

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Division of Personnel TITLE NUMBER: 143

CITE AUTHORITY WV Code, Chapter 29, Article 6

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: I

TITLE OF RULE BEING AMENDED: Administrative Rules and Regulations of
the West Virginia Civil Service System

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Michael T. Smith
Michael T. Smith, Director of Personnel



State of West Virginia
Department of Tax and Revenue

GASTON CAPERTON
GOVERNOR

Charleston 25305

FILED

1989 MAY 16 AM 10:39

OFFICE OF SECRETARY OF STATE
CHARLES O. LORENSEN
SECRETARY

December 15, 1989

Perry P. Dotson
Division of Personnel
Building 6, Room B456
State Capitol Complex
Charleston, West Virginia 25305

Re: Comment: Administrative Rules and
Regulations of the West Virginia Civil
Service System

Dear Mr. Dotson:

In response to your public notice, I make the following
comments relative to the above-referenced rules and
regulations:

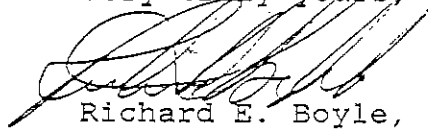
1. Please define "mid-point" as it is used in the context of "mid-point of the salary range" in Reg. § 6.04(b). This definition is necessary in that the steps within pay grades number TWELVE. Technically speaking, there is no mid-point. I have spoken with employees of the Division of Personnel who have advised me that they define mid-point to mean step six. My suggestion is that you eliminate confusion by simply defining the term.
2. With regard to § 13.07 reinstatements, since the Division of Personnel is construing reinstatements to be restricted in the same manner as original appointments, the language contained in § 6.04 ought to be cross-referenced to § 13.07. This will avoid confusion as to whether

REC 19 MAY 15

what restrictions apply to
reinstatements.

If you have any questions with regard to these comments,
feel free to contact me at 348-5330.

Very truly yours,



Richard E. Boyle, Jr., Director
Legal Division

ts

pc: John Melton, Assistant Secretary
Department of Tax and Revenue

DEC 20 1989 12:52

GASTON CAPERTON
GOVERNORStephen E. Shride
Administrator

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305MEMORANDUM

TO: Perry P. Dotson, Acting Director, WV Division of Personnel

FROM: Stephen E. Shride, Administrator *SS*

DATE: December 19, 1989

SUBJ: Administrative Rules and Regulations of the West Virginia Civil Service System

After a review of the proposed amended Rules, I would like to make the following recommendations:

Section 3. Definitions

Shift Differential: The payment of a different rate of pay for hours worked in an approved class during prescribed evening and night shifts, to include twenty-four (24) hours possible on weekends.

Section 6. Compensation Plan and Salary Regulations

(f) Exceptionally Meritorious Services-In cases of an employee's exceptionally meritorious services or to correct demonstrated inequities in salary, salary advancements of more than one step in the range or at intervals of less than the regularly prescribed period are permitted. However, no employee shall receive salary advancements of more than two steps, including advancements for exceptionally meritorious service, in any twelve (12) month period.

We feel that these items need to be addressed in the Division's rules and regulations.

WELCH EMERGENCY HOSPITAL

454 MCCOWELL STREET

WELCH, WEST VIRGINIA 24801

TELEPHONE (304) 436-8461

DEC-20-89 WED 13:50 WELCH EMERGENCY HOSP. P. 02

December 20, 1989

Acting Director, Division of Personnel
Members, State Personnel Board

Gentlemen:

A review of the proposed revisions to the Administrative Rules and Regulations of the West Virginia Civil Service System indicates, that at this time, the changes made were primarily to accommodate the language used in H.B. 2665 regarding official titles, Boards, etc.

More substantive changes will come as the new Division of Personnel becomes more established and priorities are ascertained.

I would, however, like to make the Board aware of the significance (and still inclusion in the Rules and Regulations) of Section 4.06. By allowing this section to remain unchanged except for one word (see attached), even for a short period of time, may convey to agencies a message that there will still be an agency personnel "officer". To allude to this is a message that requests for classification changes, promotions, etc. into personnel related positions would be approved.

For these reasons, it is recommended that Section 4.06 be deleted until the parameters of personnel administration in each agency are better defined.

Sincerely,



June Sydenstricker

DEC 20 PM 4:37

4.06. Agency Personnel Liaison-Each state agency shall designate a staff employee to serve as Personnel Liaison. It shall be his responsibility, with such assistance as may be necessary, to assure compliance with the classification and compensation plans as established by the Board; to maintain personnel records of all persons employed in the agency, and records of all personnel actions; to notify the director as far in advance as possible of vacancies which may occur in the agency; and to perform such other duties as are prescribed in this rule and as the appointing authority may direct.

Section 4. Organization (Cont'd)

6. To make available to the public information about vacancies in the classified service and to strive constantly to attract to the career service of this state people of the highest ability.

7. To investigate from time to time the operation and effect of this law and of the rules made thereunder and to report his findings and recommendations to the Commission and to the Governor.

8. To make an annual report regarding the work of the department, and such special reports as he may consider desirable, to the Commission.

9. To prepare the annual budget for the department of personnel and when approved by the Commission, submit it to the director of the budget.

10. To perform any other lawful acts which he may consider necessary or desirable to carry out the purposes and provisions of this law.

11. To furnish copies of the minutes of all regular meetings of the Commission to each participating agency.

(d) In the event of the absence of the Director or his inability from any cause to discharge the powers and duties of his office, the Commission may from time to time designate in writing an employee of the department to act for him. In such case, the powers and duties of the Director shall devolve upon such employee designated by the Commission.

(e) The Director may designate appropriate persons, including officers and employees in the state service, to assist in the preparation and rating of tests. An appointing authority shall excuse any employee in his division from his regular duties for the time required for his work as an examiner. Such officers and employees shall not be entitled to extra pay for further service as examiners but shall be entitled to reimbursement for necessary traveling and other expenses.

4.05. Agency Personnel Officer-Each state agency shall designate a staff employee to serve as Personnel Officer. It shall be his responsibility, with such assistance as may be necessary, to assure compliance with the classification and compensation plans as established by the Commission; to maintain personnel records of all persons employed in the agency; and records of all personnel actions; to notify the director as far in advance as possible of vacancies which may occur in the agency; and to perform such other duties as are prescribed in this rule and as the appointing authority may direct.



Gaston Caperton
Governor

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STATE PERSONNEL BOARD
John A. Canfield, Chairman
Rev. Paul J. Gilmer, Member
Thomas P. Maroney, Member
Roger Morgan, Member

M E M O R A N D U M

December 20, 1989

TO: Alma Legg, Secretary
State Personnel Board

FROM: Perry P. Dotson *PPD*
Acting Director of Personnel

SUBJECT: Rule Changes

I have attached a copy of some additional rule changes with the old language and the new language underlined in Section 10.03 and 11.01. Please put this in with other comments from hearing.

Thank you.

PPD:ss

Attachment

10.03. Provisional Appointments

(b) A period of provisional appointment ~~may~~ will apply toward completion of the probationary period ~~only~~ for that part served continuously, in the same class, and immediately prior to an original appointment/ unless the appointing authority notifies the Director of Personnel in writing at the time of the action that the provisional time does not count. Employees not covered by Section 10.02 of this Article and all appointments made without register subsequent to the effective date of this rule but prior to the holding of examinations shall be regarded as provisional appointments.

11.01. Nature, Purpose and Duration

(b) All original appointments to permanent positions shall be made from officially promulgated registers for a probationary period of not more than one year. The ~~Commission,~~ State Personnel Board after consultation with the Advisory Board, shall fix the length of the probationary period for each class of position. The appointing authority shall notify the Director of Personnel when a probationary period has been completed and permanent status has been granted. The provision shall not be construed to prohibit application of time served in a provisional status to completion of a probationary period. However, it shall be the responsibility of the appointing authority to state in writing at the time ~~permanent status is being granted~~ of the original appointment that such time served in a provisional status has not been applied toward completion of a probationary period. Permanent appointment of a probationary employee shall begin with the date ending the probationary period.

PUBLIC HEARING
December 20, 1989
House of Delegates Chambers
State Capitol Building
Charleston, West Virginia
2:30 p.m.

SUBJECT: Revision to the Pay Plan for Classified Employees and Amendment to the Administrative Rules and Regulations of the Division of Personnel

MR. CANFIELD: Public Hearing is being conducted by the Division of Personnel by the Board of the Division of Personnel and the purposes for the hearing are to consider matters relating to House Bill 2665 which generally reorganized the Civil Service System into the Division of Personnel. With Senate Bill 2 in which there were some references to bumping rights, as well as establishing the Division of Personnel as a unit of the Department of Administration. House Bill 2672 allowing governmental employees who are injured on the job to be paid sick leave or temporary total disability benefits but not both. And Senate Bill 251 relating to unpaid family leave. I would like to observe at the beginning that there maybe a bit of confusion about the timing for the meeting, the notice that the Secretary of State sent out said 2:00 o'clock and the notice the department sent out said 2:30 p.m. Even though they were for different topics, so we will stay beyond the 2:30 p.m. mark so if anyone comes late they can testify but we did want to accord to you the opportunity of testifying now and not having to wait. I would request that all those attending the Public Hearing please sign their names with Ms. Legg at the back of the House Chamber before leaving, so we have a record of the attendance. The board will welcome any written or oral comments. So far I have indications that there's two persons wishing to speak and rather than be so formal and go into the standing at the podium, Mr. Church, if you would care to begin, we would be happy to have your comments and you may sit at the other end of the table so we might record your comments.

MR. CHURCH: Let the other person go first.

MR. CANFIELD: You sound like the legislature. You yield to Dr. Rosenberg from the Kanawha County Public Health Department, I believe. Waiting comments by Dr. Donald M. Rosenberg from the West Virginia Public Health Association, 108 Lee Street, Charleston.

DR. ROSENBERG: Good afternoon, I am Dr. Donald M. Rosenberg, M.D., Medical Director of the Kanawha Charleston Health Department, and Kanawha County Health Officer. I am addressing this board however, in my capacity as Vice-President of the Local Health Administrator section of the West Virginia Public Health Association. We thank you for the opportunity to share these thoughts with the board. The revision to the pay plan for classified employees as set forth in the November 29, 1989, Memorandum to All Department Heads, Subject: SALARY INCREASE GUIDELINES is appreciated by all classified personnel. There are however, some problems with the document. To begin with, there are still two separate Schedules of Salary Grades for Local Boards of Health, and for other state employees. Within these schedules, there are several major inequities. State Division of Personnel Employees (formerly referred to as Civil Service) are paid an additional

2% as compared to those salaries shown in the schedule for Local Health Department Employees. This discrepancy is across the board for all pay grades and steps within the pay grades. This would appear to violate equal pay for equal work provisions of the wage and hour laws. In addition, when one applies the formula used to determine the salary increase as shown in the memorandum that is multiplying the December 31, 1989, monthly salary by 1.05 and then rounding to the next higher whole dollar, we end up with, as an example, an individual in pay grade 3 step 6B going to step 7B receiving a 3.98% pay increase, while an individual in pay grade 25 step 6B going to step 7B receiving a pay raise of 4.72% now that's on the Local Boards of Health schedule. When this same formula was applied to the new State Employees schedule of pay, at pay grade 3 step 6B going to step 7B, the employee receives a 3.69% pay increase while the employee in pay grade 25, step 6B going to step 7B receives a 4.70% pay raise. Further, State Employees after 3 years on the job receive an annual Increment Payment of \$36.00 for each year they have worked for the State, up to a maximum of \$720 upon completion of their 20th year in State Employment. This increment payment is not available to Local Boards of Health Employees. In summary, the Local Health Administrator Section of The West Virginia Public Health Association respectfully requests that consideration be given to eliminating the separate and unequal Local Boards of Health Pay Schedule, and that one pay schedule for all eligible state employees be used. Further, each pay step increment should be adjusted to reflect a 5% pay increase rather than the existing formula where those on the lower end of the system who are surely in greater need receive a lesser increase in pay going from step A to B in a given pay grade, as compared to those on the higher end of the schedule of pay where such employees come closer to an intended 5% pay increase. In addition, the provision of increment pay annually should be mandated for employees of Local Boards of Health as well. I thank you again for the opportunity to make these views known to the board.

MR. CANFIELD: Thank you, Dr. Rosenberg your testimony will be considered both by the staff and the board before the final rules are filed with the Secretary of State.

DR. ROSENBERG: We would appreciate it.

MR. CANFIELD: Thank you, sir. We have a Kevin Church from the Communication Workers of America, MacCorkle Avenue in Charleston. Mr. Church.

MR. CHURCH: As you said, I'm Kevin Church with CWA West Virginia State Employees and actually I'm just here to ask that the board diligently work for implementation, especially of Section 4.05 of these proposed rules which allow input from state employees from the various agencies to be involved in the State Personnel Advisory Council. Further, we wish to see this rule become effective very quickly, not only for that particular aspect but also for the family leave program that is written in this particular proposed rule. I believe that was mandated by Senate Bill 251. Thank you.

MR. CANFIELD: Thank you very much, Mr. Church. I might say, that I share your feeling on the Advisory Council and, in fact, had a conversation with the Administration about that this morning. I think we need to expedite that a little. Are there other persons wishing to offer oral testimony at this time? Are there other persons wishing to offer written testimony at this time? If not, we will recess until 2:30 p.m.

RECESS

MR. CANFIELD: The purpose of this public hearing is to entertain either oral or written testimony on the rules relating to House Bill 2665, which generally reorganized the Civil Service System. Senate Bill 2, which established the Division of Personnel as a unit of the Department of Administration and established bumping right for reduction-in-force. House Bill 2672 allowing governmental employees who are injured on the job to be paid sick leave or temporary total disability benefits but not both. Senate Bill 251 allowing employees unpaid family leave for birth, adoption and/or care in cases of serious illness for immediate family members. I'm Jack Canfield, Chairman of the Board of Personnel, with me are, from Clarksburg, Roger Morgan another member of the board and from Charleston, Rev. Paul Gilmer. For the benefit of those who arrived late there was a discrepancy in the notices that were put out in the time, some people were here at 2:00 p.m. and were heard at 2:00 p.m. and those who received a notice for the 2:30 p.m. hearing, that's why we were in recess and are now resuming the hearing for those who wish to make comments. Once the comments are made they will be considered by the staff and also, by the Board of Personnel before the rules are filed in final form with the Secretary of State. Rather than go stand at a podium and be very formal about it, we invite those who wish to make testimony to make theirs from the chair at the end of the table. Do I have anybody wishing to make an oral statement among those who signed up for the 2:30 p.m. hearing? Please identify yourself when you begin your statement, please, so we can have a complete record.

MR. SHRIDE: My name is Steve Shride and I'm the Administrator at the Welch Emergency Hospital and there were two areas in the administrative rules and regulations that I wanted to address, and the reason I'm speaking and not just giving these to you in writing is because of the competitive circumstances at the hospitals, you need some understanding of that, in order to appreciate my written comment. The two areas that I'm addressing, one is the Shift Differential definition in payment, and right now it identifies evenings and weekends hours as being acceptable for a shift differential. I would like to see that expanded to include weekend hours. Weekend hours are considered premium hours in the hospital business.

MR. CANFIELD: Did you say it presently is? I thought you said evenings and weekends. It is?

MR. SHRIDE: Evening and night, I meant to say. I'm sorry. Evening and night are included in the present definition and I would like to see that expanded to include the weekend. Because many hospitals pay weekend differentials and so forth and under the current circumstances we can't do that. The other area that I would like to address is Section 6. Compensation Plan and Salary Regulations, Section (f) Exceptionally Meritorious Services, I would like to have that to be expanded to allow us to correct demonstrated salary inequities. Under the current system, many times we, particular in the professional and technical categories, we have employees whose salaries haven't been changed for a number of years. We bring new employees in at higher levels of salary, and so we end up with many salary inequities and we need some methodology under the rules and regulations to deal with these issues when they come up.

MR. CANFIELD: Could you give me an example, even if you have to make one up, of that last problem you raised. I'm not sure I grasped it.

MR. SHRIDE: We hire nurses on a regular basis. I had many nurses in my system who have been state employees for seven or eight years, were hired at salaries, one that I can think of right off hand, was earning \$17,000.00. One of the competing hospitals in Welch closed and they hired the nurses from that hospital and they brought those people in at about \$26,000.00. Well, I had two nurses with the same education, same degree of experience, working side by side, one earning \$17,000.00 and one earning about \$25,000.00 and that creates a lot of animosity. And there was no way in system to correct that salary inequity. We have examples of that in our laboratory, in our x-ray department, and in some of the other areas of the hospital. We just need some methodology to be able to go in and address those issues.

MR. CANFIELD: Any other questions of Mr. Shride? Thank you, very much.

MR. SHRIDE: Thank you, Mr. Chairman.

MR. CANFIELD: Mr. Shride we will take your comments and review them by staff and by the board before we file the final regulations. Are there other persons who wish to offer either written or oral testimony at the public hearing this afternoon, if not the public hearing will stand adjourned and gentlemen, we go into a meeting of the Board of Personnel on a routine basis. Thank you, very much.



Gaston Caperton
Governor

Michael T. Smith
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

August 6, 1990

STATE PERSONNEL
BOARD

John A. Canfield, Chairman
Rev. Paul J. Gilmer, Member
Sharon H. Lynch, Member
Thomas P. Maroney, Member
Roger Morgan, Member

Ms. Debra A. Graham, Counsel
West Virginia Legislature
Legislative Rule-Making Review Committee
Room M-438, State Capitol
Charleston, West Virginia 25305

Dear Ms. Graham:

I have attached copies of the Division's emergency amendments to its emergency rules and regulations, which are also on file with the Legislative Rule-Making Review Committee as agency approved proposed rules.

The emergency amendments reflect the two changes cited in your letter, as well as some technical (i.e. cosmetic) modifications.

If you have questions about the amendments, please contact me at 348-3950.

Sincerely,

Tari McClintock Crouse

TMC:MDI:mdi

Attachments



WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Room M-438, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator Lloyd Jackson, Co-Chairman
Delegate Patrick H. Murphy, Co-Chairman

Debra A. Graham, Counsel
Michael McThomas, Associate Counsel
Marie Nickerson, Admr. Assistant

August 1, 1990

Theresa McClintock Crouse
Assistant Director for Employee Communication
Bldg. 6, Room B-456, State Capitol
Charleston, WV 25305

Dear Ms. Crouse:

RE: Administrative Rules and Regulations of the WV Civil
Service System

Enclosed is a copy of the analysis which I have prepared
regarding the above-cited proposed rule and regulations. As you
may have noted, staff has several technical changes to suggest
prior to presentation to the Committee.

If you have any questions, please do not hesitate to
contact me.

Sincerely,

Debra A. Graham
Counsel

mgn

Enclosure

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Personnel
Subject: Administrative Rules and Regulations of the West
Virginia Civil Service System

PERTINENT DATES

Filed for public comment: November 15, 1989
Public comment period ended: December 20, 1989
Filed following public comment period: May 14, 1990
Filed LRMRC: July 18, 1990
Filed as emergency: November 15, 1989

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. Generally, all references to the Civil Service System are changed to the Division of Personnel and references to the Civil Service Commission are changed to the State Personnel Board. The following is a synopsis of the proposed amendments.

Section 3 which contains definitions has been amended by deleting definitions for "Civil Service System", "Civil Service Commission" and "Personnel Officer" and in lieu thereof, defines the term "Division of Personnel".

Section 4 relating to organization has been totally rewritten as necessitated by statutory changes involving reorganization of state government. Basically, this section sets forth the provisions of several code sections. New language requires each state agency to designate a staff employee to serve as personnel liaison and sets forth the employee's duties.

Section 5.06 relates to position reallocation. Language allowing the incumbent or appointing authority to ask for review under the grievance procedure in W.Va. Code, §29-6A has been deleted and in lieu thereof language has been inserted allowing either party to request reconsideration by submitting a written request to the director.

Section 7.03 relates to filing applications and now requires that age be included on an application.

Section 10.02 relates to original appointments. Currently the rule provides that selection be made for each position from the five highest available names on the register. This section has been amended to conform with W. Va. Code, §29-6-10(7) which requires selection to be made from the top ten names or any person scoring at or above the ninetieth percentile.

Section 13.04 relates to layoffs. Subsection (f) pertaining to bumping rights has been amended to conform with W. Va. Code, §5F-2-2, which provides that an employee may request an involuntary demotion to any class within the same occupational group in the same organizational unit. The current rule would allow demotion to any class in the promotional series. Subsection (g) pertains to recall and language has been deleted which provided that an employee who refuses an offer of reemployment forfeits any rights to subsequent placement offers.

Section 15.05 relates to requests for reconsideration and provides that the appeal of a classification shall be submitted in writing within ten calendar days of the effective date of the classification action.

Section 16.08 relating to leave of absence without pay has been amended to conform with W.Va.Code, §§21-5D-4 and 5, by allowing permanent employees twelve weeks of unpaid leave during any twelve-month period due to the birth of a son or daughter of the employee, the placement of a son or daughter with the employee for adoption, or for the care of the employee's son, daughter, spouse, parent or dependent who has a serious health condition.

Section 16.09 relating to injury on the job has been amended to conform with W.Va. Code, §23-4-1, which provides that an employee may elect to receive either temporary total disability benefits from the Workers Compensation Fund or sick leave benefits, but not both.

AUTHORITY

Statutory authority: W.Va. Code, §§29-6-10 and 23-4-1

W. Va. Code, §29-6-10, provides, in part, as follows:

The board shall have the authority
to promulgate, amend or repeal rules, in

accordance with chapter twenty-nine-a of this code, to implement the provisions of this article.

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service and a position classification plan for all positions in the classified-exempt service, based upon similarity of duties performed and responsibilities assumed...

(2) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state fiscal officers, and after a public hearing held by the board...

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions in the classified service...

(4) For promotions within the classified service which shall give appropriate consideration to the applicant's qualifications, record of performance and his score on a written examination, when such examination is practicable...

(5) For layoffs by classification for reason of lack of funds or work, or abolition of a position, or material changes in duties or organization, or any loss of position because of the provisions of this subdivision and for recall of employees so laid off...

(6) For recall of employees...

(7) For the establishment of eligible lists for appointment and promotion within the classified service...

(8) For the rejection of candidates or eligibles within the classified service who fail to comply with reasonable requirements...

(9) For a period of probation not to exceed one year before appointment or promotion may be made complete within the classified service...

(10) For provisional employment without competitive examination within the classified service when there is no appropriate eligible list available...

(11) For keeping records of performance of all employees in the classified service...

(12) For discharge or reduction in rank or grade only for cause of employees in the classified service...

(13) For such other rules and administrative regulations, not inconsistent with this article, as may be proper and necessary for its enforcement.

(14) The board shall review and approve by rules and regulations the establishment of all classified-exempt positions to assure consistent interpretation of the provisions of this article...

W. Va. Code, §23-4-1, provides, in part, as follows:

...The division of personnel shall promulgate rules pursuant to chapter twenty-nine-a of this code relating to use of sick leave benefits by employees receiving personal injuries in the course of and resulting from covered employment....

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. Section 4.04(a) of the proposed rule conflicts with W. Va. Code, §29-6-7. Whereas the Code provides for appointment of the Director of Personnel by the Secretary of the Department of Administration, the proposed rule provides for appointment of the Director by the Governor.

Also, W. Va. Code, §29-6-2, defines the term "Board" to mean the State Personnel Board. The proposed rule in Section 3 defines the term "Commission" to mean the State Personnel Board, when in fact the term "Board" is used throughout the proposed rule. Therefore, the definition of the term "Commission" needs to be deleted and in lieu thereof the term "Board" needs to be defined.

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 numerous technical modifications to suggest.