

Legislative Rule-Making Review Committee

Minutes for Friday, December 1, 2017

Senate Judiciary Committee Room

9:00 a.m. to 5:00 p.m.

Senate

Maynard, Chair Present

Weld, Vice-Chair Present

Baldwin Present

Jeffries Present

Karnes Present

Sypolt Present

Carmichael, Nonvoting

House

Sobonya, Chair Present

Frich, Vice-Chair Present

Fleischauer Present

Foster, G Present

Hanshaw Present

Rowe Present

The Legislative Rule-Making Review Committee met in the Senate Judiciary Committee Room at 9:00 a.m. on Friday, December 1, 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; Mark McOwen, House Counsel; Arlie Hubbard, House Counsel; Marsha Kauffman, House Counsel; Brian Casto, House Counsel; Jared Wyrick, Director; and James Fuerhoff, House Clerk.

Delegate Sobonya moved to adopt the minutes from the previous minutes. The motion was adopted.

1. Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **Department of Health and Human Resources, Collection and Exchange of Data Related to Overdoses, 69 CSR 14**, and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

With leave of the committee, Dr. Rahul Gupta, Commissioner & State Health Officer, Bureau of Public Health addressed the committee and responded to questions.

Delegate Sobonya moved to adopt the agency agreed to modifications. 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 **Department of Health and Human Resources, Pilot Program for Drug Screening of Applicants for Cash Assistance, 78 CSR 26**, and responded to questions from committee members.

With leave of the committee, Jeremiah Samples, Deputy Secretary, Department of Health and Human Resources, addressed the committee and responded to questions.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

3. Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **Department of Health and Human Resources, Informal and Relative Family Child Care Home Registration Requirements, 78 CSR 20**. The agency agreed to all counsel suggested modifications.

Delegate Sobonya moved the committee adopt the agency agreed to modifications. The motion was adopted.

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

4. Marsha Kauffman, House Counsel, explained her abstract on the rule proposed by the **Division of Labor, Registration of Weighing and Measuring Devices Used by Business in Commercial Transactions, 42 CSR 36**, and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

With leave of the committee, Tory Brewer, Director of Weights and Measures, Division of Labor, addressed the committee and responded to questions.

With leave of the committee, Elizabeth Farber, Assistant Attorney General for the Division of Labor, addressed the committee and responded to questions.

With leave of the committee, Mitchell Woodrum, Commissioner of Labor, addressed the committee and responded to questions.

Senator Karnes moved to amend the rule to give the Commissioner of Labor authority to contract with private inspectors.

Unanimous consent being granted, Senator Karnes withdrew his motion.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

(Delegate Frich, Senators Maynard, Karnes, and Sypolt requested to be recorded as a “no” vote on the motion to approve the rule as modified.)

Unanimous consent being granted, Delegate Rowe briefly addressed the committee.

5. Mark McOwen, House Counsel, explained his abstract on the rule proposed by the **Lottery Commission, State Lottery Rules, 179 CSR 1**, and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

With leave of the committee, Danielle Boyd, General Counsel, Lottery Commission, addressed the committee and responded to questions.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

6. Mark McOwen, House Counsel, explained his abstract on the rule proposed by the **Racing Commission, Thoroughbred Racing, 178 CSR 1**, and responded to questions from the committee.

With leave of the committee, Joe Moore, Executive Director, Racing Commission, addressed the committee and responded to questions.

Delegate Foster moved to amend the proposed rule by reinstating the current fee structure. The motion was adopted.

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

7. Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **Department of Health and Human Resources, Emergency Medical Services, 64 CSR 48**, and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

8. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Division of Highways, Disposal, Lease and Management of Real Property and Appurtenant Structures and Relocation Assistance, 157 CSR 2**, and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

With leave of the committee, Eric Hudnall, Division Director, Division of Highways, Right of Way Division, addressed the committee and responded to questions.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

9. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Department of Administration, State Owned Vehicles, 148 CSR 3** and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

10. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Board of Psychologists, Fees, 17 CSR 1**, and responded to questions from the committee.

With leave of the committee, Kathy Lynch, Administrative Assistant, Board of Psychologists, addressed the committee and responded to questions.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

11. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Board of Psychologists, Requirements for Licensure as a Psychologist and/or a School Psychologist, 17 CSR 3**, and responded to questions from the committee. The agency agreed to all counsel suggested modifications.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

12. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Board of Psychologists, Code of Ethics, 17 CSR 6**, and responded to questions from the committee.

With leave of the committee, Sandra Stroebel, National School of Psychologists' Representative, West Virginia School Psychologists Association, addressed the committee and responded to questions.

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

13. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Real Estate Appraiser Licensing and Certification Board, Requirements for Licensure and Certification, 190 CSR 2**.

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

14. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Real Estate Commission, Licensing Real Estate Brokers, Associate Brokers and Salespersons and the Conduct of Brokerage Business, 174 CSR 1**, and responded to questions from the committee. The agency has agreed to all counsel suggested modifications.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

15. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Real Estate Commission, Schedule of Fees, 174 CSR 2**, and responded to questions from the committee.

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

16. Arlie Hubbard, House Counsel, explained his abstract on the rule proposed by the **Real Estate Commission, Requirements for Real Estate Courses, Course Providers and Instructors 174 CSR 3**, and responded to questions from the committee. The agency has agreed to all counsel suggested modifications.

With leave of the committee, Debra Hamilton, Assistant Attorney General to Real Estate Commission, addressed the committee and responded to questions.

With leave of the committee, Nedka Dineva, Education Director, Real Estate Commission, addressed the committee and responded to questions.

Delegate Foster moved to amend 3.9. by striking the period in the last sentence and adding, "or the individual is an out-of-state instructor who a) is approved by the National Association of Realtors (NAR) or b) holds a current Distinguished Real Estate Instructor (DREI) designation."

With leave of the committee, Ray Joseph, Chief Executive Officer, West Virginia Association of Realtors, addressed the committee and responded to questions.

With leave of the committee, Jerry Forren, Executive Director, Real Estate Commission, addressed the committee and responded to questions.

The question was put, and Delegate Foster's motion was adopted.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

17. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **Department of Environmental Protection, Division of Mining and Reclamation, West Virginia Surface Mining Reclamation Rule, 38 CSR 2**, and responded to questions from the committee. The agency has agreed to all counsel suggested modifications.

With leave of the committee, Charles Sturey, Deputy Assistant Chief, Division of Mining and Reclamation, Department of Environmental Protection, addressed the committee and responded to questions.

With leave of the committee, Jason Bostic, Vice President, West Virginia Coal Association, addressed the committee and responded to questions.

With leave of the committee, Kristen Boggs, General Counsel, Department of Environmental Protection, addressed the committee and responded to questions.

Delegate Sobonya moved to adopt the agency agreed to modifications. The motion was adopted.

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

18. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **Department of Environmental Protection, Secretary's Office, Voluntary Remediation and Redevelopment Rule, 60 CSR 3**, and responded to questions from the committee.

With leave of the committee, Kristen Boggs, General Counsel, Department of Environmental Protection, addressed the committee and responded to questions.

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

19. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **Department of Environmental Protection, Division of Water and Waste Management, Underground Storage Tanks, 33 CSR 30**, and responded to questions from the committee.

With leave of the committee, Kristen Boggs, General Counsel, Department of Environmental Protection, addressed the committee and responded to questions.

Delegate Foster moved to amend the proposed rule by striking section 7.1. in its entirety. The agency agreed to the change as a modification.

Delegate Sobonya moved to adopt the agency agreed to modification. The motion was adopted.

(Delegate Rowe requested to be recorded as a "no" vote.)

Delegate Sobonya moved to approve the rule as modified. The motion was adopted.
(Delegate Rowe requested to be recorded as a "no" vote.)

20. Brian Casto, House Counsel, explained his abstract on the rule proposed by the **Department of Environmental Protection, Division of Water and Waste Management, Hazardous Waste Management System, 33 CSR 20**.

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

With no further business to come before the committee, Delegate Sobonya moved to adjourn.
The motion was adopted.