

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

APR 12 9 01 AM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

Compensation Programs Performance Council
AGENCY: Bureau of Employment Programs TITLE NUMBER: 85

CITE AUTHORITY: §§6-9A-3; 21A-3-7; 29A-3-3

RULE TYPE: PROCEDURAL X INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(s) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW _____

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 ADOPTED: 14

TITLE OF RULE BEING ADOPTED: Procedural Rules for the Compensation

Programs Performance Council

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS May 15, 1994

Andrew N. Richardson

Andrew N. Richardson
Commissioner

03117

FORM NO. 1

1957

TITLE 85
WEST VIRGINIA PROCEDURAL RULE
BUREAU OF EMPLOYMENT PROGRAMS

SERIES 14
PROCEDURAL RULES FOR THE COMPENSATION PROGRAMS PERFORMANCE
COUNCIL

\$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. -- April 12, 1994.

1.4. Effective Date. -- May 15, 1994.

\$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 a majority of the voting members of the council: Provided that, the council must meet at least annually.

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 calendar 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
WEST VIRGINIA PROCEDURAL RULE
BUREAU OF EMPLOYMENT PROGRAMS

SERIES 14
PROCEDURAL RULES FOR THE COMPENSATION PROGRAMS PERFORMANCE
COUNCIL

TABLE OF CONTENTS

SECTION	PAGE
1. General.	1
2. Application and enforcement.	1
3. Definitions.	1
4. Meetings; rules of order; selection of vice-chairperson.	2
5. Proceeding to be open; exceptions; executive session permitted.	3
6. Subcommittees	4
7. Minutes.	5
8. Majority vote required; exception, voting by proxy prohibited.	5
9. Records of the council - public.	5

Bureau of Employment Programs
Legal Services Division
Post Office Box 3922
Charleston, West Virginia 25339-3922

Gaston Caperton, Governor
John Ranson, Cabinet 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: John H. Kozak
Director, Legal Services Division *JK*

DATE: April 12, 1994

RE: Final Filing of Procedural Rule

Attached hereto please find a completed Form #5 for the filing of the "Procedural Rules for the Compensation Programs Performance Council." A final copy of the rules is also attached. These rules were circulated for public comment. However, no comments were received.

The only changes in these rules from the version that was circulated are the corrections of the spelling of two words. No other changes were made.

Also enclosed with this memorandum is a computer diskette with the rules which are encoded in Display Write 4 Version 2. The rules are filed under A:\PRORULE.RFT.

Thank you for your cooperation in this matter.

Offices located at 601 Morris Street

An Equal Opportunity/Affirmative Action Employer

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



BEP-LEGAL DIVISION

94 MAY -2 AM 11:38

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

TO: John Kozak

AGENCY: Workers' Comp.

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 28, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 14 TITLE: 85 Workers' Comp.

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: John H. Kozak

TITLE OF PERSON SIGNING: Director, Legal Services Division

DATE: May 16, 1994

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

1012110 110211-55
041111-5 1111-53