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OCT 18 8 47 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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October 16, 2000

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

TO: Ken Hechler, Secretary of State, State Register

TO: John Montgomery
State Tax Commission
P.O. Box 1005
Charleston, WV 25324

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Bingo, 110CSR16**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Tax Commissioner

Subject: Bingo, 110CSR16

PERTINENT DATES

Filed for public comment: July 24, 2000

Public comment period ended: August 23, 2000

Filed following public comment period: August 31, 2000

Filed LRMRC: August 31, 2000

Filed as emergency:

Fiscal Impact: None

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ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 2 defines terms. Definitions for the following terms have been added: "Employee", "Immediate Family Member", "Material Violation", "Meaningfully Associated with the Licensee", "Member", "Non-membership Organization" or "Organization That Is Not a Bona Fide Membership Organization", "Residents of this State Meaningfully Associated with a Licensee", "Supporters", and "Volunteers".

Section 31 relating to additional remedies for the Tax Commissioner is new. It sets forth the statutory remedies available to the Commissioner. It also sets forth criteria for the imposition of civil money penalties.

AUTHORITY

Statutory authority: W.Va. Code, §47-20-23, which provides, in part, as follows:

...(e) The commissioner shall promulgate reasonable rules and regulations necessary to the administration of this article...

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?

Yes. The limits on prizes awarded set forth in Section 11 of the proposed rule are less than those set forth in W.Va. Code §§47-20-6A and 47-20-10. Also, the number of operators allowed in Section 12a of the proposed rule are less than those allowed in W.Va. Code §47-20-12A(b).

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.