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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 112

(SENATORS MINARD, SNYDER, PREZIOSO, UNGER, BOLEY AND K. FACEMYER, *original*
sponsors)

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Administration; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; 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

1 legislative rules with various modifications presented to and
2 recommended by the Legislative Rule-Making Review Committee
3 and as amended by the Legislature; authorizing certain of the
4 agencies to promulgate certain legislative rules in the form
5 that the rules were filed in the State Register and as amended
6 by the Legislature; authorizing the Department of
7 Administration to promulgate a legislative rule relating to
8 state-owned vehicles; authorizing the Consolidated Public
9 Retirement Board to promulgate a legislative rule relating to
10 general provisions; authorizing the Consolidated Public
11 Retirement Board to promulgate a legislative rule relating to
12 Teachers' Defined Contribution Retirement System; authorizing
13 the Consolidated Public Retirement Board to promulgate a
14 legislative rule relating to Public Employees Retirement
15 System; authorizing the Consolidated Public Retirement Board
16 to promulgate a legislative rule relating to refund,
17 reinstatement, retroactive service, loan and employer error
18 interest factors; authorizing the Consolidated Public
19 Retirement Board to promulgate a legislative rule relating to
20 the West Virginia State Police; and authorizing the Ethics
21 Commission to promulgate a legislative rule relating to
22 forms.

23 *Be it enacted by the Legislature of West Virginia:*

24 That article 2, chapter 64 of the Code of West Virginia, 1931,

1 as amended, be amended and reenacted to read as follows:

2 **ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO**
3 **PROMULGATE LEGISLATIVE RULES.**

4 **§64-2-1. Department of Administration.**

5 The legislative rule filed in the state register on the
6 twenty-sixth day of July, two thousand ten, authorized under the
7 authority of section two, article one, chapter five-a of this code,
8 modified by the Department of Administration to meet the objections
9 of the Legislative Rule-Making Review Committee and refiled in the
10 state register on the twenty-first day of January, two thousand
11 eleven, relating to the Department of Administration (state owned
12 vehicles, 148 CSR 3), is authorized with the following amendments:

13 On page one, subsection 1.1., by striking out all of
14 subsection 1.1 and inserting in lieu thereof a new subsection 1.1
15 to read as follows:

16 "1.1 Scope. - This Rule governs all state owned and leased
17 vehicles and aircraft, including the minimal requirements for all
18 state spending units that have a state vehicle and/or aircraft in
19 their possession.";

20 On page four, section 4, by striking out all of section 4 and
21 inserting in lieu thereof a new section four to read as follows:

22 **"§148-3-4. Titles to State owned or Long-Term Leased Vehicles**

23 Vehicles may be titled in the name of the spending unit. The
24 Fleet Management Office will coordinate with spending units to

1 ensure standardized naming convention. For Model Years beginning
2 with 2011, the Fleet Management Office will initiate the titling
3 and registration process, digitize, and safeguard the original
4 title. The original title documents for the Model Years prior to
5 2011 will be provided to the Fleet Management Office for
6 digitization and safekeeping. Spending units will be provided with
7 web-enabled, secure access to and/or digitized copy of the title
8 documents. Original titling documents will be returned to the
9 spending unit within five (5) business days of a determination by
10 the Department of Administration, Board of Risk and Insurance
11 Management that the vehicle is no longer insurable; or the vehicle
12 is scheduled for decommissioning activity by the spending unit.”;

13 On page four, subsection 5.1., by striking out all of
14 subsection 5.1. and inserting in lieu thereof a new subsection 5.1.
15 to read as follows:

16 “5.1. A vehicle lease may be terminated by the Fleet
17 Management Office for failing to maintain the vehicle; vehicle
18 abuse beyond the intended purpose of the vehicle; or becoming
19 seriously delinquent (more than 90 days).”;

20 On pages four and five, subsection 5.4., by striking out all
21 of subsection 5.4. and inserting in lieu thereof a new subsection
22 5.4. to read as follows:

23 “5.4. All vehicles governed by this rule should meet minimum
24 utilization criteria established by the Fleet Management Office.

1 Justification for each underutilized vehicle will be provided by
2 the assigned Cabinet Secretary using the Fleet Management Office
3 designated form. Utilization criteria will apply to each vehicle
4 individually; consider periods of inactivity; specialized vehicle
5 mission; cost effectiveness; minimum mileage requirements; and the
6 current replacement methodology established by the Fleet Management
7 Office. Minimum utilization criteria will be reviewed by the Fleet
8 Management Office each fiscal year, provided to assigned cabinet
9 secretary, and included in an annual report to the Executive and
10 Legislative branches of State Government.”;

11 On page seven, after subdivision 8.8.6., by inserting a new
12 subsection 8.9. to read as follows:

13 “8.9. Confidentially played vehicles may be excluded, at the
14 discretion of the spending unit, from any automated fleet
15 management program: *Provided*, That information necessary to
16 accurately report the vehicle for asset management purposes, such
17 as vehicle class, model year, drive type, in-service date, and
18 odometer reading as well as vehicle commuting status for fringe
19 benefit reporting purposes will be provided by the fifth working
20 day of each month by the spending unit using the Fleet Management
21 Office designated form.”;

22 On page nine, subsection 10.1., by striking out all of
23 subsection 10.1. and inserting a new subsection 10.1. to read as
24 follows:

1 "10.1. Any long-term vehicle lease must first be approved by
2 the Fleet Management Office. Any vehicle purchase must first be
3 reviewed by the Fleet Management Office.

4 Regardless of vehicle acquisition method, spending units
5 should not increase their fleet size without prior notification to
6 the Fleet Management Office. A designated form will be processed by
7 the Fleet Management Office with response provided to spending unit
8 within five (5) business days from receipt of the designated form
9 by the Fleet Management Office.";

10 And,

11 On page eleven, subdivision 10.9.1., by striking out the first
12 sentence and inserting in lieu thereof a new first sentence to read
13 as follows:

14 "Accidents and damage to vehicles and aircraft must be
15 reported to the Fleet Management Office and the Board of Risk and
16 Insurance Management by the spending unit on the day of the
17 accident if practical or the next business day if it is impractical
18 to report the accident."

19 **§64-2-2. Consolidated Public Retirement Board.**

20 (a) The legislative rule filed in the state register on the
21 twenty-second day of July, two thousand ten, authorized under the
22 authority of section one, article ten-d, chapter five of this code,
23 relating to the Consolidated Public Retirement Board (general
24 provisions, 162 CSR 1), is authorized.

1 (b) The legislative rule filed in the state register on the
2 twenty-second day of July, two thousand ten, authorized under the
3 authority of section one, article ten-d, chapter five of this code,
4 relating to the Consolidated Public Retirement Board (Teachers'
5 Defined Contribution System, 162 CSR 3), is authorized.

6 (c) The legislative rule filed in the state register on the
7 twenty-second day of July, two thousand ten, authorized under the
8 authority of section one, article ten-d, chapter five of this code,
9 relating to the Consolidated Public Retirement Board (Public
10 Employees Retirement System, 162 CSR 5), is authorized with the
11 following amendments:

12 On page two, subdivision 5.1.4., by striking out the word
13 "5.1.2." and inserting in lieu thereof the word "5.1.3.";

14 And,

15 On page two, subdivision 5.1.5., by striking out the word
16 "5.1.3." and inserting in lieu thereof the word "5.1.4.".

17 (d) The legislative rule filed in the state register on the
18 twenty-second day of July, two thousand ten, authorized under the
19 authority of section one, article ten-d, chapter five of this code,
20 relating to the Consolidated Public Retirement Board (refund,
21 reinstatement, retroactive service, loan and employer error
22 interest factors, 162 CSR 7), is authorized with the following
23 amendment:

24 On page five, subsection 4.2., by striking out all of

1 subsection 4.2. and inserting in lieu thereof a new subsection 4.2.
2 to read as follows:

3 "4.2. West Virginia State Police Death, Disability and
4 Retirement Fund. In the event a member of the West Virginia State
5 Police Death, Disability and Retirement Funds requests and is
6 determined to be eligible to restore retirement system service
7 credit for periods of previously terminated employment, the member
8 shall pay into the West Virginia State Police Retirement System as
9 established in W. Va. Code §15-2A-1 et seq., any contributions
10 which the member may have previously withdrawn from the West
11 Virginia State Police Death, Disability and Retirement Fund at the
12 termination of any prior periods of employment, plus reinstatement
13 interest at the rate specified in W. Va. Code §15-2-37(b)."

14 (e) The legislative rule filed in the state register on the
15 twenty-second day of July, two thousand ten, authorized under the
16 authority of section one, article ten-d, chapter five of this code,
17 relating to the Consolidated Public Retirement Board (West Virginia
18 State Police, 162 CSR 9), is authorized.

19 **§64-2-3. Ethics Commission.**

20 The legislative rule filed in the state register on the
21 twenty-fourth day of June, two thousand ten, authorized under the
22 authority of section two, article two, chapter six-b of this code,
23 modified by the Ethics Commission to meet the objections of the
24 Legislative Rule-Making Review Committee and refiled in the state

1 register on the twentieth day of August, two thousand ten, relating
2 to the Ethics Commission (forms, 158 CSR 20), is authorized.