

NOVEMBER 17

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

MONDAY, NOVEMBER 17, 1986

11:00 A.M.

COMMITTEE MEETING ROOM, E-226

1. Approval of Minutes
2. REVIEW OF LEGISLATIVE RULES:
 - a. Attorney General - Proposed legislative rule pertaining to prevention of unfair or deceptive acts or practices in sale of damaged goods or products.
 - b. Attorney General - Proposed legislative rule pertaining to prevention of unfair or deceptive acts or practices in home improvement and home construction transactions.
 - c. Dept. of Labor - Preneed Burial Contract Rule
 - d. Dept. of Agriculture - Ginseng Regulations
 - e. Dept. of Agriculture - WV Pesticide Use and Application Act
 - f. Dept. of Energy - Division of Oil and Gas
 - g. Dept. of Natural Resources - Hazardous Waste Management Regulations, Series 15,
 - h. Dept. of Natural Resources - Hazardous Waste Management Regulations, Series 15 - Passed by Legislature March 5, 1986 - Refiled per request of Committee
 - i. WV Industrial and Trade Jobs Development Corporation - General Administration of the West Virginia Capital Company Act: Establishment of the application procedures to implement the act.

3. OTHER BUSINESS

Draft Legislation placing review of emergency rules promulgated by Secretary of State in the office of the Attorney General.

Monday, November 17, 1986

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

11:00 a.m.

Dan Tonkovich,
ex officio nonvoting member

Joseph P. Albright,
ex officio nonvoting member

Senate

House

Williams, R., Chairman
Boettner
Tucker
Tomblin (absent)
Harman
Shaw (absent)

Casey, Chairman
Knight
Schifano
Wiedebusch (absent)
Shaffer (absent)
Springston

The meeting was called to order by Mr. Casey, Co-Chairman.

The minutes of the October 6, 1986 meeting were approved.

Debra Graham, Associate Counsel, explained the rules proposed by the Department of Agriculture - Ginseng Regulations and WV Pesticide Use and Application Act. She stated that she had suggested several modifications to the Department and that they had agreed to them.

Mr. Knight moved that both proposed rules be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Attorney General - Proposed legislative rule pertaining to prevention of unfair or deceptive acts or practices in sale of damaged goods or products. She told the Committee that she had suggested to the Attorney General's office that the penalties provided in the Code be restated in the rule.

Mr. Knight moved that the proposed rule be modified to include the penalty provision and that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Attorney General - Proposed legislative rule pertaining to prevention of unfair or deceptive acts or practices in home improvement and home construction transactions. She stated that the agency had agreed to several nonsubstantive modifications. Deputy Attorney General Thomas Hindes answered questions from the Committee. Mr. Knight moved that the rule be modified to include a reference to the Code section requiring the use of clear and conspicuous language in contracts and to include a restatement of the statutory provision relating to three-day cancellation of door-

to-door contracts and that the proposed rule be approved as modified. The motion was adopted.

Mike Mowery, Counsel, explained that he is not sure of the current posture of the rule proposed by the Department of Labor - Preneed Burial Contract Rule. Mr. Casey asked Mr. Shumate, Commissioner of the Department of Labor, what he intends to do with the proposed rule. Mr. Shumate stated that he feels that the proposed rule are insignificant and would not work as submitted. He expressed the opinion that the legislation needs to be redrafted by the Legislature.

Mr. Knight moved that the Committee recommend that the proposed rule be withdrawn by the Department.

Mr. Mowery explained that the proposed rule requires one bond whereas the statute requires two separate bonds, but that the Commissioner said that any bonding is impossible. Mr. Roger Price, representing W. Va. Funeral Directors' Association and Ms. Jennifer Bailey, an attorney representing several funeral homes, addressed the Committee concerning the proposed rule and answered questions.

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

Mr. Knight moved that the proposed rule be laid over until the Committee's next meeting. Without objection, the proposed rule was laid over.

Mr. Mowery, reviewed the rule proposed by the Department of Energy - Division of Oil and Gas (Series 1, 2 and 3). He stated that he had suggested several minor modifications to the Department and that they had agreed to the modifications. He said that the Department may wish to modify several time periods that are set forth in the proposed rule, pending action by the federal government. John Johnston, Director of the Division of Oil and Gas, spoke on that proposed modification.

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

Ms. Graham explained the rules proposed by the Department of Natural Resources - Hazardous Waste Management Regulation, Series 15 and Hazardous Waste Management Regulations, Series 15 - Passed by the Legislature March 5, 1986 - Re-filed per request of Committee. She stated that both rules track the federal regulations and that she only had a few minor nonsubstantive modifications to suggest.

Ron Shipley, Director, Regulatory Affairs, answered questions from the Committee.

Mr. Schifano moved that the proposed rules be approved as modified. The motion was adopted.

Ms. Graham reviewed the rule proposed by the WV Industrial and Trade Jobs Development Corporation - General Administration of the West Virginia Capital Company Act: Establishment of the application procedures to implement the act. She stated that the agency had agreed to several modifications. Katherine Forbes, Executive Director, WV Industrial and Trade Jobs Development Corporation, answered questions from the Committee. Mr. Boettner stated that testimony had been received at the meeting of the Employment Opportunities and Economic Development Committee requesting that the authorizing statute be amended. He suggested that the proposed rules should be laid over until it is determined whether or not the authorizing statute would be amended.

Mr. Boettner moved that the proposed rule be laid over until the next meeting of the Committee. The motion was adopted.

Ms. Graham reviewed for the Committee the proposed rules still awaiting Committee action. She also explained legislation which she had drafted at the Committee's request which would place review of emergency rules promulgated by the Secretary of State in the office of the Attorney General.

Mr. Williams moved that the proposed bill be approved by the Committee for introduction in each House of the Legislature during the 1987 Regular Session. The motion was adopted. Sponsors for the bill in the Senate are Mr. Boettner and Mr. Tucker and sponsors for the bill in the House are Mr. Knight and Mr. Schifano.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Nov. 17, 1986

TIME: 11:00 A.M.

NAME	Present	Absent	Yeas	Nays
Albright, Joseph P.				
Casey, James M.	✓			
Knight, Thomas A.	✓			
Schifano, Larry E.	✓			
Wiedebusch, Larry				
Shaffer, Charles R.				
Springston, Benjamin	✓			
Tonkovich, President				
Williams, Ralph D.	✓			
Boettner, John "Si"	✓			
Tucker, Larry	✓			
Tomblin, Earl Ray				
Harman, C. N.	✓			
Shaw, Michael				
TOTAL				

RE: _____

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Legislative Role-Making Review

DATE: November 17, 1986

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
W. W. Gillespie	State Capitol	WVa. D. of Agric.	If needed
Ray Buford	Chas WVa.	W. Va. Oil & Natural Gas Assoc.	
Roger K. Price	Chas. Wv.	W. Va. Funeral Directors Assoc.	
Rick O. Hatcher	Sec 5 State		
Ron Shipley	Bldg 3, Room 842	WV. Dept of Natural Resources	if needed.
Maggie Belle	Chas WV	Women's Employment OER	
Tom Klinder	1204 Kan Blvd E	Atty Gen's Off	if needed
Jane Theiling	"	"	"
Jennifer Hill			
Sandra Hill			