

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF THE SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

159

AGENCY Department of Administration; State Building Comm. TITLE NUMBER: 159

RULE TYPE: Procedural; CITE AUTHORITY West Virginia Code 5-6-4 (5)

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: One (1)

TITLE OF RULE BEING PROPOSED: Procedural Rules For Meetings

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 August 15, 1990 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Department of Administration

Capitol Complex E-119

Charleston, WV 25305

Attn: Diana Stout

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

Lisa A. Green

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

PROCEDURAL RULES

STATE BUILDING COMMISSION

SERIES 1

PROCEDURAL RULES FOR MEETINGS

Section 1. GENERAL

1.1 Scope.--The scope of these procedural rules involves the meetings, records and officers of the State Building Commission.

1.2 Authority.--West Virginia Code Section 6-9A-3.

1.3 Filing Date.--

1.4 Effective Date.--

Section 2. OFFICE

The principal office of The State Building Commission ("Commission") shall be in the City of Charleston, County of Kanawha, State of West Virginia. Other offices or places of business may be established whenever deemed advisable in the judgment of the Commission.

Section 3. COMMISSION

3.1 Powers. The Commission shall have such duties and responsibilities as provided for in Article 6, Chapter 5 of the West Virginia Code, 1931, as amended.

3.2 Membership, Number, Term of Office and Compensation. The Commission membership shall consist of the Governor, Attorney General, Treasurer and four additional members to be appointed by the Governor, by and with the advice and consent of the Senate. The Secretary of State shall be a member of the Commission, but shall not have the right to vote upon matters before the Commission. All members shall be citizens and residents of West Virginia. No more than three of the members appointed by the Governor shall be members of the same political party, nor be members or employees of the executive, legislative or judicial branches of government of West Virginia or any political subdivision thereof. The terms of office for members appointed by the Governor shall be for one, two, three and four years respectively. Members of the Commission shall be paid or reimbursed for their necessary expenses incurred in the performance of their duties, but shall receive no compensation for their services as members or officers of the Commission, except that members appointed by the Governor shall, in addition to reimbursement for necessary expenses, receive a per diem of thirty-five dollars (\$35.00) for each day or substantial portion thereof engaged in the work of the Commission.

3.3 Quorum. Four members of the Commission, or their designated alternates, shall constitute a quorum, and the affirmative vote of a majority of the members shall be necessary for any action taken by vote of the Commission.

3.3 Vacancies. In the case of a vacancy on the Commission, such vacancy shall be filled by appointment of the Governor, by and with the advice and consent of the Senate. Any member appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the remainder of said term. No vacancy in the membership of the Commission shall impair the rights of a quorum to exercise all the rights and perform all of the duties of the Commission.

3.4 Designated Alternates. Members who must absent themselves from a meeting or other functions of the Commission may designate in writing an alternate, who shall not be a member of the Commission, to the Chairman. The designated alternate shall have the proxy of that member, and shall have the full authority to participate and vote at meetings and other actions of the Commission in the stead of that member.

3.5 Meetings. The Commission shall meet at least annually. Special Meetings of the Commission may be called at any time by the Chairman, the Executive Director or any two members of the Commission. The Secretary of the Commission shall give notice to each member of the Commission of each special meeting by mailing a notice at least two (2) days before the meeting or by delivering the same on the day before the meeting, but such notice may be waived by any member of the Commission. Notices shall be considered waived if a Commission member shall attend in person, or

if each Commission member shall file with the records of the meeting, either before or after the holding of the meeting, a written waiver of notice. Attendance shall not constitute a waiver of notice if a Commission member attends for the express purpose of objecting to the transaction of business at a meeting because it is not lawfully called or convened. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

3.6 Adjournment of Meetings. Any regular meeting of the Commission may be adjourned without further notice to such date, hour and place as may be determined by the Commission at such meeting. In the event that a quorum is not present at such meeting and cannot be obtained within a reasonable time, such regular or special meeting shall be adjourned to such date, hour and place as shall then be determined and announced by the Chairman and notice of such adjourned meeting shall be given to those members not present.

3.7 Manner of Voting. The voting on all questions at meetings of the Commission shall be by voice vote and the ayes and nays shall be entered upon the minutes of such meeting.

3.8 Passage of Resolutions. Any action taken by the Commission may be authorized by resolution approved by the affirmative vote of at least a majority of the Commission members.

3.9 Procedure at Meetings. At all regular and special meetings of the Commission the following shall be the order of business:

- (a) Roll Call
- (b) Approval of minutes of previous meeting
- (c) Report of Chairman
- (d) Report of Executive Director
- (e) Unfinished business
- (f) New Business
- (g) Other Business
- (h) Adjournment

In all other respects not otherwise provided for in these By-Laws, Robert's Rules of Order shall govern the conduct of all meetings of the Board.

3.10 Journal. All final action of the Commission shall be

journalized, and such journal shall be open to the inspection of the public at all reasonable times.

3.11 Open Meetings and Public Notice of Meetings. All meetings of the Commission shall be open to the public, as provided in Article 9A, Chapter 6 of the West Virginia Code, 1931, as amended. Notice of the time and place of regularly scheduled meetings of the Commission, and the time, place and purpose of all special meetings of the Commission, shall be made available, in advance, to the public and news media as follows:

A. A notice shall be posted by the Secretary of the Commission at the front door of the place fixed for regular meetings of the Commission of the time and place fixed and entered or recorded by the Commission for the holding of regularly scheduled meetings. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the front door of the meeting place as soon as feasible after such cancellation or postponement has been determined.

B. A notice shall be posted by the Secretary of the Commission at the front door of the place fixed for regular meetings of the Commission at least 48 hours before a special meeting is to be held, stating the time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the front door of the meeting place as soon as feasible after such cancellation has been determined.

C. Notice of the time, place and purpose of all meetings of the Commission shall be filed with the Secretary of State for publication in the State Register in the manner to allow each notice to appear in the State Register at least five days prior to the date of such meeting.

Section 4. OFFICERS

4.1 Executive Officers. The executive officers of the Commission shall be the Chairman and Executive Director.

4.2 Chairman. The Chairman shall preside at all meetings of the Commission and perform such other duties as prescribed by the Commission.

4.3 Executive Director. The Secretary of the Department of Administration shall serve as the Executive Director of the Commission. The Executive Director shall be the chief administrative officer, shall sign all contracts and other documents of the Commission.

The Executive Director shall also be the chief fiscal officer of the Commission, and shall be the custodian of all funds and securities of the Commission, shall keep full and accurate records and accounts of all receipts, disbursements, credits, assets, liabilities and general financial transactions of the Commission, shall endorse for collection or deposit to the credit of the Commission all bills, notes, checks and other negotiable instruments of the Commission and deposit same in such accounts in such depositories and safe deposits as may be designated by the Commission, shall disburse the funds of the Commission as may be ordered by the general or specific instructions of the Commission, shall report all receipts and expenditures to the Commission at such times as the Commission may require, shall annually prepare and submit to the Commission at the close of each fiscal year a full and complete report or statement of all moneys received and expended and of the existing condition of the funds and assets of the Commission for such year. On or before the fifteenth day of each month, the Executive Director shall prepare and submit to the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Delegates a report covering the activities of the Commission for the preceding calendar month.

The books, accounts and records maintained by the Executive Director shall be subject to inspection by the Commission at any time and to audit by an independent certified public accountant or accountants.

The Executive Director shall have such further duties and authority as the Commission shall prescribe and shall give any bond required by law.

4.4 Secretary. The Secretary of State shall serve as Secretary of the Commission. The Secretary shall keep the minutes of all meetings of the Commission; oversee the accuracy of written records of the Commission; provide copies of approved minutes to the members of the Commission and the Executive Director; give notice of meetings of the Commission; certify, when necessary, the records, proceedings, documents and resolutions of the Commission; and shall perform such other duties as shall be prescribed by the Commission. The Recorder shall give any bond required by law.

Section 5. MISCELLANEOUS

5.1 Fiscal Year. The fiscal year of the Commission shall commence on the 1st day of July and shall end on the 30th day of June the following year.

5.2 Books and Records. The records of the Commission shall be open to public inspection at all reasonable times. All final actions of the Commission shall be journalized, and such journal shall also be open to the inspection of the public at all reasonable times, provided, any records or information relating to secret processes or secret methods of manufacture or production which may be obtained by the Commission are confidential and shall not be disclosed.

5.3 Contracts. All contracts and obligations of the Commission shall be signed by the Chairman or the Executive Director, or other officers or employees of the Commission authorized to execute contracts or other obligations of the Commission.

5.4 Indemnification. The Commission shall, to the fullest extent allowed by law, indemnify and reimburse each present and future member, officer, employee or agent of the Commission against, and each such member, officer, employee or agent shall be entitled without further action on his or her part to indemnity from the Commission for, all expenses, including without limitation attorney fees, judgments, fines, taxes and penalties and interest thereon, and if the Commission determines that a settlement of any action, suit or proceeding is in the best interest of the Commission, all amounts paid in effecting such settlement, other than amounts paid to the Commission itself, reasonably incurred by him or her in connection with or arising out of any action, suit or proceeding in which he or she may be involved by reason of his or her being or having been a member, officer, employee or agent of the Commission; provided, however, that such indemnity shall not include any expenses incurred by any member, officer, employee or agent with respect to matters as to which he or she shall be finally adjudged in any such action, suit or proceeding to have been guilty of or liable for gross negligence, willful misconduct or criminal acts in the performance of his or her duties for the Commission. The forgoing right of indemnification shall inure to the benefit of the heirs, executors or administrators of each such member, officer, employee or agent and shall be in addition to all other rights to which such member, officer, employee or agent may be entitled as a matter of law.

5.5 Conflict of Interest. The Commission shall maintain constant vigilance against conflicts of interest, or the mere appearance of conflicts of interest. No officer, member or employee of the Commission shall be financially interested,

directly or indirectly, in any contract of any person with the Commission, or in any sale of any property, real or personal, to or from the Commission, provided, that this provision shall not apply to contracts or purchases of property, either real or personal, commodities or services between the Commission and any governmental agency.

Section 6. AMENDMENTS

The Commission shall have the power to make, alter, amend, suspend and repeal the By-Laws of the Commission by a vote of not less than a majority of its members at any regular meeting of the Commission without previous notice of such purpose. A quorum shall have the power to make, alter, amend, suspend or repeal the By-Laws of the Commission at any special meeting of the Commission, provided at least ten (10) days notice of the purpose to make, amend, alter, suspend or repeal the By-Laws in whole or in part at such meeting and of the substance of the proposed action shall have been previously given to each member.

Adopted: _____

SIGNED:

Chairman

ATTEST:

Secretary



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

July 9, 1990

Honorable Ken Hechler
Secretary of State
Suite 157-K
Capitol Building
Charleston, West Virginia 25305

Re: By-laws, State Building Commission

Dear Mr. Hechler:

Approval is hereby given for filing of by-laws of the Department of Administration, State Building Commission, entitled "Procedural Rules for Meetings", as enclosed, in accordance with West Virginia Code, 5-6-4(5).

Sincerely,

A handwritten signature in cursive script, appearing to read "Chuck Polan", is written above the typed name.

Chuck Polan
Secretary

CP:bt

Attachment