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Nov 16 6 49 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF THE SECRETARY OF STATE

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November 12, 2000

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

TO: Ken Hechler, Secretary of State, State Register

TO: Beth Marquart
Child Enforcement, Bureau for
Capitol Complex
Building 3, Room 265

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Termination of Income Withholding, 97CSR11**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Bureau for Child Support Enforcement

Subject: Termination of Income Withholding, 97CSR11

PERTINENT DATES

Filed for public comment: July 11, 2000

Public comment period ended: August 16, 2000

Filed following public comment period: August 29, 2000

Filed LRMRC: August 29, 2000

Filed as emergency:

Fiscal Impact: None

ABSTRACT

The rule is being repealed. The current rule contains incorrect information in that the law does not provide for voluntary termination of income withholding. In addition, the correct provisions are set forth in the Policy Manual of the Bureau for Child Support Enforcement, Section 05000.40.

AUTHORITY

Statutory authority: W.Va. Code, §48A-2-9, which provides, in part, as follows:

...The support enforcement commission shall have general responsibility for establishing policies and procedures for obtaining and enforcing support orders and establishing paternity according to this chapter, as hereinafter provided, including, without limitation, the responsibility for the following:

(a) To propose for promulgation, according to the provisions of chapter twenty-nine-a of this code, such legislative rules as in its judgment may be necessary to fulfill the policies of this chapter...

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OCT 20 10 09 AM '00
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SECRETARIAT OF STATE

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