

NOVEMBER 16

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Sunday, November 16, 2003
6 p.m. to 8 p.m.
Senate Finance Committee Room, M-451

1. **Approval of Minutes - October 21, 2003**
2. **Review of Legislative Rules:**
 - a. **Department of Agriculture**
Frozen Desserts and Imitation Frozen Desserts, 61CSR4B
 - b. **Department of Agriculture**
Dairy Products and Imitation Dairy Products, 61CSR4C
 - c. **Department of Agriculture**
West Virginia Seed Law, 61CSR9
 - d. **State Auditor's Office**
Transaction Fee and Rate Structure, 155CSR4
 - e. **Division of Labor**
Psychophysiological Detection of Deception Examinations, Limitations of Use, Requirements, Licenses and Penalties, 42CSR6
 - f. **State Board of Landscape Architects**
Rule of the Board, 9CSR1
 - g. **Environmental Quality Board**
Requirements Governing Water Quality Standards, 46CSR1
 - h. **DEP-Division of Water Resources**
WV/NPDES Rules for Coal Mining Facilities, 47CSR30
 - i. **DEP-Division of Waste Management**
Solid Waste Management Rule, 33CSR1
 - j. **DEP-Division of Waste Management**
Hazardous Waste Management, 33CSR20

k. **Catastrophic Illness Commission**
*Eligibility Standards for Economic Assistance from the
James "Tiger" Morton Catastrophic Illness Fund, 72CSR1*

3. **Other Business**

Sunday, November 16, 2003

6 p.m. to 8 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
Minard, Vice Chairman
Snyder
Unger
Boley
Minear

Mahan, Chairman
Thompson, Vice Chairman
Cann Absent
Kominar
Armstead
Faircloth Absent

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

The minutes of the October 21, 2003, meetings were approved.

Debra Graham, Committee Counsel, explained that the rule proposed by the *Department of Agriculture-West Virginia Seed Law, 61CSR9*, had been laid over from the Committee's October 21, 2003, meeting. Steve Hannah, Deputy Commissioner of the Department, addressed the Committee, responded to questions and explained modifications proposed by the Department. Bob Williams, Executive Secretary for the West Virginia Farm Bureau, responded to questions from the Committee.

Ms. Mahan moved that the Department's proposed modifications be approved. The motion was adopted.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted. Ms. Minear and Mr. Armstead voted "No".

Ms. Mahan moved that the rule proposed by the *State Auditor's Office-Transaction Fee and Rate Structure, 155CSR4*, be moved to the foot of the agenda. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Labor-Psychophysiological Detection of Deception*

Examinations, Limitations of Use, Requirements, Licenses and Penalties, 42CSR6, and stated that the Division has agreed to technical modifications. Andy Brown, Assistant to the Commissioner of Labor, responded to questions from the Committee.

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

Having voted on the prevailing side, Ms. Mahan moved that the Committee reconsider its action whereby the rule proposed by the *Division of Labor-Psychophysiological Detection of Deception Examinations, Limitations of Use, Requirements, Licenses and Penalties, 42CSR6*, was approved as modified. The motion was adopted.

Ms. Mahan moved that the proposed rule be laid over. The motion was adopted.

Connie Bowling, Associate Counsel, explained that the rule proposed by the *State Board of Landscape Architects-Rule of the Board, 9CSR1*, had been laid over from the Committee's October 21, 2003, meeting. Roger Kennedy, member of the Board, responded to questions from the Committee.

Ms. Boley moved to modify subsections 3.5 and 3.6 of the proposed rule by restoring the 14 day notice of regular and special Board meetings. The motion was adopted.

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

Joseph Altizer, Associate Counsel, reviewed his abstract on the rule proposed by the *DEP-Division of Water Resources-WV/NPDES Rules for Coal Mining Facilities, 47CSR30*, and stated that the Division has agreed to technical modifications.

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

Rita Pauley, Associate Counsel, explained the rule proposed by the *DEP-Division of Waste Management-Solid Waste Management Rule, 33CSR1*, responded to questions and stated that the Division has agreed to technical modifications.

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

Ms. Pauley reviewed her abstract on the rule proposed by the *DEP-Division of Waste Management-Hazardous Waste Management, 33CSR20*, responded to questions and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the *Catastrophic Illness Commission-Eligibility Standards for Economic Assistance from the James "Tiger" Morton Catastrophic Illness Fund, 72CSR1*, and stated that the Commission has agreed to technical modifications. She; John Law, Assistant Secretary of the DHHR; and Regina Hupp, Director of the Commission; responded to questions from the Committee.

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

The meeting was adjourned.

Sunday, November 16, 2003

6:00 - 8:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

Ross, Chair ✓
Minard, Vice Chair ✓
Snyder ✓
Unger ✓
Boley ✓
Minear ✓

House

Mahan, Chair ✓
Thompson, Rick, Vice Chair ✓
Cann
Kominar ✓
Armstead
Faircloth

Minutes approved

DOA - WV Seed Law

I explained
status of
rule.

Steve Hannah responded to concerns expressed at
last months meeting

Bob Williams, Exec Sec WV Farm Bureau

adopted mod reducing fee
adopted Approved as mod

Minear "No"
Armistead ""

Want Hannah to look at feed law.

Foot of
agenda →

Auditor - Transaction Fee

DOL - Lie D

Andy Brown - responded to q's from C.

Mahan Approve as mod
w/draw mot
Laid over

Landscape Architects

Connie explained

Roger ? responded to questions

Minard *adapted* Approved as mod

Botey 14 days instead of 7

DEP - NPDES

Joe explained

Mahan *adapted* Approve as mod

DEP - Solid Waste Mgt

Rita explained

Mahan Approve as mod

DEP - Hazardous Waste Mgt

Rita explained

Kominer Approve as mod

Catastrophic Illness Commission

John Law responded to questions

Jeanie Hett - Dir of C responded to q's

Mahan *Adapted* Approve as mod

NOVEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
November 16, 17 and 18, 2003

Sunday, November 16, 2003

6:00 - 8:00 p.m.

Legislative Rule-Making Review Committee

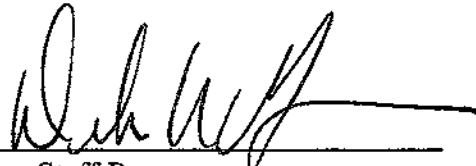
Earl Ray Tomblin, ex
officio nonvoting member _____

Robert S. Kiss, ex
officio nonvoting member _____

Senate
Ross, Chair ✓
Minard, Vice Chair ✓
Snyder ✓
Unger ✓
Boley ✓
Minear ✓

House
Mahan, Chair ✓
Thompson, Rick, Vice Chair ✓
Cann _____
Kominar ✓
Armstead ✓
Faircloth _____

I certify that the attendance as noted above is correct.



Staff Person

Rule-Making Review Committee
Terri Anderson

Please return to Brenda in Room 132-E or Fax to 347-4819.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Sunday, November 16, 2003
6 p.m. to 8 p.m.
Senate Finance Committee Room, M-451

1. Approval of Minutes - October 21, 2003
2. Review of Legislative Rules:
 - a. Department of Agriculture
Frozen Desserts and Imitation Frozen Desserts, 61CSR4B
 - Technical Modifications
 - b. Department of Agriculture
Dairy Products and Imitation Dairy Products, 61CSR4C
 - Technical Modifications

Approved ✓
as modified

- Department of Agriculture
West Virginia Seed Law, 61CSR9
- Laid over from October 21, 2003
 - NO Technical Modifications

Foot of
agenda ✓

- State Auditor's Office
Transaction Fee and Rate Structure, 155CSR4
- Laid over from October 21, 2003
 - NO Technical Modifications

Laid
over ✓

- e. Division of Labor
*Psychophysiological Detection of Deception Examinations,
Limitations of Use, Requirements, Licenses and Penalties,
42CSR6*
- Technical Modifications

Approved ✓
modified

- State Board of Landscape Architects
Rule of the Board, 9CSR1
- Laid over from October 21, 2003
 - Technical Modifications

g. **Environmental Quality Board**
Requirements Governing Water Quality Standards, 46CSR1

- Laid over from October 21, 2003
- NO Technical Modifications

Approved ✓
as modified

h. **DEP-Division of Water Resources**
WV/NPDES Rules for Coal Mining Facilities, 47CSR30

- Technical Modifications

Approved ✓
as modified

i. **DEP-Division of Waste Management**
Solid Waste Management Rule, 33CSR1

- Technical Modifications

j. **DEP-Division of Waste Management**
Hazardous Waste Management, 33CSR20

- Technical Modifications

k. **Catastrophic Illness Commission**
Eligibility Standards for Economic Assistance from the James "Tiger" Morton Catastrophic Illness Fund, 72CSR1

- Technical Modifications

3. **Other Business**

32



State of West Virginia
DEPARTMENT OF AGRICULTURE

Gus R. Douglass, Commissioner

Janet L. Fisher
 Deputy Commissioner

Steve Hannah
 Deputy Commissioner

**Appendix Number 5
 Testing Fees**

	Charges for Germination		Charges for Purity	
	Current	Proposed	Current	Proposed
All vegetables	\$2.25	\$10.00	—	—
Bentgrasses, redtop, bluegrasses, brome grasses, orchard grass, tall oat grass, fescues, rye grasses and all other chaffy grasses	5.00	15.00	6.00	15.00
Alfalfa, clover, millets, rape, sudan grasses, soybeans, sorghums, timothy, vetches, all cereal grains and all other seeds not listed	3.00	10.00	3.00	10.00
Mixtures: Lawn, pasture, etc. *per each ingredient	3.00	15.00	10.00	20.00*
Noxious weed examination	3.50	20.00	---	---
Tree and shrub seed	3.00	20.00	---	---
Flower seed	3.00	20.00	---	---

Proportionate charges will be made for tests and other seed determinations not listed in this Appendix.

**Appendix Number 6
 Registration and Poundage Fees**

	Current	Proposed
(1) Registration of Seedsman	\$2.00	\$125.00 per Seedsman
(2) Packet Display Stamps	\$2.00 each	\$10.00 each
(3) Poundage Fee for Forest and Forage Seeds	\$0.20 per 100 weight	\$0.50 per 100 weight
(4) Poundage Fee for Agriculture Crop Seeds	\$0.10 per 100 weight	\$0.50 per 100 weight
Seed Potatoes	\$0.04 per 100 weight	\$0.35 per 100 weight

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginis Seed Law

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Blvd., East
Charleston, WV 25305

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The West Virginia Department of Agriculture currently administers the seed inspection program.

3. Objectives of These Rules:

Increase the fees to cover the cost of administering the program and be in line with the surrounding states fees.

Rule Title: West Virginia Seed Law

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Increase revenues to cover inspection, sampling and laboratory analysis by an estimated \$71,000.00 per year

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Increase fees per attached sheet

C. Economic Impact on Citizens/Public at Large.

None

Date: _____

Signature of Agency Head or Authorized Representative:

Herma Johnson

From: wmclay@nccw.net
Sent: Monday, November 10, 2003 10:00 AM
To: Herma Johnson
Subject: Proposed Fee Increases / West Virginia Seed Rule

Dear Herma Johnson,

We have received information about fee increases for seed in West Virginia. The current fee of \$ 2.00 seems too small I agree, however the jump to \$ 125.00 is an increase of 62 times the current fee. We have only tobacco seed to sell, and West Virginia makes only a very tiny amount of sales for us due to the limited number of bases in your state.

I suppose we could price the seed at a higher wholesale price to our dealers and greenhouse people there, but then farmers would probably just go over into Kentucky to buy their seeds. I don't think that would benefit West Virginia!

Please consider a fee of \$ 10.00 for Registration of Seedsman or something like that. (\$10.00 is a 500 % increase - that seems like plenty)

Thank you for your time.

I am William David Wilson

Clay's Seed Inc

Carlisle Kentucky

November 5, 2003

Att: Herma Johnson
State of West Virginia Department of Agriculture
State Capitol
1900 Kanawha Blvd., East
Charleston, WV 25305

via email: HJohnson@ag.state.wv.us

Ref: Registration and Poundage Fees

Dear Ms. Johnson:

We would agree that the current registration fee of \$2.00 is too low, the proposed fee increase for the Registration of Seedsman from the current \$2.00 to \$125.00 is excessive. If our math is correct, this is an increase of 6250% which is somewhat over the cost of living, government budget increases, or any other reasonable measure we might compare. In the past 20 years, the retail price of our seed packets has increased from 75 cents to \$1.49 which is only a 100% increase.

We would suggest \$50.00 would be a more reasonable fee for the Registration of Seedsman.

West Virginia is one of the only states requiring Packet Display Stamps. We would suggest that this requirement be done away with entirely. \$25.00 is way too high for the average display. While a display in Home Depot might pay for the stamp, a display in a rural general store would become unprofitable if the \$25.00 was added to the cost of goods sold. This will cause many seed companies to stop shipping displays to these small stores, reducing the number of outlets offering packets to consumers.

Sincerely,

Charles H. Hart,
President

Chuck Dransfield

From: Chuck Dransfield [CDransfield@ag.state.wv.us]
Sent: Thursday, November 06, 2003 8:39 AM
To: 'Jack Lee'
Subject: RE: Proposed Seedsman Increase

Mr. Lee,

Thank you for your response. My boss asked me yesterday if I'd received any correspondence, and I told her that I'd received three phone calls (you included), and asked all three to send written comments, but you are the first.

In all honesty, I think you are being registered as a seedsman inadvertently. Folks in your position only have to register as a seedsman only if the seed company you buy from is not registered, nor refuses to register. That is the way the law reads. Who do you buy from, and I can check to see if you are exempt?

Sincerely,
Chuck Dransfield

-----Original Message-----

From: Jack Lee [mailto:jlee2@citynet.net]
Sent: Wednesday, November 05, 2003 11:03 PM
To: CDransfield@ag.state.wv.us
Subject: Proposed Seedsman Increase

Mr. Dransfield,

I spoke to you on the phone concerning the proposed hike to register as a Seedsman in the state of West Virginia. The Dept. of Agriculture's suggestion that the fee be raised from \$2.00 to \$125.00 and the fee of \$25.00 for Packet Displays is, in my opinion ludicrous and particularly unfair to small businesses in our small state. In our case, our store makes very little profit from selling seeds but it is a service that draws in more customers as a form of advertising. (We donate more of the packet seeds to school children than we sell). As you know, in this world of Super Walmarts (one of West Virginia's biggest employers) the small business has to find ways to diversify and meet customer needs, even if we can't match the prices of the Walmarts of the world. Isn't this the same mindset that has kept West Virginia one of the most overly taxed and under-populated states in the union?

If the hike in Seedsman fees is inflated to such an outrageous amount, we will no longer be carrying seeds and force our customers to find them elsewhere, and therefore shop elsewhere. For example, they may choose stores across the river in Ohio, where the state of Ohio can collect that tax revenue. Do you realize the number of WV Residents that have to cross the Ohio River (or some other state boundary) to find needed items? Believe me, Mason County Citizen's have to shop in Gallia county, Ohio for most of their basic needs (we now have only one grocery store in the City of Point Pleasant). If you want to take your family to a restaurant, purchase clothing, go to a movie, etc., etc., etc., you have to drive across a state line or drive 40+ miles to Huntington, Charleston or Parkersburg. This condition is not just limited to Mason County, but other WV Counties as well.

Please give the small businesses and the citizens' of West Virginia a break. Do something to attract Business, not drive it to other states.

Sincerely, Jackie E. Lee, Owner, Paint Plus, 511 Burdette St., Point Pleasant, WV, 25550, 304-675-4084

11/6/2003

Herma Johnson

From: Crosman Seed Corp [crosman@mindspring.com]
Sent: Thursday, October 30, 2003 3:26 PM
To: HJohnson@ag.state.wv.us; CDransfield@ag.state.wv.us
Subject: Re: Proposed Increased Fees

Dear Herma & Charles:

This is in reply to your resent notice of proposed increases in registration & poundage fees.

We at Crosman Seed Corp have been supplying packet seed to some of your smaller retail stores for over 50 years. If the proposed increases are put into effect, we may be forced to discontinue supplying these stores. We are a small family owned business trying to stay alive supplying other small family owned business (retail) that are trying to compete with the "big boys". With the major increases that you are proposing, the fees would eat up any profits from your state.

Sincerely,

Justine A Mapstone
Crosman Seed Corp.
crosman@mindspring.com
585-586-1928

10/31/2003

Herma Johnson

From: Lance Bentley [Lance@bentleyseeds.com]
Sent: Monday, October 27, 2003 12:30 PM
To: Herma Johnson
Cc: Sherry Galbraith
Subject: Fee increases

Dear Ms. Johnson,

I writing to you regarding the proposed changes to the West Virginia Seed Rule, Title 61, Series 9, and in particular Appendix 6 numbers 1 and 2.

(1) Registration of Seedsman. While it is a substantial jump, I am not necessarily opposed to an increase in the annual fee as \$2.00 must not even cover the paperwork involved.

(2) Packet Display Stamps. I am strongly opposed to the proposed increase to \$25.00 per display and feel that it is excessive. If this fee goes into effect, it would make your State far and away the most expensive for our company to do business in. Quite frankly, if you were to implement this increase, I would have to make a decision as to whether or not I would continue to do business in West Virginia. We are an outright sale packet company and our price per packet varies from five to a little over eight cents per packet, depending on the customer and which assortment they purchase. If I were to absorb the cost at \$25.00 per display, I would lose money on every sale. If I were to try to pass this cost on to the purchaser, they will more than likely not buy a display. A 12 1/2 times increase in the stamp price, in some cases, represents the same amount as the purchase price of the display. It is for these reasons that I am opposed to this action and hope you will reconsider the increase.

Sincerely,

Lance Bentley
President, Bentley Seeds, Inc.

10/27/2003



What You Should Know About Seeds

West Virginia Department of Agriculture

Gus R. Douglass, Commissioner

Vegetable Seeds, in Packages Less Than Eight Ounces

Labels must contain the following information:

- * Kind and variety of seed
- * Seed lot number
- * Calendar year in which the seed was packaged for use
- * Name and address of the person who labeled the seed or who distributes the seed for sale within this state.

A stamp from the Commissioner of Agriculture must be attached to the front of each display unit of packet seeds.

Grass Seed, Agriculture Crop Seed, and Vegetable Seeds in Larger Packages

Labels must contain the following information:

- * Treated seed must be properly identified
- * Commonly accepted name and variety of the seed
- * Lot number or other lot identification
- * Origin of the seed if known
- * Percentage by weight of pure seed of the kind and variety labeled
- * Percentage by weight of other agricultural crop seed
- * Percentage by weight of inert matter
- * Percentage by weight of all weed seeds
- * The name and number of noxious weed seed
- * Percentage of germination exclusive of hard seed and the percentage of hard seed
- * The calendar month and year that the seed was tested
- * Name and address of the person who labeled the seed or who distributes the seed for sale within this state

Labeling requirements have been met if the seed is weighted from a properly labeled bulk container in the presence of the purchaser.

Once the dealer has broken the seal on a container of seed, he or she is fully responsible for its contents, guarantees, germination rate and integrity.

Germination dates are current for **nine, (9)** months following the test date on the label.

Seed Potatoes – Certified Seed Potatoes Only

Labels (Blue Certification Tags) must contain the following information:

- * Name of person or agency certifying the seed potatoes
- * Name of official government agency conducting the certification inspection
- * Name and address or identification number of the grower of the seed potatoes

For further information refer to the West Virginia Seed Law (Chapter 19 Article 16) and to the Legislative Rule (Title 61, Series 9.) Copies may be obtained from:

West Virginia Department of Agriculture
Regulatory Protection Division
1900 Kanawha Blvd., East
Charleston, WV25305
(304) 558-2227
www.state.wv.us/agriculture

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making Review Date 11/16/03
Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.

NOVEMBER 18

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, November 18, 2003
2 p.m. to 4 p.m.
House Finance Committee Room, M-464

1. Review of Legislative Rules:

- a. **Board of Examiners of Land Surveyors**
Rules and Minimum Standards for the Practice of Land Surveying in West Virginia, 23CSR1
- b. **West Virginia Manufactured Housing Construction Safety Standards Board**
West Virginia Manufactured Housing Construction Safety Standards Act, 42CSR19
- c. **Division of Health**
Assisted Living Residences, 64CSR14
- d. **Division of Health**
Statewide Trauma/Emergency Care System, 64CSR27
- e. **Division of Health**
Childhood Lead Screening, 64CSR42
- f. **Division of Health**
Fees for Services, 64CSR51
- g. **Division of Health**
Residential Board and Care Homes, 64CSR65
- h. **Division of Health**
Birth Defects Information System, 64CSR81
- i. **State Fire Marshal**
Fees for Licenses, Permits, Inspections, Plans Review, and Other Services Rendered, 103CSR2
- j. **Racing Commission**
Thoroughbred Racing, 178CSR1
- k. **Racing Commission**
Greyhound Racing, 178CSR2

- l. **Insurance Commissioner**
*Licensing and Conduct of Individual Insurance Producers,
Agencies and Solicitors, 114CSR2*
 - m. **Insurance Commissioner**
Surplus Lines Insurance, 114CSR20
 - n. **Insurance Commissioner**
Accident and Sickness Rate Filing, 114CSR26
 - o. **Insurance Commissioner**
Self-Insurance Pools for Political Subdivisions, 114CSR65
 - p. **Department of Administration**
Parking, 148CSR6
2. **Other Business**

Tuesday, November 18, 2003

2 p.m. to 4 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
Minard, Vice Chairman
Snyder Absent
Unger
Boley Absent
Minear

Mahan, Chairman
Thompson, Vice Chairman
Cann
Kominar
Armstead
Faircloth

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

Debra Graham, Committee Counsel, explained that the rule proposed by the *Division of Labor-Psychophysiological Detection of Deception Examinations, Limitations of Use, Requirements, Licenses and Penalties, 42CSR6*, had been laid over from the Committee's November 16, 2003, meeting.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Department of Agriculture-Dairy Products and Imitation Dairy Products, 61CSR4C*, and stated that the Department has agreed to technical modifications. Steve Hannah, Assistant to the Commissioner of Agriculture, responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the *Department of Agriculture-Frozen Desserts and Imitation Frozen Desserts, 61CSR4B*, and stated that the Department has agreed to technical modifications. Steve Hannah, Assistant to the Commissioner, responded to questions from the Committee.

Ms. Mahan moved to modify subsection 5.3 of the proposed rule by reducing the manufacturer permit fee from \$50 to \$35. The motion was adopted.

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

Daniel Kimble, Associate Counsel, reviewed his abstract on the rule proposed by the *Board of Examiners of Land Surveyors-Rules and Minimum Standards for the Practice of Land Surveying in West Virginia, 23CSR1*. Greg Smith, Chairman of the Board, responded to questions from the Committee.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted. Ms. Minear voted "No".

Ms. Graham explained that the rule proposed by the *West Virginia Manufactured Housing Construction Safety Standards Board-West Virginia Manufactured Housing Construction Safety Standards Act, 42CSR9*, had been laid over from the Committee's October 21, 2003, meeting. Andrew Brown, Assistant to the Commission; Karen Coria, representing the West Virginia Manufactured Housing Association; and Jack Albert, consumer representative of the Board; responded to questions from the Committee.

Mr. Faircloth moved to modify subsection 15.13 of the rule to specify that the monies may only be used for those purposes specified in Section 10 of the Code. The motion was adopted.

Ms. Mahan 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 Health-Assisted Living Residences, 64CSR14*, and stated that the Division has agreed to technical modifications. Rebecca Dunn, representing the Office of Health Facility Licensure and Certification, and Nancy Cartmill, Executive Director of the Assisted Living Association, responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the *Division of Health-Statewide Trauma/Emergency Care System, 64CSR27*, and stated that the Division has agreed to technical modifications. She and Dr. Bill Ramsey, of State Medical Emergency Services, responded to questions from the Committee.

Ms. Mahan 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 Health-Childhood Lead Screening, 64CSR42*, and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the *Division of Health-Fees for Services, 64CSR51*, and stated that the Division has agreed to technical modifications. Ann Spaner, Director of the Public Health Regulatory Division, responded to questions from the Committee.

Ms. Mahan moved to modify the proposed rule be deleting language concerning raising fees according to the consumer price index. The motion was adopted.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted. Mr. Unger voted "No".

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Health-Residential Board and Care Homes, 64CSR65*.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Ms. Graham explained the rule proposed by the *Division of Health-Birth Defects Information System, 64CSR81*, and stated that the Division has agreed to technical modifications. Kathy Cummings, with the Bureau for Public Health, and John Law, Assistant Commissioner of the DHHR, responded to questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the *State Fire Marshal-Fees for Licenses, Permits, Inspections, Plans Review, and Other Services Rendered, 103CSR2*, and stated that the Fire Marshal has agreed to technical modifications. She and Sterling Lewis, State Fire Marshal, responded to questions from the Committee.

Ms. Mahan moved to modify the proposed rule by removing those fees which are not authorized by the statute. The motion was adopted.

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

Mr. Kimble explained the rule proposed by the *Department of Administration-Parking, 148CSR6*, and stated that the Department has agreed to technical modifications. Donna Prunty, Assistant to the Secretary, responded to questions from the Committee.

Ms. Mahan moved that the proposed rule be laid over until the Committee's December meeting. The motion was adopted.

Mr. Kimble reviewed his abstract on the rule proposed by the *Racing Commission-Thoroughbred Racing, 178CSR1*, and stated that the Commission has agreed to technical modifications. Jeffrey Blaydes, Attorney for the Commission, responded to questions from the Committee.

Ms. Mahan moved to modify the proposed rule regarding who may participate in the Jockey's Insurance and Benefits Program as suggested by Counsel. The motion was adopted.

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

Mr. Kimble explained the rule proposed by the *Racing Commission-Greyhound Racing, 178CSR1*.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted. Mr. Armstead voted "No".

Connie Bowling, Associate Counsel, reviewed her abstract on the rule proposed by the *Insurance Commissioner-Licensing and Conduct of Individual Insurance Producers, Agencies and Solicitors, 114CSR2*,

states that the Commission has agreed to technical modifications, and explained modifications proposed by the Insurance Commissioner.

Ms. Mahan moved that the Commission's proposed modifications be approved. The motion was adopted.

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

Ms. Bowling explained the rule proposed by the *Insurance Commissioner-Surplus Lines Insurance, 114CSR20*, and stated that the Commission has agreed to technical modifications.

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

Ms. Bowling reviewed her abstract on the rule proposed by the *Insurance Commissioner-Accident and Sickness Rate Filing, 114CSR26*, and stated that the Commission has agreed to technical modifications.

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

Ms. Bowling explained the rule proposed by the *Insurance Commissioner-Self-Insurance Pools for Political Subdivisions, 114CSR65*. Mary Jane Pickens, General Counsel for the Commission, responded to questions from the Committee.

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

The meeting was adjourned.

NOVEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
November 16, 17 and 18, 2003

Tuesday, November 18, 2003

2:00 - 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	<u>✓</u>
Minard, Vice Chair	<u>✓</u>
Snyder	<u> </u>
Unger	<u>✓</u>
Boley	<u> </u>
Minear	<u>✓</u>

House

Mahan, Chair	<u>✓</u>
Thompson, Rick, Vice Chair	<u>✓</u>
Cann	<u>✓</u>
Kominar	<u>✓</u>
Armstead	<u>✓</u>
Faircloth	<u>✓</u>

I certify that the attendance as noted above is correct.



Staff Person

Rule-Making Review Committee
Terri Anderson

Please return to Brenda in Room 132-E or Fax to 347-4819.

Tuesday, November 18, 2003

2:00 - 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

Minard, Vice Chair

Snyder

Unger

Boley

Minear

House

Mahan, Chair

Thompson, Rick, Vice Chair

Cann

Kominar

Armstead

Faircloth

DOL - Die Detector

I explained pasture of rule.

Approve as mod

Mahan
adopted

Agriculture - Dairy Products

I explained

Steve Hannah responded to questions

Mahan
Approve as mod

adopted

Agriculture - Frozen Desserts

I explained

Mahan
adopted modify fee to \$35

Mahan
Approve as mod

Land Surveyors

~~Rep~~ Dan ~~re~~ reviewed abstract

Greg Smith, Chairman of Bd responded to q's

Unger ~~*~~ Develop Form - Amt from fees, costs of program

Mahan adopted Approve rule ^{justify increases} Mlineas voted "No"

WV Menaf Housing

~~AAA~~ I explained posture of rule

Andy Brown responded to q's

Karen Coria responded to questions

Jack Albert. consumer rep on Bd

Faircloth adopted Modify rule to tie it to section 10.

Mahan adopted Approve as mod

Health - Assisted Living

Rebecca ? responded to q's

Kominar adopted Approve as mod.

Nancy Cartmill Exec Dir of Ass. L.

Health - Trauma Care

Dr Ramsey responded to q's

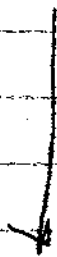
Mahan adopted Approve as mod.

Ann Spenser responded to questions

Health - Fees

Mahan adopted modify remove consumer index

Mahan approve as mod
adopted



Administration - Parking

Laid over

Dan explained
Donna Finley responded to questions

Racing Commission - Thoroughbred

Mahan
adopted

Dan explained
Jeff Blade, Atty responded to questions

Approve mod

Blaydes

Mahan
adopted

Approve as mod

Racing Comm - Greyhound

Mahan

~~Approve~~ Approve

Insurance C 1140SR2

Mahan
adopted

Mod p 3

2 Racing C

~~Mod~~

Fees

~~Atty~~ Armstead

voted "no"

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, November 18, 2003
2 p.m. to 4 p.m.
House Finance Committee Room, M-464

1. Review of Legislative Rules:

Approved

a. Board of Examiners of Land Surveyors
Rules and Minimum Standards for the Practice of Land
Surveying in West Virginia, 23CSR1

- Laid over from October 21, 2003
- NO Technical Modifications

Approved as modified

b. West Virginia Manufactured Housing Construction Safety
Standards Board
West Virginia Manufactured Housing Construction Safety
Standards Act, 42CSR19

- Laid over from October 21, 2003
- Technical Modifications

Approved as modified

c. Division of Health
Assisted Living Residences, 64CSR14

- Technical Modifications

Approved as modified

d. Division of Health
Statewide Trauma/Emergency Care System, 64CSR27

- Technical Modifications

Approved as modified

e. Division of Health
Childhood Lead Screening, 64CSR42

- Technical Modifications

Approved as modified

f. Division of Health
Fees for Services, 64CSR51

- Technical Modifications

Approved ✓

Division of Health
Residential Board and Care Homes, 64CSR65

- NO Technical Modifications

Approved ✓
as modified

Division of Health
Birth Defects Information System, 64CSR81

- Technical Modifications

Approved ✓
as modified

State Fire Marshal
Fees for Licenses, Permits, Inspections, Plans Review, and
Other Services Rendered, 103CSR2

- Technical Modifications

Approved ✓
as modified

Racing Commission
Thoroughbred Racing, 178CSR1

- Technical Modifications

Approved ✓

Racing Commission
Greyhound Racing, 178CSR2

- NO Technical Modifications

Approved ✓
as modified

Insurance Commissioner
Licensing and Conduct of Individual Insurance Producers,
Agencies and Solicitors, 114CSR2

- Technical Modifications

Approved ✓
as mod

Insurance Commissioner
Surplus Lines Insurance, 114CSR20

- Technical Modifications

Approved ✓
as mod

Insurance Commissioner
Accident and Sickness Rate Filing, 114CSR26

- Technical Modifications

Approved ✓

Insurance Commissioner
Self-Insurance Pools for Political Subdivisions, 114CSR65

- NO Technical Modifications

Laid over

Department of Administration
Parking, 148CSR6

- Technical Modifications

2. Other Business

Proposed amendment to 42 CSR 9, section 15.

(This should eliminate Rule Making counsel's objection to this subsection. All of 15.13 is new language, but the bold type is additional and is added for Rule Making's review and satisfaction).

15.13 The Board may utilize the earned interest of the Recovery Fund *in accordance with section ten [WV Code §21-9-10] of this article for special enforcement efforts which are considered necessary to protect the public safety but are not normally contained within the Board's routine enforcement activity. Provided however, the Board may not utilize the earned interest of the Recovery Fund unless the principle balance of the fund is one million (\$1,000,000.00) dollars or more.*