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STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

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Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

NOTICE OF ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE 1986 LEGISLATURE

AGENCY: SECRETARY OF STATE

NEW RULE: XXX AMENDMENT TO EXISTING RULE:

RULE TITLE: STANDARD SIZE AND FORMAT FOR RULES AND RELATED DOCUMENTS

FILED IN THE SECRETARY OF STATE'S OFFICE

SERIES # 6

THE ABOVE RULE IS BEING ADOPTED AND FINAL FILED BY THIS AGENCY AS AUTHORIZED
BY THE LEGISLATURE IN S.B. 434 SECTION 64-2-29a(2)(6)
WITH THE SECRETARY OF STATE.


KEN HECHLER

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE April 15, 1986
ADMINISTRATIVE LAW DIVISION

WEST VIRGINIA LEGISLATIVE RULE
SECRETARY OF STATE
CHAPTER 29A-2
SERIES 10

FILED

1985 APR 15 PM 12:32

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Title: Standard Size and Format for Rules and Related Documents Filed in the
Secretary of State's Office

Section 1. General

2. Standard Size of Rules and Related Documents
3. Proposed New Rules
4. Proposed Amendments to Existing Rules
5. Page Identification
6. Final Filing of New Rules
7. Final Filing of Amendments to an Existing Rule
8. Indention of Subsections, Numbering and Underlining of Section
Titles
9. Indexing
10. Emergency Rules
11. Refusal to Accept Agency Filings
12. Incorporation by Reference
13. Extensive Revision of Existing Rules

FILED

1985 APR 15 PM 12:32

WEST VIRGINIA LEGISLATIVE RULE
SECRETARY OF STATE
CHAPTER 29A-2
SERIES I

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Title: Standard Size and Format for Rules and Related Documents Filed
in the Secretary of State's Office

Section 1. General

1.1 Scope - This legislative rule establishes the standard size and format for rules and related documents required to be filed with the Secretary of State for inclusion in the State Register.

1.2 Authority - W.Va. Code 29A-2-6(c).

1.3 Filing Date -

1.4 Effective Date -

1.5 Repeal of Former Rule - This legislative rule repeals West Virginia Procedural Rule "Secretary of State, Chapter 29A-2, Series I, Filing of Administrative Rules and Regulations in the Secretary of State's Office (1981) amended", filed July 30, 1981.

Section 2. Standard Size of Rules and Related Documents

2.1 All rules and related documents shall be typed on white eight and one-half inch by eleven inch paper, single spaced and on one side only.

2.2 All rules shall have at least one inch margins on the left side and one-half inch on the right, top and bottom surrounding the text.

Section 3. Proposed New Rules

3.1 All proposed new rules shall be designated as either "Legislative Rule", "Interpretive Rule" or "Procedural Rule."

3.2 The title page(s) of all proposed new rules shall follow the format as shown on the title page of this rule and shall include a Section One with Scope, Authority, Filing Date, Effective Date and Repeal of Former Rule. During the time the rule is proposed the Filing Date and Effective Date shall be blank.

Sec. of State
Leg. Rule, 29A-2
Series I, Sec. 3

3.3 Series numbers shall be consecutive and in Roman numerals. The first series shall be the first rule of each type issued under the chapter and article authorizing promulgation of the rule.

3.4 No proposed new rule shall be designated a mixture of a legislative, interpretive and/or procedural rule.

Section 4. Proposed Amendments to Existing Rules

4.1 Except for final filing, only those sections or subsections being amended shall be filed, not the entire rule.

4.2 Attached to the proposed amended sections or subsections shall be the title page(s) of the existing rule being amended, showing the title, rule designation, scope, authority, filing date, effective date and repeal of former rule of the existing rule.

4.3 New language shall be underscored and language to be deleted shall be marked through but clearly legible.

4.4 The same format requirements related to margins, page identification and rule designation shall apply to the sections or subsections being amended.

4.5 No proposed amendment shall be designated a mixture of legislative, interpretive and/or procedural rule.

Section 5. Page Identification

5.1 In the upper left corner of each page, except the title page(s), shall be the agency name, rule type, chapter-article, series number and section which begins or continues on that page.

5.2 Pages shall be numbered in the lower right corner.

Section 6. Final Filing of New Rules

6.1 The filing date and effective date shall be typed in the appropriate places in Section 1 "General".

6.2 One original and one clean copy of the rule shall be filed with standard three hole punched along the left side.

Section 7. Final Filing of Amendments to an Existing Rule

7.1 The entire rule as amended shall be filed.

7.2 All underlining and mark throughs which demonstrated the language amended shall be removed.

Sec. of State
Leg. Rule, 29A-2
Series I, Sec. 8

Section 8. Indentation of Subsections, Numbering and Underlining of Section Titles

8.1 All Sections shall be titled and underlined.

8.2 Indentation shall be only for the first line of each subsection, sub-subsection and further outline breakdowns.

8.3 Subsection numbering shall be consecutive and continue through further outline breakdowns such as 9.2.1 and 9.2.1.1 or 9.2.1a etc.

Section 9. Indexing

9.1 An index shall be included with all final filings.

9.2 The index shall follow the format shown by the index to this rule.

9.3 The index shall be broken down by sections with the section title and page number. The agency may also breakdown the index by subsections.

Section 10 Emergency Rules

10.1 All emergency rules shall follow the same format for new rules or amendments for existing rules.

10.2 All emergency rules shall clearly state at the top of each page, in the left corner as part of the page identification, "EMERGENCY".

Section 11 Refusal to Accept Agency Filings

No rule shall be accepted by this office if it is not in compliance with these rules.

Section 12 Incorporation by Reference

12.1 If a rule incorporates by reference any other document, from any source outside the agency, it shall clearly state within the rule by proper citation the document being incorporated. The agency shall not reproduce and include within the rule the document being incorporated.

12.2 When incorporating by reference any document from any source outside of the agency or organization, the agency shall separately file in this office the document incorporated by reference.

Sec. of State
Leg. Rule, 29A-2
Series I, Sec. 13

Section 13 Extensive Revision of Existing Rules

13.1 When an agency proposes extensive revisions of an existing rule the agency may follow the format as a proposed new rule.

13.2 In such cases the agency shall also clearly indicate with an additional subsection the rule to be repealed by the proposed extensive revision. (Refer to Section 1.5 of this rule for an example).

FISCAL NOTE FOR PROPOSED RULES

FILED

Standard size and format for rules and related documents filed in the
 Rule Title: Secretary of State's office, Chapter 29A-2, Series I

1985 APR 15 PM 12:32
 OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

Type of Rule: xxx Legislative _____ Interpretive _____ Procedural _____

Agency Secretary of State Address State Capitol
Charleston, WV 25305

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

2. Explanation of above estimates.

No Fiscal Impact

3. Objectives of these rules: To establish standard size and format of rules filed in the Secretary of State's office in order to facilitate publication of the State Register.

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.

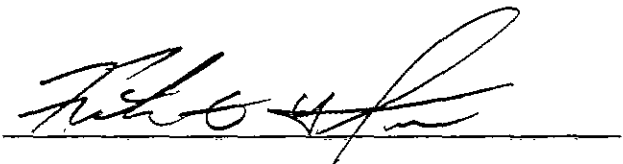
NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date April 15, 1985

Signature of Agency Head or Authorized Representative

A handwritten signature in dark ink, appearing to be "R. C. [unclear]", is written over a horizontal line.

FILED

DATE: April 15, 1985

1985 APR 15 PM 12:32

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FROM: Secretary of State

LEGISLATIVE RULE TITLE: Standard size and format of rules and related documents
filed in the Secretary of State's office

1. Authorizing statute(s) citation

WV Code 29A-2-6(c)

2. a. Date filed in State Register with Notice of Hearing:

Feb 26, 1985

b. What other notice, including advertising, did you
give of the hearing?

Mailed to all state agencies

c. Date of Hearing(s): April 4, 1985

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for
amendments.

Attached XXX No comments received

e. Date you filed in State Register the agency
approved proposed Legislative Rule following public
hearing: (be exact)

April 15, 1985

f. Name and phone number of agency person to contact
for additional information:

Rich Hartman

345-4000

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

----- N/A -----

b. Date of Hearing: ----- N/A -----

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached ----- N/A -----

PUBLIC HEARING ATTENDANCE RECORD

AGENCY: Secretary of State

RULE: Legislative Rule, Standard Size and Format Rules, Chapter 29A-2, Series I

DATE: April 3, 1985

LOCATION: Charleston, W.Va.

PERSON

REPRESENTING

- | PERSON | REPRESENTING |
|----------------|----------------|
| 1. Kay Sewell | Health Dept |
| 2. Howard Fabe | " " |
| 3. Steve Dale | Motor Vehicles |
| 4. | |
| 5. | |
| 6. | |
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| 12. | |
| 13. | |
| 14. | |

Arch A. Moore, Jr.
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

April 2, 1985

Mr. Rich O. Hartman, Director
Administrative Law Division
Secretary of State's Office
Capitol Complex
Charleston, West Virginia 25305

Dear Mr. Hartman:

We are pleased to see the revision of this rule and believe that the present draft is certainly an improvement over the present rule. We feel, however, that additional revisions will improve the utility of this rule for your office, for the public and for state agencies. Accordingly, attached is a listing of comments on the rule. If the Health Department can be of any further assistance in this matter, do not hesitate to contact us. Staff of the Regulatory Services Division, with whom you have already been in contact, will be pleased to work with you.

Sincerely,

A handwritten signature in dark ink, appearing to read "L. Clark Hansbarger".

L. Clark Hansbarger, M.D.
Director of Health

trh

cc: Barbara Freedy, Esq.

HEALTH DEPARTMENT COMMENTS REGARDING
PROPOSED SECRETARY OF STATE LEGISLATIVE RULE
CHAPTER 29A-2, SERIES I

Relating to standard size and format of rules and related
documents filed in Secretary of State's Office

March 29, 1985

General Comments:

1) Many of these provisions are procedural in nature and do not specifically relate to the standard size and format of filings. The procedural provisions might be considered to be improperly placed in a legislative rule. OK

2) It might be helpful to include a statement about the retroactivity of these rules. Preferably, the rule would not be made retroactive as it would probably involve a great amount of work on the part of some state agencies. OK

3) There is a bit of ambiguity concerning the meaning of "title page"; this ambiguity is furthered by the use of "front page." Both of these terms should be defined or one should be eliminated. Also, is there to be a cover page? NO

Specific Comments:

§1. This section should also include the promulgation history abstract for the benefit of users. NO

§4.2. For the sake of clarity and to cover the situation in which the Scope, Authority, Filing Date and Effective Date subsections do not fit on one page, the term, "title page", in the first line should read "title page(s)." OK

§4.4. To more fully convey the meaning that is intended here, the subsection should read, "No proposed new rule shall be a mixture of legislative, interpretive and/or procedural rules." OK

§5.2. This section should speak of "title page(s)" instead of "title page" See comment to §4.2. OK

§5.5. "There shall be no mixture of legislative, interpretive and/or procedural rules." See comment to §4.4. OK

§6.1. Must this information appear in the upper left hand corner of the title page as well? If not, this subsection should contain this information. OK

§6.2. We debated the efficiency of numbering the pages of the rule relative to the inconvenience pagination might bring about when amendments are filed. Among the alternatives that were explored and the apparent advantages and disadvantages of each are:

a) Mandating that the rules be unpaginated. This disallows the possibility that amending the rule will entail the refileing of the entire

repaginated rule. However, it conceivably makes it difficult for anyone unfamiliar with the rule to determine where in the rule pages containing amendments belong.

b) Mandating that the rules be paginated. This reverses the disadvantages and advantages of the above-mentioned alternative. OK

c) Permitting but not mandating pagination. This requires the filer to decide whether or not to number the rule's pages. So long as any filer who decides against pagination is required to physically place any amendment pages into the rule, this is perhaps the best alternative.

§8.2. If the filing of simply those sections or subsections amended and not the incomplete rule as amended is to be allowed, the possible effects of keeping a file containing obsolete fragments of rules should be considered. An alternative to this would be your office making copies of the still-effective portions of rules, the amended sections or subsections of which were filed alone, collating the copies and the amendments and placing the resultant document in the obsolete file. OK

§9.2. Are letters not to be permitted in conjunction with numbers? NO

§9.2. For purposes of clarity, "or" in the second sentence should read "and". OK

§10.1. Although the statute requires an "index," the index here is really intended as a table of contents. To make clear what the index is intended to be, it might be helpful to include a definition of index or a short example of an index. OK

§10.2. It might be helpful to state specifically what information this subsection requires in the index. At any rate, "information as appears on the title page above the line" is unclear. OK

§10.3. If further dividing the index into subsections would be helpful to the users of the rule, such division should be specifically permitted. It might be desirable to require the page numbers upon which sections and subsections begin to be stated if the rule is paginated. OK

§11. A subsection which requires the cover/title/front page to contain the word, "Emergency," might be added. NO

§12. The statement contained in this section may be somewhat of a stretching of the language of §29A-2-6(c) of the Code, which states that the secretary of state shall refuse to accept for filing any rules which do not comply with the specific provisions of this section The provisions of this legislative rule are not, of course, specific provisions of §29A-2-6.

There is more specific statutory authority (see last clause of 29A-2-6(c)) for refusing rules not in compliance with your procedural rule, and, as pointed out in comment 1, a good portion of the rule under review is procedural. However, it is understood that the general efficacy of procedural rules is a great deal less than that of legislative rules. We support your efforts to ensure a standard format.

Also, it might be useful to allow a grace period, perhaps 30 days, during which noncomplying rules might be brought into compliance without affecting the rule's effectiveness.

§13.2. This section as written suggests the possibility of changing a rule simply by filing a new version of a document incorporated by reference. In some instances this may be acceptable; in others it may be necessary to hold a public hearing and complete other activities required by the Administrative Procedures Act. You may wish to expand this provision to include an appropriate caveat.

§14. This section might be lengthened to advantage. It is unclear what is meant by "total rewrite". Any major rewrite should trigger the applicability of this section.

1 Bill 22

H. B. 1767

2 Delegate Casey
3 (By _____)
4 (Introduced February 5, 1986; referred to the
5 Committee on the Judiciary)
6
7
8
9

10 A BILL to amend article two, chapter sixty-four of the code of
11 West Virginia, one thousand nine hundred thirty-one, as
12 amended, by adding thereto a new section designated section
13 twenty-nine-a(two)(six), relating to authorizing the
14 secretary of state to promulgate legislative rules governing
15 the size and format for rules and related documents filed in
16 the secretary of state's office.

17 Be it enacted by the Legislature of West Virginia:

18 That article two, chapter sixty-two of the code of West
19 Virginia, one thousand nine hundred thirty-one, as amended, be
20 amended by adding thereto a new section, designated section
21 twenty-nine-a(two)(six), to read as follows:

22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
23 LEGISLATIVE RULES.

24 §64-2-29a(2)(6). Secretary of state.

1767

1 The legislative rules filed in the state register on the
2 fifteenth day of April, one thousand nine hundred eighty-five,
3 modified by the secretary of state to meet the objections of the
4 legislative rule-making review committee and refiled in the state
5 register on the eighth day of October, one thousand nine hundred
6 eighty-five, relating to the secretary of state (standard size
7 and format for rules and related documents filed in the secretary
8 of state's office) are authorized.

9
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11
12 NOTE: The purpose of this bill is to authorize the secretary
13 of state to promulgate legislative rules relating to
14 the standard size and format for rules and related documents
15 filed in the secretary of state's office.

16
17 This section is new; therefore, strike-throughs and
18 underscoring have been omitted.
19

SENATE BILL NO. 450

Bill 22

(By Senator R. Williams

[Introduced February 3, 1986

referred to the Committee on Government Organization;
then to the Committee on the Judiciary

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section twenty-nine-a(two)(six), relating to authorizing the secretary of state to promulgate legislative rules governing the size and format for rules and related documents filed in the secretary of state's office.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-nine-a(two)(six), to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-29a(2)(6). Secretary of state.

cc/rus

1 The legislative rules filed in the state register on the
2 fifteenth day of April, one thousand nine hundred eighty-five,
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