

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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AUG 5 10 31 AM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

Compensation Programs Performance Council

AGENCY: Bureau of Employment Programs TITLE NUMBER: 85

RULE TYPE: Procedural; CITE AUTHORITY SS 6-9A-3; 21A-3-7; & 29A-3-3

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 14

TITLE OF RULE BEING PROPOSED: Procedural rules for the Compensation
Programs Performance Council

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 10, 1993 AT 4:00 pm

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

Executive Office

Workers' Compensation Division

PO Box 3824

Charleston, WV 25338

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

Andrew N. Richardson

Andrew N. Richardson

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4, 20

FILE

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OFFICE

Bureau of Employment Programs
Workers' Compensation Division
601 Morris Street
Charleston, West Virginia 25301-1446

Gaston Caperton, Governor
John Ranson, Secretary,
Commerce, Labor and Environmental Resources
Andrew N. Richardson, Commissioner,
Employment Programs



M E M O R A N D U M

TO: The Honorable Ken Hechler
Secretary of State

FROM: *Andy* Andrew N. Richardson
Commissioner

DATE: August 4, 1993

RE: Summary of Proposed Rule

This is the required summary for the attached "Procedural Rules for the Compensation Programs Performance Council."

The open meetings act and the administrative procedures act both require a governing body to adopt rules of procedure for its meetings. These rules address that requirement.

The rules state the duties of the chairperson, the election of a vice-chairperson, quorums for different kinds of votes, a requirement that meetings be open to the public except when an executive session is required and permitted by law, a prohibition against votes by proxy, a provision for the conducting of meetings by telephone along with access by the public to such meetings, subcommittees, minutes, definitions, and related general matters.

The comment period for these rules was approved by the Council at its first regular meeting on August 3, 1993. The rules have received the approval of the Secretary of the Department of Commerce, Labor, and Environmental Resources.

Bureau of Employment Programs
Workers' Compensation Division
601 Morris Street
Charleston, West Virginia 25301-1446

Gaston Caperton, Governor
John Ranson, Secretary,
Commerce, Labor and Environmental Resources
Andrew N. Richardson, Commissioner,
Employment Programs



August 4, 1993

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Secretary Hechler:

Re: Filing of Proposed Procedural Rule, Title 85, Series 14;
"Procedural Rules for the Compensation Programs
Performance Council."

Pursuant to West Virginia Code, §5F-2-2(a)(12), please
consider this letter to be my written approval of the above noted
proposed legislative rule.

With much appreciation for your assistance in this matter, I
remain

Very truly yours,

A handwritten signature in cursive script that reads "John M. Ranson".
John M. Ranson
Secretary

JMR:JHK

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedural Rules for the Compensation Programs Performance Council
Type of Rule: Legislative Interpretive X Procedural
Agency Workers' Compensation Division, Bureau of Employment Programs
Address PO Box 3824
Charleston, WV 25338

1. Effect of Proposed Rule

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

2. Explanation of above estimates:

No additional cost since these rules are for meetings of the Council.

3. Objectives of these rules:

Statutorily required - See W.Va. Code, § 6-9A-3 & § 29A-3-3.

Rule Title: Procedural Rules for the Compensation Programs Performance Council

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: 08/04/93

Signature of Agency Head or Authorized Representative

Andrew N. Richardson

Andrew N. Richardson

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AUG 5 10 31 AM '93

TITLE 85
WEST VIRGINIA PROCEDURAL RULE
DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

SERIES 14
PROCEDURAL RULES FOR THE COMPENSATION PROGRAMS PERFORMANCE
COUNCIL

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§85-14-1. General.

1.1. Scope. -- The West Virginia Open Governmental Proceedings Law, section 1, article 9A, chapter 6 et seq. of the West Virginia Code of 1931, as amended, requires in section three that governing bodies of state public bodies shall promulgate rules by which the time, the place, and the purpose of all regularly scheduled meetings and the time, place, and purpose of all emergency meetings are made available, in advance, to the public and the news media to the extent possible. Similarly, West Virginia Code, §29A-3-3, requires that agencies adopt procedural rules. The purpose of this rule is to comply with these requirements.

1.2. Authority. -- W. Va. Code, §6-9A-3, §21A-3-7 and §29A-3-3.

1.3. Filing Date. -- .

1.4. Effective Date. -- .

§85-14-2. Application and enforcement.

This procedural rule applies to the Compensation Programs Performance Council created pursuant to West Virginia Code, §21A-3-1 et seq. The enforcement of this rule is vested with the chairperson of the council. This rule has received the written approval of the Secretary of the Department of Commerce, Labor, and Environmental Resources.

§85-14-3. Definitions.

3.1. Chairperson -- The Commissioner of the Bureau of Employment Programs as provided for by West Virginia Code, §21A-3-3.

3.2. The Council -- The Compensation Programs Performance Council created under section one, article three, chapter twenty-one-A of the Code of West Virginia of 1931, as amended.

3.3. Decision. -- Any determination, action, vote or final disposition of a motion, proposal, resolution, order or measure on which a vote of the council is required at any meeting at which a quorum is present.

3.4. Meeting. -- The convening of the council for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.

3.5. Quorum. -- The presence of a majority of the voting members of the council.

\$85-14-4. Meetings; rules of order; selection of vice-chairperson.

4.1. Meetings of the council may be called by the chairperson, and the chairperson shall call a meeting upon the written request of three of the other members of the council.

4.2. The chairperson shall notify council members in writing at least seven (7) days in advance of a meeting. The notice shall set forth the time and place of such meeting and the matters to be considered, except that such notice is not required if the time, the place, and the matters for consideration have been fixed in a meeting where all the members are present.

4.3. The chairperson shall notify the public and the news media by filing with the office of the Secretary of State a public notice of the meeting. The notice shall be filed in a manner so as to allow each notice to appear in the state register at least five days prior to the date of the meeting. The public notice shall contain the time, the place, and purpose of the meeting. A copy of the notice shall be delivered to the press room located in the Capitol Building.

4.4. The provisions of this section shall not apply in the event of an emergency requiring immediate official action by the council. In the event of an emergency requiring immediate official action, the council may file an emergency meeting notice at any time prior to the meeting. The emergency meeting notice shall state the time, place, and purpose of the meeting and the facts and circumstances of the emergency. A copy of the notice shall be delivered to the press room located in the Capitol Building.

4.5. Meetings may be continued to a set time and place by a majority vote of the council members present and voting without further notice to the members and without further publication unless such continued meeting is scheduled for more than fourteen (14) days from the date of the voting.

4.6. All members present at a meeting shall have the same right to participate in discussion of matters before the council.

4.7. The council shall consider any matter brought before it by the chairperson or any appointed member and may consider, at its discretion, any matter referred to it by a person not a member of the council.

4.8. Meetings of the council shall be conducted in accordance with the most recent edition of Robert's Rules of Order.

4.9. The members of the council shall select from one of their number a member to serve as vice-chairperson who shall preside in the absence of the chairperson. The term of the vice-chairperson shall be for one fiscal year; from July 1 to June 30; but, the incumbent shall continue to serve until replaced. A vacancy may be filled by electing a new vice-chairperson for the remainder of a term. A member may be reelected as vice-chairperson.

4.10. A meeting of the council may be conducted by telephonic means. In the event that a telephonic conference call is to be utilized, the notice shall so state and shall additionally state the time and date of the meeting as provided for in subsections 4.3 and 4.4. In addition, such notice shall state the location or locations where members of the public may have access to a telephone receiver so that they may participate in the meeting as otherwise provided for in this rule.

§85-14-5. Proceeding to be open; exceptions; executive session permitted.

5.1. All meetings of the council shall be open to the public; Except that, an executive session closed to the public may be held during a regular or emergency meeting, after the presiding officer has identified the authorization under section four, article nine-A, chapter six of the West Virginia Code for the holding of such executive session and has presented it to the council and to the general public, but no decision shall be made in such executive session.

5.2. An executive session may be held only upon a majority affirmative vote of the council members present for the following (as stated in section four, article nine-A, chapter six of the West Virginia Code) reasons:

5.2.1. Matters of war, threatened attack from a foreign power, civil insurrection or riot; or

5.2.2. The appointment, employment, retirement, promotion, demotion, disciplining, resignation, discharge, dismissal or compensation of any public officer or employee, or other personnel matters, or for the purpose of conducting a hearing on a complaint against a public officer or employee, unless such public officer or employee requests an open meeting; or

5.2.3. The issuance, effecting, denial, suspension or revocation of a license, certificate or resignation under the laws of this State or any political subdivision, unless the person seeking such license, certificate or registration or whose license, certificate or registration was denied, suspended or revoked requests an open meeting; or

5.2.4. The physical or mental health of any person, unless such person requests an open meeting; or

5.2.5. Matters which, if discussed in public, would be likely to affect adversely the reputation of any person; or

5.2.6. The development of security personnel or devices; or

5.2.7. Matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving competition which, if made public, might adversely affect the financial or other interest of the state or any political subdivision.

5.3. The council may limit the number of members of the public present for a meeting if there is not room enough for all members of the public who wish to attend. This limitation may take the form of a limit on the number of members of the public present or the amount of time individual members of the public may remain, or both.

5.4. The chairperson is authorized to order the removal from a meeting of any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised.

5.5. Upon majority approval of the members of the council present, members of the public may be permitted to address the council for a reasonable length of time or for such time as is fixed by the council. Members of the public desiring to address the council shall indicate their desire to do so by marking the register of attendance accordingly; Provided that, such person shall not be required to register to address the council more than fifteen minutes prior to the time the scheduled meeting is to commence.

5.6. All members of the public present for a meeting of the council shall indicate their presence by signing their name to a register of attendance which may also require the giving of each such person's address and who such person is representing. The register of attendance shall also provide a place for members of the public who wish to address the council to so indicate.

§85-14-6. Subcommittees.

The chairperson may appoint one or more subcommittees of the council and designate their membership and chairpersons. In addition, the chairperson may designate the subject matter to be considered by each such subcommittee.

§85-14-7. Minutes.

7.1. The council shall provide for the preparation of written minutes of all its meetings. All such minutes shall be available to the public within a reasonable time after the meeting and shall include the following information:

7.1.1. The date, time and place of the meeting;

7.1.2. The name of each council member present or absent;

7.1.3. All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and

7.1.4. The results of all votes and, upon request of a member, the vote of each member, by name.

7.2. Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with the provisions of section four, article nine-A, chapter six of the West Virginia Code listed above.

§85-14-8. Majority vote required; vote by proxy prohibited.

The vote of a majority of all voting members present at any meeting of the council shall be necessary to take any action; except that, on matters pertinent to West Virginia Code, §21A-3-7(m), the adoption of a vocational standard shall require an affirmative vote of two thirds of the members of the council. Proxy voting is prohibited.

§85-14-9. Records of the council - public.

Records of the council are public records that may be inspected in accordance with section three, article one, chapter twenty-nine-B of the West Virginia Code and copied at a charge of twenty-five cents (\$0.25) per page.

TITLE 85
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