

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

Do Not Mark In this Box

FILED
1991 JAN -3 AM 10:12
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia State Board of Investments TITLE NUMBER: 113

CITE AUTHORITY: W. Va. Code Chapter 12-3-1 et seq

EMERGENCY 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 RULE BEING FILED AS AN EMERGENCY: IX

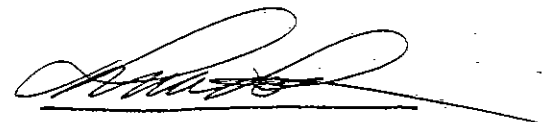
TITLE OF RULE BEING FILED AS AN EMERGENCY: Procedures for

Processing Payments from the State Treasury

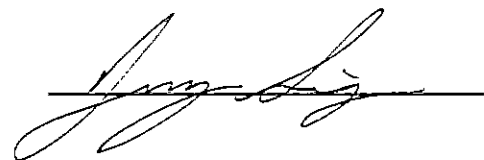
THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

With the passage of SB-8 by the second special session of the 1990 legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.



Use Additional Sheets If Necessary.



3.10

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedures for processing payments from the State Treasury

Type of Rule: Legislative Interpretive Procedural

Agency: Board of Investments/Treasurer's Office Address: State Capitol - Charleston, WV 25305

1. Effect of Proposed Rule:	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
N/A Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

These proposed rules implement procedures already in effect for processing payments from the State Treasury.

3. Objectives of these rules:

The general purpose of these proposed rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article Three, Chapter Twelve of the Code, wherein all warrants issued by the State Auditor on the Treasurer are processed by the Treasurer in accordance with the requirements of the Code.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These proposed rules will allow for the efficient processing of all warrants issued by the State Auditor by both the Board and the Treasurer.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

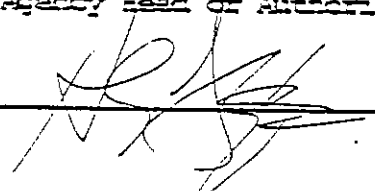
N/A

C. Economic Impact on Citizens/Public at Large.

See 4A.

Date: 10/29/90

Signature of Agency Head or Authorized Representative



DATE: January 3, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia State Board of Investments

EMERGENCY RULE TITLE: Procedures for Processing Payments from State Treasury

1. Date of filing: January 3, 1991

2. Statutory authority for promulgating the emergency rule: W. Va. Code Chapter 12-3-1 et seq

3. Date of filing of proposed legislative rule: 11-30-90

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
Adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
With the passage of SB-8 by the second special session of the 1990 legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Due to the second special session of the 1990 legislature, the Board
of Investments was required to hire its own staff and all investment
activity and cash management was transferred from the Treasurer's
Office to the Board of Investments. In order to implement these

legislative changes which effect the immediate cash flow of the State and the investment of the State's Moneys, these rules must be promulgated on an emergency basis. Otherwise, the State will be without available funds to pay bills of investment.

The general purpose of these proposed rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article Three, Chapter Twelve of the Code, wherein all warrants issued by the State Auditor on the Treasurer are processed by the Treasurer in accordance with the requirements of the code.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments
State Treasurer's Office

Chapter 12-3
Series IX

Subject: Procedures for processing payments from the State
Treasury.

TABLE OF CONTENTS

Section 1. General

- 1.01. Scope
- 1.02. Authority
- 1.03. General Purpose
- 1.04. Filing Date
- 1.05. Effective Date

Section 2. Definitions

Section 3. Procedures for Processing State Warrants

- 3.01. Check processing by the Treasurer
- 3.02. Check processing by the Disbursement Bank
- 3.03. Reconciliation of the Disbursement Bank Account

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments
State Treasurer's Office

Chapter 12-3
Series IX

Subject: Procedures for processing payments from the State Treasury.

Section 1. General

1.01. Scope - These rules implement the provisions of section one, article three, chapter twelve of the Code of West Virginia, 1931, as amended, wherein the State Board of Investments and the State Treasurer's office are required to develop procedures for processing payments from the State Treasury.

1.02. Authority - West Virginia Code §12-3-1.

1.03. General Purpose - The purpose of these rules is to carry out the legislative intent as stated in the above-mentioned code section, so that all warrants issued by the State Auditor on the Treasurer are processed by the Treasurer in accordance with the requirement of West Virginia Code §12-3-1.

1.04. Filing Date -

1.05. Effective Date -

Section 2 - Definitions

For purposes of these rules, unless a different meaning is clearly required by the context:

"Auditor" means the State Auditor of West Virginia;

"Bank" means the disbursement bank selected by the Board to process all checks issued by the State of West Virginia;

"Board" means the West Virginia State Board of Investments;

"Check" means a warrant issued by the Auditor and endorsed by the Treasurer directing the Board's disbursement bank to pay money as instructed;

"Code" means the 1931 Code of West Virginia, as amended;

"Treasurer" means the State Treasurer of West Virginia; and

"Warrant" means an authorization by the State Auditor authorizing the State Treasurer to pay an obligation of the State.

Section 3 - Procedures for Processing State Warrants and Checks

3.01. Check Processing by the Treasurer - Upon receipt by the Treasurer of a warrant issued by the Auditor, the Treasurer shall ascertain whether it has been drawn in pursuance of an appropriation made by law. If this requirement is met, the Treasurer shall endorse the warrant directing the Board's disbursement bank to pay the money as instructed. The Treasurer shall provide the Board a daily listing of all checks issued. This listing shall be in either paper form, electronic media, or such other form as determined by the Board.

3.02. Check Processing by the Disbursement Bank - The disbursement bank shall process all checks issued by the

Treasurer in accordance with the requirements of the contract for the disbursement account to be provided by the disbursement bank. The disbursement bank shall provide the Treasurer and the Board a daily listing of all checks paid month-to-date. Also, the disbursement bank shall provide the Treasurer and the Board the total dollar amount of checks paid by the bank each day. The Treasurer shall transfer to the disbursement account from his receipt account each day an amount sufficient to pay the disbursement bank for all checks paid. If the amount is insufficient, the Board shall transfer an amount from its investment bank sufficient to cover the remaining deficit balance in the disbursement account.

3.03. Reconciliation of the Disbursement Bank Account -

The disbursement bank shall reconcile the disbursement account in accordance with the requirements of the disbursement account contract. After the Board has verified the disbursement bank reconciliation, it will provide the Treasurer a list of all outstanding checks.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-3

INDEX

References are to section numbers.

Authority, 1.02

Check processing by the Disbursement Bank, 3.02

Check processing by the Treasurer, 3.01

Definitions, 2

Effective Date, 1.05

Filing Date, 1.04

General, 1

General Purpose, 1.03

Procedures for Processing State Warrants, 3

Reconciliation of the Disbursement Bank Account, 3.03

Scope, 1.01

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

January 15, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Board of Investments

RULE: New Rule, Series 9, Procedures for Processing Payments
from the State Treasury

DATE FILED AS AN EMERGENCY RULE: January 3, 1991

DECISION NO. 11-91

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

FILED
1991 JAN 23 PM 2:55
OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

DECISION EMERGENCY RULE DECISION (ERD 11-91)

AGENCY: West Virginia State Board of Investments
RULE: New Rule, Series 9, Procedures for Processing Payments
from the State Treasury
FILED AS AN EMERGENCY RULE: January 3, 1991

- par. 1 The WV Board of Investments (Board) has filed the above new rule as an emergency.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board has filed this emergency rule with supporting documents with the Secretary of State on January 3, 1991, and with the LRMRC on January 3, 1991.

par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §12-6-5(5) reads:

(5) Promulgate and enforce bylaws and rules for the management and conduct of its affairs.

par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

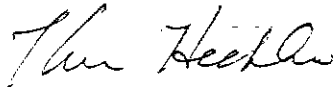
par. 12 The facts and circumstances as presented by the Board are as follows:

With the passage of S.B. 8 by the second special session of the 1990 Legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . ."immediate preservation of public peace, health, safety or welfare" and "to prevent substantial harm to public interest."

par. 14

This decision shall be cited as Emergency Rule Decision 11-91 or ERD 11-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the WV State Board of Investments, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

Entered _____

FILED

1991 JAN 23 PM 2:55

OFFICE OF THE SECRETARY OF STATE