

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark in this Box

FILED

JUL 28 1 24 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Auditor TITLE NUMBER: 155-3

CITE AUTHORITY 12-3-13B

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Standards For Voluntary Payroll Deductions

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Paul S. Molloy

Authorized Signature

\$380

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Auditor's Office

LEGISLATIVE RULE TITLE: Standards For Voluntary Payroll Deductions

1. Authorizing statute(s) citation 12-3-13B

2. a. Date filed in State Register with Notice of Hearing
Comment Period 06/24/97

b. What other notice, including advertising, did you give
of the hearing?

c. Date of Hearing(s) 07/25/97

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing:
(be exact)

07/28/97

f. Name and phone number(s) of agency person(s) to
contact for additional information:

Paul S. Mollohan 558-2251

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing: NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Standards For Voluntary Payroll Deductions

Type of Rule: Legislative Interpretive Procedural

Agency: State Auditor

Address: State Capitol, Room W-100
Paul S. Mollohan
Charleston, WV 25305

1. Effect of Proposed Rule

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

2. Explanation of above estimates:

NA

3. Objectives of these rules:

To standardize the criteria for employees in making payroll deductions.

Rule Title: Standards For Voluntary Payroll Deductions

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NA

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

NA

C. Economic Impact on Citizens/Public at Large.

NA

Date: 07/26/97

Signature of Agency Head or Authorized Representative

Paul S. Malloy

OFFICE OF THE STATE AUDITOR
State Capitol, Building 1, Suite W-100
Charleston, WV 25305

STANDARDS FOR VOLUNTARY PAYROLL DEDUCTIONS

Summary of Proposed Rule Series 155-3

June 23, 1997

On April 12, 1997, Senate Bill 563 was passed by the West Virginia Legislature. The bill amended Chapter 12-3-13b, by adding the provision that allows the State Auditor to set requirements and standards for certain voluntary payroll deductions from State employees' compensation through rule making. These rules accomplish such Legislative mandate.

Voluntary deductions may include any deductions such as insurance, which is not health or life related, that may be of benefit to the employee or agency. The proposed rules allow the State Auditor to set certain standards, such as number of employees or number of agencies, in order to manage the volume of requests.

The statutes prior to the passage of Senate Bill 563 were very restrictive on the payroll deductions that the State Auditor could deduct from employees' compensation. The only voluntary deductions that could be made were for United States Savings Bonds, life and health insurance, and employee associations. With the passage of Senate Bill 563 and the implementation of these rules, the State Auditor may grant a wider variety of employee and agency requests for additional voluntary payroll deductions.

Dated: June 24, 1997

WEST VIRGINIA STATE AUDITOR'S OFFICE
STANDARDS FOR VOLUNTARY PAYROLL DEDUCTIONS

§155-3-1. General

1.1. **Scope:** This rule authorizes the State Auditor to regulate and grant approval for request of voluntary payroll deductions from salaries of state employees either by an agency, employee or organization.

1.2. **Authority:** This rule is issued under authority of West Virginia Code §12-3-13b.

1.3. **Filing Date:**

1.4. **Effective Date:**

§155-3-2. Definitions

2.1. **Organizations/Association:** Any public or private entity that recruits employees for the purpose of providing services to the employee in exchange for monthly premiums which are deducted from the employees salary either once or twice monthly.

2.2. **First Pay Period:** The first pay period runs from the first day of the month to the fifteenth day in a thirty day month or the sixteenth day in a thirty one day month. (*fourteenth in February*) If the pay date falls on a Saturday, Sunday or state holiday the pay day is moved to the last day worked for that pay period.

2.3. **Payroll Deduction:** Any amount subtracted from an employees salary, either voluntarily or mandated by the Federal Government, State Government or a Court of appropriate jurisdiction.

2.4. **Second Pay Period:** The second pay period runs through the last day of the month from the fifteenth day in a thirty day month or the sixteenth day in a thirty one day month. (*fourteenth in February*) If the pay date falls on a Saturday, Sunday or state holiday the pay day is moved to the last day worked for that pay period.

2.5. **Supplemental Insurance:** Any company that offers various types of health and/or life insurance policies that are in addition to the state provided insurance plans.

2.6. **Tax Sheltered:** A deduction that is subtracted from the employees salary before any Federal and/or State taxes are calculated.

§155-3-3. Method of Deductions

3.1 The deduction may be taken one hundred percent the first pay period of the month, one hundred percent the second pay period of the month or an amount split equally between pay periods.

§155-3-4. Request for Voluntary Deductions

4.1. Requests for deductions may come from a state agency or an organization in a manner as prescribed by the State Auditor.

§155-3-5. Method of Approving Voluntary Deductions

5.1. Employee Associations

a. Associations are limited to organizations relating to the employees type of work, type of agency where employed or association that would be beneficial to the individual as an employee.

b. The organization must submit a written request from the organization's home office to the State Auditor's Office for approval. The request must contain name and address of organization, function of organization and the number of employees committed to enrollment. The request must also state the benefit of the deduction to the agency.

c. The organization must be approved by the State Auditor and assigned a payroll deduction number.

5.2. Supplemental Health and Life Insurance

a. The organization must be registered with the State Insurance Commission before approval will be granted.

b. The organization must submit a written request from the organization's home office to the State Auditor's Office for approval. The request must contain the name and address of organization, type of insurance offering to employees and the number of employees committed to enrollment.

c. The organization must submit sample policies and/or other documents as requested by the State Auditor.

5.3. Tax Sheltered Deductions

a. All tax sheltered deductions must be compliant with the Internal Revenue Service regulations and submit proof thereof.

5.3. Tax Sheltered Deductions Cont.

b. The deduction must be requested in writing by an agency for employees who are members of the Teachers Retirement System, Teachers Defined Contribution Plan or Teachers Insurance and Annuities Association for the purpose of providing tax sheltered deductions.

c. Employees who are members of the Public Employees Retirement System, Judges Retirement System, or Public Safety Retirement System are only eligible for tax sheltered deductions approved by the Consolidated Public Retirement Board.

d. Deductions for tax sheltered insurance must be approved by the Public Employees Insurance Agency.

5.4. Charitable Organizations

a. The charity must be registered with the Secretary of State's Office.

b. Requests for deductions may come from a state agency or an organization in a manner as prescribed by the State Auditor.

5.5. Other Deductions: Other deductions not including those in sections 5.1, 5.2, 5.3, and 5.4 may be made if a compelling need, such as number of employees, number of agencies or as prescribed by the Auditor, is demonstrated.

§155-3-6. State Auditor's Office Responsibilities.

6.1. The State Auditor's Office will have on file copies of documents for organizations approved for payroll deductions.

6.2. Approval by the Auditor of plans or documents submitted by organizations for participation by employees in voluntary payroll deductions shall not be construed to impose a fiduciary duty upon either the Auditor or the State of West Virginia. Financial support for participation in such plans shall be drawn from voluntary payroll deductions from participating employees and does not create an obligation upon state funds or revenues. Resolution or settlement of disputes or losses between participating employees and organizations offering approved plans shall be handled by the appropriate regulatory agency as designated by law. This rule does not prohibit private actions brought by employee participants against such organizations.

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Senate Bill No. 275

(By Senator(s) Ross, Anderson, Bowman,
Macnaughtan, Boley and Buckalew)

[Introduced January 30, 1998; referred to the
Committee on Government Organization; and then
to the Committee on the Judiciary.]

A BILL to amend and reenact section five, article nine,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the auditor to promulgate a legislative
rule relating to standards for voluntary payroll
deductions.

Be it enacted by the Legislature of West Virginia:

That section five, article nine, chapter sixty-four of
the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, to read
as follows:

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND
BOARDS TO PROMULGATE LEGISLATIVE RULES.**
§64-9-5. Auditor.

1 (a) The legislative rule filed in the state register
2 on the thirtieth day of August, one thousand nine hundred
3 ninety-six, under the authority of section ten, article
4 three, chapter twelve of this code, modified by the auditor
5 to meet the objections of the legislative rule-making
6 review committee and refiled in the state register on the
7 fourth day of December, one thousand nine hundred
8 ninety-six, relating to the auditor (standards for
9 requisitions for payment issued by state officers on the
10 auditor, 155 CSR 1), is authorized.

11 (b) The legislative rule filed in the state register
12 on the twenty-eighth day of July, one thousand nine hundred
13 ninety-seven, authorized under the authority of section
14 thirteen-b, article three, chapter twelve, of this code,
15 modified by the auditor to meet the objections of the
16 legislative rule-making review committee and refiled in the
17 state register on the twenty-second day of September, one
18 thousand nine hundred ninety-seven, relating to the auditor
19 (standards for voluntary payroll deductions, 155 CSR 3), is
20 authorized.

21

22 NOTE: The purpose of this bill is to authorize the
23 Auditor to promulgate a legislative rule relating to
24 Standards for Voluntary Payroll Deductions.

1 Strike-throughs indicate language that would be
2 stricken from the present law, and underscoring indicates
3 new language that would be added.

8/17

155-3

1 Bill-Auditor,

H. B. 4148

2

(By Delegates Hunt, Linch, Compton, Jenkins,

3

Faircloth and Riggs)

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[Introduced January 30, 1998; referred to the

5

Committee on Finance then the Judiciary.]

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10 A BILL to amend and reenact section five, article nine,
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15 deductions.

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21 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
22 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

23 **§64-9-5. Auditor.**

4148

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