

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #5

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2006 JUL 17 A 11:41

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: WEST VIRGINIA PARKWAYS ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY TITLE NUMBER: 184

CITE AUTHORITY: W.Va. Code § 17-16A-13a

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 RULE BEING PROPOSED: Series 3

TITLE OF RULE BEING PROPOSED: Rule providing for notice of and conduct  
of public hearings before toll rate changes

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS September 1, 2006

WEST VIRGINIA PARKWAYS ECONOMIC DEVELOPMENT  
AND TOURISM AUTHORITY

By: its Chairman, the Honorable Joe Manchin, III,  
Governor of the State of West Virginia by his  
Lawful Designee

By: 

Authorized Signature  
Honorable Joe Martin, Governor's Designee

#3.60

SUMMARY OF PROPOSED PROCEDURAL RULE

WEST VIRGINIA PARKWAYS ECONOMIC DEVELOPMENT AND TOURISM  
AUTHORITY

TITLE 184, SERIES 3

“TOLL RATE CHANGE, NOTICE AND CONDUCT OF MEETINGS”

This proposed procedural rule provides for public notice of a comment period pertaining to and public hearings to be held regarding any proposed toll rate changes by the West Virginia Parkways Economic Development and Tourism Authority, in advance of adoption of any Resolutions implementing any toll rate changes.

The procedural rule also deals with the conduct of the public hearings contemplated by the enabling legislation, West Virginia Code § 17-16A-13a and the provisions of this procedural rule.

**TITLE 184  
WEST VIRGINIA PARKWAYS ECONOMIC DEVELOPMENT  
AND TOURISM AUTHORITY  
PROCEDURAL RULE**

**SERIES 3  
RULE PROVIDING FOR NOTICE OF AND CONDUCT OF PUBLIC  
HEARINGS BEFORE TOLL RATE CHANGES**

**184-3-1. General**

1.1 Scope. -- These hearing rules shall be followed when the Authority determines to propose a change in toll rates. This procedural rule addresses and implements procedures regarding the form and content of hearing notices required by Section 3, Article 3, Chapter 29A of the West Virginia Code; implements and provides for the presentation of information and the conduct of such hearings; provides for oral and written presentation and comments; provides for the consolidation of multiple hearings where appropriate.

1.2 Authority. -- W.Va. Code § 17-16A-13a; § 29A-3-3.

1.3 Filing Date. -- July 13, 2006.

1.4 Effective Date. -- September 1, 2006.

**184-3-2. Notice.**

2.1 When a public hearing is scheduled, notice in the form of a legal advertisement will be published as a Class II legal publication in a newspaper having general circulation in the counties traversed by the West Virginia Turnpike, and if different, the vicinity of the toll facility or facilities at which any such changes to toll rates are proposed pursuant to the provisions of West Virginia Code § 59-3-2(a) and West Virginia Code § 17-16A-13a. Each notice shall specify the date, time and place of the hearing and will contain a description of the proposed change to toll rates.

2.2 The notice shall further indicate that the needs, reasons and justifications for the change in toll rates will be discussed at the hearing. To promote public understanding maps, drawings or charts and other visual aids, may be included where possible.

2.3 The notice will specify where maps; drawings; charts; and studies, etc. if any, are available for inspection and copying. The notice will specify what material will be available at the public hearing for public viewing. Locations where material will be placed will include the offices of the Authority, and should the affected toll facilities be in a location in excess of ten miles from such offices, information may be made available at the offices of the clerks of the county commissions in the various counties, or mayor's offices or public libraries.

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**184-3-3. Time of Notice Publication.**

3.1 The Authority in preparation of the hearing notice form will normally assume that a minimum period of 10 working days will pass before the notice of a hearing will appear in the newspaper after submission for publication.

3.2 The notice provided for hereunder shall appear in the appropriate newspaper or newspapers at least 20 days prior to any such hearing.

**184-3-4. Environmental Statement Notices.**

4.1 The cutoff date for a comment period on a proposed change to toll rates shall be no earlier than 45 days from the first publication of notice of hearing.

**184-3-5. Other Notice.**

5.1 No other notice of hearings shall be required, in addition to the formal newspaper legal advertisement.

**184-3-6. Transmittal Letter.**

6.1 The authority will prepare a transmittal letter forwarding material to those persons, entities or agencies on any applicable mailing list. The transmittal letter will include the date, time and place of the public hearing.

**184-3-7. Mailing.**

7.1 Mailing will be accomplished based upon a mailing list developed by the Authority. A list of applicable state and federal agencies will be incorporated into all mailing lists. The Authority will add the names of those citizens and organizations who have in writing requested placement on a specific mailing list. The failure of the Authority to place any particular individuals or organizations name and address on any mailing list shall not be grounds to claim lack of proper notice.

7.2 Mailing shall include, but not be limited to, a copy of the notice, a copy of a transmittal letter, and the hearing handout. The mailing, if possible, should be accomplished to allow the material to arrive at its destination prior to publication of the notice in the newspaper. Material will be mailed to the locations for public viewing in enough time to arrive prior to the first publication of the notice.

7.3 Mailing shall be by first class mail unless otherwise specified.

**184-3-8. Location.**

8.1 The location of any hearing will be selected by the Authority. Consideration will be given to the accessibility of the location to the people affected by the proposed change to toll rates to be discussed. The number of people expected to attend the hearing will also be considered. Only buildings or sites with public access will be used.

**184-3-9. Equipment.**

9.1 The Authority or its designee will furnish all sound equipment, comment sheets and supplies necessary to erect exhibits and prepare the building or site for the hearing.

**184-3-10. Time.**

10.1 All hearings will be held at times deemed by the Authority as convenient for persons affected by the proposed changes to toll rates.

**184-3-11. Conduct of Hearings.**

11.1 Hearings will be moderated by a responsible official of or selected by the Authority.

11.2 The Authority will have on hand individuals sufficiently familiar with the proposed changes to toll rates to answer questions raised by attendees.

11.3 The Authority's presentation will be concise and effort will be expended to reduce technical terminology.

11.4 The Authority's presentation will include, but not be limited to, the need for the proposed change in toll rates, alternative courses of action, if any are appropriate; studies, recommendations and certifications pertinent to the proposed changes; major features of such toll changes or any ancillary discount programs. The alternatives, if any, presented at each hearing will be developed to comparable levels of detail.

11.5 Provision will be made by the Authority for submission of written statements or comments and other exhibits in addition to oral statements by attendees at hearings. Cutoff dates for all written statements will be announced to be 15 days after the close of the hearings.

11.6 The Authority will provide, for the convenience of those wishing to speak for or against any proposed change to toll rates which is the subject of a public hearing, an appropriate registration document for the purpose of reserving time within which to present their position for or against the proposal. Sign in will not be a condition precedent to making a presentation at a hearing. Those parties attending a public hearing and signed on the appropriate registration roster will be given first opportunity to speak for or against the proposed change to toll rates in the order in which they sign in. Initial presentations shall be limited to no longer than five minutes for each party wishing to make his or her position known with regard to the proposals; thereafter, to the extent

allowed by the remaining time set for the hearing, the Authority will permit others who have not registered to make their position with regard to the proposals known. In the event all parties attending the hearing have presented their position with regard to the proposals and time allowed for the hearing remains, those who have registered prior to commencement of the hearing will be permitted an additional two minutes each for presentation of additional information to the Authority.

11.7 Parties appearing at the hearing may present their information by oral presentation or by written presentation. After the close of the hearing, no further oral presentations will be accepted by the Authority, but a form for written comments will be available for members of the public to submit, provided, however, that such written submissions may not be considered by the Authority if they are received more than fifteen (15) days after the last date upon which the hearing is conducted.

11.8 To the extent possible, the Authority will attempt to determine the number of members of the public who will attend the hearing, and shall make provisions for premises large enough to accommodate that number. In the event an unforeseen number of members of the public appear to make their presentation at the hearing, and the site selected for the hearing is not large enough to accommodate all parties, preference will be given to those members of the public who have registered to speak prior to commencement of the hearing. Thereafter, the Authority will make every reasonable attempt to allow additional room for those parties who wish to make presentations, but as a result of space restrictions could not earlier be admitted to the hearing room.

#### **184-3-12. Transcript/Video Record.**

12.1 The Authority will develop a verbatim transcript and/or a video record of the proceedings of each public hearing. After the transcript and/or video record have been prepared, the original will be retained in the Authority's files. All copies will be forwarded to the Authority for certification. Copies of the transcript/video record and appendices will be available for public information.

#### **184-3-13. Alternative Compliance.**

13.1 In the event the Department of Transportation is involved in any proposal to which this hearing procedure is applicable, compliance with the rules and regulations of the department as to such hearing, to avoid duplication of effort, shall be deemed compliance with these regulations to the extent the same are not in conflict with these rules.

13.2 The Authority may consolidate into a single hearing the hearings required for each of several proposals which relate to toll facilities in the same locale, but shall make ample provisions for a hearing site large enough to accommodate consolidated hearings and expand the time of the hearings to permit ample opportunity for the public to address the issues pertaining to the increased number of proposals which are the subject of the hearing.

# FISCAL NOTE WORKSHEET

Draft/File No. \_\_\_\_\_ Title 184 Series 3

Subject WV Parkways Economic Development and Tourism Authority - Title Number: 184 - Rule Type: Procedural - WV Code §17-16A-13a Fund Turnpike Toll Revenues

SOURCE OF REVENUE: [ ] GENERAL FUND [ ] SPECIAL [ X ] OTHER (SPECIFY) Turnpike Toll Revenues  
 COST ESTIMATE BASED ON: [ ] AN ORIGINAL ESTIMATE [ ] BUDGET BILL [ ] OTHER (SPECIFY)  
 INCOME ESTIMATE BASED ON: [ ] AN ORIGINAL ESTIMATE [ ] BUDGET BILL [ ] OTHER (SPECIFY)  
 SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 AND IN ITEM 3 GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT.

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

**The submission of this Procedural Rule will have no effect on Turnpike toll revenues. This rule does not affect the general revenue of the State of West Virginia. The West Virginia Turnpike is operated and maintained by the Parkways Authority with Turnpike toll revenues paid by the users of the highway. Thus, no State tax or general revenue dollars are used in the maintenance or operation of the Turnpike.**

DATE

AGENCY

AUTHORIZED REPRESENTATIVE

4/20/06

WV Parkways Economic  
Development and Tourism Authority

Gregory C. Barr,  
General Manager

(10-66) FISCAL NOTE

TITLE 184, SERIES 3

Fiscal Note To: **WEST VIRGINIA SECRETARY OF STATE'S OFFICE**

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EXPLAIN IN A CLEAR, CONCISE MANNER WHAT EFFECT THIS MEASURE WILL HAVE ON THE COSTS AND REVENUES OF STATE GOVERNMENT.

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**The procedural rule also deals with the conduct of public hearings contemplated by the enabling legislation, West Virginia Code §17-16A-13a and the provisions of this procedural rule.**

DATE

AGENCY

AUTHORIZED REPRESENTATIVE

4/20/06

**WV Parkways Economic Development  
and Tourism Authority**

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*Gregory C. Barr*  
**Gregory C. Barr, General Manager**

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