

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

Form #3

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2011 JUL 29 11:11:55

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's Office TITLE NUMBER: 155

CITE AUTHORITY: 12-3-10(c)

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"

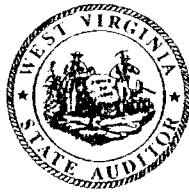
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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.

Carrie J. Chambers

Authorized Signature



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

July 28, 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 Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee."

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

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 29, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV State Auditor's Office, Capitol Complex, Room W-100

Charleston, West Virginia 25305

Attn: Carrie J. Chambers - Phone 558-2251

LEGISLATIVE RULE TITLE: 155CSR4 - "Transaction Fee and Rate Structure"

1. Authorizing statute(s) citation 12-3-10(c)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 23, 2011

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

N/A

c. Date of Public Hearing(s) or Public Comment Period ended:

July 23, 2011

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)

July 29, 2011

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Carrie J. Chambers, Executive Assistant to State Auditor, State Auditor's Office

Capitol Complex, Room W-100, Charleston, WV 25305, Phone: 558-2251

Fax - 558-5200, Email carrie.chambers@wvsao.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A

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.

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

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

Carrie J. Chambers

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

FILED

2011 JUL 29 AM 11:55

SERIES 4
TRANSACTION FEE AND RATE STRUCTURE

WEST VIRGINIA
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.

155CSR4 – “Transaction Fee and Rate Structure”

Amendments to 155CSR4 were filed for comment on June 23, 2011. Comment period ended on July 23, 2011. No comments were received concerning the proposed amendments.