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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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November 13, 2001

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

TO: Joe Manchin, Secretary of State, State Register

TO: Gregory Smith
Land Surveyors, Board of Examiners
P.O. Box 1248
Oak Hill, WV

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Mandatory Continuing Education for Land Surveyors, 23CSR2**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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: Board of Examiners of Land Surveyors

Subject: Mandatory Continuing Education for Land Surveyors, 23CSR2

PERTINENT DATES

Filed for public comment: June 15, 2001

Public comment period ended: July 16, 2001

Filed following public comment period: July 27, 2001

Filed LRMRC: July 27, 2001

Filed as emergency: June 15, 2001

Fiscal Impact: None

FILED
 2001 SEP -4 A 11:07
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ABSTRACT

The proposed rule is new. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 relates to continuing professional competency requirements. It requires every licensee to acquire eight professional development hours for each renewal period year, except that the requirement for the first year is four professional development hour units. Every four years, two of the units must be on minimum technical standards and two of the units must be on professional ethics. This section also sets forth a manner in which a licensee may obtain professional development hour units such as completion of continuing education courses, teaching, authoring papers and attendance at local chapter meetings of professional or technical societies. A person whose license is inactive, expired or under suspension must acquire all delinquent

professional development hours for up to two years as a prerequisite to reinstatement of the license.

Section 4 relates to reporting and record keeping. It requires a licensee to maintain records on continuing education for four years and specifies what constitutes an acceptable record.

Section 5 relates to exemptions. It sets forth those persons who are exempt from the mandatory continuing education requirements.

Section 6 relates to review and audit processes. It requires the Board, for each annual renewal period, to select on a random basis not less than 5% of renewal applications for audit. The Board is required to request each selected licensee to furnish evidence of attendance at the listed activities, unless the Board already has satisfactory evidence.

AUTHORITY

Statutory authority: W.Va. Code, §30-13A-4, which provides, in part, as follows:

(a) The board shall have the power and duty to:

...(3) Promulgate reasonable rules implementing the provisions of this article and the powers and duties conferred upon the board hereby, all of which reasonable rules shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code;

...(c) The Legislature finds that an emergency situation exists and, therefore, the board is hereby authorized to establish by emergency rule, pursuant to the provisions of article three-a, chapter twenty-nine-a of this code, a rule to effectuate the purpose of this article, including, but not limited to, continuing education.

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.