

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 112

(By Senators Minard, Snyder, Prezioso,
Unger, Boley and K. Facemyer)

[Originating in the Committee on the Judiciary;
reported February 22, 2011.]

A BILL 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 legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register and as amended by the Legislature; authorizing the Department of Administration to promulgate a legislative rule relating to state-owned vehicles; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to general provisions; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to Teachers' Defined Contribution Retirement System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to Public Employees Retirement System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and employer error interest factors; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police; and authorizing the Ethics Commission to promulgate a legislative rule relating to forms.

Be it enacted by the Legislature of West Virginia:

That article 2, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§64-2-1. Department of Administration.

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

10 On page one, subsection 1.1., by striking out all of subsec-
11 tion 1.1 and inserting in lieu thereof a new subsection 1.1 to
12 read as follows:

13 “1.1 Scope. - This Rule governs all state owned and leased
14 vehicles and aircraft, including the minimal requirements for
15 all state spending units that have a state vehicle and/or
16 aircraft in their possession.”;

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

“§148-3-4. Titles to State owned or Long-Term Leased Vehicles

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

17 On page four, subsection 5.1., by striking out all of subsec-
18 tion 5.1. and inserting in lieu thereof a new subsection 5.1. to
19 read as follows:

20 “5.1. A vehicle lease may be terminated by the Fleet
21 Management Office for failing to maintain the vehicle;
22 vehicle abuse beyond the intended purpose of the vehicle; or
23 becoming seriously delinquent (more than 90 days).”;

24 On pages four and five, subsection 5.4., by striking out all
25 of subsection 5.4. and inserting in lieu thereof a new subsec-
26 tion 5.4. to read as follows:

27 “5.4. All vehicles governed by this rule should meet
28 minimum utilization criteria established by the Fleet
29 Management Office. Justification for each underutilized
30 vehicle will be provided by the assigned Cabinet Secretary
31 using the Fleet Management Office designated form. Utiliza-
32 tion criteria will apply to each vehicle individually; consider
33 periods of inactivity; specialized vehicle mission; cost
34 effectiveness; minimum mileage requirements; and the
35 current replacement methodology established by the Fleet
36 Management Office. Minimum utilization criteria will be
37 reviewed by the Fleet Management Office each fiscal year,
38 provided to assigned cabinet secretary, and included in an
39 annual report to the Executive and Legislative branches of
40 State Government.”;

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

43 “8.9. Confidentially played vehicles may be excluded, at
44 the discretion of the spending unit, from any automated fleet
45 management program: *Provided*, That information necessary
46 to accurately report the vehicle for asset management
47 purposes, such as vehicle class, model year, drive type, in-
48 service date, and odometer reading as well as vehicle
49 commuting status for fringe benefit reporting purposes will
50 be provided by the fifth working day of each month by the
51 spending unit using the designated from to the Fleet Man-
52 agement Office.”;

53 On page nine, subsection 10.1., by striking out all of
54 subsection 10.1. and inserting a new subsection 10.1. to read
55 as follows:

56 “10.1. Any long-term vehicle lease must first be approved
57 by the Fleet Management Office. Any vehicle purchase must
58 first be reviewed by the Fleet Management Office.

59 Regardless of vehicle acquisition method, spending units
60 should not increase their fleet size without prior notification
61 to the Fleet Management Office. A designated form will be
62 processed by the Fleet Management Office with response

63 provided to spending unit within five (5) business days from
64 receipt of the designated form by the Fleet Management
65 Office.”;

66 And,

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

70 “Accidents and damage to vehicles and aircraft must be
71 reported to the Fleet Management Office and the Board of
72 Risk and Insurance Management by the spending unit on the
73 day of the accident if practical or the next business day if it
74 is impractical to report the accident.”

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

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

6 (b) The legislative rule filed in the state register on the
7 twenty-second day of July, two thousand ten, authorized
8 under the authority of section one, article ten-d, chapter five

9 of this code, relating to the Consolidated Public Retirement
10 Board (Teachers' Defined Contribution System, 162 CSR 3),
11 is authorized.

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

18 On page two, subdivision 5.1.4., by striking out the word
19 "5.1.2." and inserting in lieu thereof the word "5.1.3.";

20 And,

21 On page two, subdivision 5.1.5., by striking out the word
22 "5.1.3." and inserting in lieu thereof the word "5.1.4.".

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

30 On page five, subsection 4.2., by striking out all of subsec-
31 tion 4.2. and inserting in lieu thereof a new subsection 4.2. to
32 read as follows:

33 “4.2. West Virginia State Police Death, Disability and
34 Retirement Fund. In the event a member of the West Virginia
35 State Police Death, Disability and Retirement Funds re-
36 quests and is determined to be eligible to restore retirement
37 system service credit for periods of previously terminated
38 employment, the member shall pay into the West Virginia
39 State Police Retirement System as established in W. Va.
40 Code §15-2A-1 et seq., any contributions which the member
41 may have previously withdrawn from the West Virginia State
42 Police Death, Disability and Retirement Fund at the termi-
43 nation of any prior periods of employment, plus reinstatement
44 interest at the rate specified in W. Va. Code §15-2-
45 37(b).”

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

§64-2-3. Ethics Commission.

1 The legislative rule filed in the state register on the
2 twenty-fourth day of June, two thousand ten, authorized
3 under the authority of section two, article two, chapter six-b
4 of this code, modified by the Ethics Commission to meet the
5 objections of the Legislative Rule-Making Review Committee
6 and refiled in the state register on the twentieth day of
7 August, two thousand ten, relating to the Ethics Commission
8 (forms, 158 CSR 20), is authorized.