

**Legislative Rule-Making Review Committee****Minutes for Wednesday, August 23, 2017****Senate Judiciary Committee Room****9:00 a.m. to 12:00 p.m.**

## Senate

Maynard, Chair Present

Weld, Vice-Chair Present

Jeffries Present

Karnes

Miller Present

Sypolt Present

Carmichael, Nonvoting

## House

Sobonya, Chair Present

Frich, Vice-Chair Present

Fleischauer Present

Foster, G Present

Hanshaw

Rowe Present

The Legislative Rule-Making Review Committee met in the Senate Judiciary Committee Room at 9:00 a.m. on Wednesday, August 23, 2017. The meeting was called to order by the Chair, Senator Maynard. A silent roll call was taken by the Clerk as reflected above. Staff present included: Jeff Johnson, Senate Counsel; Jennifer Greenlief, Senate Counsel; Noelle Starek, Senate Counsel; Sarah Canterbury Senate Counsel; Brian Casto, House Counsel; Charlie Roskovensky, House Counsel; Arlie Hubbard, House Counsel; Jared Wyrick, Director; James Fuerhoff, House Clerk; Kim Jeffrey, House Clerk; and Mark White, House Clerk.

Delegate Sobonya moved that the following procedural rules be adopted to govern the Legislative Rule-Making Review Committee in its deliberations:

(1) Quorum – A quorum of the committee and any subcommittees created from the committee shall consist of not less than 51% of the members of the Senate and 51% of the members of the House of Delegates. In the absence of a quorum, no procedural or substantive action may be taken by the Committee or by any subcommittee with regard to proposed legislation: Provided, That the absence of a quorum shall not prohibit consideration and discussion of proposed legislation before the committee, or the presentation by interested citizens of their views regarding such proposed legislation. The absence of a quorum shall not prohibit a majority of the members present from directing staff to prepare proposed drafts or to conduct research concerning proposed legislation for presentation at a future meeting of the subcommittee.

(2) Voting – Except as provided in paragraph (1) above, action proposed by the committee or a subcommittee thereof requires a majority vote of the quorum present.

(3) Minutes – Minutes of all meetings of the Committee shall be prepared by staff for approval of the Committee at a subsequent meeting. For his or her convenience in preparing minutes, the responsible

staff person may electronically record the meeting for clerical use. However, once the minutes for a particular meeting have been approved, they shall stand as the sole record of the proceedings.

(4) Applicability of procedural rules of the Senate and House of Delegates – To the extent that they are not inconsistent, the procedural rules of the Senate and House of Delegates shall apply to all meetings of the Committee and to all subcommittee meetings. In the event of an inconsistency between such rules, the Co-Chairs of the Committee or Subcommittee who is chairing the particular meeting shall apply the rule or rules of the house of which he or she is a member.

The motion was adopted.

1. Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **WV DHHR, Hospital Licensure, 64 CSR12**, and responded to questions from committee members.

Delegate Sobonya moved to approve the technical modifications to the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

2. Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **WV DHHR, WV Clearance for Access: Registry and Employment Screening, 69 CSR 10**.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

3. Charley Roskovensky, House Counsel, explained his abstract on the rule proposed by the **WV Board of Veterinary Medicine, Organization and Operation and Licensing of Veterinarians, 26 CSR 1**, and responded to questions from the committee.

Delegate Sobonya moved to approve the modification to the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

4. Charley Roskovensky, House Counsel explained his abstract on the rule proposed by the **WV Board of Veterinary Medicine, Certified Animal Euthanasia Technicians, 26 CSR 5**, and responded to questions from the committee.

With leave of the committee, Patricia Holstein, Director, WV Veterinary Board responded to questions from committee members.

With leave of the committee, Dr. John Wilson, Chairman, WV Veterinary Board responded to questions from committee members.

Delegate Fleischauer moved to lay over consideration of the rule to the September 2017 interim meeting. The motion was adopted.

5. Charlie Roskovensky, House Counsel, explained his abstract on the rule proposed by **the WV Board of Veterinary Medicine, Schedule of Fees, 26 CSR 6**, and responded to questions from the committee and stated that the Board agreed to all modifications.

Delegate Sobonya moved to approve the modification to the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

6. Charlie Roskovensky, House Counsel, explained his abstract on the rule proposed by the **WV Board of Medicine, Continuing Education for Physicians and Podiatrists, 11 CSR 6**, and responded to questions from the committee.

With leave of the committee, Jamie S. Alley, Deputy Director/General Counsel, WV Board of Medicine responded to questions from committee members.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

7. Charlie Roskovensky, explained the provisions of his abstract on the rule proposed by the **WV Board of Optometry, 14 CSR 1**, and responded to questions from the committee.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

8. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Department of Administration, Parking, 148 CSR 6**, and responded to questions from the committee.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

9. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **WV Board of Hearing Aid Dealers, 8 CSR 1**, and responded to questions from the committee.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

10. Jennifer Greenlief, Senate Counsel, explained her abstract on the rule proposed by the **WV Secretary of State, Vote by Mail Pilot Project Phase 2: Voting by Mail Repeal, 153 CSR 39**, and responded to questions from the committee.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

11. Jennifer Greenlief, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Agriculture, West Virginia Apiary Law, 61 CSR 2**. Ms. Greenlief stated that the Department agreed to all technical modifications.

Delegate Sobonya moved to approve the technical modifications to the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

12. Jennifer Greenlief, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Agriculture, Schedule of Charges for Inspection Services: Fruit, 61 CSR 8B**, and responded to questions from the committee. Ms. Greenlief stated that the agency agreed to the modifications.

Delegate Sobonya moved to approve the modifications to the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

13. Jennifer Greenlief, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Agriculture, Inspection of Meat and Poultry, 61 CSR 16**, and responded to questions from the committee. Ms. Greenlief stated that the Department agreed to all technical modifications.

Delegate Sobonya moved to approve the technical modifications to the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

14. Jennifer Greenlief, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Agriculture, Inspection of Nontraditional, Domesticated Animals, 61 CSR 23D**, and responded to questions from the committee. Ms. Greenlief stated that the Department agreed to the modification.

With leave of the committee, Quinton Jones, Assistant Director, WV Department of Agriculture, responded to questions from committee members.

Delegate Sobonya moved to lay over consideration of the rule to the September 2017 interim meeting. The motion was adopted.

15. Noelle Starek, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Natural Resources, Rules Controlling the Public Land Corporations Sale, Lease, Exchange or Transfer of Land or Minerals – Repeal, 58 CSR 2**, and responded to questions from the committee.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

16. Noelle Starek, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Natural Resources, Boating Rule, 58 CSR 25**, and responded to questions from the committee. Ms. Starek stated that the Board agreed to all modifications.

With leave of the committee, Lieutenant Colonel Trader, WV Department of Natural Resources, responded to questions from committee members.

Delegate Sobonya moved consideration of the rule to lay over until the September 2017 interim meeting. The motion was adopted.

17. Noelle Starek, Senate Counsel, explained her abstract on the rule proposed by **WV Department of Natural Resources, Special Requirements Concerning Boating, 58 CSR 28**, and responded to questions from the committee.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

18. Noelle Starek, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Natural Resources, Special Boating Rule for Jennings Randolph Lake, 58 CSR 29.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

19. Sarah Canterbury, Senate Counsel, explained her abstract on the rule proposed by the **WV Lottery Commission, State Lottery Rules, 179 CSR 1**, and responded to questions from the committee. Ms. Canterbury stated that the Commission agreed to all modifications.

With leave of the committee, Danielle Boyd, Counsel, WV Lottery Commission, responded to questions from the committee.

Delegate Sobonya moved to modify the sunset provision of the rule to “10 years”. The motion was adopted.

Delegate Sobonya moved to lay over further consideration of the rule to a later interim meeting. The motion was adopted.

20. Sarah Canterbury, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Taxation, Farm-To-Food Bank Tax Credit, 110 CSR 13DD.**

Delegate Sobonya moved to approve the modifications of the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

21. Sarah Canterbury, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Taxation, Payment of Taxes by Electronic Funds Transfer, 110 CSR 10F.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

22. Sarah Canterbury, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Taxation, Property Transfer Tax, 110 CSR 22.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

23. Sarah Canterbury, Senate Counsel, explained her abstract on the rule proposed by the **WV Department of Taxation, Municipal Sales and Service and Use Tax Administration, 110 CSR 28**, and responded to questions from the committee. Ms. Canterbury stated that the Board agreed to all modifications.

With leave of the committee, Steve Stockton, Counsel and Supervisor, Tax Department Legal Division, responded to questions from committee members.

Delegate Sobonya moved to approve the modifications of the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

24. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **WV DEP, Ambient Air Quality Standards, 45 CSR 8.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

25. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **WV DEP, Standards of Performance for New Stationary Sources, 45 CSR 16.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

26. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **WV DEP, Control of Air Pollution from Combustion of Solid Waste, 45 CSR 18** and responded to questions from the committee. Mr. Casto stated that the Department agreed to technical modifications.

With leave of the committee, Kristen Boggs, General Counsel, WV DEP, responded to questions from committee members.

With leave of the committee, Laura Jennings, Technical Analyst, WV DEP Division of Air Quality, responded to questions from committee members.

Delegate Sobonya moved to approve the modifications of the rule. The motion was adopted.

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.

27. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **WV DEP, Control of Air Pollution from Municipal Solid Waste Landfills, 45 CSR 23** and responded to questions from the committee.

With leave of the committee, Kristen Boggs, General Counsel, WV DEP, responded to questions from committee members.

With leave of the committee, Laura Jennings, Technical Analyst, WV DEP Division of Air Quality, responded to questions from committee members.

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

28. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities, 45 CSR 25.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

29. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **Emission Standards for Hazardous Air Pollutants, 45 CSR 34.**

Delegate Sobonya moved to approve the rule as filed. The motion was adopted.

Senator Maynard introduced and welcomed new members to the committee.

Delegate Sobonya moved to adjourn. The motion was adopted.