

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF LABOR
CHAPTER 21-5A
SERIES VII

Title: Wages for Construction of Public Improvements

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Title 42

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF LABOR
CHAPTER 21-5A-c
SERIES VIIe 7

Title: Rules and Regulations for the West Virginia Prevailing Wage Act.

Section 1. General

1.1 Scope - Every contract to which the State of West Virginia, or any political subdivision thereof, or any authority created by the Legislature of the State of West Virginia, including any officer, board or commission or agency of the State of West Virginia, is a party, for construction, re-construction, demolition, improvement, enlargement, painting, decoration, alteration and/or repair work (other than temporary or emergency repairs) which requires or involves the employment by any contractor or sub-contractor of laborers, mechanics, skilled and semi-skilled laborers and apprentices, in the performances of services directly upon the public work project must include in its specifications a provisions stating the Fair Minimum Wage Rates as determined by the Commissioner of Labor, which shall be paid for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed.

Every person paid by a contractor or a sub-contractor in the manner prescribed by Law under Chapter 21, Article 5 of the Code of West Virginia, for his labor in the construction, re-construction, demolition, alteration and/or repair work (other than temporary or emergency repairs) done under a bona fide Rehabilitation Program or a bona fide Manpower Training Program is "employed" and "receiving wages".

Work performed under a bona fide rehabilitation program arranged by and at a State institution primarily for teaching and upgrading the skills and employment opportunities of the inmates of such institutions is not to be considered public work performed by a public body as defined in the Act and these regulations.

1.2 Authority - The following legislative rules and regulations are promulgated pursuant to the provisions of Article 5A, Chapter 21 of the Code of West Virginia, "Wages for Construction of Public Improvements" in order to provide for proper administrative and enforcement of the provisions of the Act.

1.3 Filing Date - December 31, 1982

1.4 Effective Date - December 31, 1982

Section 2. Definitions

2.1. Where the word "The Act" is used herein, it means the West Virginia Wages for Construction of Public Improvements Act or Fair Minimum Wage Act passed March 11, 1961, and made effective ninety days from passage.

2.2 The term "Commissioner" means the Commissioner of Labor or his duly authorized representatives.

2.3 The term "Department" means the West Virginia Department of Labor.

2.4 The term "Maintenance Work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased.

2.5 The term "Public Body" or "Public Authority" means any officer, board or commission or other agency of the State of West Virginia, or any political subdivision thereof, or any authority created by the Legislature of West Virginia.

2.6 The term "Public Work" means construction, re-construction, demolition, improvement, enlargement, painting, decoration, alteration and/or repair work whole or in part out of the funds of a public body, but shall not include work performed under a bona fide Rehabilitation Program or a bona fide Manpower Training Program.

2.7 The term "apprentice" means a person employed and working under a bona fide apprenticeship program, directly related to the particular craft involved in the construction industry. Apprentices will be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program, registered with and approved by the Bureau of Apprenticeship Training, United States Department of Labor.

2.8 The term "bona fide" means that program which is made in good faith without interest of deceit. Rehabilitation Programs are those under the jurisdiction of the Division of Vocational Rehabilitation of the Department of Education and Manpower. Training programs are those certified by the Department of Employment Security to the Division of Vocational Education, Department of Education.

2.9 The term "emergency" means an unforeseen combination of circumstances which calls for immediate action, and is synonymous with crisis, pinch, strait and necessity.

2.10 The term "temporary" means lasting for a time only; existing or continuing for a limited time, not permanent.

2.11 The term "locality" means any political subdivision, or combination of the same, with the county in which the construction is to be performed, except that if there is not available in the county of sufficient number of competent skilled laborers, workmen and mechanics to perform such construction work efficiently and properly, and may include one or more counties in this State adjacent to the one on which the construction is to be performed and from which such skilled laborers, workmen and mechanics may be obtained in sufficient numbers to perform the construction.

2.14 The term "craft" means those special skills and trades which are recognized by custom and usage in the building and construction industry.

2.15 The term "classification" means those specific categories of jobs which are performed within a "craft" such as a laborer who can be classified as a blacksmith, pipelayer, mucker-chucker, etc.

2.16 The term "Prevailing Wages", "Wage Rates", "Minimum Wage Rates" and "Fair Minimum Wage Rates" shall mean those rates as determined by the Commissioner, as payable in the locality in which the public work is to be performed, for the respective crafts and classifications, and shall include "Fringe Benefits" as required by the Act.

2.17 The term "Fringe Benefits" shall mean those benefits granted by an employer that involves a money cost without affecting basic wage rates which includes compensation for holidays and fair minimum overtime.

2.18 The term "Collective Bargaining Agreement" means the agreement or agreements negotiated between the historically established and recognized bargaining representatives for the employers and of the workmen for the particular crafts or classifications involved providing for applicable wage rates, hours of work, working conditions and contributions for employee benefits as defined in subsection 2.17 of this section.

2.19 The term "Authorized Deduction" means those deductions which are authorized by Section 3, Article 5, Chapter 21 of the Code of West Virginia.

2.20 The term "holdback pay" means the wages earned during the days between the end of the pay period and payday.

2.21 The term "non-wilful violations" shall mean the result of an honest misinterpretation, a valid dispute as to the meaning or application, or a mere erroneous preparation of the payroll document -- all not attributable to wilful negligence.

Section 3. Required Provisions To Be Contained In All Advertised Specifications And Contracts For Public Work

3.1 The specifications for every contract for any public work as defined herein shall contain at least the following conditions, provisions and requirements:

(a) The Fair Minimum Wage Rates as shall have been determined by the Commissioner of Labor which must be paid to the workmen employed in the performance of the contract.

The contract shall specifically provide that the contractor and/or sub-contractor or sub-contractors shall pay no less than the wage rates as determined in the

(b) The contract shall contain the stipulation that such workmen shall be paid no less than such prevailing wage rates and such other provisions to assure payment thereof as heretofore set forth in this section.

(c) The contract provisions shall apply to all work performed on the contract by the contractor and/or subcontractor or subcontractors.

(d) The contractor shall insert in each of his subcontract or subcontracts all of the stipulations contained in these required provisions and such other stipulations as may be required.

(e) The contract shall provide that no workmen may be employed on the public work except in accordance with the classifications set forth in the decision of the Commissioner. In the event that additional of different classifications are necessary, the procedure set forth in Section 10 of these regulations shall be followed.

(f) The contract shall provide that all workmen employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists of the nature of any contractual relationship which may be alleged to exist between any contractor, subcontractor(s) and either directly or indirectly, except authorized deductions, the full amounts due, less hold back pay of no more than three days, computed at the rates applicable to the time worked in the appropriate classification.

Nothing in the contract, the Act or these regulations shall prohibit the payment of more than the Fair Minimum Wage Rates as determined by the Commissioner to any workman on public work.

(g) The contract shall provide that the contractor and each subcontractor shall post for the entire period of construction the wage determination decisions of the Commissioner in a prominent and easily accessible place or places at the site of the work. The posted notice of wage rates must contain the following information:

- (1) Name of project.
- (2) Name of public authority for which it is being constructed.
- (3) The crafts and classifications of workmen listed in the Commissioner's Fair Minimum Wage Rate Determination for the particular locality.
- (4) The Fair Minimum Wage Rates determined for each craft and classification.
- (5) A statement advising workmen that if they have been paid less than the fair minimum wage rate for their job classification or that the contractor and/or subcontractor or subcontractors are not complying with the Act or these regulations in any manner whatsoever may recover from such contractor and/or subcontractor(s) the difference between the same and the posted Fair Minimum Wage Rate of Wages, and in addition thereto a penalty equal in amount to such difference,

and a reasonable Attorney's fee. The limitation to such civil action by the workman is a period of three years and venue of such action shall be in the county where the work is performed.

(h) The contract shall provide that the contractor and each subcontractor shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including fringe benefits) to each workman employed by him in connection with the public work and such record must include any deductions from each workman. The record shall be preserved for a period of at least three years after termination of the contract, and shall be open at all reasonable hours to the inspector of the Commissioner and the public authority which let the contract, its officers and agents.

(i) The contract shall provide that apprentices will be permitted to work only when they are registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of apprentices to journeymen in any craft and/or classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program or the recognized ratio of the joint apprenticeship council having jurisdiction in the trade area, whichever is less. An employee listed on the payroll at an apprentice wage rate, who is not registered as above stated, shall be paid the Fair Minimum Wage Rate determined by the Commissioner for the classification of the work actually performed. Further, the contractor and/or subcontractor or subcontractors, will be required to furnish to the Commissioner written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates, for the locality, prior to using any apprentices on the public work.

(j) Wages shall be paid without any deductions except authorized deductions.

(k) Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, unless such piece rate method, at the time of payment of the resultant wages, is computed on an hourly basis and are not less than the Fair Minimum Wage Rate determined to be prevailing.

(l) The contract shall also provide that the contractor and each subcontractor shall file a statement at the request of the Commissioner and a final statement at the conclusion of the work on the contract with the Commissioner, under oath, certifying that all workmen have been paid wages in strict conformity with the provisions as prescribed by this Section 3 of these regulations, or if any wages remain unpaid to set forth the amount of wages due and owing each workman respectively.

(m) No person, for himself or another, shall not request, demand or receive, either before or after workmen are employed in construction on a public improvement, that they or anyone of them pay over money or other things of value

or pay back, return, donate, contribute or give any part or all of their wage, or thing of value, to any person, upon the statement, representation or understanding that failure to comply with such request or demand will prevent them or any one of them from procuring or retaining employment, and any person who directly or indirectly aids, request or authorizes any other person to violate any of the provisions of this sub-section (m) shall be guilty of a misdemeanor and fined not less than fifty dollars and not more than two hundred fifty dollars.

(n) Certain crafts traditionally have used laborers or helpers for journeymen training and it is recognized that this is the practice in certain geographic and craft trade areas. The use of laborers or helpers where apprentices' wages are determined is not authorized and constitutes a violation. In geographic areas where such laborers or helpers are recognized sub-classifications to crafts, they will be included in the pre-determined schedule of Fair Minimum Wage Rates.

(o) The provisions of the Act and these regulations may be incorporated by reference in the contract, except that the schedule of fair minimum wages shall be attached to and made a part of the specifications and contract.

Section 4. Duty Of The Public Authority

4.1 Any public authority authorized to let to contract the construction of a public improvement, shall before advertising for bids for construction thereof, the Fair Minimum rates of wages to be paid by the successful bidder to the workmen in the various categories, branches or classes of the construction to be performed; and such schedule of wages shall be attached to and made a part of the specifications for the construction and shall be printed on the bidding blanks.

4.2 The public authority shall submit a certified statement to the Commissioner when the contract is awarded to the effect that wage schedules had been attached to specifications and bidding blanks and made a part of the contract. The certification shall also include a statement of the cost, the name of the contractor, the starting date of the project and estimated time for completion.

4.3 The final payment to the contractor shall be withheld until such time as the public authority, who is charged with the disbursement of the funds has ascertained and so certified to the Commissioner that the wage rates as determined by the Commissioner are paid. Further, final payment shall be withheld if the Commissioner notifies public authority that the contractor is in violation of the Act or these regulations.

Section 5. Prevailing Wage Established At Regular Intervals -- How Determined -- Hearings On Objections -- Judicial Review

5.1 The Department of Labor, from time to time, shall investigate and determine the prevailing hourly rate of wages in the localities in this State. Determinations thereof shall be made annually on January one of each year and shall remain in effect during the successive year: Provided, however, that such rates shall not remain in effect for a period longer than fifteen months from the date they are published.

In determining such prevailing wage rates, the Department of Labor may ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and such rates as are paid generally within the locality of this State where the construction of the public work is to be performed.

5.2 A copy of the determination so made shall be filed with the Secretary of State under the provisions of this Act and Chapter 29A, (State Administrative Procedures) of the Code of West Virginia. Copies shall be supplied to all persons requesting same within ten days after such filing or as provided for in Chapter 29A of the Code of West Virginia.

5.3 At any time within fifteen days, after such filing, any affected person may object, in writing, to the determination by filing such written notice with the Commissioner stating specific grounds of the objection.

5.4 Within ten days of the receipt of such objection, the Commissioner shall set a date for a hearing and that date shall be within thirty days after receipt of the objection by written notice as to the time and place for said hearing, and such notice shall be at least ten days prior to the date set so as to enable the objector to be present.

5.5 Within ten days of the conclusion of such hearing the Commissioner shall rule and make a decision based upon evidence presented. Such decision shall be filed with the Secretary of State and a copy to all parties by personal service or registered mail. ✓

5.6 Any person affected may appeal the aforementioned decision to the Minimum Wage Rate Board within ten days after such filing. The Board shall hear the appeal within twenty days in Charleston and shall render its decision within ten days after the conclusion of the hearing.

5.7 Any party affected by the proceedings in sub-section 5.6 may, within thirty days, appeal the Board's decision to the Circuit Court of the County wherever the project is to be performed. The decision of such Circuit Court may be appealed to the Supreme Court of West Virginia by any person affected thereby in the manner provided by Law for appeals in civil action.

5.8 This sub-section will illustrate the proceedings set forth in Sub-section 5.1 through 5.8.

(a) The Commissioner files the determined wage rates on January 1. If

Department of Labor
Leg. Rule, 21-5A
Series VII, Sec. 5

by January 16 (within 15 days) an affected party protests or objects, then the Commissioner by January 26 (within 10 days) sets a date for the hearing. This hearing cannot be set for a date later than February 5 (10 days prior to hearing date).

(b) If the hearing is concluded on February 15, a decision must be rendered by February 25 (within 10 days) and certified as provided.

(c) Any person affected may appeal the Minimum Wage Rate Board no later than March 7 (within 10 days) and the Board shall hear the appeal by March 27 (within 20 days) and the Board shall render a decision by April 6 (within 10 days).

(d) Any person affected by the Board's decision may appeal to the Circuit Court of the county wherein the project is contemplated at a date no later than May 6 (within 30 days) and the Circuit Court's decision may be appealed to the Supreme Court of Appeals of West Virginia in the manner provided by Law for appeals in civil action.

5.9 To further simplify this procedure, the following table should be studied:

January 1 - Wage rates are determined
January 16 - Objection (within 15 days)
January 26 - Commissioner sets hearing date (within 10 days)
February 5 - Objector notified (10 days prior to hearing)
February 15 - Hearing (within 30 days after objection)
March 7 - Appeal to Minimum Wage Rate Board (within 10 days)
March 27 - Hearing by Board (within 20 days)
April 6 - Decision by Board (within 10 days)
May 6 - Objector's Appeal to Circuit Court (within 30 days)
Further appeal as provided by Law.

EXPLANATION: Maximum periods are used to illustrate and this does not mean that an objection cannot be made on January 1, (the same date on which rates were filed,) and a hearing set on the same day, (if the objectors agree that they can be present), and the Commissioner can render a decision on the same day.

5.10 Pending the decision on appeal, the rates for the proceeding year shall remain in effect.

Section 6. Posting Of Wage Rates

6.1 The contractors and sub-contractor(s) on the public work project shall post, in a prominent and easily accessible place, a clearly legible statement of all fair minimum rates to be paid the several classes of workmen employed on the public improvement.

Section 7. Records And Inspection

7.1 The contractor and each sub-contractor or the officer of the public authority in charge of the construction of a public improvement shall keep an accurate record.

There is no mandatory format, however, all payrolls must contain the following information:

- (a) The employee's full name, address and social security number; (This is necessary on the first payroll on which his name appears; therefore, only his name, unless a change of name or address.);
- (b) The employee's classification;
- (c) The employee's hourly wage rate, and where applicable, his overtime hourly wage rate;
- (d) The daily and weekly hours worked in each classification, including actual overtime hours worked (not adjusted);
- (e) The itemized deductions made;
- (f) The net wages paid;

(1) If space on the payroll form is limited, supplemental data may be recorded, if it is easily accessible to the payroll form.

(2) Appropriate codes are permissible to replace classification names on payrolls, provided a key to such code is submitted to the Commissioner for retention in his files.

(3) All records pertaining to the Public Improvement Project shall be preserved for a period of no less than three years.

Section 8. Penalties For Violation Of Act

8.1 Any contractor or subcontractor who wilfully and knowingly violates

any provision of the Act or these regulations shall be fined not less than fifty dollars nor more than two hundred fifty dollars.

8.2 Any workmen, on the public improvement, who is paid less than the posted fair minimum rate of wages, may recover from his employer the difference between the same and the posted rate, plus a penalty equal in amount to such difference, and a reasonable Attorney's fee or fees. The venue of such action shall be in the county where the work is performed.

8.3 It shall be unlawful for any person, for himself or another, to request, demand, or receive, either before or after workmen are employed on a public work project, that they (workmen) pay back, return, donate, contribute or give any part or all of their wages, or thing of value to any person, upon the statement, representation or understanding that failure to comply with such request or demand will prevent them or any one of them from procuring or retaining employment; and any person who directly or indirectly aids, requests, or authorizes such a violation shall also be guilty of a misdemeanor and fined not less than fifty dollars nor more than two hundred fifty dollars.

Section 9. Severability

9.1 Each section and sub-section of the Act and these regulations is hereby declared to be an independent section or sub-section, and if any section, subsection, sentence, clause or phrase of the Act or these regulations shall for any reason be held unconstitutional, the validity of the remaining phrases, clauses, sentences, sub-sections and sections shall not be affected thereby.

Section 10. Amendments Or Regulations

10.1 Any person wishing a revision of any of the terms of the regulations in this part with respect to classifications or any other pertinent facts, may submit to the Commissioner, a written petition setting forth the changes desired and the reasons for proposing them.

10.2 The Commissioner, upon inspection of the petition, and believing that the grounds are reasonable, may schedule a hearing with due notice to interested persons, or make other provisions for affording interested persons an opportunity to present data, views and arguments relating to any proposed changes.

Section 11. Adopted Definitions

11.1 Definitions have been adopted as follows:

(a) Highway Construction - Highway construction work is defined as all work ordinarily included in highway construction projects. It includes highway tunnels, and bridges, highway and street grading, paving and drainage, culverts, manholes, water and other utility pipelines (when included in the contract),

sidewalks (when included in the contract), retaining walls, underpasses and overpasses (when included in a highway contract), highway viaducts, clover-leaf structures, curbs and sidewalks, seeding and landscaping, clearing (when included in the contract), guard rails and fences, and including the erection, dismantling, operation maintenance, and repair of all equipment, vehicles and other facilities used in connection with or serving the aforementioned work.

(b) Heavy Construction - Heavy construction and Railroad construction is defined as construction, substantially in its entirety, any fixed structures, improvement or modification thereof, addition or repair thereto, including any structure or operation which is an incidental part of a contract thereof (not including Building or Highway Construction), including without limitation, railroad and street railway construction projects, sewers and water mains, retaining walls, viaducts, drainage projects, flood control projects, reclamation projects, airports, athletic fields, reservoirs, water supply projects, water power developments, hydroelectric developments, transmission lines, duct lines, pipe lines, locks, dams, dikes, levees, revetments, channels, channel cutoffs, intakes, dredging projects, jetties, breakwaters, docks, harbors, roads, bridges, parking lots, sidewalks, building construction sites, industrial plant sites, sewage disposal and water treatment plants, excavation and disposal of earth and rock, including the assembly, operation, maintenance and repair of all equipment, vehicles and other facilities used in connection with or servicing the aforementioned works and services.

(c) Building Construction - Building trades rates and conditions shall apply to any building which may be required in the construction, renovation, or demolition of any of the work included where such buildings are customarily constructed under building trades conditions.

Section 12. Coverage Of Specific Classes Of Work

12.1 Coverage of specific classes of work is defined as follows:

(a) Exploratory Drilling:

(1) Where the drilling was for the purpose of obtaining core borings to be used in engineering studies and planning the work, "Works" refers to improvements, such as buildings, canals or roads, rather than to refer to progress or activity. Consequently, mere digging would not appear to be within the term, because it relates to an activity as distinguished from a product or improvement.

(2) Where the soil samples are taken prior to or during construction for the construction contractor for the purpose of setting foundations, the Commissioner of Labor has held that contracts for such work are considered covered by the Prevailing Wage Law if they may be fairly characterized as being directly related and incidental to or an integral part of the actual construction process.

(b) Incidental Crafts:

(1) Watchman: Watchmen, where their work is nonmanual in nature or where they are acting purely in administrative capacities, are not "laborers and mechanics" within the contemplation of the Prevailing Wage Law. However, the mere fact that an employee is called a guard, watchman or security policeman does not necessarily mean he is not a laborer. If he actually performs physical or manual work in addition to or in connection with his guarding activities, it may well be that he should properly be classified as a laborer or mechanic for such hours during which he performs laborer's or mechanic's duties. For example, where the duties of a watchman require him to wet down concrete walls and unload materials, the watchman is considered a laborer since performing these acts is a laborer's work.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

TO: Andy Brown
AGENCY: Department of Labor
FROM: JUDY COOPER, DIRECTOR ADMINISTRATIVE LAW DIVISION
DATE: November 20, 1990

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 7 TITLE WV Prevailing Wage Act

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Sherry B. Heary
TITLE OF PERSON SIGNING: Director, Wage & Hour
DATE: 12-3-90

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

THIS RULE IS AN OLDER RULE THAT YOU MAY HAVE ALREADY PROOFED. AS YOU PROBABLY KNOW WE HAVE SWITCHED COMPUTER SYSTEMS FROM ISSD TO THE LEGISLATIVE COMPUTER SYSTEM. WE ARE TRYING TO VERIFY THAT THE LATEST CHANGES WERE TRANSFERRED CORRECTLY. THANK YOU FOR YOUR COOPERATION.

Judy

SENATE BILL NO. 380

(By Mr. R. Williams

[Introduced March 6, 1985

referred to the Committee on Labor; then to the Committee

on the Judiciary

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-one (five)(five-c), relating to authorizing the department of labor to promulgate legislative rules for the purpose of regulating polygraph examinations.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-one (five)(five-c), to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-21(5)(5c). Department of labor.

The legislative rules filed in the state register on the second day of February, one thousand nine hundred

1 eighty-four relating to the department of labor (polygraph
2 examinations) are authorized.

3

4 NOTE: The purpose of this bill is to authorize the
5 department of labor to promulgate legislative rules relating
6 to polygraph examinations.

7 This section is new; therefore, strike-throughs and
8 underscoring have been omitted.

1369

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H. B. 1629

(By Delegate Casey)

(Introduced March 6, 1985; referred to the

Committee on the Judiciary)

10 A BILL to amend article two, chapter sixty-four of the code
11 of West Virginia, one thousand nine hundred thirty-one,
12 as amended, by adding thereto a new section, designated
13 section twenty-one (five)(five-c), relating to
14 authorizing the department of labor to promulgate
15 legislative rules for the purpose of regulating
16 polygraph examinations.

17 Be it enacted by the Legislature of West Virginia:

18 That article two, chapter sixty-four of the code of West
19 Virginia, one thousand nine hundred thirty-one, as amended,
20 be amended by adding thereto a new section, designated
21 section twenty-one (five)(five-c), to read as follows:

22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
23 LEGISLATIVE RULES.

24 §64-2-21(5)(5c). Department of labor.

25 The legislative rules filed in the state register on the
26 second day of February, one thousand nine hundred

1629

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5 department of labor to promulgate legislative rules relating
6 to polygraph examinations.

7 This section is new; therefore, strike-throughs and
8 underscoring have been omitted.



WEST VIRGINIA LEGISLATURE
CHARLESTON 25305

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 8-8-84
Administrative Law Division

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

August 6, 1984

TO: A. James Manchin, Secretary of State; State Register
And

TO: Lawrence Barker, Commissioner,
Department of Labor

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Polygraph Examinations, Limitations of
Use, Requirements, Licenses and Penalties
Chapter 21-5; Series VII

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

- 1. Authorize the agency to promulgate the Legislative Rule X
- 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. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the state register and with the agency proposing the rule.



STATE OF WEST VIRGINIA
THE DEPARTMENT OF LABOR
CHARLESTON 25305

JOHN D. ROCKEFELLER IV
GOVERNOR

February 2, 1984

The Honorable A. James Manchin
Secretary of State
The Capitol
Charleston, West Virginia 25305

Re: West Virginia Code §21-5-5A, B, C and D

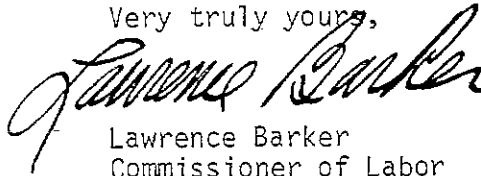
Dear Mr. Manchin:

Enclosed herewith are three copies of the final filing of the following:

1. State Register Filing
2. Findings and Determinations
3. Administrative Regulations adopted by the West Virginia Department of Labor
4. Fiscal Note pursuant to §29A-3-7(c) of the Code

Please stamp and return one copy of each of these items to Lawrence Barker, Commissioner, West Virginia Department of Labor.

Very truly yours,


Lawrence Barker
Commissioner of Labor

LB/dp

Enclosures

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE *Feb. 2, 1984*
Administrative Law Division