

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED
1991 MAR 22 PM 3:18
OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

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

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: Procedural Rules for the Public
Employees Insurance Agency Advisory Board

DATE OF PUBLIC HEARING: Monday, April 22, 1991 TIME: 9:00 a.m.

LOCATION OF PUBLIC HEARING: Building 6, Room 607, State Capitol Complex
Charleston, West Virginia 25305

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Sally K. Richardson, Director

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.

Public Employees Insurance Agency
Building 5, Room 1025
State Capitol Complex
Charleston, W. Va. 25305

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

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Sally K. Richardson

2.50



Public Employees Insurance Agency

Capitol Complex
Building 5
Tenth Floor
Charleston,
WV 26305
304-348-7850
FAX: 304-348-2616

March 22, 1991

Gaston Caperton
Governor
Sally K. Richardson
Director

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

Re: **Proposed Procedural Rules for the Public
Employees Insurance Agency Advisory Board**

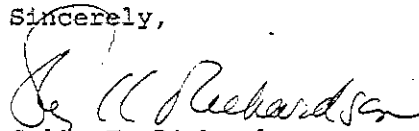
Dear Secretary Hechler:

Enclosed please find a proposed procedural rule for the Public Employees Insurance Agency Advisory Board, together with a notice of public hearing and other appropriate forms.

As you know, rules of the Public Employees Insurance Agency generally are not subject to the rule-making requirements of the Administrative Procedures Act. Nonetheless, the PEIA is choosing to follow the public hearing and comment procedures in order to maximize public opportunity to participate in development of these rules.

Your cooperation in filing the enclosed materials is appreciated.

Sincerely,


Sally K. Richardson
Director

SKR:DPL:trs

Enclosures

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedural Rules for the Public Employees Insurance Agency Advisory 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:

Rule will merely establish meeting procedures for Public Employees Insurance Agency Advisory Board.

3. Objectives of these rules:

To establish operating procedures for the Public Employees Insurance Agency Advisory Board, to provide means of publishing notice of Advisory Board meetings, and to comply with the Open Governmental Proceedings Act.

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: March 22, 1991

Signature of Agency Head or Authorized Representative

Lee A. Richardson

SUMMARY OF PROPOSED RULE

Title 151 C.S.R. Series 5

Procedural Rules for the Public Employees Insurance Agency Advisory Board

This procedural rule establishes procedures for operation of the West Virginia Public Employees Insurance Agency Advisory 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 Advisory Board will be made available, in advance, to the public and news media, as required by W. Va. Code §6-9A-3.

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TITLE 151
PROCEDURAL RULES
PUBLIC EMPLOYEES INSURANCE AGENCY

SERIES 5
PROCEDURAL RULES FOR THE PUBLIC EMPLOYEES INSURANCE AGENCY ADVISORY BOARD

§151-5-1. General.

1.1. Scope. -- This procedural rule establishes procedures for operation of the West Virginia Public Employees Insurance Agency Advisory 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 Advisory 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; 6-16-3(c); 5-16-24.

1.3. Filing Date. -- June 20, 1991

1.4. Effective Date. --

§151-5-2. Definitions.

2.1. "Advisory Board" means the West Virginia Public Employees Insurance Agency Advisory Board, created by W. Va. Code §5-16-6.

2.2. "Chairperson" means: (a) the member of the Advisory Board elected by the Advisory Board pursuant to W. Va. Code §5-16-6 to serve as its chairperson; or (b) in the absence of the chairperson, the member who has been elected to serve as vice chairperson, if the Advisory Board has chosen to create and fill this position; or (c) such other person designated by the chairperson or vice chairperson to call or preside over a meeting of the Advisory Board.

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

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

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

2.6. "Meeting" means the convening of the Advisory 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; (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 Advisory Board; or (d) any activities of a subcommittee created by the Advisory Board and acting pursuant to section 8 of this rule.

2.7. "Quorum" means nine (9) members of the Advisory Board, represented in person or by proxy. Whenever this rule refers to presence at a meeting, such presence may be either in person or by proxy.

§151-5-3. Meetings.

3.1. Meetings of the Advisory Board may be called at any time by the chairperson. The chairperson shall call a meeting upon the written request of at least five (5) members of the Advisory Board. The Advisory Board shall hold a meeting at least twice each calendar year.

3.2. The Director shall notify each Advisory 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. The chairperson shall give the Director sufficient notice of an upcoming meeting to enable the Director to provide the notice to members required by this subsection.

3.3. Except in the event of an emergency requiring immediate official action, the Director 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 Advisory 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 Advisory 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 Advisory 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 Advisory 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 Advisory 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 Advisory Board members at their next regular meeting after the conference.

§151-5-4. Public hearings.

4.1. The presence of a quorum of Advisory 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 Advisory Board.

4.2. The Advisory 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 Advisory Board elects to conduct.

4.3. At any public hearing at which a quorum of Advisory 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.

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

5.1. All meetings of the Advisory Board shall be open to the public. Provided, however, that the Advisory 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 Advisory 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 Advisory 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 Advisory 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 Advisory Board. The Advisory Board may also invite and encourage individuals to submit written comments in lieu of speaking at a meeting or public hearing. The Advisory 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.

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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 comprised.

5.5. All members of the public who attend a meeting or public hearing of the Advisory 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 Advisory 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.

§151-5-6. Decisions.

6.1. All official decisions of the Advisory Board shall require the affirmative vote of a majority of the members present and voting at a meeting at which a quorum is present. Each member shall be entitled to one vote on each question before the Advisory Board. Nothing in this rule shall be construed to prohibit or restrict any individual Advisory Board member or members from conveying their personal opinions, advice or recommendations to the Director on any matter regarding the administration and management of the West Virginia Public Employees Insurance Agency.

§151-5-7. Proxies.

7.1. An Advisory Board member may by proxy designate another individual to represent him or her at an Advisory Board meeting and to vote on some or all matters which may come before the Advisory Board. Because the purpose of the Advisory Board is to provide the Director with advice from a broad spectrum of individuals and interests, Advisory Board members are encouraged to make every effort to attend Advisory Board meetings in person. If, however, a member cannot personally attend, he or she is encouraged to designate as proxy another individual from his or her organization or representing his or her category of membership (e.g., health care providers, public employees, retired public employees or educators). If necessary, a member may designate another member as his or her proxy.

7.2. All proxies shall be in writing, dated and signed by the member granting it. A proxy may grant limited or unlimited authority, and may be revoked at any time by the member. A proxy shall be valid only for a specific meeting and any continuation of that meeting.

§151-5-8. Subcommittees.

8.1. The Advisory Board may from time to time create one or more subcommittees of its members to gather information, conduct studies, develop recommendations for the full Advisory Board or engage in other like activities. Meetings of any such subcommittees shall not be considered meetings of the Advisory Board. Provided, that no determination, action, vote, motion, proposal, resolution, order, measure, recommendation or decision of any subcommittee shall become a decision of the Advisory Board unless and

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until the Advisory Board deliberates and makes its own decision at a meeting called and conducted in accordance with these rules.

§151-5-9. Scope of responsibilities.

9.1. The Advisory Board may advise and make recommendations to the Director regarding the administration and management of the West Virginia Public Employees Insurance Agency. Under no circumstances will the decisions, advice or recommendations of the Advisory Board be controlling or binding on the Director or on the West Virginia Public Employees Insurance Agency Finance Board.

§151-5-10. Minutes; records.

10.1. The Advisory 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:

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

10.1.2. The name of each member of the Advisory Board present and absent;

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

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

10.2. 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.

10.3. Records of the Advisory 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 Director in accordance with all applicable laws, rules and regulations.