

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

Form #2

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OFFICE OF THE
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Regional Jail and Correctional Facility Authority TITLE NUMBER: 94

RULE TYPE: Procedural CITE AUTHORITY: W.Va. Code § 6-9A-3 and § 31-20-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Regulations for the Establishment of Regular Meetings by the WV Regional Jail and Correctional Facility Authority.

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON January 14, 2007 AT 5:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Regional Jail and Correctional Facility Authority

Att: Rule Making
1325 Virginia Street, East

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Procedural Rule 94CSR1

The amendment to this procedural rule permits electronic presence at board meetings and establishes the procedure for appointment of designated representative by the Secretary of Department of Administration.

FILED

2007 DEC 14 AM 9:41

WEST VIRGINIA CODE OF STATE RULES

TITLE 94. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

SECRETARY OF STATE

PROCEDURAL RULE (SER.1)

SERIES 1. REGULATIONS FOR THE ESTABLISHMENT OF REGULAR MEETINGS
BY THE WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

§ 94-1-1. General.

1.1. Scope. -- W. Va. Code § 6-9a-3 of 1931, as amended, mandates that the West Virginia Regional Jail and Correctional Facility Authority shall promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available in advance to the public and the news media, except in the event of an emergency requiring immediate official action.

1.2. Authority. -- W. Va. Code §§ 6-9A-3 and 31-20-4.

1.3. Filing Date. -- ~~September 20, 1989.~~

1.4. Effective Date. -- ~~October 19, 1989.~~

1.5. ~~Amends~~Amends of Former Rule. -- This filing amends ~~repeals~~ the previous rules filed on September 20, 1989 ~~October 23, 1986~~ and effective October 19, 1989 ~~November 22, 1986~~.

§ 94-1-2. Application and Enforcement.

These procedural rules shall apply to the West Virginia Regional Jail and Correctional Facility Authority, its Board and any and all individuals desiring to attend or to address the Board. The enforcement of these regulations shall be vested with the chairman of the West Virginia Regional Jail and Correctional Facility Authority.

§ 94-1-3. Definitions.

3.1. Authority. -- The West Virginia Regional Jail and Correctional Facility Authority, as created by W. Va. Code § 31-20-1.

3.2. Board. -- The governing body of the authority, as defined at W. Va. Code § 31-20-4.

~~3.3.~~ 3.3. Chairman. -- The member of the authority elected by the ~~authority~~ Board members on the second Monday of each July of each odd-numbered year to serve as chairman for a two year period.

~~3.4~~ 3.4 Electronic Appearance- Presence at a board meeting through the use of telephone, videoconferencing, or other electronic means which permits the member to participate in the meeting discussions, and voting.

~~3.54.~~ 3.54. Meeting. -- The convening of a governing body of a public body for the transaction of business for which a quorum is required.

~~3.65.~~ 3.65. Member. -- A person on the Board of the authority or, where permitted by W. Va. Code § 31-20-3, their designated representative.

~~3.76.~~ 3.76. Quorum. -- A simple majority of the ~~constituent~~ voting membership of the Board.

§ 94-1-4. Regular Meetings Established; Place.

4.1. The Board shall meet in regular session on the second Monday of July of each year and in each odd-numbered year shall elect a chairman and a secretary. In addition to the meeting on the second Monday of July, the Board shall meet in regular session on a quarterly basis.

4.2. The Board shall convene all regular meetings in the Conference Room of the authority, ~~307 Jefferson Street~~ 1325 Virginia Street, East, Charleston, West Virginia 25301, unless otherwise changed by a majority vote of those Board members physically or electronically present and voting.

4.3. The Board may, without notice, move the location of the meeting to accommodate members of the public who wish to attend such meeting in the event the meeting room is too small to accommodate such attendance.

4.4. All regular meetings shall be general meetings for the consideration of any and all matters which may properly come before the Board.

4.5 Members of the board may attend meetings in person, telephonically, or by other electronic means.

§ 94-1-5. Special Meetings; Notice Required, Time, Place and Purpose.

5.1. The Board may convene special meetings in accordance with the procedures established herein.

5.2. Special meetings of the Board may be called by the chairman at his own initiative, or upon the written request of a majority of the Board members or the Executive Director.

5.3. The chairman shall send to all members of the Board, at least five (5) days in advance of a special meeting, a written notice setting forth the time and place of such special meetings and the matters to be considered at such special meeting: Provided, that such written notice is not required if the time, the place and the matters for consideration have been fixed in a regular meeting or if all the members of the Board are physically or electronically present at a special meeting.

5.4. The chairman shall cause the notification of the public and the news media by issuing a public notice of such meeting at least five (5) days in advance of such meeting. The public notice shall contain the time, place and the general nature of the matters to be considered: Provided, that notice for any special meeting, which is for the purpose of approving or passing a bond issue, shall be given at least ten (10) days in advance in the manner prescribed above and by a Class I legal advertisement. A copy of such public notice shall be filed with the office of the Secretary of State and distributed to the press room of the Capitol.

5.5. The provisions of this section shall not apply in the event of an emergency requiring the immediate official action by the Board.

5.6. The Executive Director shall be responsible for making the notifications herein required, at the direction of the chairman.

§ 94-1-6. Proceeding to be Open; Exceptions; Executive Session Permitted.

6.1. Notwithstanding any other provision of law or regulation, all meetings of the Board shall be open to the public, excepting the provisions of W. Va. Code § 6-9a-4.

6.2. An executive session may be held only upon a majority affirmative vote of the Board members physically or electronically present for the discussion of those matters permitted by W. Va. Code § 6-9a-4.

§ 94-1-7. Minutes.

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

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

7.1.2. The name of each Board member present, appearing electronically, and absent;

7.1.3. All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing same and the disposition of such motion, proposal, resolution, order, ordinance or measure;

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

7.1.5. Minutes of executive sessions may be limited in a manner not inconsistent with the provisions of W. Va. Code § 6-9a-4.

§ 94-1-8. Quorum; Majority Vote Required; ~~Vote by proxy is prohibited except where their designated representative voting is permitted by W. Va. Code § 31-20-3.~~

8.1 A qualified member of the Board, or their designee as provided by W. Va. Code § 31-20-3, are permitted to vote. A designee shall provide written designation to the Board Chairman at the time of the meeting.

8.2 A majority of the voting members of the of the Board or and their designated representatives members of the Board shall constitute a quorum. The affirmative vote of a majority of all members physically or electronically present at any meeting shall be sufficient to approve any action.

§ 94-1-9. Records of the Board - Public Document.

9.1. All records and proceedings of the Board are public records and shall be available to the public during the usual and customary business hours of the authority.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Ttile 94CSR1: Procedural Rule Regional Jail and Correctional Facility Authority

Type of Rule: Legislative Interpretive Procedural

Agency: WV Regional Jail and Correctional Facility Authority

Address: 1325 Virginia Street East
Charleston, WV 25301

Phone Number: 304-558-2110 Email: tdavis@wvrja.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The passage of this rule has no fiscal impact on the State of West Virginia and the West Virginia Regional Jail and Correctional Facility Authority.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

| FISCAL YEAR | | | |
|-----------------------------|--------------------------------------|-----------------------------------|--|
| Effect of Proposal | Current Increase/Decrease (use "--") | Next Increase/Decrease (use "--") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 0.00 | 0.00 | 0.00 |
| Personal Services | 0.00 | 0.00 | 0.00 |
| Current Expenses | 0.00 | 0.00 | 0.00 |
| Repairs & Alterations | 0.00 | 0.00 | 0.00 |
| Assets | 0.00 | 0.00 | 0.00 |
| Other | 0.00 | 0.00 | 0.00 |
| 2. Estimated Total Revenues | 0.00 | 0.00 | 0.00 |

Rule Title: _____

Rule Title: Title 94CSR1: Procedural Rule Regional Jail and Correctional Facility Authority

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

N/A

Date: _____

Signature of Agency Head or Authorized Representative

James H. Spears