



State Tax Department
of West Virginia

Charleston 25305

JOHN D. ROCKEFELLER IV
GOVERNOR

HERSCHEL H. ROSE III
TAX COMMISSIONER

JOHN M. FARMER
ASSISTANT COMMISSIONER

GARY A. GORRELL
DEPUTY COMMISSIONER

Telephone
(304)348-2501

December 22, 1983

Honorable A. James Manchin
Secretary of State
State Capitol Building
Charleston, West Virginia 25305

Dear Mr. Manchin:

Pursuant to the provisions of Chapter 29A, Article 3 of the West Virginia Code of 1931, as amended, I hereby submit two (2) copies of Proposed West Virginia Administrative Regulations promulgated by this Department relating to the meetings of the West Virginia Appraisal Control and Review Commission, [Proc. Reg. 11-1A, Ser. IA (1984)].

Very truly yours,

Herschel H. Rose III
State Tax Commissioner

HHR/dse

cc: Honorable Robert R. Nelson
Honorable Robert C. Chambers

OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 12-22-83
Administrative Law Division



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

JAMES MANCHIN
SECRETARY OF STATE

STATE REGISTER FILING

I, Herschel H. Rose III, State Tax Commissioner,
Title or Position

Tax, hereby submit to record in
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- proposed rules and regulations superseding rules and regulations already on file;
- notice of hearing;
- findings and determinations;
- rules and regulations; or
- other - specify (LEGISLATIVE) PROCEDURAL () INTERPRETIVE () RULE

This filing pertains to

Chapter 11
Article 1A
Series 1A
Section _____
Page No. _____

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 12-23-83
Administrative Law Division

- proposed rules and regulations are required to go to Legislative Rule Making Committee;
- proposed rules and regulations are excluded from Legislative Rule Making Committee;

December 22, 1983

Date Submitted

Herschel H. Rose

State Tax Department,
Proc. Reg. 11-1A
Series IA



State Tax Department
of West Virginia

Charleston 25305

HERSCHEL H. ROSE III
TAX COMMISSIONER

JOHN M. FARMER
ASSISTANT COMMISSIONER

GARY A. GORRELL
DEPUTY COMMISSIONER

Telephone
(304)348-2501

JOHN D. ROCKEFELLER IV
GOVERNOR

NOTICE OF PUBLIC HEARING

Pursuant to Chapter 20, Article 3 of the Code of West Virginia of 1931, as amended, the State Tax Department will convene a public hearing for the purpose of receiving public comment on the merits of the proposed procedural regulations describing the procedures of meetings of the West Virginia Appraisal Control and Review Commission [proposed W. Va. Proc. Reg. 11-1A, Ser. IA (1984)], from 9:00 a.m. to 2:00 p.m., on Monday, January 30, 1984, at the Capitol Complex Conference Center, Rooms A and B in Charleston.

At this public hearing presentations may be limited to five minutes each depending on the number of people indicating a desire to speak prior to commencement of the hearing. Written materials may be submitted in lieu of or in addition to oral testimony. The last day for submitting written material shall be January 30, 1984. Written materials bearing a United States postmark of January 30, 1984, will be deemed to be timely filed. Submissions shall be addressed as follows:

State Tax Commissioner
Capitol Building, WW-300
Charleston, West Virginia 25305

A copy of this proposed procedural rule may be obtained by writing to the State Tax Commissioner, or call (toll free) 1-800-642-3604.

Submitted to the State Register on December 22, 1983.


Herschel H. Rose III
State Tax Commissioner

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 12-22-83

Executive Law Division

State Tax Department ,
Proc. Reg. 11-1A
Series IA

PROPOSED
WEST VIRGINIA
ADMINISTRATIVE REGULATIONS
APPRAISAL CONTROL AND REVIEW COMMISSION
PROCEDURAL
Chapter 11-1A
Series IA
(1984)

Subject: Meetings of the West Virginia Appraisal Control
and Review Commission

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 12-22-83
Administrative Law Division

Filed: December 22, 1983

TABLE OF CONTENTS

Section 1.	<u>General.</u>
1.01.	Type of Regulations.
1.02.	Scope.
1.03.	Authority.
1.04.	Filing Date.
1.05.	Effective Date.
1.06.	Citation.
Section 27.	West Virginia Appraisal Control and Review Commission.
27.01.	Background.
27.02.	Application and Enforcement.
27.03.	Definitions.
27.04.	Regular Meetings; Notice of Time, Place and Agenda.
27.05.	Special Meetings: Notice of Time, Place and Agenda.
27.06.	Notice of Public and New Media of Regular and Special Meetings and Subcommittee Meetings; Time for Filing.
27.07.	Emergency Meetings.
27.08.	Proceedings to be Open to Public; Exception for Executive Sessions.
27.09.	Minutes.
27.10.	Quorum; Majority Vote Required; Proxy Voting Prohibited.
27.11.	Records of Commission; Public Inspection.

PROPOSED

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE TAX DEPARTMENT

PROCEDURAL

Chapter 11-1A
Series IA
(1984)

Subject: Meetings of the West Virginia Appraisal
Control and Review Commission.

Section 1. General.

1.01. Type of Regulations. -- These regulations are a "procedural rule" as defined in W. Va. Code § 29A-1-2(g) (1982).

1.02. Scope. -- These regulations prescribe how notice of the time and place of all regular and special meetings of the West Virginia Appraisal Control Commission will be made available in advance to the public. They also provide other procedural rules relating to meetings and subcommittee meetings of the commission.

1.03. Authority. -- These regulations are issued under the authority of W. Va. Code §§ 6-9A-4, and 29A-3-3.

1.04. Filing Date. -- These proposed procedural regulations were filed in the Secretary of State's Office on December __, 1983, and a public hearing was held on January __, 1984.

Section 1.05

1.05. Effective Date. -- These regulations become effective thirty days after they are finally approved by the commission and refiled in the State Register.

1.06. Citation. -- These regulations may be cited as: W. Va. Leg. Reg. 11-1A, Series 1A, § _____, page ____ (1984).

Section 27.01

Section 27. West Virginia Appraisal Control and Review
Commission.

27.01 Background. -- The West Virginia Appraisal Control and Review Commission was created by W. Va. Code § 11-1A-27 (1983). Although the Commission was created within the State Tax Department, it is an independent agency. It consists of seventeen members. Sixteen members are appointed by the Governor in conformity with W. Va. Code § 11-1A-27(e). The Tax Commissioner is the seventeenth member and chairman of the Commission. The Commission will continue until such time as the values fixed by the first statewide reappraisal are first utilized for the determination of assessed value, or July 1, 1987, whichever occurs first.

27.02. Application and Enforcement. -- These procedural rules shall apply to the Commission and to any and all individuals desiring to attend or to address the West Virginia Appraisal Control and Review Commission. The enforcement of these regulations shall be vested with the Chairman of the Commission or his delegate in the chairman's absence.

Section 27.03

27.03. Definitions. -- For purposes of these regulations the following terms shall be defined:

(a) "Chairman" means the West Virginia State Tax Commissioner or his delegate. See W. Va. Code § 2-2-5.

(b) "Commission" or "Appraisal Control and Review Commission" means the West Virginia Appraisal Control and Review Commission created by W. Va. Code § 11-1A-27.

(c) "Decision" means any determination, action, vote or final disposition of a motion, proposal, resolution, order, ordinance or measure on which a vote of the governing body is required at any meeting at which a quorum is present. See W. Va. Code § 6-9A-2(1).

(d) "Department" means the West Virginia State Tax Department.

(e) "Executive session" means any meeting or part of a meeting of a governing body which is closed to the public. See W. Va. Code § 6-9A-2(2).

(f) "Governing body" means the members of any public body having the authority to make decisions for or recommendations to a public body on policy or administration, the membership of which governing body consists of two or more members. W. Va. Code § 6-9A-2(3).

(g) "Meeting" means the convening of a governing body of a public body for which a quorum is required in

Section 27.03(h)

order to make a decision or to deliberate toward a decision on any matter, but such term does not include any on-site inspection of any project or program. See W. Va. Code § 6-9A-2(4).

(h) "Public body" means the West Virginia Appraisal Control and Review Commission or any commission, board, council, bureau, committee, subcommittee or agency thereof. See W. Va. Code § 6-9A-2(6).

(i) "Quorum" means one half the membership of the commission, or any subcommittee, computed without regard to the Tax Commissioner, whether present or absent. W. Va. Code § 11-1A-27(1).

Section 27.04

27.04. Regular Meetings; Notice of Time, Place
and Agenda.

(a) Regular Meetings. -- The Commission shall meet in regular session on the third (3rd) Wednesday of each month during its term. W. Va. Code § 11-1A-27(1). If such day is a legal holiday, then the Commission shall meet on the next day that is not a Saturday, Sunday or legal holiday. W. Va. Code § 2-2-2. Any subcommittee shall meet at least monthly during its continuance.

(b) Time. -- The Commission shall convene all regular meetings at nine o'clock a.m., unless such time is changed by the chairman, or by a majority of those commission members present and voting, or by a majority vote of those Commission members present and voting on the motion during any preceding regular or special meeting at which a quorum was present. Any subcommittee meeting shall convene at the time specified by the chairman of the subcommittee, or by a majority of the subcommittee members present and voting or by a majority vote of those subcommittee members present and voting on the motion during any preceding regular or special subcommittee meeting at which a quorum was present.

(c) Place. -- The Commission shall convene all regular meetings at the place designated by the chairman, or by a majority vote of those Commission members present and voting

Section 27.04(d)

on the motion during any preceding regular or special meeting at which a quorum was present. Subcommittee meetings shall be convened at the place designated by the chairman, or by a majority vote of those subcommittee members present and voting on the motion during any preceding regular or special subcommittee meeting at which a quorum was present.

(d) Change of Location. -- The Commission may, without prior notice, and after the convening of a regular meeting, move the location of the meeting in order to accommodate members of the public who wish to attend the meeting but cannot do so because the room is too small to safely accommodate such attendance. Whenever a meeting is moved after it is convened, notice of the new location shall be posted in a prominent location in or just outside the original meeting room. The location of any subcommittee meeting may be changed in a similar manner.

(e) Agenda. -- All regular meetings of the Commission, or any subcommittee, shall be general meetings for the consideration of any and all matters which may properly come before the Commission, or any subcommittee thereof. In order to place an issue on the agenda of a regular meeting, a member must request the chairman to place the issue on the agenda at least seventy-two (72) hours prior to the beginning of the meeting. This request may be made in writing

or by telephonic communications. After completion of any old business and any new business on the agenda, a majority of the Commission members (or subcommittee members) voting in the affirmative may cause an issue to be placed on the agenda of the Commission (or subcommittee) meeting.

(f) Notice to Members.

(1) The Chairman shall give Commission members notice of any regular meeting of the Commission by written notice (sent by regular mail) or by telephone at least five days (5) days in advance of a regular meeting.

(2) The Chairman of a subcommittee shall give subcommittee members notice of any subcommittee meeting in a similar manner.

27.05. Special Meetings; Notice of Time, Place
and Agenda.

(a) Special Meetings, -- The Commission may meet in special session in accordance with the procedures established herein. Special meetings may be called:

- (1) by the chairman;
- (2) by nine members of the Commission who in writing request the chairman to call a special meeting; or
- (3) by majority vote of those Commission members present and voting on the motion during any preceding regular or special meeting at which a quorum was present.

(b) Notice to Members of Special Meeting. -- The chairman shall send written notice, by regular mail, to all members of the Commission at least five (5) days in advance of a special meeting setting forth the time and place of such special meeting and the matter or matters to be considered at such special meeting.

(c) Limited Agenda. -- Only matters contained in the notice shall be acted upon at a special meeting.

(d) Notice to Public of Special Meeting. -- The Chairman shall cause notice of the special meeting to be given to the public and the news media by filing notice thereof in

Section 27.05(d)

the State Register at least five (5) days in advance of such meeting. The public notice shall contain the time and place of the meeting and the matter or matters to be considered. The Chairman may in addition to filing the notice in the State Register, the Chairman may give notice to the public in any other manner that is reasonable.

27.06. Notice of Public and news media of Regular and Special Meetings and Subcommittee Meetings; Time for Filing.

(a) Regular Commission Meetings. -- The Chairman shall cause notice of a regular meeting of the Commission to be given to the public and news media by filing a "Notice of Public Meeting" in the State Register identifying the time and place of the regular meeting.

(b) Special Meetings. -- The Chairman shall cause notice of a special meeting of the Commission to be given to the public and news media by filing a "Notice of Public Meeting" in the State Register identifying the time, place and agenda of the special meeting.

(c) Subcommittee Meetings. -- The Chairman of a subcommittee of the Commission shall cause notice of a subcommittee meeting to be given to the public and news media by filing a "Notice of Public Meeting" in the State Register identifying the time, place and agenda of the subcommittee meeting.

(d) Time for Filing Notice. -- Notice of any regular or special meeting of the Commission, or of a subcommittee meeting, shall be filed in the State Register at least five (5) days prior to the meeting and in sufficient time for the notice to be published in the State Register at least (4)

Section 27.06(d)

days prior to the meeting.

(1) The State Register is currently published each Friday by the Secretary of State. In order for a notice of a public meeting to be included in a Friday publication, it must be received by the Secretary of State before 5:00 p.m. of the next preceding Thursday. Accordingly:

(A) If a meeting will be held on a Friday, Saturday, Sunday, Monday or Tuesday notice of the meeting must be received for filing in the State Register before 5:00 p.m. of the second preceding Thursday.

(B) If a meeting will be held on a Wednesday or Thursday, notice of the meeting must be received for filing in the State Register before 5:00 p.m. of the next preceding Thursday.

Section 27.07

27.07. Emergency Meetings. -- In the event of an emergency requiring immediate official action, the chairman shall make a reasonable effort to contact all members by telephone at least twenty-four hours in advance of any emergency meeting to inform them of the emergency and the time and place of the meeting. Public notice of the emergency meeting shall forthwith be filed in the State Register. This section 27.07 shall for all purposes supercede sections 27.04, 27.05 and 27.06 in the event of an emergency.

27.08. Proceedings to be Open to Public; Excep-
tion for Executive Sessions.

(a) General. -- Except as expressly and specifically permitted by W. Va. Code § 6-9A-3, all regular, special and emergency meetings of the Commission, including any subcommittee meeting, shall be open to the public.

(b) Executive Session.

(1) An executive session may be held during any regular, special or emergency meeting in accordance with and subject to the limitations contained in W. Va. Code § 6-9A-4.

(2) An executive session may be held only after the presiding officer has identified for the members present and the public the authorization for the executive session in W. Va. Code § 6-9A-4, and a majority of the commission members present have voted in the affirmative to go into executive session.

(3) No decision shall be made in any executive session. See section 27.03(c) for definition of "decision."

27.09. Minutes.

(a) General. -- The Commission shall provide for the preparation of written minutes of all of its meetings, including subcommittee meetings. All such minutes shall be available to the public within a reasonable time after the meeting. In no event shall this be later than the next regular meeting or special meeting of the Commission, whichever is held earlier. The minutes of any subcommittee meeting shall be available to the public not later than the next meeting of that subcommittee or the next meeting of the Commission, whether regular or special, whichever is held earlier.

(b) Content of Minutes. -- The minutes of all meetings, including subcommittee meetings, shall include the following:

- (1) The date, time and place of the meeting;
- (2) The name of each Commission member present or absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition;
- (4) The results of all votes and, upon request of a member, the vote of each member, by name;
- (5) Minutes of executive sessions may be limited

Section 27.09

to material which is not inconsistent with the
provisions of W. Va. Code § 6-9A-4.

Section 27.10

27.10. Quorum; Majority Vote Required; Proxy Voting Prohibited.

(a) "Quorum" Defined. -- The term quorum is defined in W. Va Code § 11-1A-27 to mean "one half the membership of the commission or subcommittee computed without regard to the chairman [Tax Commissioner], or his presence or absence."

(b) Majority Vote Required. -- Any decision of the Commission, or any subcommittee, must be approved by a majority of those members present and voting on the matter. A quorum must be present at the time the vote is taken: Provided, That only a simple majority vote is needed on the following motions:

- (1) motion to adjourn;
- (2) motion to recess;
- (3) motion to fix the date, time and place of the next regular or special meeting of the Commission or any subcommittee;
- (4) motion to place an item or items on the agenda of the next regular or special meeting of the Commission or any subcommittee.

In determining whether a motion has been approved by a majority, the vote of the Chairman of the Commission or any subcommittee shall be considered, whether he voted in the affirmative or negative, or abstained from voting on the

question.

(c) Proxy Voting Prohibited. -- Proxy voting is
hereby specifically prohibited.

Section 27.11

27.11. Records of Commission; Public Inspection.

(a) All records and minutes of the proceedings of the Commission including those of any subcommittee, are declared to be public records except as provided in W. Va. Code §§ 6-9A-4 and 29B-1-4.

(b) All public records shall be available for inspection and copying in accordance with W. Va. Code § 29B-1-3 of the State Freedom of Information Act. For this purpose the State Tax Commissioner is declared to be the custodian of all public records of the West Virginia Appraisal Control and Review Commission.

(1) "Public record" is defined in W. Va. Code § 29B-1-2(4) to include "any writing containing information relating to the conduct of the public's business, prepared, owned and retained by...[the Commission]."

(2) "Writing" is defined in W. Va. Code § 29B-1-2(5) to include "any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics."

(c) Public records of the Commission, except those exempt from disclosure by W. Va. Code §§ 6-9A-4 or 29B-1-4, shall be made available for inspection and copying during

Section 27.11(d)

the usual business hours of the State Tax Department (8:30 a.m. to 5:00 p.m., Monday through Friday except legal holidays) in the Office of the State Tax Commissioner.

(d) No such public records shall be defaced or destroyed by the person inspecting or copying them.

(e) All requests for information must state with reasonable specificity the information sought. The Tax Commissioner must as soon as is practicable, but not later than five days after receipt of the request (not including Saturdays, Sundays or legal holidays) do one of the following:

- (1) Furnish copies of the requested information;
- (2) Advise the person making the request of the time and place at which he may inspect and copy the materials; or
- (3) Deny the request in writing stating the reasons for such denial. Such denial shall advise the person making the request of his or her right to seek injunctive or declaratory relief from the denial, as provided in W. Va. Code § 29B-1-5.

(g) The Commission may establish fees reasonably calculated to reimburse the custodian for the actual cost of making reproductions of the requested records. This may include a separately stated charge for locating the document or documents.