

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

MAR 20 1 09 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Tourism Commission TITLE NUMBER: 144

RULE TYPE: Procedural; CITE AUTHORITY 5B-2-12

AMENDMENT TO AN EXISTING RULES: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Direct Advertising Grants

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

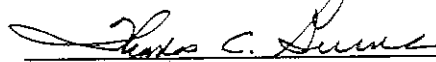
TITLE OF RULE BEING PROPOSED:

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 April 19 AT 4:30 p.m.

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

West Virginia Tourism Commission
2101 Washington Street, East
Charleston, West Virginia 25305
Attn: Jim Lawrence

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4.20

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Direct Advertising Grants

Type of Rule: Legislative Interpretive ☒ Procedural

Agency: West Virginia Tourism Commission

Address: 2101 Washington Street, East
Charleston, West Virginia 25305

1. Effect of Proposed Rule N/A

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$0	\$0	\$0	\$0	\$0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

Program will utilize existing staff and minimal expenses related to staff time and mailing costs. Costs to come from existing and future budgets available.

3. Objectives of these rules:

This rule governs the procedures for making moneys deposited in the Tourism Promotion Fund available for direct advertising in the state's eight regional development districts. The rule establishes eligibility, application guidelines, evaluation criteria, and match requirement for the cooperative advertising program.

Rule Title: Direct Advertising Grants

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

(See Below)

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

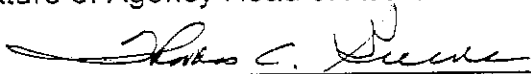
(See Below)

C. Economic Impact on Citizens/Public at Large.

(See Below)

Date: March 20, 1996

Signature of Agency Head of Authorized Representative



There is no discernible fiscal impact from the procedural rule. A positive fiscal impact upon state government, grantees and the public at large is the end result of the program. This program will produce a broader tourism promotion effort throughout the state.

TITLE 144
PROCEDURAL RULES
TOURISM COMMISSION
SERIES II
DIRECT ADVERTISING GRANTS

SUMMARY

The proposed amended rules governs the procedure for making available moneys deposited in the Tourism Promotion Fund for direct advertising within the state's eight regional development districts. The rule establishes eligibility, application guidelines, evaluation criteria, match requirement and accountability for the cooperative advertising program.

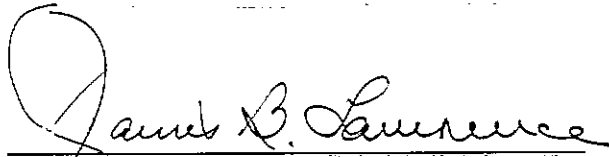
FACTS AND CIRCUMSTANCES

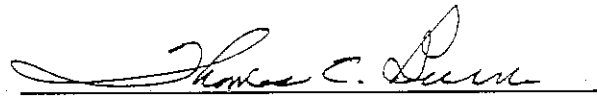
WV Code §5B-2-12 directs that the above rule be promulgated by the Tourism Commission.

AUTHORIZATION TO FILE FOR PUBLIC COMMENT

A PROPOSED PROCEDURAL RULE

The Tourism Commission is authorized to file for public comment a proposed amended procedural rule titled Direct Advertising Grants, Title 144, Series II.


James B. Lawrence
Commissioner
Bureau of Commerce


Thomas C. Burns
Executive Director
WV Development Office

3-19-96

Date

FILED

MAR 20 1 09 PM '95

Title 144
Procedural Rules
Division of Tourism & Parks
Series 2
Direct Advertising Grants

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

144-2-1 General

- 1.1 Scope -- These procedural rules govern the application and award criteria for disbursement of direct advertising grants for regional advertising from the "tourism promotion fund."
- 1.2 Authority -- West Virginia Code 5B-2-12
- 1.3 Filing Date -- ~~July 7, 1995~~
- 1.4 Effective Date -- ~~August 7, 1995~~

144-2-2 Definitions

- 2.1 "Qualified Applicant" means an organization whose purpose, in whole or in part, is to promote the tourism industry of West Virginia; which demonstrates the ability to provide the required match when invoiced; which represents a city, county, region or regions, or tourism industry or activity; and which in the judgment of the Commission adequately represents the interests of the regional development district or districts which the applicant's application covers.
- 2.2 " Commission" means the nine-member Tourism Commission created by West Virginia Code §5B-2-8.
- 2.3 "Division" means the West Virginia Development Office, or any successor agency or office.
- 2.4 "Total project cost" means the total of all proposed project expenditures.

144-2-3 Applications

- 3.1 An applicant shall apply for tourism promotion funds on forms supplied by the Commission or on exact computer duplicates.
- 3.2 The application shall include the complete advertising or marketing project, in sufficient detail to permit evaluation against the required criteria. The application shall include a complete media plan with run dates and advertising costs. The information shall be broken out by individual publications with ad size, specific broadcast stations, billboard locations, advertising agency fees, printing costs, production supplier/vendor costs and any other applicable charges.
- 3.3 Creative design and agency fees that are a part of the application shall be reasonable and customary.
- 3.4 The Commission may request such additional information as it determines necessary to evaluate any application, including but not limited to financial and budgetary information related to the application or to the applicant.
- 3.5 Failure to provide the required application information, or failure to provide such additional information as the Commission reasonably requests by a specific date, in order to evaluate any application, may at the Commission's option, disqualify the application.
- 3.6 The Commission may establish application deadlines and dates for grant award cycles. If the Commission does so, it shall disseminate notice of such dates to the West Virginia Hospitality and Travel Association and to any other person or organization requesting to be placed on the Commission's mailing list for such purpose.
- ~~3.6 Applications and required submissions associated with an awarded project may be public information to the extent provided in West Virginia Code 29B-1-1 et. seq., the Freedom of Information Act.~~
- 3.7 All applications and required submissions associated with a project not awarded shall be returned to the applicant; however, evaluation forms and findings made by the Division or the Commission ~~may be public information to the extent provided in West Virginia Code 29B-1-1 et. seq., the Freedom of Information Act~~ shall be maintained for a period of twelve months.
- 3.8 In order to assure that funds received by an applicant under this program are not used to fund regular ongoing advertising activities but instead to support new advertising activities, the Commission may require that an

applicant furnish financial information as described ~~above~~ in §3.3 of these rules.

3.9 The Commission reserves the right to reject any application on the basis of the amount of funding ~~it seeks sought~~, to request the applicant to revise an application to a lower or higher level of funding, or to award more or less than the full amount requested in the application.

3.10 No application shall be considered by the Commission unless the applicant's share of the project cost is at least \$10,000.00, unless the application is filed under the small grant program established for fairs and festivals described in §7.3 of these rules.

144-2-4 Review and Evaluations

4.1 The ~~Commission will~~ Division shall review all applications for completeness and eligibility. Applications deemed not complete by the Division shall be returned to the applicant for additional information.

4.2 The Commission shall establish a subcommittee to evaluate and score all eligible complete applications. The subcommittee may include non-commission members, but the majority shall be Commission members. The chair of the subcommittee shall be a Commission member and shall report to the Commission the subcommittee's scoring and recommendations for each application considered. Final approval or rejection must be upon a vote of the Commission.

4.3 Each application will be scored on the basis of 100 points, as detailed in §144-2-5. Individual scores will be totaled and averaged for each application to produce the final score. ~~Applications shall be awarded in accordance with the scoring and evaluation.~~

144-2-5 Evaluation Criteria

5.1 Eligible applications shall be evaluated and scored, up to a maximum of 100 points, on the following basis.

1. Up to ~~20~~ 25 points -- project demonstrates potential for a strong positive return on investment, is well researched and includes tracking and evaluation measures.

2. Up to ~~20~~ 25 points -- project is appropriate to the market selected and complements or carries forward goals or objectives included in the Tourism Strategic Marketing Plan.
3. Up to 20 points -- project encompasses multiple attractions, municipalities, counties, or a regional development district or districts.
4. Up to 20 points -- project is creative, professional in quality and attainable with the funds requested or with additional identified and available funds.
5. Up to 10 points -- project is to a new market or media.
- ~~6. Up to 10 points -- project region has not received funding in the past.~~

144-2-6 Match Requirement

- 6.1 Applicant must provide a minimum of 50% of the total project cost.
- 6.2 Cost overruns above the award amount shall be borne by the applicant unless the Commission grants prior approval in writing.
- 6.3 Any changes in the project after award requires prior approval of the Commission and may not materially change the project's objective or goal.
- 6.4 The match shall be a cash match. No in-kind services may be utilized for the match but may be utilized to reduce the overall cost of the project.
- 6.5 State funds from any source may not be used for the match. Non-state funds from any source may be used for the match.

144-2-7 Eligible Expenditures; Ineligible Expenditures

- 7.1 Eligible expenditures are those directly related to direct advertising. Direct advertising includes but is not limited to advertising on television, radio, newspaper, magazines and outdoor advertising (billboards) or any combination thereof.
- 7.2 Ineligible expenditures include, but are not limited to:

1. Administrative costs of the applicant, including travel costs.
2. Cost associated with preparation of the application.
3. Rent or the purchase of real estate.
4. Construction costs.
5. Political or lobbying activities of any kind.
6. Membership fees or dues to any organization.
7. ~~Events, fairs or festivals.~~
7. Costs associated with the start up of any business or publication although it may partially or totally be devoted to the promotion of tourism in the state.
8. Purchase or rental of any audio/visual equipment.
9. The costs of alcoholic beverages.
10. Expenditures not identified within the project application, unless the Commission grants prior approval in writing.

7.3 There is hereby established a small grant program to be administered by the Division. Awards under this program shall include, but not be limited to, events, fairs and festivals and individual grants shall not exceed \$500 per applicant. The applicant must provide a minimum of 50 percent of the total project cost, but the requirements of section 6.5 of these rules shall not apply to the small grants program. In addition, awards under the small grants program may be used to fund ongoing advertising programs. Total grants awarded under this program shall not exceed \$25,000 in any fiscal year and shall be used by the applicant solely for advertising purposes. Small grant awards shall require the approval of the director of the Division.

144-2-8 Audit & Compliance

- 8.1 The state reserves the right to review/audit an applicant's records relating to the project. Records must be retained for a minimum of three years after the close of the project.

- 8.2 The state may terminate any project agreement upon discovery of any violation of the terms of the agreement, these rules, or state or federal law.

8.3 Approved grant recipients shall provide to the Division quarterly written evaluations of the advertising program supported by the grant. If the grantee determines that program changes are necessary to improve the overall effectiveness of the project, the grantee may submit a letter of request for program changes to the Commission for their review. The letter of request shall contain a description of the proposed changes and a narrative describing why the changes would improve the overall effectiveness of the project. The Commission may approve the changes requested without the submission of a new project application.

144-2-9 Project Agreement

- 9.1 Simultaneously with the award of a project, the Division shall enter into an agreement with the applicant detailing the responsibilities of both parties, the payment schedule, the project timetable, and any other necessary or appropriate conditions.
- 9.2 The agreement shall require the applicant to hold harmless the State of West Virginia for any liability arising from the agreement.