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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4840
(304) 347-4919 FAX

email: tanders@mail.wvnet.edu

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

October 16, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Andrew Brown
Labor, Division of
Capitol Complex
Building 6, Room 709

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Crane Operator Certification Act-Practical Examination, 42CSR25**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.

- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.

- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.

- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Labor

Subject: Crane Operator Certification Act-Practical Examination,
42CSR25

PERTINENT DATES

Filed for public comment: July 25, 2000
Public comment period ended: August 26, 2000
Filed following public comment period: September 1, 2000
Filed LRMRC: September 1, 2000
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule is new. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 relates to application and enforcement. It states that the rules are enforced by the West Virginia Division of Labor.

Section 3 defines terms.

Section 4 adopts the American National Standards Institute code B30 and B30.5 by reference.

Section 5 relates to the practical examination. By September 1, 2001, it requires an applicant for a class A certification to hold a certification issued by the National Commission for the Certification of Crane Operators and requires an applicant for a class B certification to pass the examination required by the rule, unless he or she is exempt by statute. This section adopts the practical examination required by the NCCCO as the state practical

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examination required for class B certifications. This section also sets forth three basic categories and four primary tasks to be included in the examination.

Section 6 relates to examiners. It authorizes the Commissioner to approve and designate examiners to administer the practical examination required for class B certification. It allows an approved examiner to charge fees authorized by the Commissioner. It requires the Division to maintain a list of approved examiners.

AUTHORITY

Statutory authority: W.Va. Code, §21-3D-3, which provides, in part, as follows:

The commissioner shall:

(a) Propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, no later than the first day of July, two thousand...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.