

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

OCT 13 9 52 AM 1999

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: West Virginia Infrastructure & Jobs Development Council TITLE NUMBER: 167

CITE AUTHORITY: W.Va. Code § 6-9A-3

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: Series 2

TITLE OF RULE BEING ADOPTED: Rule Establishing Procedures To Provide Public Notice of Date, Time, Place, Agenda and Purpose of Meetings of West Virginia Infrastructure & Jobs Development Council And Manner In Which Meetings Are To Be Conducted.

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS November 12, 1999



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OFFICE OF THE SECRETARY OF STATE

**TITLE 167
PROCEDURAL RULES
WEST VIRGINIA INFRASTRUCTURE &
JOBS DEVELOPMENT COUNCIL**

**SERIES 2
RULE ESTABLISHING PROCEDURES
TO PROVIDE PUBLIC NOTICE
OF DATE, TIME, PLACE, AGENDA AND PURPOSE OF MEETINGS
OF WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL
AND MANNER IN WHICH MEETINGS ARE TO BE CONDUCTED.**

§ 167-2-1. General.

1.1 Scope – This rule establishes procedures for providing notice to the public and the news media of all regularly-scheduled, special and emergency meetings of the West Virginia Infrastructure & Jobs Development Council and certain committees thereof.

1.2 Authority -- W. Va. Code § 31-15A-4 and § 6-9A-3.

1.3 Filing Date -- September 7, 1999

1.4 Effective Date – November 12, 1999

§ 167-2-2. Definitions.

2.1 “Council” means the West Virginia Infrastructure and Jobs Development Council created and established under W. Va. Code §§ 31-15A-1 *et seq.*

2.2 “Consolidation Committee” means the consolidation committee of the Council.

2.3 “Funding Committee” means the funding committee of the Council.

2.4 “Governing Body” means the Council, the Consolidation Committee or the Funding Committee.

§ 167-2-3. Notice.

3.1 Regularly Scheduled Meetings -- The Council, the Consolidation Committee and the Funding Committee shall each cause notice of their respective regularly scheduled meetings to be filed with the office of the Secretary of State for the State of West Virginia for publication in the State Register in a manner to allow each notice to appear in said publication at least five days prior to the date of the meeting. Notice provided under this section shall include the date, time, place and agenda of the meeting.

3.2 Special Meetings -- The Council, the Consolidation Committee and the Funding Committee shall each cause notice of all of their respective special meetings to be filed with the office of the Secretary of State for the State of West Virginia for publication in the State Register in a manner to allow each notice to appear in said publication at least five days prior to the date of the meeting. Notice provided under this section shall include the date, time, place and purpose of the meeting.

3.3 Emergency Meetings -- The Council, the Consolidation Committee and the Funding Committee may each file notice of any of their respective emergency meetings requiring immediate official action with the office of the Secretary of State for the State of West Virginia for publication in the State Register at any time prior to such meeting. Notice provided under this section shall include the date, time, place and purpose of the meeting and the facts and circumstances of the emergency.

§ 167-2-4. Continued Meetings.

4.1 For purposes of this rule, the announcement of continuation at a meeting otherwise noticed hereunder shall be deemed reasonable notice of the reconvening of the continued meeting.

§ 167-2-5. Additional Notice.

5.1 Nothing in this rule shall prohibit a Governing Body from providing additional notice for any particular meeting which it deems desirable or necessary, including the practice of causing the notice to be provided to local newspapers, television stations, radio stations and other news media.

§ 167-2-6. Amendments to Agenda.

6.1 If amendments to the agendas published in accordance with § 167-2-3.1 should occur prior to the date of any regularly-scheduled meeting, the Governing Body shall provide immediate notice of such amendment by posting a copy of the amended agenda at a prominent place at the location where the meeting is to be held.

§ 167-2-7. Telephone and Electronic Conferences.

7.1 Attendance—Members of the Council, the Consolidation Committee and the Funding Committee may participate in any regularly-scheduled, special or emergency meeting by telephone conference or other similar electronic means.

7.2 Participation -- At each meeting where a member participates by telephone or electronic means, the presiding officer of the Governing Body shall convene the meeting and advise the public of the identity of the member participating in said manner. The voice, comments and votes of said member shall be audible to all those personally present at the meeting.

7.3 Voting – Members participating in a meeting of a Governing Body by telephone or electronic means may cast votes on any matter to be voted upon at the meeting; *provided*, that no member may cast his or her vote by facsimile transmission. Where a majority of the members of a Governing Body has participated in a meeting of that body by telephone or electronic means, the actions taken at that

meeting shall be ratified at the next succeeding regularly scheduled meeting of the body, and said ratification shall be placed in the minutes of the meeting. Where less than a majority of the members of a Governing Body has participated in a meeting of that body by telephone or electronic means, the votes of those members so participating shall be confirmed at the next succeeding regularly schedule meeting of the body, and said confirmation shall be placed in the minutes of the meeting.

§ 167-2-8. Severability.

8.1 If any word, phrase or provision of this rule is held to be invalid, the remainder of the rule shall, to the fullest extent possible, not be affected by that holding.

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October 13, 1999

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VIA HAND DELIVERY

Judy Cooper
Director, Administrative Law
Secretary of State
Building 1, Room 157-K
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Re: Open Governmental Proceeding Act - - Procedural Rule

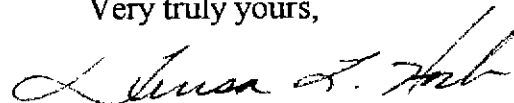
Dear Judy:

I have enclosed the Notice of Agency Adoption of a Procedural Rule (Form #5) of the West Virginia Infrastructure & Jobs Development Council for filing with the West Virginia Secretary of State's office.

The comment period ended on October 11, 1999 at 5:00 p.m. and there were no written or oral comments received.

If you have any questions or comments, please feel free to give me a call.

Very truly yours,



Teresa L. Hoskins
Legal Assistant

/tlh/323951

Enclosure

cc: Daniel B. Yonkosky (w/encl.)