



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

*Building 1, Room MB-49
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4840
(304) 347-4919 FAX*

email: tanders@mail.wvnet.edu

*Senator Mike Ross, Cochair
Delegate Virginia Mahan, Cochair
Debra A. Graham, Counsel*

November 17, 2002

*Joseph A. Altizer, Associate Counsel
Connie A. Bowling, Associate Counsel
Teri Anderson, Administrative Assistant*

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

TO: Joe Manchin, Secretary of State, State Register

TO: Colonel Howard E. Hill, Jr.
State Police, West Virginia
725 Jefferson Road
South Charleston, WV 25309

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **West Virginia Police Career Progression System, 81CSR3**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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: West Virginia State Police

Subject: West Virginia State Police Career Progression System,
81CSR3

PERTINENT DATES

Filed for public comment: June 24, 2002

Public comment period ended: July 25, 2002

Filed following public comment period: July 26, 2002

Filed LRMRC: July 26, 2002

Filed as emergency:

Fiscal Impact: None

FILED
2002 AUG 20 P 2:59
OFFICE WEST VIRGINIA
SECRETARY OF STATE

ABSTRACT

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

Section 2 defines terms. It has been amended by adding a definition for the term "practical examination".

Section 4 relates to permanent rank promotions. Under the current rule, composite score is determined by a competitive process, the member's state police tenure, education and the supervisor's self-evaluation. The proposed rule replaces the supervisor's self-evaluation with an employee performance appraisal and physical fitness. The maximum attainable composite score has been increased from 100 to 106 points. The number of points awarded for the various categories has been changed.

Section 6 relates to criminalist reclassifications. It has been amended to add the Director of the forensics laboratory to the Criminalist Reclassification Board.

AUTHORITY

Statutory authority: W.Va. Code, §15-2-5, which provides, in part, as follows:

...(b) The superintendent is authorized to propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code for the purpose of ensuring consistency, predictability and independent review of any system developed under the provisions of this section...

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.