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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

2002 DEC 17 A 10:15

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December 17, 2002

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

TO: Joe Manchin, Secretary of State, State Register
TO: Jeffrey Estep
Governor's Committee on Crime, Delinquency and Correction
1204 Kanawha Blvd East
Charleston, WV 25301
FROM: Legislative Rule-Making Review Committee
Proposed Rule: Law Enforcement Training Standards, 149CSR2

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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: Governor's Committee on Crime, Delinquency and Correction

Subject: Law Enforcement Training Standards, 149CSR2

PERTINENT DATES

Filed for public comment: June 3, 2002

Public comment period ended: July 5, 2002

Filed following public comment period: July 8, 2002

Filed LRMRC: July 8, 2002

Filed as emergency:

Fiscal Impact: None

DEPARTMENT OF
SECRETARY OF STATE
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ABSTRACT

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

Section 11 relates to supervisory level in-service training. It states that the supervisory level in-service training required by the Committee for continued certification shall consist of 24 classroom hours in a 24 month period, exclusive of firearms qualifications. Language has been added specifying that 8 of the 24 hours must be in a Committee approved training program, and 16 hours may be in any subject area approved by the Committee.

Section 14 relates to equivalent certification. It has been amended to allow the substitution of equivalent federal law enforcement training or certification by a federal agency. The requirement that an applicant for certification have left full time employment of at least one year as a law enforcement officer within the last 24 months has been deleted. The requirement that equivalent certification applicants successfully complete the physical ability test prior to entry into the required basic training classes has been deleted.

The current rule allows applicants for equivalent certification to test for credit in lieu of attending classes. Language has been added stating that if the applicant does not meet the academy standard on any written or practical test, the applicant must attend and meet the academy standard for each of the basic entry level courses failed by the applicant.

A new subsection 14.4 requires the Law Enforcement Training Subcommittee to form a subcommittee to review all applications for equivalent certification. It requires one member of the subcommittee to be a director of training of a training academy approved by the full subcommittee.

Section 15 relates to re-certification requirements. Language has been deleted that exempted police officers, who have been separated from employment for less than 24 months, from meeting entrance level standards again, if within 30 days from the date of employment, the officer attends and completes mandated in-service training and qualifies with his or her firearm.

The current rule requires police officers, who have been separated from a law enforcement agency for no more than 24 months, to attend and successfully complete the next available basic training class. The proposed rule eliminates the two year requirement and allows testing for credit. The requirement that the applicant complete the physical ability test has been deleted. Language has been added stating that if the applicant does not meet the academy standard on any written or practical test, the applicant must attend and meet the academy standard for each of the basic entry level courses failed by the applicant.

A new subsection 15.5 has been added stating that any police officer who has been separated from a law enforcement agency and who has been reappointed as a police officer or as chief of police by a law enforcement agency regardless when they were separated from the agency, may re-certify pursuant to the provisions of this section.

AUTHORITY

Statutory authority: W.Va. Code, §30-29-3, which provides, in part, as follows:

... (f) Promulgate standards governing the qualification of law-enforcement officers and the entry level law-enforcement training curricula. These standards shall require satisfactory completion of a minimum of four hundred classroom hours, shall provide for credit to be given for relevant classroom hours earned pursuant to training other than training at an established law-enforcement training academy if earned within five years immediately preceding the date of application for certification, and shall provide that the required classroom hours can be accumulated on the basis of a part-time curricula spanning no more than twelve months, or a full-time curricula...

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.

RECEIVED
JUL 11 2002
JOE MANCHINI III
WM SECRETARY OF STATE