

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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OCT -1 AM 10:25

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Public Employees Insurance Agency TITLE NUMBER: 151
RULE TYPE: Procedural; CITE AUTHORITY W. Va. Code §6-9A-3; 5-16-3(c);
5-16-24
AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4

TITLE OF RULE BEING PROPOSED: Procedural Rules for the Public

Employees Insurance Agency Finance Board

DATE OF PUBLIC HEARING: November 2, 1990 TIME: 10:00 a.m.

LOCATION OF PUBLIC HEARING: Division of Human Services

Conference Room , Building 6, Room 607

State Capitol Complex

Charleston, West Virginia 25305

COMMENTS LIMITED TO: ORAL___, WRITTEN___, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: David P. Lambert, Gen. Counsel

PEIA, Building 5, Room 1025

State Capitol Complex

Charleston, WV 25305

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

David P. Lambert



Public Employees Insurance Agency

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1990 OCT -1 AM 10:25

OFFICE OF THE SECRETARY OF STATE

Capitol Complex
Building 5
Tenth Floor
Charleston,
WV 25305
304-348-7850

September 28, 1990

Gaston Caperton
Governor
Sally K. Richardson
Director

Honorable Ken Hechler
Secretary of State
State Capitol Building, Suite 157-K
Charleston, West Virginia 25305

Dear Secretary Hechler:

Enclosed for filing in your office is a proposed procedural rule which, if adopted, will be codified at Title 151 Code of State Regulations Series 4. The proposed rule is entitled: "Procedural Rules For The Public Employees Insurance Agency Finance Board."

Also enclosed is a notice of public hearing and a fiscal note. As you may know, rules of the Public Employees Insurance Agency are exempt from the State Administrative Procedures Act. See W. Va. Code §5-16-24. However, the Agency plans to follow the procedures for public comment in order to maximize public notice and opportunity to comment on the proposed rule.

Thank you for your cooperation and assistance with this request.

Sincerely,

Sally K. Richardson
Director

SKR:DPL:trs

Enclosures

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedural Rules for the Public Employees Insurance Agency Finance Board

Type of Rule: Legislative Interpretive X Procedural

Agency Public Employees Insurance Agency Address Building 5, Room 1025,

State Capitol Complex, Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates:

Rules simply establish procedures for filing notice of meetings and conduct of meetings. Will impose no additional costs to agency.

3. Objectives of these rules:

Compliance with Open Governmental Proceedings Act; notice to public of meetings of PEIA Finance Board; establish meeting procedures for Finance Board.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

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

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: September 27, 1990

Signature of Agency Head or Authorized Representative

By K. Richardson

Title 151, Series 4
Procedural Rule

BRIEF SUMMARY

Proposed Procedural Rule: "Procedural Rules For The Public Employees Insurance Agency Finance Board."

This proposed procedural rule establishes procedures for operation of the West Virginia Public Employees Insurance Agency Finance Board. The rule establishes procedures by which the time, place and purpose of all meetings will be made available to the public and news media, as required by the Open Governmental Proceedings Act, W. Va. Code §6-9A-3.

The rule includes all provisions required by the Open Governmental Proceedings Act, regarding notice of meetings, a requirement that meetings be open except where law authorizes an executive session, reasonable restrictions on attendance and presentation at meetings by members of the public, and keeping of minutes. In addition, the rule establishes the number of members necessary to constitute a quorum and to vote on a decision, and authorizes participation at a meeting by means of telephone conference call.

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TITLE 151
PROCEDURAL RULES
PUBLIC EMPLOYEES INSURANCE AGENCY

SERIES 4
PROCEDURAL RULES FOR THE PUBLIC EMPLOYEES INSURANCE AGENCY FINANCE BOARD

\$151-4-1. General.

1.1. Scope. -- This procedural rule establishes procedures for operation of the West Virginia Public Employees Insurance Agency Finance Board. The rule establishes procedures by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings of the Finance Board will be made available, in advance, to the public and news media, as required by W. Va. Code §6-9A-3.

1.2. Authority. -- W. Va. Code §§6-9A-3; 5-16-3(c); 5-16-24.

1.3. Filing Date. --

1.4. Effective Date. --

\$151-4-2. Definitions.

2.1. "Chairperson" means the Director of the West Virginia Public Employees Insurance Agency.

2.2. "Decision" means any determination, action, vote or final disposition of a motion, proposal, resolution, order or measure on which a vote of the Finance Board is required at any meeting at which a quorum is present.

2.3. "Executive session" means any meeting or part of a meeting of the Finance Board which is closed to the public.

2.4. "Finance Board" means the West Virginia Public Employees Insurance Agency Finance Board, created by W. Va. Code §5-16-4.

2.5. "Meeting" means the convening of the Finance Board for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter, but such term does not include: (a) any meeting for the purpose of making an adjudicatory decision in any quasi-judicial or administrative proceeding; (b) any on-site inspection of any project or program, or (c) any public hearing conducted solely for the purpose of receiving public comment or making information available to the public, and at which no decision or deliberation toward a decision will be made by the Finance Board.

2.6. "Quorum" means three members of the Finance Board.

§151-4-3. Meetings.

3.1. Meetings of the Finance Board may be called by the chairperson or upon the written request to the chairperson of at least two members.

3.2. The chairperson shall notify each Finance Board member in writing at least three (3) days in advance of a meeting. The notice shall set forth the time and place of a regularly scheduled meeting and the time, place and purpose of a special meeting.

3.3. Except in the event of an emergency requiring immediate official action, the chairperson shall notify the public and news media of a meeting by filing a notice with the Secretary of State for publication in the state register. The notice shall state the time, place and purpose of the meeting. Each notice shall be filed in a manner to allow it to appear in the state register at least five (5) days prior to the date of the meeting.

3.4. In the event of an emergency requiring immediate official action, the Finance Board may file an emergency meeting notice at any time prior to the meeting. The notice shall state the time, place and purpose of the meeting and the facts and circumstances of the emergency.

3.5. Meetings may be continued to a set time and place by a majority vote of the Finance Board members at a meeting at which a quorum is present, without further notice to the members and without further publication, unless such continued meeting is scheduled for more than fourteen (14) days after the date of the vote to continue.

3.6. Meetings of the Finance Board shall be conducted in accordance with the most recent edition of Robert's Rules of Order, including specifically the less formal procedures contained therein for small boards.

3.7. One or more members of the Finance Board may participate in a regular or special meeting by means of conference telephone or similar electronic communications equipment, provided that all persons participating in the meeting, including members of the public and news media if present, can hear each other. Participation by conference telephone or similar electronic means shall constitute presence in person at the meeting.

3.8. Whenever a vote of the Finance Board is required or permitted, this vote may be taken orally during a telephone or other electronic conference conducted in conformance with subsection 3.7 of this rule. Any agreement reached shall be reduced to writing and approved by the Finance Board members at their next regular meeting after the conference.

§151-4-4. Public hearings.

4.1. The presence of a quorum of Finance Board members shall not be required at any public hearing conducted solely for the purpose of receiving public comment or making information available to the public, and at which no decision or deliberation toward a decision will be made by the Finance Board.

4.2. The Finance Board, in its discretion, may designate one or more of its members or any other appropriate person to preside over and conduct any public hearing which the Finance Board is required or elects to conduct.

4.3. At any public hearing at which a quorum of Finance Board members is not present, arrangements shall be made to prepare a verbatim record, by either stenographic notes or mechanical recording device, of all public comments offered at the hearing.

§151-4-5. Meetings generally open to public; executive session.

5.1. All meetings of the Finance Board shall be open to the public. Provided, that the Finance Board may hold an executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under W. Va. Code chapter six, article nine-a for the holding of such executive session and has presented it to the Finance Board and to the general public. No decision shall be made in an executive session.

5.2. An executive session may be held only upon a majority affirmative vote of the Finance Board at a meeting at which a quorum is present, for one of the reasons enumerated in W. Va. Code §6-9A-4 or as expressly and specifically otherwise provided by law.

5.3. The Finance Board may adopt and enforce reasonable restrictions on attendance and presentation at any meeting or public hearing where there is not sufficient room to accommodate all members of the public who wish to attend. Such restrictions may include, but are not limited to, limiting the number of people who may be present in the meeting room at one time, limiting the length of time individual members of the public may remain in the room, and limiting the length of remarks by individual members of the public at a meeting or public hearing at which the public is invited to address the Finance Board. The Finance Board may also invite and encourage individuals to submit written comments in lieu of speaking at a meeting or public hearing. The Finance Board shall make every reasonable effort to accommodate as many members of the public who wish to attend a meeting or public hearing as possible.

5.4. The chairperson may order the removal from a meeting or public hearing of any member of the public who is disrupting the proceeding to the extent that orderly conduct of the proceeding is compromised.

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5.5. All members of the public who attend a meeting or public hearing of the Finance Board may indicate their presence by signing a register of attendance. The register may provide a place for members of the public to indicate whether or not they wish to address the Finance Board. Persons who desire to speak shall not be required to register more than fifteen (15) minutes prior to the time the scheduled meeting or public hearing is to commence.

§151-4-6. Decisions.

6.1. All decisions of the Finance Board shall require the affirmative vote of a majority of the members present and voting at a meeting at which a quorum is present.

§151-4-7. Minutes; records.

7.1. The Finance Board shall provide for the preparation of written minutes of all of its meetings. All such minutes shall be available to the public within a reasonable time after the meeting and shall include at least the following:

7.1.1. The date, time and place of the meeting;

7.1.2. The name of each member of the Finance Board present and absent;

7.1.3. All motions, proposals, resolutions, orders and measures proposed, the name of the person proposing the same and their disposition; and

7.1.4. The results of all votes and, upon the request of a member, the vote of each member, by name.

7.2. Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with the provisions of W. Va. Code §6-9A-4.

7.3. Records of the Finance Board are official records of the West Virginia Public Employees Insurance Agency and shall be maintained, made available for public inspection and copying, and preserved by the chairperson in accordance with all applicable laws, rules and regulations.