

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In this Box

FILED

1990 AUG 21 AM 10:04

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Secretary of State TITLE NUMBER: 153
RULE TYPE: Interpretive; CITE AUTHORITY: §§29-19-3(c); 29-19-5(a)
29-19-5(c); 29-19-8; 29-19-15(d); 29-19-9
AMENDMENT TO AN EXISTING RULE: YES NO 29A-1-2(c)

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: Submission of Other Documents for
Approval to Solicit Contributions for a Charitable Organization

IF NO, SERIES NUMBER OF NEW 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 September 22, 1990 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Robert Wilkinson
Secretary of State's Office
State Capitol
Charleston, WV 25305

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

Ken Hechler

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 153
INTERPRETIVE RULE
SECRETARY OF STATE

SERIES 7
SUBMISSION OF OTHER DOCUMENTS FOR APPROVAL TO
SOLICIT CONTRIBUTIONS FOR A CHARITABLE ORGANIZATION

§153-7-1. General.

1.1. Scope. -- This interpretive rule established the conditions for the exercise of the discretion empowered within the Secretary of State to approve or disapprove solicitation activities.

1.2. Authority. -- W. Va. Code §§29-19-3(c); 29-19-5(a); 29-19-5(c); 29-19-8; 29-19-15(d); 29-19-9 and 29A-1-2(c)

1.3. Filing Date. --

1.4. Effective Date. --

§153-7-2. Other Documents Prescribed By The Secretary Of State.

2.1. Prior to any solicitation activity ~~e~~Each charitable organization shall submit to the Secretary of State a copy of the printed solicitation material and a copy of any script to be used in door-to-door or person-to-person or telephone, radio or television solicitation activities.

§153-7-3. Examination Of Applications.

3.1. The Secretary of State shall examine each application to insure conformity with the Solicitation of Charitable Funds Act. Such examination may include the following areas:

3.1.1. Governing structure as expressed in the minutes of board meetings showing that the:

- a. Board decides major expenditures for programs
- b. Board decides whether new programs / directions will become part of major purpose of charity
- c. Board gets a full report on financial condition of charity at each meeting
- d. Board meets no less than three (3) times a year

e. Board receives and approves reports on budget and financial reports

f. Majority of board members are not employees of the charity.

3.3.2. Purpose of the charity as reflected in the financial and annual reports should demonstrate that the majority of the money collected is applied to the purposes expressed in the solicitation materials.

3.3.3. Information may be requested to determine the selection method used to contract for services by the board to insure board members or their families do not receive an unfair advantage from their position on the board. This may include examination of those companies contracted; with regard to ownership and relationship with board members.

3.3.4. It is the intent of the secretary of state Secretary of State to administer the Solicitation of Charitable Funds Act as a license to solicit subject to the primary purpose of protecting the public from deceptive and dishonest practices.

~~§153-7-4. Reapplication.~~

~~4.1. Any person whose certification is revoked may not reapply as a charitable organization for a period of one (1) year from the latter date of the denial or revocation or final disposition of appeal.~~

§153-7-5. 4. Contracts To Be Filed.

~~5.1.~~ 4.1. Whenever a contract is required to be sent to the Secretary of State by either a charitable organization, professional fund-raising counsel or professional solicitor, such contract shall not be deemed complete unless it includes, either within the body of the contract or attached, the name, address and phone number of the principle contact person for each of the parties to the contract.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Submission of Other Documents for Approval to Solicit
Contributions for a Charitable Organization

Type of Rule: Legislative XX Interpretive Procedural

Agency Secretary of State Address Rm. 157, Capitol Bldg.
Charleston, WV 25305

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

2. Explanation of above estimates:

This Change would strike the requirement that charitable organizations file certain documents with the Secretary of State prior to soliciting. This requirement has been found to be unconstitutional by a court so it is being removed. There will be no budgetary impact to this change.

3. Objectives of these rules:

See above.

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: August 20, 1990

Signature of Agency Head or Authorized Representative

Robert E. Wilkinson