General Purpose. The West Virginia Legislature created and established the Ron Yost Personal Assistance Services Act to make available personal assistance services for persons with severe disabilities to enable them to live in their own homes and communities in lieu of more restrictive settings. Recipients of personal assistance services are able to make decisions regarding the provision of services including, but not limited to, hiring, training, managing, paying, and terminating an assistant's employment.

§198-1-3. Board Membership, Length of Terms, Attendance, Officers, Expenses, and Meetings.

3.1. Board Membership. The West Virginia Statewide Independent Living Council (SILC) shall establish a standing committee to function as the consumer directed board to direct the implementation of the provisions of this rule.

3.1.a. The board shall be composed of seven individuals with severe disabilities one of whom shall be a representative of the SILC with a disability.

3.1.a.1. Two ex-officio, non-voting members, in addition to the individuals named in subdivision 3.1.a. of this rule, shall be the executive director of the SILC and the director of the Division of Rehabilitation Services or his or her designee ~~the administrator responsible for the program~~. The SILC may appoint additional ex-officio, non-voting members as needed.

3.1.b. The council shall solicit board members from across the state using a variety of methods; including newspaper ads, personal solicitations, etc.

3.1.c. The executive committee of the council shall make the final determination of board membership.

3.2. Members shall serve for terms of three (3) years.

3.2.a. With the exception of the SILC member as described in subdivision 3.2.c. of this rule no

member may serve more than two consecutive full three-year terms;

3.2.b. Initial appointments to the board shall be staggered as follows:

3.2.b.1. two members shall be appointed for a term of one year;

3.2.b.2. two members shall be appointed for a term of two years;

3.2.b.3. two members shall be appointed for a term of three years.

3.2.c. The SILC representative is limited in terms only by his or her SILC membership term and at the discretion of the SILC executive committee.

3.3. The board shall meet at least four times a year.

3.3.a. The board shall appoint committees as needed in the conduct of its business.

3.3.b. A quorum of the board is constituted by at least four members being present, at least one of whom shall be an officer.

3.3.c. The board shall elect from among its membership, as officers, a chairperson, a vice-chairperson, and a secretary at the October meeting of the board.

3.3.c.1. Officers shall serve one year terms with a maximum of two consecutive terms.

3.4. Members of the board shall receive reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as members of the board in accordance with state travel regulations. Members with disabilities may receive reimbursement for expenses including costs associated with personal assistance, interpreters and disability-related accommodations when those costs are incurred in the course of conducting the business of the board. Any reimbursement shall be authorized by the SILC chairperson and shall be paid from moneys allocated each year by the legislature.

3.5. Board members who are absent from more than two 50% of regularly scheduled meetings in a calendar year shall be removed from the board by the SILC executive committee.

3.5.a. The SILC executive committee shall appoint replacements to fill any vacancies.

§198-1-4. Program.

4.1. Application for Services. To apply for personal assistance services a person shall submit an application to the Ron Yost Personal Assistance Services Board West Virginia Division of Rehabilitation Services. The board Division of Rehabilitation Services rehabilitation counselor shall make a preliminary eligibility determination based upon the program requirements for eligibility as described under program requirements in W. Va. Code 18-10L-4 (a) the definition of Recipient or Consumer as described under definitions in W. Va. Code 18-10L-3(3). Once this preliminary assessment is made, the board counselor shall schedule a functional assessment of the applicant with a certified board approved provider within 30 days unless there are no unobligated funds available.

4.1.a. The certified board approved provider shall provide the board a copy of the functional assessment within seven (7) calendar days of the assessment

4.2. Once the functional assessment is obtained, the ~~Consumer directed~~ board shall review the application.

4.2.a. The board shall review applications within 30 days of the functional assessment unless there are no unobligated funds available.

4.2.b. If there are no unobligated funds available, the board shall review applications at the next regularly scheduled meeting of the board.

4.3. The board shall review applications using the following priorities:

4.3.a. To provide services to a person who would be placed in an institutional setting not of his or her choice if he or she did not receive services under this program; and

4.3.b. To provide services to a person who would be able to leave an institutional setting and live in his or her own community in a setting of his or her own choice if he or she received services under this program; and

4.3.c. ~~To The board shall~~ award money for services under this program to all other applicants on a first come, first served basis.

4.4. Once a person is determined eligible for services, the board shall contact ~~the Division of Rehabilitation Services~~ and the recipient of services in writing. The written notification shall include:

4.4.a. The number of hours the person is eligible to receive personal assistance services based on the functional assessment and the availability of funds;

4.4.b. The approved start date for these services;

4.4.c. Any training the recipient may need in order to manage a personal assistant; and

4.4.d. The rate at which the recipient is to be reimbursed.

4.5. The recipient shall agree to obtain services from other entities if it is later determined he or she is eligible for personal assistance services from another entity, including, but not limited to, the Medicaid Waiver Program.

4.5.a. Recipients shall remain eligible for services under this program until they begin receiving services from another entity.

4.6. If there are no unobligated funds available, ~~the board Division of Rehabilitation Services~~ shall establish a waiting list of those individuals eligible for services.

§198-1-5. Appeals.

5.1. If a person disagrees with a decision of the board regarding eligibility or the parameters of services approved. ~~If a person is determined not to be eligible for services under this rule,~~ he or she may appeal the decision to the SILC executive committee in writing, within 30 (thirty) days of receipt of written notification.

5.1.a. The executive committee shall hear and review the appeal within 10 (ten) working days of receipt of the written appeal.

5.1.b. The executive committee shall send its written decision to the appellant within 5 (five) working days of the decision.

5.1.c. The decision of the executive committee is final.

§198-1-6. Funding.

6.1. Five (5%) percent of the funds allocated by the legislature will be designated for the board to use for administrative costs. The Division of Rehabilitation Services or its contracted administrator may use another two (2%) percent of the funds for administration of the program; for a total of seven (7%) percent administrative costs.

6.2. The West Virginia Division of Rehabilitation Services shall not receive any reimbursement from the fund established under this rule in order to complete the functional assessment.

6.3. The program shall function within a budget developed and approved by the board provided the budget is consistent with the requirements of W. Va. Code §18-10L and this legislative rule.

§198-1-7. Sliding Scale.

7.1. The board shall determine the level of financial assistance to an applicant, in part, based on the applicant's adjusted annual income at the time of the review. The board shall review this information on a yearly basis.

7.1.a. The applicant's adjusted annual income shall be determined by calculating the applicant's annual net earned income and subtracting any allowable deductions. Only the applicant's income shall be considered: neither the applicant's other financial assets nor the income or assets of his or her family, if any, shall be considered. Earned income includes all money received for personal services, such as wages, salaries, tips, commissions, and fees. Funds received by the applicant from Workers' or Unemployment Compensation, pension, SSDI, SSI, alimony, child support, and other sources shall be entered into calculated total income.

7.1.b. Deductions:

7.1.b.1. The total annual income shall be reduced by the annual amount of all non-elective withholdings other than garnishments, and by the amount of any elective withholdings for medical or hospitalization premiums. Non-elective withholdings are those which are not at the discretion of the wage earner. Garnishments are payments of private debts and therefore are considered as net income.

7.1.b.2. The applicant's total annual earned income shall be reduced by \$3,000 for the first dependent (not including the applicant), \$2,000 for the second dependent, and \$1,000 for each dependent thereafter. Each dependent claimed shall qualify as a dependent under the United States Internal Revenue Service code; except that a family member with gross earned income exceeding \$7,500 annually shall not be considered as being dependent upon the applicant.

7.1.b.3. The applicant's total annual earned income shall be reduced by the amount of the applicant's necessary expenses related to the disability, if any. These expenses may include annual costs for medication, medical supplies, adaptive clothing, and similar expenses. Non-expendable items such as wheelchairs, braces, van modifications, lifts, ramps, etc., shall be depreciated at a rate of 25% per year based on original purchase costs, except those items having an original purchase cost of \$1,500 or less may be

claimed in a single year at the applicant's election. Only that portion of a disability-related expense not reimbursed by any third-party may be claimed.

7.2. Reimbursement Rate Schedule:

Income Reimbursement Category	Adjusted Annual Income	Reimbursement Percentage
1	\$ 0 - 21,999	100
2	22,000 - 22,999	98
3	23,000 - 23,999	96
4	24,000 - 24,999	94
5	25,000 - 25,999	92
6	26,000 - 26,999	90
7	27,000 - 27,999	88
8	28,000 - 28,999	85
9	29,000 - 29,999	81
10	30,000 - 30,999	76
11	31,000 - 31,999	70
12	32,000 - 32,999	63
13	33,000 - 33,999	55
14	34,000 - 34,999	46
15	35,000 - 35,999	36
16	36,000 - 36,999	25
17	37,000 - 37,999	13
18	38,000+	00