



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/26/2016 12:04:10 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY Auditor
RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 155-
RULE NAME Procedure For Local Levying Bodies To Apply for Permission To Extend Time To Meet ~~08~~
Levying Body
CITE AUTHORITY 11-8-9

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Andrea Bower -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 155-08



Rule Id: 10266



Document: 28894



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

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CITE AUTHORITY 11-8-9

PRIMARY CONTACT

VINCENT SMITH

1900 KANAWHA BLVD E

BLDG 1, ROOM W-100

CHARLESTON, STATE ZIP

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AUTHORIZING STATUTE(S) CITATION
11-8-9

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Tuesday, July 26, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?
NONE

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Friday, August 26, 2016

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ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Friday, August 26, 2016

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IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. 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.

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DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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PRIMARY CONTACT
VINCENT SMITH
1900 KANAWHA BLVD E
BLDG 1, ROOM W-100
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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

THIS MEASURE WILL HAVE DE MINIMIS IMPACT ON THE COSTS OF STATE GOVERNMENT. THE ONLY COSTS ASSOCIATED WITH THIS MEASURE ARE POSTAGE. NO ADDITIONAL STAFF WILL BE REQUIRED TO IMPLEMENT THIS RULE. LIKewise, NO REVENUE WILL BE GENERATED AS A RESULT OF THE IMPLEMENTATION OF THIS RULE.

Andrea Bower -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Andrea Bower -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.
THIS MEASURE WILL HAVE DE MINIMIS IMPACT ON THE COSTS OF STATE GOVERNMENT. THE ONLY COSTS ASSOCIATED WITH THIS MEASURE ARE POSTAGE. NO ADDITIONAL STAFF WILL BE REQUIRED TO IMPLEMENT THIS RULE.

Andrea Bower -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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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.

THIS MEASURE WILL HAVE DE MINIMIS IMPACT ON THE COSTS OF STATE GOVERNMENT. THE ONLY COSTS ASSOCIATED WITH THIS MEASURE ARE POSTAGE. NO ADDITIONAL STAFF WILL BE REQUIRED TO IMPLEMENT THIS RULE.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Andrea Bower -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

THIS RULE ESTABLISHES A PROCEDURE FOR LOCAL LEVYING BODIES TO APPLY FOR PERMISSION TO EXTEND THE TIME TO MEET AS A LEVYING BODY, REQUIRES THE LOCAL LEVYING BODY TO CITE THE REASON A TIMELY MEETING WAS NOT HELD AND THAT THE MEETING IF APPROVED BY THE STATE AUDITOR, BE HELD IN COMPLIANCE WITH ARTICLE NINE-A, CHAPTER SIX OF THE WEST VIRGINIA CODE RELATING TO OPEN GOVERNMENTAL PROCEEDINGS AT A TIME SET BY THE STATE AUDITOR.

THIS RULE IS SUBMITTED IS SUBMITTED IN ACCORDANCE WITH A REVISION OF WEST VIRGINIA CODE § 11-8-9, AS AMENDED IN THE 2015 LEGISLATIVE SESSION, DIRECTING THE STATE AUDITOR TO PROPOSE SUCH RULE.

THE PURPOSE OF THIS RULE IS TO PROVIDE A PROCEDURE FOR EXTENDING THE TIME OF MEETINGS OF LOCAL LEVYING BODIES WHEN MEETINGS ARE DELAYED BECAUSE OF CIRCUMSTANCES BEYOND THE CONTROL OF A LOCAL LEVYING BODY.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Andrea Bower -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR**

**SERIES 8
PROCEDURE FOR LOCAL LEVYING BODIES TO APPLY FOR PERMISSION
TO EXTEND TIME TO MEET AS LEVYING BODY**

§155-8-1. General.

1.1. Scope. -- This rule establishes a procedure for local levying bodies to apply for permission to extend the time to meet as a levying body, requires the local levying body to cite the reason a timely meeting was not held and that the meeting, if approved by the State Auditor, be held in compliance with article nine-a, chapter six of the West Virginia Code relating to open governmental proceedings at a time set by the State Auditor.

1.2. Authority. -- W.Va. Code §11-8-9.

1.3. Filing Date. -- July 26, 2016

1.4. Effective Date.

1.5. Sunset Date. -- This rule will sunset five years from effective date.

§155-8-2. Definitions.

2.1. Filing Office. -- As used herein, the term "Filing Office" shall mean the West Virginia State Auditor's Office, 1900 Kanawha Boulevard East, Building 1, Room W-100, Charleston, WV 25305.

2.2 Good Cause. -- As used herein, the term "Good Cause" means a cause not reasonably foreseeable at the time at which it arose, circumstances which arise that are beyond the control of the levying body, or circumstances which, in the discretion of the Auditor, sufficiently excuse strict compliance with W. Va. Code §11-8-9.

2.3 Report. -- As used herein, the term "Report" means a report required to be filed by local levying bodies in accordance with W. Va. Code §11-8-9, W. Va. Code §11-8-10, and W. Va. Code §11-8-12.

2.4. State Auditor. -- As used herein, the term "State Auditor" means the West Virginia State Auditor, and any employee or agent thereof who is delegated responsibility for carrying out the provisions of this rule.

§155-8-3. Report of Meetings.

3.1. Generally. -- A Report must be filed with the State Auditor on or before the first day of April of the year in which the meeting takes place.

3.2. Manner to File Report. -- A Report shall be deemed filed by mailing to the State Auditor by certified mail, return receipt requested, or, if given prior authorization, by email transmission. Upon receipt, the State Auditor shall affix a time stamp which shows the date on which the Report was received.

3.3. Failure to File Report. -- If any levying body fails to file a Report as required by W. Va. Code §11-8-9, the State Auditor shall notify the levying body that it must meet and file a Report of that meeting on or before the fifteenth (15th) day of April of that year.

3.4. Manner to Notify of Failure to File a Report. -- The State Auditor shall notify any levying body that fails to file a Report by sending a Notice of Failure to File a Report to the levying body by certified mail, return receipt requested. The Notice of Failure to File a Report shall contain a statement that the levying body must meet and file a Report on or before the fifteenth day of April of that year.

§155-8-4. Procedure to Extend Time for Local Levying Body to Meet.

4.1. Generally. -- If any levying body is unable to meet and file a Report with the State Auditor on or before the fifteenth day of April, the levying body may request an extension of time to meet and file a Report, which extension shall not extend beyond May 1 of that year.

4.2. Notice to Be Filed. -- In order to request an extension of the time to meet as a levying body, the levying body shall file with the State Auditor a Notice of Request for Extension Pursuant to W. Va. Code §11-8-9. The notice shall state the reasons that the levying body has not yet been able to meet. The notice shall be deemed filed by mailing to the State Auditor by certified mail, return receipt requested or, if given prior authorization, by email transmission.

4.3. Good Cause Alleged. -- The Notice of Request for Extension must explain why Good Cause exists for the State Auditor to grant the levying body an extension.

4.4 Receipt of Filing. -- Upon receipt of the notice, the State Auditor shall affix a time stamp which shows the date on which the Report was received. The State Auditor shall forthwith review the notice and determine whether Good Cause exists to grant the request for extension.

4.5 Grant or Denial of Request. -- Upon review of the request for extension, and after determining whether or not Good Cause exists to grant the extension, but no later than five (5) business days after receipt, the State Auditor shall inform the levying body whether its request has been granted or denied. Notification shall be made in writing by the most expeditious means available, including, but not limited to, email or facsimile transmission.

4.6. Effect of Granting. -- If the State Auditor determines that Good Cause exists to grant the requested extension, the State Auditor shall so inform the levying body and set a date in which the levying body must meet, which date shall be on or before May 1 of that year.

4.7. Compliance with W. Va. Code § 6-9A-1 *et seq.* -- If the State Auditor grants a request for extension, the State Auditor shall inform the levying body that the meeting set by the State Auditor shall comply with the provisions of W. Va. Code § 6-9A-1 *et seq.* relating to open governmental proceedings.

4.8. Effect of Denial. -- If the State Auditor determines that Good Cause does not exist, the State Auditor shall so inform the levying body. The levying body shall thereafter forthwith meet, file a Report, and otherwise comply with the provisions of W. Va. Code § 11-8-9.