

OCTOBER



TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, October 16, 2000
Beginning at 9:30 a.m.
Senate Finance Committee Room, M-451

1. Approval of Minutes - September 11 and 12, 2000.
2. Review of Legislative Rules:
 - a. Division of Motor Vehicles
Denial, Suspension, Revocation or Nonrenewal of Driving Privileges, 91CSR5
 - b. Board of Barbers and Cosmetologists
Continuing Competence, 3CSR8
 - c. Racing Commission
Thoroughbred Racing, 178CSR1
 - d. Tax Commissioner
Valuation of Percentage of Completion of Improvements and Infrastructure Development in a Recorded Plan or Plat, 110CSR4
 - e. Board of Dietitians
Licensure and Renewal Requirements, 31CSR1
 - f. Board of Dietitians
Continuing Professional Education Requirements, 31CSR5
 - g. Tax Commissioner
Bingo, 110CSR16
 - h. Tax Commissioner
Charitable Raffles, 110CSR37
 - i. West Virginia Board of Pharmacy
Rules and Regulations of the Board of Pharmacy for the Uniform Controlled Substances Act, 15CSR2
 - j. Division of Highways
Regulations Relating to Use of State Road Rights of Way and Areas Adjacent Thereto, 157CSR6

- k. **Division of Highways**
Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7
- l. **Division of Highways**
Waste Tire Remediation/Environmental Clean-up, 157CSR8
- m. **Office of Oil and Gas**
Oil and Gas Wells and Other Wells, 35CSR4
- n. **Office of Oil and Gas**
Certification of Gas Wells, 35CSR7
- o. **Division of Natural Resources**
Rules Governing Special Projects and Grants for West Virginia State Parks, State Forests and State Wildlife Management Areas Under the Division of Natural Resources, 58CSR34
- p. **Division of Natural Resources**
Regulations Defining the Terms to be Used Concerning All Hunting and Trapping Regulations, 58CSR46
- q. **Division of Natural Resources**
General Hunting, 58CSR49
- r. **Division of Banking**
Rule Pertaining to the Legal Lending Limit, 106CSR9
- s. **State Board of Registration for Professional Engineers**
Regulations Governing the West Virginia Board of Registration for Professional Engineers, 7CSR1
- t. **Aeronautics Commission**
Matters Pertaining to Aeronautics in the State of West Virginia, 171CSR1
- u. **Division of Labor**
Crane Operator Certification Act, 42CSR24
- v. **Division of Labor**
Crane Operator Certification Act-Practical Examination, 42CSR25
- w. **DEP-Surface Mining**
Surface Mining Reclamation Rule, 38CSR2

- x. **Solid Waste Management Board**
The Development of Commercial Solid Waste Facility Siting Plans, 54CSR4
- y. **Solid Waste Management Board**
Rules for Developing, Updating and Amending Comprehensive Litter and Solid Waste Control Plans, 54CSR3
- z. **Division of Corrections**
Parole Supervision, 90CSR2
- aa. **Division of Corrections**
Electronic Monitoring Offenders, 90CSR8
- bb. **Division of Corrections**
Inmate Grievance Procedures, 90CSR9
- cc. **Department of Culture and History**
Records Preservation Grant Program for Political Subdivisions, 82CSR8

3. **Other Business**

Monday, October 16, 2000

9:30 a.m. - 3 p.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

Ross, Chairman

Hunt, Chairman

Anderson, Vice Chairman

Linch, Vice Chairman

Absent

Minard

Compton

Absent

Snyder

Jenkins

Unger

Fairecloth

Absent

Minear

Riggs

Absent

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

The minutes of the September 11 and 12, 2000, meetings were approved.

Debra Graham, Committee Counsel, reviewed her abstract on the rule proposed by the *Tax Commissioner-Valuation of Percentage of Completion of Improvements and Infrastructure Development in a Recorded Plan or Plat, 110CSR4*, and responded to questions. Jerry Knight, Director of the Property Tax Division, and Chris Ilardi, President of the West Virginia Homebuilders Association, addressed the Committee and responded to questions.

Mr. Knight commented on the modifications proposed by the Tax Commissioner. Mr. Snyder distributed a strike and insert version of the proposed rule.

Mr. Unger moved that Mr. Snyder, the Property Tax Division, the Homebuilders Association and other interested parties meet and reach a compromise between the two versions of the proposed rule. The motion was adopted.

Mr. Unger moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

Mr. Hunt stated that the rule proposed by the *Division of Corrections-Inmate Grievance Procedures, 90CSR9*, has been removed from the agenda.

Rita Pauley, Associate Counsel, explained the rule proposed by the *Division of Corrections, Parole Supervision, 90CSR2*, and stated that the Division has agreed to technical modifications.

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

Ms. Pauley reviewed her abstract on the rule proposed by the *Division of Corrections-Electronic Monitoring of Inmates, 90CSR8*, responded to questions and stated that the Division has agreed to technical modifications.

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

Ms. Pauley explained the rule proposed by the *Division of Highways-Regulations Relating to Use of State Road Rights of Way and Areas Adjacent Thereto, 157CSR6*, responded to questions and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained that the rule proposed by the *State Board of Registration for Professional Engineers-Regulations Governing the West Virginia Board of Registration for Professional Engineers, 7CSR1*, and stated that the Board has agreed to technical modifications. Frank Gaddy, President of the Board, responded to questions from the Committee.

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

Mr. Graham explained that the rule proposed by the *Division of Motor Vehicles-Denial, Suspension, Revocation or Nonrenewal of Driving Privileges, 91CSR5*, had been laid over from the Committee's previous meeting. Adam Holley, Attorney for the Division, responded to questions from the Committee. Joe Miller, Commissioner, addressed the Committee.

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

Ms. Graham explained that the rule proposed by the *Racing Commission-Thoroughbred Racing, 178CSR1*, had been laid over from the Committee's previous meeting. She stated that language from the Statute explaining the qualifications for the West Virginia Accredited Race fund has been added to the proposed rule.

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

Ms. Graham explained that the rule proposed by the *Board of Dietitians-Licensure and Renewal Requirements, 31CSR1*, had been laid over from the Committee's previous meeting.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Board of Dietitians-Continuing Professional Education Requirements, 31CSR5*, and stated that the Board has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the *Tax Commissioner-Bingo, 110CSR16*, responded to questions and stated that the Commission has agreed to technical modifications. John Montgomery, Attorney Supervisor for the Tax Commission, and Gary Griffith, Director of the Criminal Investigation Division, responded to questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Tax Commissioner-Charitable Raffles, 110CSR37*, and stated that the Commission has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the *West Virginia Board of Pharmacy-Rules and Regulations of the Board of Pharmacy for the Uniform Controlled Substances Act, 15CSR2*, and stated that the Board has agreed to technical modifications. She and William Douglas, Director of the Board, responded to questions from the Committee.

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

Ms. Pauley reviewed her abstract on the rule proposed by the *Division of Highways-Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7*.

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

Joseph Altizer, Associate Counsel, explained the rule proposed by the *Division of Highways-Waste Tire Remediation/Environmental Clean-up, 157CSR8*, and stated that the Division has agreed to technical modifications. He, Norman Roush, Deputy Secretary, and Russ Rader, Waste Tire Program Manager, responded to questions from the Committee.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *DEP-Office of Oil and Gas-Oil and Gas Wells and Other Wells, 35CSR4*.

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

Mr. Altizer explained the rule proposed by the *DEP-Office of Oil and Gas-Certification of Gas Wells, 35CSR7*, and stated that the Office has agreed to technical modifications.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Natural Resources-Rules Governing Special Projects and Grants for West Virginia State Parks, State Forests and State Wildlife Management Areas Under the Division of Natural Resources, 58CSR34*,

and stated that the Division has agreed to technical modifications. She and Doug Baker, Business Manager for the Division, responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the *Division of Natural Resources-Regulations Defining the Terms to be Used Concerning All Hunting and Trapping Regulations, 58CSR46*, and stated that the Division has agreed to technical modifications. Bill Daniel, Deputy Chief of the Law Enforcement Division, responded to questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Natural Resources-General Hunting, 58CSR49*, and stated that the Division has agreed to technical modifications. Mr. Daniel and Gordon Robertson, Deputy Chief of Wildlife Resources, responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the *Division of Banking-Rule Pertaining to the Legal Lending Limit, 106CSR9*, and stated that the Division has agreed to technical modifications.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Aeronautics Commission-Matters Pertaining to Aeronautics in the State of West Virginia, 171CSR1*.

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

Ms. Graham explained the rule proposed by the *Division of Labor-Crane Operator Certification Act, 42CSR24*, and stated that the Division has agreed to technical modifications.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Labor-Crane Operator Certification Act-Practical Examination-42CSR25*, and stated that the Division has agreed to technical modifications.

Ms. Minear moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer explained the rule proposed by the *DEP-Office of Surface Mining, 38CSR2*. Charles Sturey, Assistant Chief of the Office of Mining and Reclamation, and Ed Griffith, Environment Resource Specialist Administrator, responded to questions from the Committee. Belinda Shaffer, owner of a surface mining reclamation company, addressed the Committee and responded to questions.

Mr. Minard moved to modify subdivision 12.2.e of the proposed rule by clarifying the difference between passive and preventive water treatment. The motion was adopted.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *Solid Waste Management Board-The Development of Commercial Solid Waste Facility Siting Plans, 54CSR4*. Carol Ann Throckmorton, Chief of Recycling Market Development and Planning, responded to questions from the Committee.

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

Mr. Altizer explained the rule proposed by the *Solid Waste Management Board-Rules for Developing, Updating and Amending Comprehensive Litter and Solid Waste Control Plans, 54CSR3*.

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

Ms. Pauley reviewed her abstract on the rule proposed by the *Division of Culture and History-Records Preservation Grant Program for Political Subdivision, 82CSR8*, and stated that the Division has agreed to technical modifications.

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

The meeting was adjourned.

Snyder

TITLE 110
LEGISLATIVE RULE
STATE TAX DEPARTMENT

SERIES 4
VALUATION OF PERCENTAGE OF COMPLETION OF INFRASTRUCTURE
DEVELOPMENT OF LOTS IN A RECORDED PLAN OR PLAT

§110-4-1. General.

1.1 Scope. - This rule establishes the valuation methodology for lots contained in a recorded plan or plat or in an area designated for proposed land use by a county or municipal planning authority prior to the completion of infrastructure development for lots in a recorded plan or plat.

1.2 Authority. - W.Va. Code § 11-3-1b(b)

1.3 Filing Date. -

1.4 Effective Date. -

§110-4-2. Definitions. When used in this rule and unless the context requires a different meaning, the following terms shall have the meaning ascribed herein

2.1 "Actual use" means the land use of lots within a recorded plan or plat as of the assessment date based upon the percentage of completion of improvements and infrastructure development necessary for the proposed use giving consideration to the factors set forth in W.Va. Code §11-3-1b(b)(1) through (3), which will be part of the basis for valuation for the ensuing tax year.

2.2 "Commercial land" means recorded lots used primarily for commercial purposes exclusive of lots whose actual or proposed use is for residential purposes.

2.3 "Commissioner" or "Tax Commissioner" means the West Virginia State Tax Commissioner, or his or her delegate.

2.4 "Computer assisted mass appraisal system" means utilizing data processing to compare lots and parcels, calculate values and maintain property characteristics to increase efficiency and accuracy in the appraisal process as presently utilized by all county assessors and the commissioner, which is referred to as CAMA.

2.5 "County assessor" means the assessor of any county, or his or her delegate who determines the valuation of all real estate and personal property in his or her county.

2.6 "Improvements and infrastructure development" means improvements made to lots or

a subdivision in a recorded plan or plat which include but is not limited to (1) availability of roads; (2) availability of sewage disposal and drinking water supply including but is not limited to public water and sewage systems, private water systems, water wells, private sewage and septic systems or potential private sewage and septic systems; (3) availability of electrical, telephone and other utility services.

2.7 "Industrial land" means recorded lots used for the production of goods assembling and manufacturing purposes.

2.8 "Neighborhood" means a geographic area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends and housing characteristics.

2.9 "Percentage of completion" is the amount of completed or in-place improvements and infrastructure development made to lots or a subdivision in a recorded plan or plat expressed in terms of a percentage of the total of improvements and infrastructure development and improvements and infrastructure development already available to a lot or subdivision as determined by the county assessor.

2.10 "Plan or plat" means the recorded instrument subdividing real estate into lots or parcels.

2.11 "Proposed land use" means the land use proposed by a subdivider of real estate as approved by a county or municipal planning authority prior to the recording of a plan or plat, or the land use determined by the county assessor in those counties or municipalities without a county and/or municipal planning commission.

2.12 "Residential land" means lots or parcels of a recorded plan or plat whose proposed land use is for the construction of dwellings or places to live.

§110-4-3. Recordation of a Plan or Plat Not To Be Used As Sole Basis For Assessment

3.1 The recordation of a plan or plat, or the designation of proposed land use by a county or municipal planning authority, shall not be used by the county assessor or Tax Commissioner as the sole basis in the valuation or assessment of real property for the purposes of ad valorem taxation except in accordance with the following requirements.

3.1.1. When a lot or parcel within a recorded plan or plat is sold, the county assessor or Tax Commissioner shall revalue the sold lot at market value.

3.1.2. The remaining unsold lots or parcels within a recorded plan or plat may not be revalued by the county assessor or Tax Commissioner based solely on sales of other lots within a recorded plat or plan except in accordance with the following requirements as setforth in §110-4-4.

§110-4-4. Valuation of Remaining Lots

4.1 The county assessor or Tax Commissioner shall value the remaining lots or parcels in

a recorded plan or plat giving primary consideration to lot and parcel sales within the assessment neighborhood other than those within the recorded plan or plat, and convert such value to a value per acre or value per front foot as applicable through the use of the CAMA system.

4.2. The county assessor or Tax Commissioner shall then determine the percentage of completion of improvements and infrastructure development in or already available to the recorded plan or plat as of the July first assessment date.

4.3. The county assessor or Tax Commissioner shall value the remaining lots or parcels by multiplying the per acre value or value per front foot as determined by 4.1 above by the acreage or front footage of each of the remaining lots or parcels in the recorded plan or plat.

4.4. The county assessor or Tax Commissioner shall then reduce the value determined in accordance with 4.3 above by multiplying that value determined for each remaining lot or parcel by the percentage of completion of improvements and infrastructure development in or already available to the recorded plan or plat to determine the market value of each of the remaining lots or parcels in the recorded plan or plat.

4.5. The county assessor shall in no instance value the remaining unsold lots as managed timberland. The classification of recorded lots shall not change from Class III or Class IV to Class II until a development lot or parcel is used and occupied by the owner thereof exclusively for residential purposes.

§110-4-5. Proposed Land Use

5.1. The designation of proposed land use by a county or municipal planning authority may not be used or considered by a county assessor in determining the appraised value of property included under a designation of proposed land use by a county or municipal planning authority until such time as the actual use of the real property has changed to correspond to the proposed use. For purposes of this section the actual use of real property shall be treated as having changed to correspond to the proposed use as improvements on the property necessary for the proposed use are completed: Provided, That in valuing the property before its change to actual use, the assessor may consider (1) availability of improved roads; (2) availability of sewage disposal and drinking water supply, including but not limited to, the use of such factors as availability of public water and sewage systems, private water systems, water wells, private sewage and septic systems or potential private sewage and septic systems; (3) availability of electrical, telephone and other utility services; and (4) percentage of completion of improvements and infrastructure development.

§110-4-6. Administrative Remedy.

6.1. The owner or owners of property assessed under W.Va. Code §11-3-1 et seq., who claims to be aggrieved by the value of real property as derived by this legislative rule may appeal the assessed value to the county commission under authority of W.Va. Code §11-3-24. If the taxpayer claims to be aggrieved by the tax classification of the property, an appeal may be taken under the authority of W.Va. Code §11-3-24a.

§110-4-7. Effective Date. The valuation methodologies contained in this rule shall become effective on all recorded plans or plats that are filed after June 30, 2000. Provisions of this rule will not apply to any plans or plats recorded before July 1, 2000, and in no event shall the appraised value of those lots, parcels or undeveloped land be less than their appraised value as of July 1, 2000.

TITLE 178
LEGISLATIVE RULE
RACING COMMISSION

SERIES ONE
THOROUGHBRED RACING

§178-1-1. General.

1.1. Scope. -- This rule regulates the conduct of thoroughbred racing in this state whether live or by simulcast, the conducting of pari-mutuel wagering at horse race tracks, and the breeding of thoroughbreds for racing.

1.2. Authority. -- W. Va. Code §19-23-6.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal and Replace

§178-1-2. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed in this section.

2.1. "Accredited thoroughbred horse" means a thoroughbred horse that is foaled in West Virginia. ~~or~~

~~— 2.1.1. sired by an accredited West Virginia sire; or~~

~~— 2.1.2. as a yearling, finished twelve (12) consecutive months of verifiable residence in the state, except for a thirty (30) day grace period for the horse to be shipped to and from horse sales outside of this state where the horse is officially entered in the sales catalogue of a recognized thoroughbred sales company.~~

2.2. "Accredited West Virginia Sire" means a sire that is permanently domiciled in West Virginia, stands a full season in West Virginia and is registered with West Virginia thoroughbred breeders association.

2.3. "Act" means the West Virginia Code 19-23-1 et seq. which permits pari-mutuel horse racing and wagering in this jurisdiction.

2.4. "Age" means the age of a horse, which is reckoned as beginning on the first day of January in the year in which it is foaled.

2.5. "Allowance race" means an overnight race for which eligibility and weight to be carried is determined according to specified conditions, which include age, sex, earnings and number of wins.

2.6. "Appeal" means a request for the Racing Commission or its designee to investigate, consider and review any decisions or rulings of the stewards of a meeting.

2.7. "Applicant" means any racing association making application for a license or any person making application for a permit, or any person making application for a construction permit, as the case may be.

2.8. "Arrears" include all moneys due for entrance fees (including jockeys' fees), fines, subscriptions for stakes, purchase money in claiming or selling races and also any default in money incident to the rules.

§178-1-72. West Virginia Thoroughbred Development Fund.

72.1. A copy of The Jockey Club certificate of foal registration shall be attached to the West Virginia bred or sired registration form as a requirement to participate in the West Virginia thoroughbred development fund.

72.1.1. Non-resident owners who are foaling mares in West Virginia and are not breeding back to West Virginia sires shall complete an affidavit to be supplied by the Racing Commission.

72.1.2. All West Virginia bred, sired or raised horses shall be registered with the West Virginia thoroughbred breeders association to be eligible to participate in any phase of the West Virginia thoroughbred development fund.

72.2 To qualify for the West Virginia accredited race fund, the breeders must qualify under one of the following:

72.2.1 The breeder of the West Virginia bred-foal is a West Virginia resident;

72.2.2 The breeder of the West Virginia bred-foal is not a West Virginia resident, but keeps his or her breeding stock in West Virginia year-round, or

72.2.3 The breeder of the West Virginia bred-foal is not a West Virginia resident and does not qualify under (2) above, but either the sire of the West Virginia bred-foal is a West Virginia stallion, or the mare is covered by a West Virginia stallion following the birth of that West Virginia bred-foal.

§178-1-73. Alcohol and Drug Testing.

73.1. No licensee, occupational permit holder or employee of any entity associated with the conduct of racing while on the grounds of a licensed or franchised race track shall have present within his or her system any amount of alcohol which would constitute legal impairment or intoxication.

73.1.1. Acting with reasonable cause, the stewards or a designated Racing Commission representative may direct any licensee, occupational permit holder or employee to submit to a Breathalyzer test. The licensee, occupational permit holder or employee shall, submit to the examination. If the results of the examination show a reading of .05 percent alcohol content or more, the licensee, occupational permit holder or employee may not continue his or her duties for that day. The licensee, occupational permit holder or employee is then subject to fine, or suspension by the stewards or Racing Commission.

73.1.2. For a subsequent violation, the licensee, occupational permit holder or employee may be subject to procedures following positive chemical analysis as listed in schedules I-V of the U.S. Code, Title 21 (Food and Drugs Section 812).

73.2. No licensee, occupational permit holder or employee of any entity associated with the conduct of racing while on the grounds of a licensed or franchised racetrack shall have present within his or her system any controlled substance as listed in schedules I-V of the U.S. Code, Title 21 (Food and Drugs Section 812), or any prescription legend drug unless the prescription legend drug is obtained directly or pursuant to a valid prescription or order from a duly licensed physician who is acting in the course of his or her professional practice.

73.2.1. Acting with reasonable cause, the stewards or a designated Racing Commission representative may direct any licensee, occupational permit holder or employee to deliver a specimen of urine in the presence of a person designated by the Racing Commission or subject himself or herself to the taking of a blood sample or other body fluids by a person designated by the Racing Commission.

not formal complaint is made. They shall not consider a complaint, which comes from any person other than the jockey, trainer or owner of the horse interfered with.

61.2. If a horse is disqualified for a foul under this rule, the stewards may disqualify any other horse in the race owned wholly or in part by the same interest.

61.3. A protest, except a protest involving fraud may be filed only by the owner (or his or her authorized agent) trainer, or jockey of a horse engaged in the race in which the protest is made or by a racing official of the meeting.

61.4. Any person may make a protest involving fraud.

61.5. If a claimed horse has had a posterior digital (heel nerve) neurectomy and has not complied with requirements in Subsection 53.19 of this rule, the claimant has forty-eight (48) hours from the start of the race from which the horse was claimed to file a protest which shall be supported by an affidavit made by a veterinarian holding an occupational permit and the Racing Commission veterinarian.

61.6. A protest, except for an allegation relating to incidents in the running of the race, shall be made in writing, signed by the complainant and filed with the stewards before post time of the race in question.

61.7. To merit consideration, any protest over the status of an alleged maiden horse shall be made in writing, signed by the complainant, and filed with the stewards before the scheduled post time for the race in which the protested maiden horse is scheduled to participate.

61.8. Anyone who protests against a horse engaged in a race and who files with the stewards not less than sixty (60) minutes before post time shall receive immediate consideration. The stewards shall disqualify the horse from starting when there is no proof provided within thirty (30) minutes of post time that the horse is qualified to start.

61.9. To merit consideration, a protest against the scheduled distance of a race shall be made at least thirty (30) minutes before post time for that race. However, nothing in this rule shall affect the rule pertaining to races run at a wrong distance as compared with the official program.

61.10. To merit consideration, a protest against a horse based on an incident in a race shall be made to the stewards before the order of finish of the horses before for that race has been made official. ~~officially confirmed.~~

61.11. If a jockey wishes to protest a happening in a race, he or she must notify the clerk of scales immediately upon his or her arrival at the scales for weighing-in. However, when the Quick Official is being used he or she shall notify the outrider that is equipped with a two-way radio for communication with the stewards, that he or she wishes to claim foul or put a "hold" on the race. The jockey may either claim foul or put the race on hold. The jockey shall then proceed to the clerk of scales and contact the stewards upon dismounting.

61.12. Before the consideration for a protest, the stewards may demand a deposit of twenty-five dollars (\$25.00) to be made with the horsemen's bookkeeper. This deposit shall be applied to the costs and expenses. Any excess shall be refunded unless the protest is found to be frivolous, in which case the deposit may be assessed as a fine or payment toward a part of a fine.

61.13. A person or persons lodging a protest shall pay all costs and expenses incurred in determining the objection. However, if his or her objection is upheld, the offender shall pay the cost.

SPECIAL MEETING

Monday, September 18, 2000

3:00 - 4:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

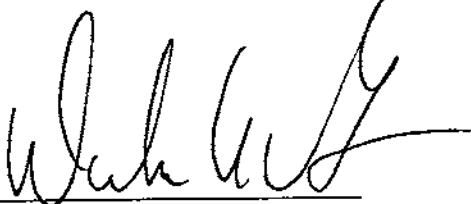
Senate

Ross, Chair	<input checked="" type="checkbox"/>
Anderson, Vice Chair	<input checked="" type="checkbox"/>
Minard	<input checked="" type="checkbox"/>
Snyder	<input checked="" type="checkbox"/>
Unger	<input checked="" type="checkbox"/>
Minear	<input checked="" type="checkbox"/>

House

Hunt, Chair	<input checked="" type="checkbox"/>
Linch, Vice Chair	<input type="checkbox"/>
Compton	<input type="checkbox"/>
Jenkins	<input checked="" type="checkbox"/>
Faircloth	<input type="checkbox"/>
Riggs	<input type="checkbox"/>

I certify that the attendance as noted above
is correct.



Staff Person

Terri Anderson

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making

Date 10-16-2000

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.
<i>Russ Ruder</i>		<i>D.O.H (Waste Toxics)</i>	

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Oct. 16 Meeting

SENATE

HOUSE

The Hon. Earl Ray Tomblin
President
P.O. Box 116
Chapmanville, WV 25508
(O) 855-7217
(R) 855-7168
Room 229M 357-7801

The Hon. Robert S. Kiss
Speaker
Box AU, 343 Prince Street
Beckley, WV 25802
(O) 252-5321
(R) 252-6849
Room 228M 340-3210

The Hon. Michael Ross
Co-Chairman
Box 219
Coalton, WV 26257
(O) 472-4289 (FAX) 472-7405
(R) 636-4398
Room 203W 357-7973

Yes

The Hon. Mark Hunt
Co-Chairman
900 Lee St., Suite 1000
Charleston, WV 25301
(O) 346-8809 (FAX) 345-7601
(R) 346-9561
Room 215E 340-3106

left message
Yes

The Hon. Leonard Anderson
Vice-Chair
Route 87, Box 6
Hinton, WV 25951
(O) 466-1824
(R) 466-2018
Room 202W 357-7959

no answer on 9-28
no answer on 9-29
Yes

The Hon. Larry A. Lynch
Vice-Chair
609 Broadway
Bridgeport, WV 26330
(O) 842-5431
(R) 783-5346
Room 216E 340-3154

left message on 9-28
on 9-29
NO

The Hon. Joseph M. Minard
510 Haymond Highway
Clarksburg, WV 26301
(O) 623-1711
(R) 622-6488
Room 219W 357-7904

left message
Yes

The Hon. Mary Pearl Compton
P.O. Box 23
Union, WV 24983
(R) 772-5786
Room 208E 340-3269

Yes
Called 10-11
said couldn't
be at the
meeting

The Hon. Sarah M. Minear
HC 64, Box 83
Parsons, WV 26287
(R) 478-3838
Room 441M 357-7914

Yes

The Hon. Larry Faircloth
P.O. Box 477
Inwood, WV 25428
(O) 229-3193
(R) 229-3193
Room 224E 340-3275

NO

The Hon. Herb Snyder
P.O. Box 400
Shenandoah Junction, WV 25442
(O) 725-6174
(R) 725-4529
Room 221W 357-7866

left message
Yes

The Hon. Evan Jenkins
125 Ridgewood Road
Huntington, WV 25701
(O) 925-0342
(R) 523-1365
Room 203E 340-3218

left message on 9-28
left message 9-25
left message 10-3

The Honorable John R. Unger, II
P.O. Box 2415
Martinsburg, WV 25402
(O) 263-5488
Room 206W 357-7933

no answer
left message on 9-28
left message on 9-29

Kim Sencindiver
271-4444
274-7788 Pager
Yes

The Hon. Dale Riggs
P.O. Box 502
Buckhannon, WV 26201
(O) 472-5711
(R) 472-3305
Room 226E 340-3172

flowers

October 16, 2000

LRMEC

Tax Commission - Voluntary

Jerry Knight responded to queries Snyder has strike and insert to distribute

I reviewed my abstract & responded to q's

Foot of agenda - wants Snyder, Tax, Homebuilders etc

to meet & try and come up w/ compromise between 2

Decisions

Item:

Chris ~~Smith~~ (?), Pres. of Homebuilders Assn

Corrections

Chairman removed Income Grievance Procedures from

agenda

Corrections - Parale Supervision

Rita explained & responded to questions

Approve as mod

Ross
adopted

Dir. of Car - Electronic Monitoring

Rita explained

Approve as mod

Ross
adopted

Dir. of Highways - Rts of Way

Rita explained & responded to questions

Approve as mod

Ross

Larger
unanimous
consent

Engineers - Rd rules

I explained

Frank Gaddy - responded to q's

Approve as mod

Synthes

DMU - Denial

I explained posture of Q

Adam Kelly, DMU responded to q's

Approve as mod

Joe Miller addressed the Q

Minard
Adopted

Facing

I explained posture

Approve as mod

Ross

Adopted

Bd of Directors - Licenses - Licensur

Explained posture

Approve as mod

Adopted

Bd of Directors - Continuing Ed

I explained

Gar Griffith - responded to q's

Adopted Approve as mod

Joe - Facing

I explained

Ross will Approve as mod

then email
as

Hunt
Adopted

Approved as mod

Joe explained

Oil & Gas - Certification

Hunt
Adopted

Approved

Joe explained

Oil & Gas - Oil & Gas Wells

Approved as mod

Joe explained

Highways - Waste Tire

Ross
Adopted

~~Approved as mod~~

Rita explained

Highways - Transp the waste

Ross
Adopted

Approved as mod

William Douglas, Dir of Bd, responded to questions

I explained & responded to questions

Pharmacy - Controlled Substances

Ross
Adopted

Approved as mod

I explained

Tax - Raffles

Adopted
I explained
Approved as mod

Leban - Crane Operator

Adopted
I explained
Approved

Peronach's Commission

Adopted
I explained
Approved as mod. hrd
Banking - Legal lending

Adopted
Hunt
Approved as mod

Gordon
Daniel responded to q's

I explained
DNR - General Hunting

Adopted
Hunt

I explained
Daniel responded to q's
Approved as mod

DNR - Defining Terms

Adopted
Hunt

I explained & responded to q's
responded to q's
Approved as mod

DNR - Shk Pts

Leboe - Crans, Practical Exam

Adopted

I explained
Approved as mod

DEP - Surface Mining

Minard
Adopted

Joe explained & responded to q's
Charles Sturey[?] responded to q's
Approved as mod
Belinda Shaffer addressed the C
Minard modification -
ed Buffin

Solid Waste Mgt Bd - Solid Waste Facility

Minard
~~Shaffer~~
Adopted

Joe explained
Caroline Throckmorton (?)^{r. BA,} responded to questions
Approve

SWMB - Litter

Adopted

Joe explained
Approve

Culture & History

Unger
Adopted

Rita explained
Approve as mod

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, October 16, 2000
Beginning at 9:30 a.m.
Senate Finance Committee Room, M-451

1. Approval of Minutes - September 11 and 12, 2000.
2. Review of Legislative Rules:

*Approved ✓
as modified*

a.

Division of Motor Vehicles

Denial, Suspension, Revocation or Nonrenewal of Driving Privileges, 91CSR5

b.

Board of Barbers and Cosmetologists

Continuing Competence, 3CSR8

*Approved ✓
as modified*

c.

Racing Commission

Thoroughbred Racing, 178CSR1

*Foot of ✓
the agenda*

d.

Tax Commissioner

Valuation of Percentage of Completion of Improvements and Infrastructure Development in a Recorded Plan or Plat, 110CSR4

*Approved ✓
as modified*

e.

Board of Dietitians

Licensure and Renewal Requirements, 31CSR1

*Approved ✓
as modified*

f.

Board of Dietitians

Continuing Professional Education Requirements, 31CSR5

*Approved ✓
as modified*

g.

Tax Commissioner

Bingo, 110CSR16

*Approved ✓
as modified*

h.

Tax Commissioner

Charitable Raffles, 110CSR37

*Approved ✓
as modified*

i.

West Virginia Board of Pharmacy

Rules and Regulations of the Board of Pharmacy for the Uniform Controlled Substances Act, 15CSR2

*Approved ✓
as modified*

j.

Division of Highways

Regulations Relating to Use of State Road Rights of Way and Areas Adjacent Thereto, 157CSR6

Approved ✓
~~as modified~~

Division of Highways
Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7

Approved ✓
is mod

Division of Highways
Waste Tire Remediation/Environmental Clean-up, 157CSR8

Approved ✓
in.

Office of Oil and Gas
Oil and Gas Wells and Other Wells, 35CSR4

Approved ✓
as modified

Office of Oil and Gas
Certification of Gas Wells, 35CSR7

Approved ✓
as modified

Division of Natural Resources
Rules Governing Special Projects and Grants for West Virginia State Parks, State Forests and State Wildlife Management Areas Under the Division of Natural Resources, 58CSR34

Approved ✓
as modified

Division of Natural Resources
Regulations Defining the Terms to be Used Concerning All Hunting and Trapping Regulations, 58CSR46

Approved ✓
as modified

Division of Natural Resources
General Hunting, 58CSR49

Approved ✓
as modified

Division of Banking
Rule Pertaining to the Legal Lending Limit, 106CSR9

Approved ✓
as modified

State Board of Registration for Professional Engineers
Regulations Governing the West Virginia Board of Registration for Professional Engineers, 7CSR1

Approved ✓

Aeronautics Commission
Matters Pertaining to Aeronautics in the State of West Virginia, 171CSR1

Approved ✓
as modified

Division of Labor
Crane Operator Certification Act, 42CSR24

Approved ✓
as modified

Division of Labor
Crane Operator Certification Act-Practical Examination, 42CSR25

Approved ✓
as modified

DEP-Surface Mining
Surface Mining Reclamation Rule, 38CSR2

Approved
Solid Waste Management Board

The Development of commercial Solid Waste Facility Siting Plans, 54CSR4

Approved
Solid Waste Management Board

Rules for Developing, Updating and Amending Comprehensive Litter and Solid Waste Control Plans, 54CSR3

Approved
25 modified
~~Division of Corrections~~

Parole Supervision, 90CSR2

Approved
as modified
~~Division of Corrections~~

Electronic Monitoring Offenders, 90CSR8

Removed
from agenda
~~bb. Division of Corrections~~

Inmate Grievance Procedures, 90CSR9

Approved as
modified
~~cc. Department of Culture and History~~

Records Preservation Grant Program for Political Subdivisions, 82CSR8

3. Other Business