

**WEST VIRGINIA
SECRETARY OF STATE**

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #2 ■

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2004 MAY -7 P 3:46

WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Veterans Affairs TITLE NUMBER: 86

RULE TYPE: Legislative CITE AUTHORITY: _____

AMENDMENT TO AN EXISTING RULE: YES X NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: VA Headstones or Markers

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 June 7, 2004 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Larry Lynch, Director

WV Division of Veterans Affairs

1321 Plaza East, Suite 101

Charleston WV 25301

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BRIEF SUMMARY AND FACT & CIRCUMSTANCES

By correspondence dated December 23, 2002, the Division of Veterans Affairs was informed that a Special Report of the Divisions of Veterans Affairs would be presented to the Committee on Government Operations concerning expenditures from the John "Jack" Bennett Fund for installation of United States Department of Veterans Affairs Grave Markers. The investigation recommended that the Division of Veterans Affairs:

1. Use the "John 'Jack' Bennett Fund" for veterans grave markers.
2. Promulgate legislative rules identifying an application process and qualification for an award from said Fund.

On March 8, 2003, the Legislature passed Senate Bill No. 494, authorizing the West Virginia Public Service Commission ("Commission") to regulate transactions among cemeteries, companies that set and install memorial head markers and veterans or their survivors concerning fees for setting said markers.

Following public hearings, by Order, effective 60 days from the Order, or on February 1, 2004, the Commission effectuated Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers.

Dependent on the outcome of the Commission's rules, the Division of Veterans Affairs was able to draft proposed rules related to the application process and qualification for an award from the John "Jack" Bennett Fund to set United States Department of Veterans Affairs grave markers.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 86, Series 4-VA Headstones or Markers

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia Division of Veterans Affairs

Address: _____

1. Effect of Proposed rule: None

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

2. Explanation of Above Estimates: None

3. **Objectives of These Rules:** Implement procedure for award of funds from John "Jack" Bennett Fund to place Veteran markers on graves.

Rule Title: Title 86, Series 4-VA Headstones or Markers

4. Explanation of Overall Economic Impact of Proposed Rule:

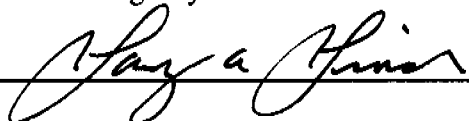
A. Economic Impact on State Government: None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: None

C. Economic Impact on Citizens/Public at Large. None

Date: 5/5/04

Signature of Agency Head or Authorized Representative:



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TITLE 86
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF VETERANS AFFAIRS

SERIES 4
VA HEADSTONES OR MARKERS

2021 MAY -7 P 3:46
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§86-4-1. General.

1.1. Scope. -- To establish guidelines for the administration of funds by H.B. 4169.

1.2. Authority. -- W. Va. Code §9A-1-1.

1.3. Filing Date -- March 26, 1998.

1.4. Effective Date. -- March 26, 1998.

§86-4-2. Definitions.

2.1. "Indigent Widow/Next of Kin" means survivor responsible for setting US Department of Veterans Affairs furnished headstone or marker and whose income is within the US federal poverty levels.

2.2. "Designated Agency" means an agency, department, division or office of state or local government, or a program supported by state funds, which is designated to provide financial assistance.

2.3. "Agency Application Form" means form prepared by the WV Division of Veterans Affairs for use in determining eligibility for said funds.

2.4. "Applicant" means a person who submits an application for financial assistance in setting of US Department of Veterans Affairs grave marker.

2.5. "Means Test and Geographic-based Means Test Threshold" is The Means Test Threshold established by the Department of Veterans Affairs, Veterans Health Administration, and published annually.

§86-4-3. Priority in Setting Markers.

The director of veterans affairs shall determine the grave markers that have been in storage at the state's perpetual care cemeteries for the longest period of time and ensure those markers are installed on a priority basis as funding permits.

§86-4-4. Application Process

4.1. The director of veterans affairs shall make application forms available to applicants and shall process completed applications in accordance with a process and eligibility standard implemented by the designated agency.

4.2. Application Process: Any family member of a deceased Veteran, a licensed Funeral Home or Cemetery may make application, on an application form provided by the director of the division of veteran affairs for an award from the John "Jack" Bennet Fund. The award will pay the cost of the installation of the federal veterans' grave marker for an eligible veteran. The application shall contain the following information: name of veteran; serial number; date of birth; date of death; enlistment and discharge dates; branch of service and rank; character of discharge; cemetery (name, address, county); grave number (lot, block, section); nearest relative and relative's address; designation of type of headstone, claimant's name, address, social security number; applicant's monthly income information.

4.3. The director shall within 90 days upon receipt of a completed application, notify the applicant of the status of the application and the eligibility of the deceased veteran for an award from the John "Jack" Bennet Fund.

§86-4-5 Eligibility

5.1. The eligibility of a deceased veteran to receive a John "Jack" Bennet Fund award shall be based on the following elements:

5.1.1. Period of time the deceased veteran has been buried without having a federal grave marker in place.

5.1.2. Availability of other financial resources for payment of the setting of the federal grave marker, which shall be determined by the Means Test and Geographic-based Means Test Threshold for the calendar year in which the application is made, and

5.1.3. Availability of funds in the John "Jack" Bennet Fund Account.

5.2. The director of veterans affairs shall make discretionary award determinations based on the factors established in 5.1.1 through 5.1.3.

§86-4-6. Expenditure of Funds

Awards shall be based on the fund solvency and shall conform to the West Virginia Public Service Commission Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, CSR § 150-4A-1.