

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

FILED

APR 2 3 02 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: West Virginia State Auditor's Office TITLE NUMBER: 155

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: 4

TITLE OF RULE BEING PROPOSED: Transaction Fee and Rate Structure

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB329

SECTION 64-9-5(a), PASSED ON 3/14/98

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: 4/1/98

Paul S. Mallory

\$3.00



State of West Virginia
OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

PAUL S. MOLLOHAN
CHIEF CLERK

April 2, 1998

Judy Cooper
Director, Administrative Law
Secretary of State
Charleston, WV 25305

Dear Ms. Cooper:

As your requested, the promulgation history of the Transaction Fee and Rate Structure rule, Title 155, Series 4, is follows:

Submitted as new emergency rule on 11/21/97
Comment period started 11/21/97
Comment period ended 12/21/97
Approved as emergency rule on 12/21/97
Approved by Legislature SB 329 3/14/98

If you have any questions, please call.

Sincerely,
Paul S. Mollohan
Paul S. Mollohan
Chief Clerk

155CSR4

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

SERIES 4
TRANSACTION FEE AND RATE STRUCTURE

§155-4-1. General:

1.1 Authority: This rule is issued under authority of the West Virginia Code §12-3-10c.

1.2 Filing Date: _____, 1997

1.3 Effective Date: _____, 1998

1.4 This rule authorizes the State Auditor and State Treasurer to assess joint transaction fees for all financial documents that are received by the Auditor to be processed on the State central accounting system.

1.5 West Virginia Code §12-3-10c authorizes the Auditor and Treasurer to assess transaction fees in order to promote and enhance the use of the state purchasing card program established by the provisions of §12-3-10a and to maintain and develop the fiscal operations and accounting systems of the state.

1.6 A penalty fee may be assessed against spending units of state government who submit claims for payment of goods and services when those claims are authorized to be paid by use of a state purchasing card and the spending unit has failed to utilize the state purchasing card.

1.7 A transaction fee may be assessed for every transaction received electronically or otherwise by the Auditor from spending units of state government.

§155-4-2 Definitions:

2.1 "Auditor" means the Auditor of the State of West Virginia.

"OMB" means the Federal agency Office of Management and Budget.

"Purchase Card" or "card" means the charge card authorized by the West Virginia Code §12-3-10a.

"Technology fund" means the fund created in the state treasury as authorized by West Virginia Code §12-3-10c.

"Treasurer" means the Treasurer of the State of West Virginia.

"West Virginia Financial Information Management System, 'WVFIMS'", means the centralized accounting system used by all state agencies for processing financial transactions and maintained by the Auditor and the Department of Administration.

§155-4-3 Transaction Fee Structure:

3.1 The transaction fee structure and rate shall be in compliance with the following federal Office of Management and Budget Circulars: Circular No. A-21, "Cost Principles for Educational Institutions" as amended August 29, 1997; Circular No. A-87, "Cost Principles for State, Local, and Indian Tribal Governments" as amended August 29, 1997; and Circular A-110, "Uniform Administrative

Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations" as amended August 29, 1997.

3.2 The transaction fee structure shall be reviewed each fiscal year by the Auditor and Treasurer to determine whether any changes are required to maintain Federal and state compliance. The fee shall not exceed the lesser of the rate as determined in subsection 3.1 or \$1.00 per transaction. The fee shall be in effect from January 1, 1998 through December 31, 2000.

3.3 The Auditor and Treasurer shall maintain in their respective offices all necessary documentation, including the detailed cost information and financial schedules, that were used in computing the transaction fee rate.

§155-4-4 Penalty Fee Structure:

4.1 The Auditor may assess a penalty fee for transactions received for payment when those transactions are authorized to be paid by the state purchasing card and the spending unit did not utilize the state purchasing card. The Auditor shall make provisions for certain purchases, such as emergency purchases or purchases made where the card could not be utilized or other circumstances as determined by the Auditor, to be made without penalty when the card was not used.

4.2 The penalty fee assessed shall be a multiple of the rate per transaction as determined in section 3.1. Beginning January 1, 2000, or thereafter, the penalty fee assessed shall be five times the rate determined in section 3.1.

§155-4-5 Disposition of Fees:

5.1 All fees collected shall be deposited in the state treasury and credited to the "Technology Support and Acquisition Fund" as authorized by the West Virginia Code §12-3-10c to be administered and maintained by the Auditor.

5.2 The Auditor and Treasurer shall divide the collections of the fund between their respective offices in the proportionate share that each office's cost is to the total cost in the rate base.

5.3 The Auditor shall make periodic transfers of funds to the Treasurer's Office, as jointly agreed upon, of the funds collected, provided, that at least two transfers occur during each fiscal year.

§155-4-6 Accounting Requirements:

6.1 The Auditor shall bill each agency for every transaction, as defined and used in the state's central accounting system, WVFIMS, when received for processing. The Auditor shall calculate and bill each agency on a monthly basis.

6.2 The Auditor and Treasurer shall each maintain in their respective offices financial statements of the technology fund according to generally accepted accounting principles.

6.3 The Auditor and Treasurer shall include the fund financial data for their respective offices in the annual statewide cost allocation plan that is submitted to the Federal agency.

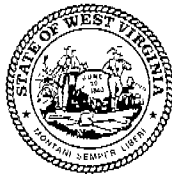
6.4 The fund shall be subject to Federal audit as required for the annual statewide single audit.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

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(Plus all the volunteer
help we can get)

March 12, 1996

Paul S Mollohan
Auditors
Bldg 1 Rm W-100
Charleston, WV 25305

SB 329 authorizing, **Title 155, Series 04, Transaction Fee & Rate Structure** passed the Legislature on **March 14, 1998**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 329** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 329 Section 64-9-5(a)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. **If the agency fails to return this within ten (10) working days, the rule WILL be filed in the data base with a disclaimer attached stating that the agency failed to review the rule.** Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division