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OCT 18 8 45 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: Cordie Hudkins
Natural Resources, Division of
Capitol Complex
Building 3, Room 713
FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Rules Governing Special Projects and Grants for WV State Parks, State Forests and State Wildlife Management Areas Under the DNR, 58CSR34**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Natural Resources

Subject: Rules Governing Special Projects and Grants for West Virginia State Parks, State Forests and State Wildlife Management Areas Under the Division of Natural Resources, 58CSR34

PERTINENT DATES

Filed for public comment: July 13, 2000
Public comment period ended: August 17, 2000
Filed following public comment period: August 30, 2000
Filed LRMRC: August 30, 2000
Filed as emergency:

Fiscal Impact: None

OFFICE OF THE REGISTER
GENERAL COUNSEL OF STATE

SEP 25 10 29 AM '00

FILED

ABSTRACT

The proposed rule is new. It moves two sections, in their entirety, from the Division of Natural Resources rule, Rules Governing Public Use of West Virginia State Parks, State Forests and State Wildlife Management Areas Under the Division of Natural Resources, 58CSR31.

Subsection 2.1 allows state park and forest or other public land area foundations to apply for and be awarded 50% matching grants of up to \$7,500 per project as part of an "adopt a state park or forest program" for maintenance or improvement projects approved by the chief of parks and recreation.

Subsection 2.2 sets forth provisions regarding the free use of a picnic shelter or cabin by an individual or a group who donated the materials and labor for the construction of the picnic shelter or cabin.

AUTHORITY

Statutory authority: W.Va. Code, §§20-1A-7 and 20-5-2, which provide, in part, as follows:

§20-1A-7

The commissioner of the department of commerce shall establish an "adopt a state park or forest program" to encourage and coordinate the efforts of volunteers to help maintain and improve state parks, forests, or other public lands within the state.

The commissioner shall establish a matching grant program to assist such volunteer efforts by legislative rule pursuant to chapter twenty-nine-a of this code.

§20-5-2

...The director shall propose a legislative rule for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code governing the free use of picnic shelters or cabins provided for in this section, the eligibility for free use, the determination of the value of the donations of labor and materials, the appropriate definitions of a group and the maximum time limit for the use...

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.