

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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2011 JUN 23 PM 2:43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State Auditor's Office TITLE NUMBER: 155

RULE TYPE: Legislative CITE AUTHORITY: 12-3-10c

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: "Transaction Fee and Rate Structure"

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 July 23, 2011 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

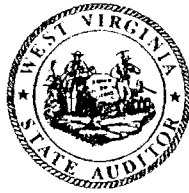
WV State Auditor's Office
Capitol Complex - Room W100
1900 Kanawha Blvd., East
Charleston, WV 25305
Attn: Carrie J. Chambers

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

Carrie J. Chambers

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



State of West Virginia

Office of the State Auditor
1900 Kanawha Boulevard, East
State Capitol Complex, Building 1, Room W-100
Charleston, West Virginia 25305

Glen B. Gainer III
State Auditor

Telephone: (304) 558-2251
FAX: (304) 558-5200
www.wvsao.gov

June 9, 2011

Ms. Judy Cooper
Director
Administrative Law Division
Secretary of State's Office
Capitol Complex
Charleston, West Virginia 25305

RE: 155CSR4 – "Transaction Fee and Rate Structure"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your office and Legislative Rule-Making Review Committee as "Notice of a Comment Period on a Proposed Rule."

If you should have any questions concerning the above, please call Carrie Chambers in my office at 558-2251. Your assistance in this filing is very much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "G. B. Gainer III".

Glen B. Gainer III
State Auditor

GBGIII:cc

Attachment

c: Carrie Chambers

155CSR4 – “Transaction Fee and Rate Structure”

Brief Summary of Proposed Rule and Statement of Circumstances Which Require the Rule:

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

This proposed amendment will extend the transaction fee beyond the expiration date.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

155CSR4 - "Transaction Fee and Rate Schedule"

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: State Auditor's Office
 Address: Capitol Complex, Room W100
 Charleston, WV 25305
 Attn: Carrie J. Chambers
 Phone Number: 304-558-2251 Email: carrie.chambers@wvsao.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There is no increase or decrease in costs or revenues

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

155CSR4- "Transaction Fee and Rate Schedule"

Rule Title: _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The proposed amendments to 155csr4 extends the December 31, 2012 deadline contained in subsection 3.2 of the Transaction Fee Structure to December 31, 2017.

Date: June 23,2011

Signature of Agency Head or Authorized Representative

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

SERIES 4
TRANSACTION FEE AND RATE STRUCTURE

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SECRETARY OF STATE

§55-4-1. General.

1.1. Scope. -- 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.

1.2. Authority. -- This rule is issued under authority of the W. Va. Code §2-3-10c.

1.3. Filing Date. -- ~~April 16, 2007.~~

1.4. Effective Date. -- ~~April 16, 2007.~~

1.5. W. Va. 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 W. Va. Code §12-3-10a and to maintain and develop the fiscal operations and accounting systems of the state.

1.6. The Auditor may assess a penalty fee 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. The Auditor may assess a transaction fee 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.

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

2.3. "Purchase Card" or "card" means the charge card authorized by the W. Va. Code §12-3-10a.

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

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

2.6. "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 transaction fee shall not exceed the lesser of the rate as determined in subsection 3.1 of this rule or \$1.00 per transaction. The fee shall continue in effect until December 31, ~~2012~~ 2017.

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. Beginning June 1, 2004, the Auditor may assess a penalty fee of \$2.00 per transaction.

§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 W. Va. 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 is subject to Federal audit as required for the annual statewide single audit.