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This week's publication includes documents submitted by the following agencies:

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CHRONOLOGICAL INDEX, VOLUME XXXV ISSUE 29			
NEW PROPOSED RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Highways (157-12)	Employment Procedures Legislative	§17-2A-24	Written Comments Only August 20, 2018, 4:00 pm Rita A. Pauley 1900 Kanawha Blvd. E., Bldg. 5, Room 109 Charleston, WV 25305 rita.a.pauley@wv.gov

NEW EMERGENCY RULES FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE FOR HEARING**
Highways (157-12)	Employment Procedures	§17-2A-24(e)	ERD by August 30, 2018	August 20, 2018

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GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

Column	1.	Agency Name, (Title and Series Number)
Column	2.	Rule Title, Price and Type
Column	3.	Date Notice of Public Hearing or Comment Period Filed
Column	4.	Date of Public Hearing or Last Date Comments Will Be Received
Column	5.	Date Emergency Rule Filed, Emergency Amendments Filed, Emergency Rule Decision (ERD) Number & Date ERD Filed (Effective Date of Emergency Rule)
Column	6.	Date Agency Approved Legislative Rules Filed.
Column	7.	Date Review by the Legislative Rule-Making Review Committee & Action Taken **Please Note** The Board of Education, Board of Trustees & Board of Directors File Their Rules With the Educational Over-Sight Committee
Column	8.	Legislative Action
Column	9.	Date Agency Final Files Legislative, Procedural or Interpretive Rules. This is the Final Step for Procedural & Interpretive Rules
Column	10.	Date Rule is Effective

- Emergency rules will not have a "Notice" date until the agency files one, but the rule will appear in Columns 1, 2 & 5. An Agency must file for either a public hearing or public comment period either before filing as an emergency or no more than 30 days after filing the rule as an emergency
- If more than one date appears in a column, it means the agency has repeated that step (ex. - holding an additional public hearing)

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	1	ACCOUNTANCY
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	8	HEARING AID DEALERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	20	SANITARIANS
TITLE	24	OSTEOPATHY
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
TITLE	31	DIETITIANS
TITLE	33	OFFICE OF WASTE MANAGEMENT (FORMERLY PART OF TITLE 47)
TITLE	35	OFFICE OF OIL AND GAS
TITLE	36	COAL MINE HEALTH & SAFETY
TITLE	38	MINING & RECLAMATION
TITLE	42	LABOR
TITLE	45	OFFICE OF AIR QUALITY
TITLE	47	OFFICE OF WATER RESOURCES
TITLE	48	MINES TRAINING EDUCATION & CERTIFICATION
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION, SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	63	CONSERVATION AGENCY
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH & HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	82	CULTURE AND HISTORY
TITLE	85	WORKERSCOMPENSATION BY THE INSURANCE COMMISSION
TITLE	86	VETERANS AFFAIRS
TITLE	87	FIRE COMMISSION
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL & CORRECTIONAL FACILITY AUTHORITY
TITLE	96	WORKFORCE WEST VIRGINIA
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	113	HEALTH INSURANCE PLAN
TITLE	114	INSURANCE
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMM.
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY & TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTION
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	157	DIVISION OF HIGWAYS
TITLE	158	ETHICS COMMISSION
TITLE	162	CONSOLIDATED PUBLIC RETIREMENT BOARD
TITLE	164	SCHOOL BUILDING AUTHORITY
TITLE	172	STATE RAIL AUTHORITY
TITLE	174	REAL ESTATE COMMISSION
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION – BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY
TITLE	184	PARKWAYS ECONOMIC DEV. & TOURISM AUTHORITY
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD
TITLE	191	FAMILY PROTECTION SERVICES BOARD
TITLE	194	MASSAGE THERAPY LICENSURE BOARD
TITLE	199	EXPLOSIVES & BLASTING
TITLE	204	HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Administration (148-01)	Purchasing Division Legislative	6/11/2018	7/11/2018		7/18/2018				
Administration (148-03)	State Owned Vehicles Legislative	6/12/2018	7/12/2018	6/8/2018 ERD by July 20, 2018					
Administration (148-19)	Leasing of Space and Acquisition of Real Property on Behalf of State Spending Units Legislative	6/11/2018	7/11/2018		7/19/2018				
Agriculture (61-01)	Animal Disease Control Legislative	6/26/2018	7/26/2018						
Agriculture (61-09)	West Virginia Seed Law Legislative	6/27/2018	7/27/2018						
Agriculture (61-11B)	Auctioneers Legislative	6/26/2017	7/26/2017		7/28/2017	Modified & Approved 12/2/2017 Filed 12/19/2017	Bundled HB 4079	5/4/2018	8/2/2018
Agriculture (61-29)	Industrial Hemp Legislative	6/27/2018	7/27/2018						
Agriculture (61-33)	Rural Rehabilitation Loan Program Legislative	6/26/2018	7/26/2018						
Agriculture (61-34)	Captive Cervid Farming Legislative	6/27/2018	7/26/2018						
Agriculture (61-36)	Farm to Food Bank Tax Credit Legislative	12/18/2017	1/18/2018	12/18/2017 Effective 1/29/2018	1/19/2018				
Agriculture (61-37)	Agritourism Legislative	6/27/2018	7/27/2018						
Agriculture (61-38)	Farmers Markets Legislative	6/27/2018	7/27/2018						
Agriculture (61-39)	Seed Certification Program Legislative	6/27/2018	7/27/2018						
Air Quality (45-08)	Ambient Air Quality Standards Legislative	6/5/2018	7/10/2018						
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/5/2018	7/10/2018						
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/5/2018	7/10/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/5/2018	7/10/2018						
Air Quality (45-36)	(Repeal of) Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 USC or the Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity) Legislative	6/5/2018	7/10/2018						
Air Quality (45-38)	(Repeal of) Provisions for Determination of Compliance with Air Quality Management Rules Legislative	6/5/2018	7/10/2018						
Air Quality (45-43)	Cross-State Air Pollution Rule to Control Annual Nitrogen Oxides Emissions, Annual Sulfur Dioxide Emissions, and Ozone Season Nitrogen Oxides Emissions Legislative	6/5/2018	7/10/2018						
Athletic Commission (177-01)	Administrative Rules of the WV State Athletic Commission Legislative	6/19/2018	7/19/2018						
Board of Review (84-1)	Procedural Rule Board of Review Procedural	12/12/2017	1/16/2018					6/14/2018	7/31/2018
Comm. & Tech. College Education (135-32)	Tuition and Fees Legislative	4/24/2018	5/25/2018		7/2/2018				
Dietitians (31-01)	Licensure and Renewal Requirements Legislative	6/22/2018	7/24/2018						
Education (126-12)	WV Accountability System (2322) Legislative Exempt	4/12/2018	5/14/2018					6/15/2018	7/16/2018
Education (126-14)	WV Measures of Academic Progress (2340) Legislative Exempt	4/12/2018	5/14/2018					6/15/2018	7/16/2018
Education (126-32)	Issuance of the State of WV High School Equivalency Diploma and Option Pathway (2444.4) Legislative Exempt	4/12/2018	5/14/2018					6/15/2018	7/16/2018

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Education (126-44E)	WV College-and Career-Readiness Standards for Wellness Education (2520.5) Legislative Exempt	4/12/2018	5/14/2018					6/15/2018	7/16/2018
Education (126-44I)	WV College-and Career-Readiness Standards for the Arts (2520.9) Legislative Exempt	4/12/2018	5/14/2018					6/15/2018	7/16/2018
Education (126-44O)	WV Pre-K Standards (Ages 3-5) (2520.15) Legislative Exempt	8/10/2017	9/11/2017					10/12/2017	7/1/2019
Fire Commission (87-04)	State Building Code Legislative	6/22/2018	7/23/2018						
Health (64-11)	Behavioral Health Centers Licensure Legislative	6/21/2018	7/21/2018						
Health (64-14)	Assisted Living Residences Legislative	6/21/2018	7/20/2018						
Health (64-17)	Food Establishments Legislative	6/21/2018	7/20/2018						
Health (64-43)	Food Manufacturing Facilities Legislative	6/21/2018	7/20/2018						
Health (64-91)	Newborn Screening System Legislative	6/21/2018	7/20/2018						
Health (64-109)	General Rules-Medical Cannabis Program Legislative			4/3/2018 Effective 4/3/2018					
Health (64-110)	Grower/Processors-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health (64-111)	Laboratories-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health (64-112)	Dispensaries-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health (64-113)	Safe Harbor Letter-Medical Cannabis Program Legislative			4/4/2018 Effective 4/4/2018					
Health and Human Resources (69-08)	Chronic Pain Management Clinic Licensure Legislative	6/21/2018	7/21/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health an Human Resources (69-12)	Medication-Assisted Treatment – Office-Based Medication-Assisted Treatment Legislative	6/21/2018	7/21/2018						
Health and Human Resources (69-14)	Collection and Exchange of Data Related to Overdoses Legislative	6/21/2018	7/21/2018						
Health Care Authority (65-06)	Cooperative Agreement Legislative	6/21/2018	7/21/2018						
Higher Education Policy Commission (133-04)	Rules and Administrative Procedures Procedural	6/26/2018	7/26/2018						
Higher Education Policy Commission (133-05)	Guidelines for Governing Boards in Employing and Evaluating Presidents Legislative	6/26/2018	7/26/2018						
Higher Education Policy Commission (133-07)	WV Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program Legislative	6/26/2018	7/26/2018	6/26/2018 Effective 6/26/2018					
Higher Education Policy Commission (133-54)	Campus Safety Procedures Procedural	6/26/2018	7/26/2018						
Higher Education Policy Commission (133-59)	Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program Procedural	6/26/2018	7/26/2018						
Higher Education Policy Commission (133-62)	Energy and Water Savings Performance Contracts, Monitoring Use and Reduction Procedural	6/26/2018	7/26/2018						
Highways (157-06)	Use of State Road Rights of Way and Adjacent Areas Legislative	6/21/2018	7/23/2018						
Highways (157-12)	Employment Procedures Legislative	7/18/2018	8/20/2018	7/19/2018 ERD by 8/30/2018					
Homeland Security & Emergency Mgmt. (170-03)	The WV Statewide Interoperable Radio Network Procedural	7/11/2018	8/17/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Labor (42-05)	Wage Payment and Collection Legislative	6/15/2018	7/16/2018						
Labor (42-09)	Child Labor Legislative	6/18/2018	7/19/2018						
Labor (42-12)	Bedding and Upholstered Furniture Legislative	6/19/2018	7/19/2018						
Labor (42-34)	Regulation of Heating, Ventilating and Cooling Work Legislative	6/15/2018	7/16/2018	6/15/2018 ERD by 7/27/2018					
Labor (42-37)	Jobs Act Procedures Procedural	6/29/2018	7/30/2018						
Library Commission (173-02)	Library Facilities Improvement Fund Procedural	6/25/2018	7/25/2018						
Lottery Commission (179-09)	West Virginia Lottery Sports Wagering Rule Legislative			7/9/2018 ERD by 8/20/2018					
Medicine (11-01A)	Licensing and Disciplinary Procedures: Physicians; Podiatric Physicians and Surgeons Legislative	6/22/2018	7/23/2018						
Medicine (11-12)	Permitting and Disciplinary Procedures: Educational Permits for Graduate Medical Interns, Residents and Fellows Legislative	6/22/2018	7/23/2018	6/22/2018 ERD by 8/3/2018					
Miners Health Safety and Training (56-03)	Rule Governing the Safety of Those Employed in and Around Surface Mines in WV Legislative	6/19/2018	7/19/2018	6/19/2018 ERD by 7/31/2018					
Miners Health Safety and Training (56-08)	Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of West Virginia Legislative	5/30/2018	6/29/2018	5/30/2018 Effective 7/11/2018					
Miners Health Safety and Training (56-23)	Rules for Operating Diesel Equipment in Underground Mines in West Virginia Legislative	5/30/2018	6/29/2018	5/29/2018 Effective 7/10/2018					
Natural Resources (58-12)	Commercial Whitewater Outfitters Legislative	6/26/2018	7/26/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-25)	Boating Rule Legslative	6/26/2018	7/26/2018						
Natural Resources (58-36)	Cabwaylingo State Forest Trail System Two Year Pilot Program Permittings ATVs and ORVs Legislative	6/26/2018	7/26/2018	6/26/2018 ERD by 8/7/2018					
Natural Resources (58-45)	Hunting and Trapping Rules Legislative Exempt							7/10/2018	9/1/2018
Natural Resources (58-55)	Migratory Bird Hunting Rule Legislative-Exempt							6/5/2018	9/1/2018
Natural Resources (58-57)	Waterfowl Hunting Rule Legislative-Exempt							6/5/2018	9/1/2018
Natural Resources (58-59)	Special Waterfowl and Migratory Bird Hunting Areas Legislative-Exempt							6/5/2018	9/1/2018
Natural Resources (58-73)	Reptile and Amphibian Regulations Legislative-Exempt							6/6/2018	9/1/2018
Natural Resources (58-75)	State Park Controlled Deer Hunts Procedural	6/6/2018	7/5/2018					7/9/2018	8/9/2018
Osteopathic Medicine (24-01)	Licensing Procedures for Osteopathic Physicians Legislative	5/24/2018	6/25/2018						
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	6/21/2018	7/22/2018						
Pharmacy (15-07)	Registration of Pharmacy Technicians Legislative	6/12/2018	7/16/2018						
Pharmacy (15-09)	Disciplinary Procedures Procedural	6/19/2018	7/21/2018						
Pharmacy (15-15)	Regulations Governing Pharmacy Permits Legislative	6/21/2018	7/22/2018						
Pharmacy (15-16)	Regulations Governing Pharmacists Legislative	6/19/2018	7/20/2018						
Pharmacy (15-17)	Board of Pharmacy Rules for the Substitution of Biological Pharmaceuticals Legislative	6/19/2018	7/21/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Public Employees Grievance Board (156-01)	Rules of Practice and Procedure of the WV Pubic Employees Grievance Board Procedural	6/12/2018	7/12/2018					7/18/2018	8/17/2018
Public Service Commission (150-1)	Rules of Practice and Procedure Legislative Exempt	5/10/2018	7/10/2018						
Public Service Commission (150-02)	Rules for the Construction and Filing of Tariffs Legislative Exempt	5/10/2018	7/10/2018						
Public Service Commission (150-25)	Telephone Emergency Service Legislative Exempt	3/8/2018	5/9/2018						
Racing Commission (178-01)	Throughbred Racing Legislative	6/13/2018	7/13/2018						
Real Estate Appraiser, Licensing and Certification Bd. (190-02)	Requirements for Licensure and Certification Legislative	6/27/2018	7/27/2018						
Real Estate Appraiser, Licensing and Certification Bd. (190-04)	Investigative and Hearing Procedures Procedural	6/25/2018	7/26/2018						
Registered Professional Nurses (19-01)	Policies, Standards and Criteria for the Evaluation, Approval and Accreditation of Colleges, Departments or Schools of Nursing Legislative	6/19/2018	7/20/2018						
Registered Professional Nurses (19-03)	Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative	6/19/2018	7/20/2018						
Registered Professional Nurses (19-07)	Advanced Practice Registered Nurse Legislative	6/19/2018	7/20/2018						
Registered Professional Nurses (19-09)	Disciplinary Action Procedural	6/19/2018	7/20/2018						
Registered Professional Nurses (19-10)	Standards for Scope of Professional Nursing Practice Legislative	6/19/2018	7/20/2018						

RULE MONITOR									
AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Registered Professional Nurses (19-12)	Fees for Services Rendered by the Board and Supplemental Renewal Fee for the Center for Nursing Legislative	6/19/2018	7/20/2018						
Registered Professional Nurses (19-13)	Dialysis Technicians Legislative	6/19/2018	7/20/2018						
School Building Authority (164-02)	SBA Policy and Procedure Manual Legislative	6/26/2018	7/26/2018						
School Building Authority (164-03)	School Planning and Design Criteria Legislative	6/26/2018	7/26/2018						
School Building Authority (164-04)	Project Administration and Review Legislative	6/26/2018	7/26/2018						
School Building Authority (164-05)	School Building Authority Contracts and Agreements Legislative	6/26/2018	7/26/2018						
School Building Authority (164-06)	Project Administration and Review Legislative	6/26/2018	7/26/2018						
School Building Authority (164-07)	School Access Safety Act Guidelines and Procedures Legislative	6/26/2018	7/26/2018						
Secondary School Activities Comm. (127-01)	Constitution Legislative-Exempt	6/15/2018	7/16/2018						
Secondary School Activities Comm. (127-02)	Athletics, Provision Governing Eligibility Legislative-Exempt	6/15/2018	7/16/2018						
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative-Exempt	6/15/2018	7/16/2018						
Secondary School Activities Comm. (127-05)	Band Activities Legislative-Exempt	6/15/2018	7/16/2018						
Secretary of State (153-06)	Filing and Formatting Rules and Related Documents and Other Documents for Publication in the State Register Legislative	6/5/2018	7/5/2018		7/6/2018				

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secretary of State (153-10)	Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Elections Systems, Software, Services and Upgrades Legislative	5/24/2018	6/25/2018	4/25/2018 Effective 6/6/2018	7/10/2018				
Secretary of State (153-13)	Early Voting In-Person Satellite Precincts Legislative	5/24/2018	6/25/2018	4/25/2018 Effective 6/6/2018	7/10/2018				
Secretary of State (153-46)	Notaries Public Legislative	6/28/2018	7/28/2018						
Senior Services (76-3)	West Virginia State Plan for Aging Programs – Title V Interpretive	4/9/2018 5/10/2018	5/18/2018 6/8/2018					6/18/2018	7/18/2018
Senior Services (76-04)	West Virginia State Plan on Aging Interpretive	5/31/2018	6/29/2018					7/3/2018	8/1/2018
Social Work Examiners (25-01)	Qualifications for the Profession of Social Work Legislative	6/15/2018	7/16/2018						
Social Work Examiners (25-07)	Code of Ethics Legislative	6/15/2018	7/16/2018						
Tax (110-10F)	Payment of Taxes by Electronic Funds Transfer Legislative	6/27/2018	7/27/2018						
Tax (110-15K)	Aircraft Operated Under a Fractional Ownership Program Legislative	6/26/2018	7/26/2018	6/26/2018 ERD by 8/7/2018					
Tax (110-21B)	Citizen Tax Credit for Property Taxes Paid Legislative	6/26/2018	7/26/2018						
Tax (110-41)	Railroad Diesel Locomotive Refundable Exemption from the Variable Rate Component of the Motor Fuel Excise Tax Procedural	12/26/2017	1/26/2018						
Tax (110-49)	Administration of Tax on Purchases of Wine and Liquor Legislative	6/26/2018	7/26/2018						
Tax (110-50A)	Exchange of Information Agreement Between Tax Div. and Div. of Environmental Protection Legislative	6/26/2018	7/27/2018						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax (110-50B)	Exchange of Information Agreement Between Tax Div. and the Alcohol Beverage Control Administration Legislative	6/27/2018	7/27/2018						
Tax (110-50C)	Exchange of Information Pursuant to Written Agreement Legislative	6/26/2018	7/26/2018						
Tax (110-50D)	Exchange of Information Agreement Between Comm of Tax Div., Comm. Of Labor and the Comm. Of Insurance Legislative	6/27/2018	7/27/2018						
Tax (110-50E)	Exchange of Information Agreement Between Tax Dept. and the WV Lottery Legislative	6/27/2018	7/27/2018						
Tax (110-50F)	Exchange of Information Agreement Between Tax Dept. and the State Fire Marshal Legislative	6/27/2018	7/27/2018						
Treasurer (112-16)	Reporting and Claiming Unknown and Unlocatable Interest Owners Reserved Interests Legislative	6/27/2018	7/27/2018	6/27/2018 ERD by 8/8/2018					
Water Resources, Div. of Water & Waste Mgmt. (47-02)	Requirements Governing Water Quality Standards Legislative	5/25/2018	7/10/2018						

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

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7/18/2018 4:42:28 PM
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LEGISLATIVE

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

AGENCY: Administration TITLE-SERIES: 148-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 148-01 Purchasing Division

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §§5A-3-4, 5A-3-10d, 5A-3-10e

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The Director of the Purchasing Division has broad statutory authority to promulgate rules related to state procurement (§5A-3-4) and specific statutory authority to propose rules related to reverse auctions (§5A-3-10d) and pre-qualified vendors (§5A-3-10e). The proposed changes to the rule are the result of the passage of SB 283 during the 2018 Regular Session. That bill was a comprehensive purchasing reform package that affected a number of provisions of the existing rule, which now require revision. The rule makes a number of clarifying and technical changes. Substantive changes include: 1) allowing the contract to be cancelled if it was awarded in error, 2) allowing for related parties to a debarred vendor to also be debarred, 3) providing authority for the Purchasing Division to recalculate a vendor's extension price, 4) providing for reciprocal preference in limited circumstances and providing requirements to claim the preference, 5) easing requirements for direct award, 6) allowing for best-in-class solutions in evaluating requests for proposals, and 7) allowing for standardization of commodities.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/11/2018

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/11/2018

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/19/2018 12:05:13 PM
Office of West Virginia
Secretary Of State

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

AGENCY: Administration TITLE-SERIES: 148-19

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 148-19 Leasing of Space and Acquisition of Real Property on Behalf of State Spending Units

PRIMARY CONTACT

NAME: Jennelle H Jones

ADDRESS: Building 1 Room E 119
State Capitol Complex
Charleston, WV 25305

EMAIL: jennelle.h.jones@wv.gov

PHONE NUMBER: 304-558-4331

CITE STATUTORY AUTHORITY: §5A-10-11

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The executive director has broad rulemaking authority to propose rules to implement and enforce Article 10. The proposed changes to the rule are the result of legislation passed during the 2018 Regular Session, which required agencies to report real property inventory to the Real Estate Division. The changes in section 10 of the rule mirror the requirements amended into the statute as a result of the legislation.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/11/2018

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/10/2018

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/18/2018 4:32:26 PM

Office of West Virginia Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Highways TITLE-SERIES: 157-12

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Employment Procedures

CITE STATUTORY AUTHORITY: WVC §17-2A-24

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/20/2018 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Rita A. Pauley

ADDRESS: 1900 Kanawha Blvd. E., Bldg5, Room 109

Charleston, WV 25305

EMAIL: rita.a.pauley@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

FILED

2018 JUL 16 A 11:42

INTERPRETIVE

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF THE CABINET SECRETARY
Office of Legislative Services
One Davis Square, Suite 100, East
Charleston, West Virginia 25301
Telephone: (304) 558-0684 Fax: (304) 558-1130

Bill J. Crouch
Cabinet Secretary

Jeremiah Samples
Deputy Secretary

July 16, 2018

Via E-mail and Interdepartmental Mail
Ms. Judy Cooper, Director of Administrative Law
West Virginia Secretary of State's Office
1900 Kanawha Boulevard, East
Building 1, Room 157K
Charleston, West Virginia 25305

RE: Repeal of Interpretive Rule

Dear Ms. Cooper:

The Department of Health and Human Resources requests that the following Interpretive Rule be repealed.

- 64 CSR 79 Primary Care Center Information Releases by the Division of Health

This rule is unnecessary, as the provisions of the rule are covered under the West Virginia Freedom of Information Act.

Thank you for your assistance in this matter. Should you have any questions or require additional clarification, please contact me at the telephone number listed above.

Sincerely,

Heather J. McDaniel
Legislative Liaison

HJM:frk

cc: Bill J. Crouch, Cabinet Secretary
Rahul Gupta, Commissioner, Bureau for Public Health

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
7/18/2018 3:39 PM
Office of West Virginia
Secretary Of State

PROCEDURAL

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL RULE

AGENCY: Public Employees Grievance Board TITLE-SERIES: 156-01

RULE TYPE: Procedural Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: RULES OF PRACTICE AND PROCEDURE OF THE WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD

CITE STATUTORY AUTHORITY: §6C-3-4

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

August 17, 2018

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jennelle H Jones -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
7/19/2018 11:39:22 AM
Office of West Virginia
Secretary Of State

EMERGENCY

NOTICE OF AN EMERGENCY RULE

AGENCY: Highways TITLE-SERIES: 157-12

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: Employment Procedures

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

WVC §17-2A-24

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

N/A

PRIMARY CONTACT:

NAME: Rita A. Pauley

ADDRESS: 1900 Kanawha Blvd E Bldg 5 R00m 109

Charleston, WV 25305

EMAIL: rita.a.pauley@wv.gov

PHONE NUMBER: 304-558-9337

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Orders Report

Docket Number	Agency	Respondent	Date Rendered
17-THP-02128/17-AP-THP-02128	Insurance Commission	Gateway Insurance Company	6/28/2018
16-107-W	Medicine, West Virginia Board Of	Steven Scott Melek, DPM	7/9/2018
2017-36	Osteopathic Medicine, WV Board of	Wayne Myles, DO	7/5/2018
2017-26	Osteopathic Medicine, WV Board of	Vinson Disanto, DO	7/5/2018
2017-23	Osteopathic Medicine, WV Board of	Lucy Shamblin, DO	7/5/2018
2017-04	Osteopathic Medicine, WV Board of	Lucy Shamblin, DO	7/5/2018
2017-03	Osteopathic Medicine, WV Board of	Jane Kelley-Tallman, DO	5/17/2018
P-18-001	Real Estate Commission, West Virginia	Marla Bass Sinko	7/18/2018
P-18-001	Real Estate Commission, West Virginia	Cathy E. Smith	7/18/2018
C-18-022	Real Estate Commission, West Virginia	Bryen James McHenry	7/18/2018

WEST VIRGINIA ETHICS COMMISSION ADVISORY OPINIONS	
NO.	**OPINION SOUGHT**
2018-09	A City asks whether a Council Member may vote on the City's proposed purchase of property that is adjacent to the Council Member's residence.

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

CHARLESTON

EXECUTIVE ORDER NO. 17-18

AND DECLARATION

BY THE GOVERNOR

AND

BY THE WEST VIRGINIA COMMISSIONER OF HIGHWAYS

EXECUTIVE ORDER

WHEREAS, the Legislature of the State of West Virginia (the "State") enacted and re-enacted chapter seventeen, article seventeen-a of the Code of West Virginia, 1931, as amended (the "Act"), relating to authorizing the Commissioner of Highways (the "Commissioner") to pay the cost of any surface transportation improvements through the issuance of special obligation notes not to exceed five hundred million dollars ($500,000,000), and such notes to be described in a written declaration executed by the governor (the "Governor") and the Commissioner and filed with the Secretary of State (hereinafter, the "Declaration"); and

WHEREAS, the State has selected certain surface transportation projects the accelerated construction of which will improve highway safety and enhance economic development, and which surface transportation projects are eligible for federal highway reimbursement; and

WHEREAS, the Commissioner has entered into a Memorandum of Understanding by and between the State and the Federal Highway Administration dated June 28, 2018 (the "Agreement"), which Agreement provides for the advance construction of the designated surface transportation projects and the reimbursement for the debt service on notes issued to fund the construction of said projects; and

WHEREAS, pursuant to the Act, it is necessary and desirable for the State to issue its $78,810,000 State of West Virginia (Commissioner of Highways) Surface Transportation Improvements Special Obligation Notes, Series 2018 A (the "2018 A Notes"); and

WHEREAS, pursuant to the Act, it is in the best interest of the State for the 2018 A Notes to be sold to Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Crews & Associates, Inc. (collectively, the "Underwriters"); and

WHEREAS, the proceeds of the sale of the 2018 A Notes to the Underwriters (net of original issue premium/discount and costs of issuance associated with the sale of the 2018 A Notes) shall be deposited into a project fund (the "Surface Transportation Notes Project Fund"), created and established pursuant to the Master Trust Indenture dated December 22, 2016 (the "Master Trust Indenture"), between the Commissioner and The Bank of New York Mellon, Woodland Park, New Jersey, as Trustee (the "Trustee"), as supplemented by the 2016 series indenture dated December 22, 2016 (the "2016 Series Indenture"), the 2017 series indenture dated October 26, 2017 (the "2017 Series Indenture") and the 2018 series indenture to be dated the date of closing (the "2018 Series Indenture", collectively with the Master Trust Indenture, the 2016 Series Indenture and the 2017 Series Indenture, the "Indenture") and shall be used solely for the payment of the cost of the surface transportation improvements approved herein; and

WHEREAS, certain action is required of me, as Governor, and of me, as Commissioner, in order for the 2018 A Notes to be issued and sold.

NOW, THEREFORE, I, JIM JUSTICE, GOVERNOR, pursuant to and by the authority vested in me as the Chief Executive Officer of this State, do hereby **FIND, DETERMINE, DECLARE** and **ORDER** that and **I, THOMAS J. SMITH,** Commissioner of Highways, do hereby **FIND, DETERMINE, DECLARE** and **ORDER** that:

Section 1. Findings. A. The issuance of the 2018 A Notes as herein provided will enable the State to acquire and construct bridge repairs and replacements and roadway improvements, as is more fully described in the project documents and Attachment A, attached hereto and incorporated herein by reference, commonly referred to as the 2018 Projects (the "Projects"), and is in the best interests of the people of, and business and industry in, the State.

B. The estimated cost of the Projects, based on actual bids and a reasonable contingency, is $90,427,819. The costs will be paid from proceeds of the 2018 A Notes, eligible federal highway funds and monies in the State Road Fund.

C. The Commissioner has verified said costs, as required by Section 3 of the Act.

D. Under the Act, the Commissioner has issued State of West Virginia (Commissioner of Highways) Surface Transportation Improvements Special Obligation Notes, Series 2016 A, dated December 22, 2016, in the aggregate principal amount of $53,380,000, which were defeased to maturity on February 15, 2018 and are deemed no longer outstanding under the Indenture, and State of West Virginia (Commissioner of Highways) Surface Transportation Improvements Special Obligation Notes, Series 2017 A, dated October 26, 2017, in the aggregate principal amount of $219,985,000 and currently outstanding in the amount of $219,985,000 (the "Prior Notes"). The 2018 A Notes will be issued on parity with the Prior Notes. The aggregate principal amount of the outstanding Prior Notes ($219,985,000) and the 2018 A Notes collectively do not exceed $500,000,000.

E. The manner of sale, prices or price and the terms and conditions of the 2018 A Notes have been approved by and do not exceed the maximums set by the Five Member Transportation Advisory Group, as required by Section 4 of the Act.

Section 2. Issuance of the 2018 A Notes. The issuance of the 2018 A Notes on behalf of the State in the aggregate principal amount of $78,810,000 and dated as of the issue date, is hereby authorized and approved. The 2018 A Notes shall be designated "State of West Virginia (Commissioner of Highways) Surface Transportation Improvements Special Obligation Notes, Series 2018 A," and shall be numbered AR-1 upward. The 2018 A Notes shall be issued in denominations of $5,000 or any integral multiple thereof, in fully-registered form, and initially issued in book-entry form and registered to Cede & Co. as nominee for The Depository Trust Company. Interest on the 2018 A Notes is payable on each March 1 and September 1 (each an "Interest Payment Date"), commencing March 1, 2019. The interest rate per annum and the maturity schedule and provisions for payment or redemption are set forth in Exhibit A hereto and incorporated herein by reference. The form of the 2018 A Notes attached to the 2018 Series Indenture is hereby approved, subject to appropriate insertions and variations as are approved by me, as Governor, and by me, as Commissioner; the 2018 A Notes shall be executed by the

manual or facsimile signatures of the Governor and the Commissioner and attested by the manual or facsimile signature of the Secretary of the State, and the great seal of the State of West Virginia shall be impressed or imprinted thereon; and the 2018 A Notes shall be delivered to the Trustee, as Registrar and Authenticating Agent (the "Registrar"), for registration, authentication and delivery as provided herein. The validity of any 2018 A Note so executed shall not be affected by the fact that one or more of the officers whose signatures appear on such 2018 A Note have ceased to hold office at the time of issuance or authentication or at any time thereafter.

Section 3. The 2018 A Notes. The 2018 A Notes shall contain a recital that they are issued pursuant to the Act and shall be secured by the pledge set forth in the Indenture and the Act on parity with the Prior Notes. The 2018 A Notes, together with the interest thereon, are special obligations of the State and shall not constitute a debt or pledge of the faith and credit or taxing power of the State or of any county, municipality or any political subdivision of the State, and the holders or owners thereof shall have no right to have taxes levied by the legislature of the State or the taxing authority of any county, municipality or any other political subdivision of the State for the payment of the principal thereof or interest thereon, but the 2018 A Notes and any refunding notes thereof shall be payable solely from the revenues and funds pledged for their payment as provided in said Indenture.

Section 4. 2018 Series Indenture.

The form of the 2018 Series Indenture, between the Commissioner and The Bank of New York Mellon, as Trustee, attached as Exhibit B hereto and incorporated herein by reference, and its execution and delivery by the Commissioner, shall be and hereby is approved, with such changes, insertions and omissions as may be approved by the Commissioner. The execution of the 2018 Series Indenture by the Commissioner shall be conclusive evidence of such approval.

Section 5. Note Purchase Agreement. The Note Purchase Agreement, as attached hereto as Exhibit C and made a part of this Declaration as though set forth in full herein, providing for the sale of the 2018 A Notes to the Underwriters pursuant to the terms thereof, shall be and the same hereby is approved with such changes, insertions and omissions as shall be consistent with the Act. Execution of said document by me, as Commissioner, shall be conclusive evidence of my approval of any such changes, insertions and omissions. The 2018 A

Notes shall be sold to the Underwriters for the purchase price of $90,627,992.69, which reflects original issue premium of $12,060,127.35, less Underwriters' discount of $242,134.66.

Section 6. Official Statement. The Preliminary Official Statement, which is attached hereto as Exhibit D, and the distribution of such Preliminary Official Statement by the Underwriter, are hereby ratified, confirmed and approved. The final Official Statement of the Commissioner is hereby deemed final within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, with such changes, omissions, insertions and revisions as the Commissioner shall deem advisable, such signature to evidence approval thereof, and is hereby authorized, and the Commissioner shall sign and deliver two copies of such final Official Statement to the Underwriters for distribution to prospective purchasers thereof and other interested persons.

Section 7. Disclosure Dissemination Agent Agreement. The Disclosure Dissemination Agent Agreement (the "Disclosure Agreement") between the State and Digital Assurance Certification, L.L.C., dated the date of closing is hereby ratified, confirmed and approved.

Section 8. Closing Date. As Governor, I shall, and as Commissioner, I shall, and other proper officers of the State are hereby authorized and directed to, execute and deliver any and all papers and instruments and to do and cause to be done any and all action and things necessary or proper for carrying out the transactions contemplated by this Declaration, including but not limited to, the execution of the 2018 Series Indenture and Disclosure Agreement, on or about August 1, 2018.

Section 9. Use of Note Proceeds. From the net proceeds of the 2018 A Notes, $90,427,818.52 are hereby ordered to be deposited in the Series 2018 A Project Fund to pay a portion of the costs of the Projects, as provided in the 2018 Series Indenture, and $442,308.83 shall be deposited in or credited to the Series 2018 A Costs of Issuance Fund to pay Costs of Issuance.

Section 10. Cost of Issuance. Pursuant to the Act, all necessary and reasonable expenses incident to the issuance of the 2018 A Notes, including, but not limited to, mailing and delivery of the 2018 A Notes, the Official Statement, any amendment or supplement to the Official Statement, including the mailing and delivery thereof by the printer, fees and expenses of the Underwriters (including the fees and expenses of counsel to the Underwriters), fees and

expenses of Bond Counsel, fees and expenses of a financial advisor for the 2018 A Notes, any fee charged by rating agencies for the rating of the 2018 A Notes, fees and expenses of the Trustee, Registrar and Authenticating Agent, fees and expenses of the Trustee's Counsel, fees and expenses of the Disclosure Counsel and any other cost, charge or fee incurred in the issuance of the 2018 A Notes, shall be paid from proceeds of the 2018 A Notes deposited in the Costs of Issuance Fund. The list of approved cost of issuance is attached as Exhibit E.

Section 11. Effective Date. This Declaration shall take effect on the date hereof.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, We have hereunto set our hands and caused the Great Seal of the State of West Virginia to be affixed.

EXECUTIVE ORDER

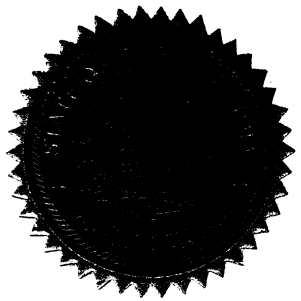
Done at the Capitol, in the City of Charleston, State of West Virginia, this the 17th day of July in the year of our Lord, Two Thousand Eighteen, and in the One Hundred Fifty-Sixth year of the State.

GOVERNOR

BY THE GOVERNOR

COMMISSIONER OF HIGHWAYS

BY THE COMMISSIONER



Mac Warner

SECRETARY OF STATE

State of West Virginia
Office of the Attorney General
State Capitol
Building 1, Room 26-E
Charleston, WV 25305-0220

FILED
2018 JUL 19 A 10:19
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AG OPINION

Patrick Morrisey
Attorney General

(304) 558-2021
Fax (304) 558-0140

July 18, 2018

Raymond K. LaMora III
Tucker County Prosecuting Attorney
211 First Street, Suite 207
Parsons, WV 26287

Dear Prosecutor LaMora:

You have asked for an Opinion of the Attorney General concerning the Tucker County Commission's ability to collect unpaid special emergency ambulance service fees. This Opinion is being issued pursuant to West Virginia Code § 5-3-2, which provides that the Attorney General "may consult with and advise the several prosecuting attorneys in matters relating to the official duties of their office." To the extent this Opinion relies on facts, it is based solely on the factual assertions in your correspondence with the Office of the Attorney General.

In your letter, you explain that the Tucker County Commission ("Commission") exercised its authority under West Virginia Code § 7-15-17 by issuing an ordinance that requires county property owners and businesses to pay an annual special ambulance service fee. The ordinance provides that the Commission may collect unpaid, overdue fees by filing a civil action or referring the matter to a collections agency. You included a copy of the ordinance with your letter, which represents that it went into effect on November 8, 2017.

Your letter raises the following legal question:

Does a county commission have authority to collect overdue special emergency ambulance service fees pursuant to an ordinance that allows the commission to initiate a civil action or use a collections agency?

We conclude that both options are acceptable means by which a county commission may exercise its statutory authority to collect special emergency ambulance service fees from county residents.

Discussion

In 1975, the Legislature enacted the Emergency Ambulance Service Act to help expand emergency ambulance coverage across West Virginia. W. Va. Code § 7-15-2; *see also Randy Waugh/Waugh's Mobile Home Park v. Morgan Cty. Emergency Med. Servs. Bd., Inc.*, 236 W. Va. 468, 475, 781 S.E.2d 379, 386 (2015). A central provision of this Act imbues county commissions with the power—and often the obligation—to create an emergency ambulance authority. W. Va. Code § 7-15-4. In turn, West Virginia Code § 7-15-17 provides that a county commission may, through ordinance, "impose upon and collect from the users of the emergency ambulance service within the county" a "special emergency service fee." *See also Clay Cty. Citizens for Fair Taxation v. Clay Cty. Comm'n*, 192 W. Va. 408, 409, 452 S.E.2d 724, 725 (1994) (upholding imposition of an emergency ambulance service fee upon each household within a county); *City of Huntington v. Bacon*, 196 W. Va. 457, 468-69, 473 S.E.2d 743, 754-55 (1996) (reaffirming *Clay*).

The ordinance at issue here does just that. Through the ordinance, the Commission imposed an annual special emergency ambulance service fee upon all property owners and businesses within Tucker County. This $50 fee is due by September 1 each year beginning September 1, 2018. The ordinance further provides that the Commission may initiate actions to collect any fees that remain outstanding on or after May 1 the year after the fees come due, together with late fees and interest. Specifically, the Commission may either engage a collections agency or pursue a civil action in its effort to collect overdue fees.

Turning first to the civil action option, there is no doubt that this is a permissible, legal method to collect delinquent special emergency ambulance service fees. In *Randy Waugh*, the Supreme Court of Appeals held that the Morgan County Commission had authority to delegate power to collect special emergency ambulance service fees to its ambulance authority, and that the ambulance authority could exercise this power by bringing a civil action. 236 W. Va. at Syl. Pt. 6, 781 S.E.2d at 381. Because county commissions have authority to delegate fee collection to other entities, it necessarily follows that they possess that power in their own right. Indeed, our high court emphasized that county commissions have statutory authority to pass ordinances that "provide[] for the imposition *and collection* of emergency ambulance service fees." *Id.* at 475, 781 S.E.2d at 386 (emphasis added). This conclusion is also consistent with a pre-*Randy Waugh* opinion from this Office, which reasoned that an ambulance authority lacks freestanding authority to bring a civil action to collect unpaid emergency ambulance fees, but expressly left open the question "whether a county commission [may] delegate *its* statutory power" to do so. Opinion of Attorney General Regarding Collection of Unpaid Emergency Ambulance Service Fees, 2013 WL 5984531, at *3 (W. Va. A.G. Nov. 8, 2013) (emphasis added).

Although use of a collections agency to collect ambulance service fees has not been tested in court, we are confident that this approach is also a valid exercise of the Commission's statutory authority. First, the Commission established this option through ordinance, satisfying the threshold requirement in West Virginia Code § 7-15-17 that a county commission may "collect" ambulance service fees "by ordinance" only. Nothing in Section 7-15-17 or other

AG OPINION

relevant statutes constrains the *manner* by which commissions may collect unpaid fees. Further, it is well-established that a county commission possesses "such powers as are expressly conferred by the Constitution and the legislature, together with such as are reasonably and necessarily implied in the full and proper exercise of the powers so expressly given." Syl. Pt. 4, *State ex rel. W. Virginia Parkways Auth. v. Barr*, 228 W. Va. 27, 716 S.E.2d 689 (2011). We see no reason why resort to the courts would be a valid avenue to exercise a county commission's express authority under Section 7-15-17 to collect ambulance service fees, but engaging a collections agency would not. Both remedies can be fairly described as "reasonably and necessarily implied in the full and proper exercise of" the Commission's express power. *Id.*; *see also* Syl. Pt. 1, *State ex rel. State Line Sparkler of WV, Ltd. v. Teach*, 187 W. Va. 271, 418 S.E.2d 585 (1992).

Further, the Emergency Ambulance Service Act is to be "liberally construed" to accomplish its purpose of "promot[ing] the health and welfare of the citizens and residents of this State." W. Va. Code § 7-15-2(b), (e), (d); *see also id.* § 7-15-18 (providing that "[t]he provisions of this article shall be liberally construed to accomplish its purpose"). An interpretation of Section 7-15-17 that unduly limits the means by which the Commission may exercise its authority to "collect" ambulance service fees would run against this principle and frustrate the Legislature's goal of empowering county commissions to establish enforceable systems to fund county emergency ambulance services. Accordingly, we conclude that the ordinance allowing the Commission to refer unpaid fees to a collections agency is a valid exercise of its power under Section 7-15-17.

Finally, although additional questions that may arise from the collections process itself are outside the scope of your request, we note that the ordinance must be applied consistent with other applicable laws. For example, because all proceeds from the collected fees must be deposited into a special fund and used for specific purposes only, *see* West Virginia Code § 7-15-17; *Randy Waugh*, 236 W. Va. at 476, 781 S.E.2d at 387, any fee arrangement between the Commission and a collections agency likely could not include sharing portions of those fees. We also strongly urge the Commission to ensure that any collections agency it may choose to employ is properly vetted and complies with the license and bonding requirements of West Virginia Code § 47-16-4.

Sincerely,

Patrick Morrisey
Attorney General

Lindsay See
Solicitor General

Gordon L. Mowen, II
Assistant Attorney General

Proposed Revision to the West Virginia Section 111(d) State Plan
Control of Air Pollution from Municipal Solid Waste Landfills

Notice of Public Hearing and Public Comment Period

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is revising the Clean Air Act § 111(d) State Plan for the Control of Air Pollution from Municipal Solid Waste (MSW) Landfills. This plan revision incorporates changes made to rule 45 C.S.R. 23 - "Control of Air Pollution from Municipal Solid Waste Landfills". This rule change requires DAQ to submit a State Plan revision for MSW landfills and conduct a public hearing.

DAQ will hold a public hearing on Monday, August 20, 2018 beginning at 5:30 p.m. on a proposed revised State Plan to implement Emission Guidelines for MSW landfills.

The public hearing is being held to satisfy the requirements for submitting a revised § 111(d) State Plan. The revised plan will be submitted to the United States Environmental Protection Agency (USEPA) and supplemented by legislative rule 45 C.S.R. 23 - "Control of Air Pollution from Municipal Solid Waste Landfills," which became effective June 1, 2018. This rule gives West Virginia regulatory authority to adopt, implement and enforce the Emission Guidelines requirements for existing MSW landfills and the New Source Performance Standards for new facilities, either directly through administrative action requiring compliance with 45 C.S.R. 23, or by including such requirements in State permits, where applicable.

The public hearing will be held in the Dolly Sods conference room #1125, at the DEP Charleston headquarters located at 601 57th Street SE, Charleston, West Virginia 25304. Written and oral comments will be accepted until the close of the hearing on August 20, 2018. Comments will also be accepted by e-mail if transmitted by 5:30 p.m. on August 20, 2018 to richard.a.boehm@wv.gov . Written comments may also be submitted at the following address:

William F. Durham, Director
Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Comments submitted by mail must be postmarked by August 20, 2018. Copies of the proposed revised State Plan will be available for public review on or before August 20, 2018, at the Department of Environmental Protection, Division of Air Quality's Charleston office at the above address, or on the website at http://www.dep.wv.gov/daq/publicnoticeandcomment/Pages/default.aspx. Appendices to the Plan will be available upon request.

FILED
2018 JUL 16 A 11:45
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

OTHER

WEST VIRGINIA HEALTH CARE AUTHORITY
CERTIFICATE OF NEED
100 Dee Drive
Charleston, West Virginia 25311-1600

FILED
2018 JUL 17 A 10:33
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

July 16, 2018

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **July 13, 2018**.

LETTER OF INTENT RECEIVED

July 13, 2018 – Bluefield Clinic Company, LLC, Franklin, Tennessee, CON File #18-1-11410-P, for the development of an ambulatory health care facility in Mercer County through the acquisition of an existing physician practice; capital expenditure: $100,000.

CERTIFICATE OF NEED APPLICATIONS RECEIVED

July 9, 2018 – Ronceverte Physician Group, LLC, Franklin, Williamson County, Tennessee, CON File #18-1/4-11402-P, for the development of ambulatory health care facilities in Greenbrier and Raleigh counties through the acquisition of a physician practice with offices in these two counties; capital expenditure: $815,000.

July 12, 2018 - War Memorial Hospital, Berkeley Springs, Morgan County, CON File #18-9-11404-P, for the outpatient therapy services located off campus at 261 Berkmore Place #2A, Berkeley Springs, Morgan County; capital expenditure: $10,000.

APPLICATIONS FOR EXEMPTION RECEIVED

July 11, 2018 – Synergy Health, Inc., Charleston, Kanawha County, CON File #18-3-11407-X, for the development of behavioral health outpatient services in Kanawha County.

July 11, 2018 – West Virginia University Hospitals, Inc., Morgantown, Monongalia County, CON File #18-6-11408-X, for the reconfiguration of 12 of the 49 psychiatric inpatient beds from psychiatric residential treatment facility/sex offender unit beds to psychiatric beds.

Further information may be obtained on any of the above-referenced projects by contacting Barbara Skeen, Director, Certificate of Need Division.

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
WV Health Care Authority

Bill J. Crouch
Cabinet Secretary

Harriett Fitzgerald
Executive Director

FILED
2018 JUL 17 P 3:41
OFFICE OF WEST VIRGINIA SECRETARY OF STATE
OTHER

NOTICE OF REVIEW

FOR IMMEDIATE RELEASE

July 17, 2018

NEWS ITEM

The Health Care Authority (Authority), pursuant to the Certificate of Need program, has declared complete and accepted for review the expedited applications referenced below:

July 2, 2018 - Potomac Valley Hospital, Keyser, Mineral County, CON File #18-8-11397-P, for the development of an ambulatory health care facility in Mineral County through the relocation of its wound care center and diabetes education services off-campus; capital expenditure: $48,000.

July 13, 2018 - War Memorial Hospital, Berkeley Springs, Morgan County, CON File #18-9-11404-P, for the outpatient therapy services located off campus at 261 Berkmore Place #2A, Berkeley Springs, Morgan County; capital expenditure: $10,000.

July 16, 2018 - Ronceverte Physician Group, LLC, Franklin, Williamson County, Tennessee, CON File #18-1/4-11402-P, for the development of ambulatory health care facilities in Greenbrier and Raleigh counties through the acquisition of a physician practice with offices in these two counties; capital expenditure: $815,000.

An application that has been declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

The review cycle begins on **July 16, 2018**.

On or before **August 15, 2018**, any affected person has the right to request that the Authority hold a public hearing on the projects as part of the review. If a public hearing is conducted during the course of the review, a notice of hearing, specifying the date, time and location of the hearing, will be issued to affected persons.

If no public hearing is requested, the file closing date will be **August 20, 2018**. After that date, no further information or evidence will be accepted by the Authority for the remainder of the review of the applications.

The Decision on the projects referenced above will be issued by the Authority after it has reviewed the contents of the case files of the projects, including the application, additional information submitted to the Authority during the review, and the record of any Authority public hearing. If there is no request for public hearing, the Decisions will be issued on or before **September 14, 2018**.

A press release will be issued after the decisions are made. Anyone wishing to be directly notified of the Decisions should submit a written request to Barbara Skeen, Director, Certificate of Need, Health Care Authority, 100 Dee Drive, Charleston, West Virginia, 25311-1600. Further information on any project referenced in this news release may be obtained by contacting the Certificate of Need office at telephone number (304) 558-7000.

7/17/18
Date

Barbara Skeen
Barbara Skeen, Director, Certificate of Need
Health Care Authority

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
WV Health Care Authority

FILED
2018 JUL 19 A 9:42
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Bill J. Crouch
Cabinet Secretary

Harriett Fitzgerald
Executive Director

In re:

Children's Hospital of Pittsburg of UPMC

CON File No. 18-6-11274-P

NOTICE OF CANCELLATION OF ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Harriett Fitzgerald, Executive Director of the West Virginia Health Care Authority, wishes to announce that Children's Hospital of Pittsburg of UPMC, has withdrawn the above-noted Certificate of Need application.

As such, the administrative hearing scheduled for **August 10, 2018** in this matter is CANCELLED, the file is now CLOSED and no further information regarding this application will be accepted.

This application provides pediatric subspecialty services at a new outpatient care center located in Morgantown, West Virginia.

If you have questions concerning this matter, please contact Barbara Skeen, Director of Certificate of Need, at (304) 558-7000 or toll free 1-888-558-7002.

Date: July 10, 2018

Harriett Fitzgerald, Executive Director

RECEIVED
JUL 13 2018

100 Dee Drive • Charleston, West Virginia 25311-1600 • 304.558.7000 • 304.558.4776/Fax • www.hca.wv.gov

OTHER

FILED
2018 JUL -3 A 9:52
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Approved by Governor
Date:

HOSPICE SERVICES

I. DEFINITION

Care designed to give palliative and supportive care to the patient and family in the final phase of a terminal illness and focus on comfort and quality of life, rather than cure. The coordinated palliative and supportive care is available 24 hours per day, 7 days per week. The goal is to enable patients to be comfortable and free of pain, so that they live each day as fully as possible. Aggressive methods of pain control may be used. Hospice programs generally are home-based, but they sometimes provide services away from home -- in freestanding facilities, in nursing homes, or within hospitals. The philosophy of hospice is to provide support for the patient's emotional, social, and spiritual needs as well as medical symptoms as part of treating the whole person.

Hospice programs generally use an interdisciplinary team approach, including the services of physicians, nurses, home health aides, social workers, counselors, chaplains, therapists and trained volunteers. Additional services provided include drugs to control pain and manage other symptoms; physical, occupational, and speech therapy; medical supplies and equipment; medical social services; dietary and other counseling; continuous home care at times of crisis; and bereavement services for the family. Although hospice care does not aim for cure of the terminal illness, it may treat potentially curable conditions such as pneumonia and bladder infections, with brief hospital stays if necessary. Hospice programs also offer respite care services. Respite care workers are people who are usually trained volunteers, who take over the patient's care so that the family or other primary caregivers can leave the house for a few hours. Volunteer care is part of hospice philosophy.

Hospice Models

Freestanding:	A hospice inpatient facility that is administratively and physically freestanding. This type of hospice operates a home care program in conjunction with the inpatient unit.
Hospital Based:	A hospice administratively and/or physically linked to a hospital. This type of hospice operates a home care program and may also operate an inpatient unit.
Nursing Home Based:	A hospice administratively and/or physically linked to a nursing home or long-term care facility. This type of hospice can operate an inpatient unit and a home care program.
Community-Based:	A hospice home care program that operates under an autonomous administration. This type of hospice may be affiliated with an inpatient unit. This type of hospice may contract for inpatient services.
Home Health Agency Based:	A hospice administratively and/or physically linked to a home-health agency. This type of hospice may contract for inpatient services.

OTHER

II. CURRENT INVENTORY

The Authority shall provide the applicant with a current inventory of Hospice providers.

III. NEED METHODOLOGY

The evaluation of need for proposed hospice services or facilities will be based on the county of location as the smallest unit of analysis.

Formula for Projecting Hospice Needs

Using the most recent edition of the West Virginia Vital Statistics, published by the West Virginia Department of Health and Human Resources, Bureau for Public Health, Health Statistics Center, the applicant will use the following calculation to project need.

Total deaths for the county (x) 25 percent = Total projected hospice users

If the total projected hospice users exceed the current utilization by 25 patients, then an unmet need exists.

For purposes of determining current utilization, the applicant must conduct a written survey of all existing hospice providers in the applicant's proposed service area. The survey must request that each of the existing hospice providers provide information regarding the counties in which they provide services and data regarding the number of patients served in each county during the most recent twelve-month period. The proof of delivery along with all responses to the survey must be submitted to the Authority. The written survey may be conducted by electronic means, so long as receipt by the existing provider can be verified and the verification submitted to the Authority. "Read" receipts will be submitted to the Authority when electronic means are employed for surveys, along with

the completed survey response. A survey conducted by electronic means that is returned as "undeliverable" or a "read" receipt is not received, shall be sent to the hospice provider by mail.

Survey completion deadlines will be specified on the survey, with a minimum of 15 business days following delivery of the survey for the response to be provided.

IV. QUALITY

All applicants shall document that they will be in compliance with all current applicable Centers for Medicare and Medicaid Services (CMS) and Medicaid requirements.

V. CONTINUUM OF CARE

All applicants shall document that they will be in compliance with all current applicable CMS and Medicaid requirements.

VI. COSTS

A. Applicants for a certificate of need for hospice service should have a plan for financing the proposed project that identifies the expected sources of income and projected expenses, which will indicate a stable financial basis.

B. Hospice services shall be offered at the least restrictive level, which is consistent with the patient's needs.

VII. ACCESS

All applicants shall document that they will be in compliance with all current applicable CMS and Medicaid requirements.

OTHER

VIII. OTHER

Hospice services are provided for patients living with a terminal illness and their families. Hospice is considered to be a cost-effective, high quality service on the continuum of care. Levels of care include home care, continuous home care at times of crisis, inpatient care, and inpatient respite care. Thus, hospice services should be provided in the least restrictive environment and access must be encouraged.