



FILED

DEC 13 2 18 PM '99

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
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Teri Anderson, Administrative Assistant

December 12, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: John Musgrave
Lottery Commission
P.O. Box 2067
Charleston, WV 25327

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **State Lottery Rules, 179CSRI**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.



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December 12, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: John Melton
Lottery Commission
P.O. Box 2067
Charleston, WV 25327

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **State Lottery Rules, 179CSR1**

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 rule be withdrawn; a statement of reasons for such recommendation is attached. _____

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia State Lottery

Subject: State Lottery Rules, 179CSR1

OFFICE OF THE ATTORNEY GENERAL
STATE OF WEST VIRGINIA
JUL 19 2 01 PM '99

PERTINENT DATES

Filed for public comment: May 12, 1999
Public comment period ended: June 11, 1999
Filed following public comment period: July 30, 1999
Filed LRMRC: July 30, 1999
Filed as emergency:

Fiscal Impact: None

ABSTRACT

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

Section 4 relates to licensing.

Subsection 4.3 relating to disqualification and grounds for refusal of a license has been amended to require new applicants for licenses to furnish fingerprints for a national criminal records check by the Criminal Identification Bureau of the State Police and the FBI. It also states that the Lottery may require applicants for renewal to furnish fingerprints.

Section 7 relates to payment of prizes. It has been amended to require that claims be entered in the name of a natural person as opposed to a corporation. It has also been amended to provide for the transfer of remaining lottery annuity prize payments in accordance with W.Va. Code 46A-6G-1 et seq, which allows a person receiving a certain kind of structured payment to sell that income stream at a discount. Finally, it has been amended to allow the Lottery to offset any debt due it from a lottery sales agent or retailer, if the agent or retailer is the winner of a lottery prize.

AUTHORITY

Statutory authority: W.Va. Code, §§29-25-5, 29-22-9 and 29-22-10 which provide, in part, as follows:

§29-22-5.

(a) The commission shall have the authority to:

(1) Promulgate rules in accordance with chapter twenty-nine-a of this code: **Provided,** That those rules promulgated by the commission that are necessary to begin the lottery games selected shall be exempted from the provisions of chapter twenty-nine-a of this code in order that the selected games may commence as soon as possible...

§29-22-9.

...(b) The commission shall promulgate rules and regulations specifying the types of lottery games to be conducted by the lottery...

§29-22-10.

...(a) The commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, for the licensing of lottery sales agents for the sale and dispensing of lottery tickets, materials and lottery games, and the operations of electronic computer terminals...

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 PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.