

SB 399

FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2004

ENROLLED

Committee Substitute for

SENATE BILL NO. 399

(By Senator Ross, et al)

PASSED March 13, 2004

In Effect From Passage

FILED

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OFFICE WEST VIRGINIA
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ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 399

(SENATORS ROSS, MINARD,
SNYDER, UNGER, BOLEY AND MINEAR, *original sponsors*)

[Passed March 13, 2004; in effect from passage.]

AN ACT to amend and reenact article 9, chapter 64 of the code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; continuing rules previously promulgated by state agencies and boards; legislative mandate or authorization for the promulgation of certain legislative rules; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee and as

amended by the Legislature; disapproving certain rules; authorizing the board of accountancy to promulgate a legislative rule relating to the board and rules of professional conduct; authorizing commissioner of agriculture to promulgate legislative rule relating to frozen desserts and imitation frozen desserts; authorizing commissioner of agriculture to promulgate legislative rule relating to dairy products and imitation dairy products; authorizing commissioner of agriculture to promulgate legislative rule relating to seed law; authorizing board of architects to promulgate legislative rule relating to registration of architects; authorizing auditor's office to promulgate legislative rule relating to transaction fee and rate structure; authorizing auditor's office to promulgate legislative rule relating to state purchasing card program; authorizing board of examiners in counseling to promulgate legislative rule relating to fees; authorizing board of registration for professional engineers to promulgate legislative rule relating to governance of board; authorizing board of examiners of land surveyors to promulgate legislative rule relating to minimum standards for practice of land surveying; authorizing board of examiners of land surveyors to promulgate legislative rule relating to mandatory continuing education for land surveyors; authorizing board of landscape architects to promulgate legislative rule relating to board; authorizing board of examiners for licensed practical nurses to promulgate legislative rule relating to policies and procedures for development and maintenance of education programs in practical nursing; authorizing board of medicine to promulgate legislative rule relating to licensing and disciplinary procedures: physicians and podiatrists; authorizing board of optometry to promulgate legislative rule relating to board; authorizing board of examiners of psychologists to promulgate legislative rule relating to fees; authorizing public service commission to promulgate legislative rule relating to transportation of coal by commercial motor vehicles; authorizing records management and preservation board to promulgate legislative rule relating to general management and preservation of county

records; and authorizing statewide addressing and mapping board to promulgate legislative rule relating to addressing and mapping standards and participation by public agencies in statewide addressing and mapping projects.

Be it enacted by the Legislature of West Virginia:

That article 9, chapter 64 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§64-9-1. Board of accountancy.

1 The legislative rule filed in the state register on the first
2 day of August, two thousand three, authorized under the
3 authority of section five, article nine, chapter thirty of this
4 code, modified by the board of accountancy to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the twenty-sixth day of
7 January, two thousand four, relating to the board of
8 accountancy (board rules and rules of professional con-
9 duct, 1 CSR 1), is authorized.

§64-9-2. Commissioner of agriculture.

1 (a) The legislative rule filed in the state register on the
2 first day of August, two thousand three, authorized under
3 the authority of section ten, article eleven-b, chapter
4 nineteen of this code, modified by the commissioner of
5 agriculture to meet the objections of the legislative rule-
6 making review committee and refiled in the state register
7 on the twenty-fourth day of November, two thousand
8 three, relating to the commissioner of agriculture (frozen
9 desserts and imitation frozen desserts, 61 CSR 4B), is
10 authorized with the following amendment:

11 On page one, section 2.1.f, after the words "Pasteurized
12 Milk", by deleting the term "Ordiance", and by inserting
13 in lieu thereof the word "Ordinance".

14 (b) The legislative rule filed in the state register on the
15 first day of August, two thousand three, authorized under
16 the authority of section ten, article eleven-a, chapter
17 nineteen of this code, modified by the commissioner of
18 agriculture to meet the objections of the legislative rule-
19 making review committee and refiled in the state register
20 on the twenty-fourth day of November, two thousand
21 three, relating to the commissioner of agriculture (dairy
22 products and imitation dairy products, 61 CSR 4C), is
23 authorized.

24 (c) The legislative rule filed in the state register on the
25 first day of August, two thousand three, authorized under
26 the authority of section six, article sixteen, chapter
27 nineteen of this code, modified by the commissioner of
28 agriculture to meet the objections of the legislative rule-
29 making review committee and refiled in the state register
30 on the twenty-fourth day of November, two thousand
31 three, relating to the commissioner of agriculture (West
32 Virginia seed law, 61 CSR 9), is authorized.

§64-9-3. Board of architects.

1 The legislative rule filed in the state register on the third
2 day of October, two thousand two, authorized under the
3 authority of section one, article twelve, chapter thirty of
4 this code, modified by the board of architects to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the twenty-second day
7 of April, two thousand three, relating to the board of
8 architects (registration of architects, 2 CSR 1), is autho-
9 rized.

§64-9-4. Auditor's office.

1 (a) The legislative rule filed in the state register on the
2 first day of August, two thousand three, authorized under
3 the authority of section ten-c, article three, chapter twelve
4 of this code, modified by the auditor's office to meet the
5 objections of the legislative rule-making review committee

6 and refiled in the state register on the eighteenth day of
7 December, two thousand three, relating to the auditor's
8 office (transaction fee and rate structure, 155 CSR 4), is
9 authorized.

10 (b) The legislative rule filed in the state register on the
11 first day of August, two thousand three, authorized under
12 the authority of section ten-a, article three, chapter twelve
13 of this code, modified by the auditor's office to meet the
14 objections of the legislative rule-making review committee
15 and refiled in the state register on the fourth day of
16 November, two thousand three, relating to the auditor's
17 office (state purchasing card program, 155 CSR 7), is
18 authorized with the following amendments:

19 On page two, section two, subdivision 2.17.e, line one,
20 following the words "Higher Education," by inserting the
21 words "not to exceed \$5,000 for any purchase";

22 On page two, section two, subdivision 2.17.f, line two,
23 following the words "Higher Education," by striking out
24 the word "which" and inserting in lieu thereof the words
25 "not to exceed \$5,000 for any purchase unless approved by
26 the Purchasing Division. 'Routine, regularly scheduled
27 payments of Higher Education'";

28 On page two, section two, subdivision 2.18.c, line three,
29 following the words "Chapter 15", by striking out the
30 words "and WV Code 18B-5-9";

31 On page two, section two, subdivision 2.18.c, line five,
32 following the words "with the card," and the semicolon, by
33 inserting the words "and as provided in WV Code 18B-5-9,
34 the transaction limit for Higher Education is the credit
35 limit associated with the card, not to exceed \$5,000 for any
36 purchase", followed by a semicolon;

37 On page two, section two, subdivision 2.18.e, line four,
38 following the words "with the card," by striking out the
39 period and inserting the words "except as provided in
40 subdivision 2.17.f.";

41 And,

42 On page three, section three, subsection 3.3, line one,
43 following the words "an emergency", by striking out the
44 word "effecting" and inserting in lieu thereof the word
45 "affecting".

§64-9-5. Board of examiners in counseling.

1 The legislative rule filed in the state register on the
2 fourth day of December, two thousand two, authorized
3 under the authority of section five, article thirty-one,
4 chapter thirty of this code, modified by the board of
5 examiners in counseling to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-first day of April, two
8 thousand three, relating to the board of examiners in
9 counseling (fees, 27 CSR 2), is authorized.

§64-9-6. Board of registration for professional engineers.

1 The legislative rule filed in the state register on the
2 thirtieth day of July, two thousand three, authorized under
3 the authority of section nine, article thirteen, chapter
4 thirty of this code, modified by the board of registration
5 for professional engineers to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the fourteenth day of January, two
8 thousand four, relating to the board of registration for
9 professional engineers (rule governing the West Virginia
10 board of registration for professional engineers, 7 CSR 1),
11 is authorized with the following amendments:

12 On page three, subsection 3.3, subdivision h, by striking
13 out said subdivision h in its entirety;

14 And,

15 On page twenty-one, subsection 14.4, by striking out said
16 subsection 14.4 in its entirety and inserting in lieu thereof
17 the words:

18 "The Board may assess administrative costs incurred in
19 the performance of its enforcement or investigatory
20 activities against any person or entity who violates the
21 provisions referenced in subsection 14.1 of this rule, which
22 shall be paid to the West Virginia State Board of Registra-
23 tion for Professional Engineers by check or money order
24 within a period of thirty (30) days from the date of the
25 final order entered by the Board."

§64-9-7. Board of examiners of land surveyors.

1 (a) The legislative rule filed in the state register on the
2 first day of August, two thousand three, authorized under
3 the authority of section four, article thirteen-a, chapter
4 thirty of this code, relating to the board of examiners of
5 land surveyors (minimum standards for practice of land
6 surveying in West Virginia, 23 CSR 1), is authorized with
7 the following amendments:

8 On page three, subsection 5.1, line eight, after the words
9 "annual renewal fee" by striking out the comma and the
10 words "determined by the board, not to exceed one
11 hundred dollars (\$100.00)" and by inserting in lieu thereof
12 the words "of forty dollars(\$40.00)";

13 On page three, subsection 5.1, line nine, after the words
14 "the fee shall increase", by striking out the words "an
15 amount determined by the Board, not to exceed twenty per
16 cent (20%) of the annual renewal fee" and inserting in lieu
17 thereof the words "one dollar (\$1.00)";

18 And,

19 On page four, subsection 5.1, line one, after the words
20 "payment of a fee", by striking out the words "determined
21 by the Board, not to exceed fifty dollars (\$50.00)" and by
22 inserting in lieu thereof the words "of ten dollars(\$10.00)".

23 (b) The legislative rule filed in the state register on the
24 first day of August, two thousand three, authorized under
25 the authority of section four, article thirteen-a, chapter

26 thirty of this code, relating to the board of examiners of
27 land surveyors (mandatory continuing education for land
28 surveyors, 23 CSR 2), is authorized.

§64-9-8. Board of landscape architects.

1 The legislative rule filed in the state register on the first
2 day of August, two thousand three, authorized under the
3 authority of section five, article twenty-two, chapter thirty
4 of this code, modified by the board of landscape architects
5 to meet the objections of the legislative rule-making
6 review committee and refiled in the state register on the
7 twenty-fourth day of November, two thousand three,
8 relating to the board of landscape architects (rule of the
9 West Virginia board of landscape architects, 9 CSR 1), is
10 authorized, with the following amendment:

11 On page one, section 1.1, line one, after the words “the
12 Board”, by inserting the words “and the”;

13 On page three, section 4.15, line two, after the words
14 “Section 8 of”, by striking out the words “these rules” and
15 inserting in lieu thereof, the words “this rule”;

16 On page four, section 6.5, line two, after the words
17 “Section 4.2 of”, by striking out the words “these rules”
18 and inserting in lieu thereof, the words “this rule”;

19 On page five, section 6.6, line four, after the words
20 “Section 4.17 of”, by striking out the words “these rules”
21 and inserting in lieu thereof, the words “this rule”;

22 On page five, section 6.8, line three, after the words “10.6
23 of”, by striking out the words “these rules” and inserting
24 in lieu thereof, the words “this rule”;

25 And,

26 On page seven, section 7.7, line four, after the word “or”,
27 by striking out the words “these rules” and inserting in
28 lieu thereof, the words “this rule”, and after the words

29 “violation of”, by striking out the words “these rules” and
30 inserting in lieu thereof, the words “this rule”.

§64-9-9. Board of examiners for licensed practical nurses.

1 The legislative rule filed in the state register on the
2 twenty-third day of June, two thousand three, authorized
3 under the authority of section one, article seven-a, chapter
4 thirty of this code, relating to the board of examiners for
5 licensed practical nurses (policies and procedures for
6 development and maintenance of education programs in
7 practical nursing, 10 CSR 1), is authorized.

§64-9-10. Board of medicine.

1 The legislative rule filed in the state register on the
2 sixteenth day of July, two thousand three, authorized
3 under the authority of section seven, article three, chapter
4 thirty of this code, relating to the board of medicine
5 (licensing and disciplinary procedures: physicians; podia-
6 trists, 11 CSR 1a), is authorized.

§64-9-11. Board of optometry.

1 The legislative rule filed in the state register on the
2 thirty-first day of July, two thousand three, authorized
3 under the authority of section three, article eight, chapter
4 thirty of this code, modified by the board of optometry to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the eight-
7 teenth day of December, two thousand three, relating to
8 the board of optometry (rule of the West Virginia board of
9 optometry, 14 CSR 1), is authorized.

§64-9-12. Board of examiners of psychologists.

1 The legislative rule filed in the state register on the
2 eighteenth day of June, two thousand three, authorized
3 under the authority of section six, article twenty-one,
4 chapter thirty of this code, modified by the board of
5 examiners of psychologists to meet the objections of the
6 legislative rule-making review committee and refiled in

7 the state register on the eighth day of August, two thou-
8 sand three, relating to the board of examiners of psycholo-
9 gists (fees, 17 CSR 1), is authorized.

§64-9-13. Public service commission.

1 The legislative rule filed in the state register on the
2 twenty-first day of November, two thousand three,
3 authorized under the authority of section three, article
4 seventeen-a, chapter seventeen-c of this code, modified by
5 the public service commission to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-sixth day of January, two
8 thousand four, relating to the public service commission
9 (transportation of coal by commercial motor vehicles, 150
10 CSR 27), is authorized.

§64-9-14. Records management and preservation board.

1 The legislative rule filed in the state register on the
2 thirteenth day of June, two thousand three, authorized
3 under the authority of section fifteen, article eight, chapter
4 five-a of this code, relating to the records management and
5 preservation board (general management and preservation
6 of county records, 100 CSR 2), is authorized with the
7 following amendment:

8 On page seven, section five, subsection 5.2, line 1, by
9 striking the word "shall" and inserting the word "may".

§64-9-15. Statewide addressing and mapping board.

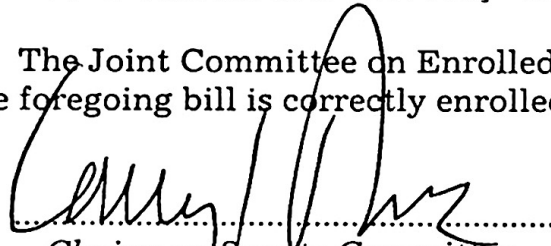
1 The legislative rule filed in the state register on the first
2 day of August, two thousand three, authorized under the
3 authority of section six, article one, chapter twenty-four-e
4 of this code, modified by the statewide addressing and
5 mapping board to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the twenty-sixth day of January, two thousand
8 four, relating to the statewide addressing and mapping
9 board (addressing and mapping standards and participa-


11 [Enr. Com. Sub. for S. B. No. 399

10 tion by public agencies in statewide addressing and
11 mapping projects, 169 CSR 2), is authorized.

Enr. Com. Sub. for S. P. No. 399] 12

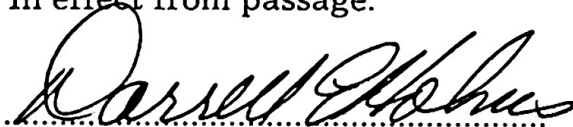
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

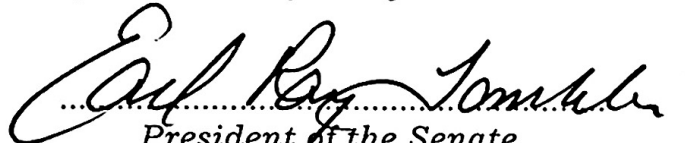

.....
Chairman House Committee

Originated in the Senate.

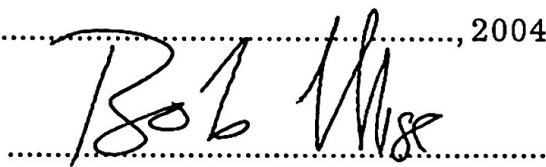
In effect from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


.....
Speaker House of Delegates

The within is approved this the 5th
Day of April, 2004.

.....
Governor

PRESENTED TO THE

GOVERNOR

DATE 3/26/04

TIME 3:15pm