

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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2004 JUL 22 A 9:55

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Capitol Building Commission TITLE NUMBER: 188

RULE TYPE: Procedural CITE AUTHORITY: 6-9A-3, 4-8-1 to 4-8-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Procedural Rules for Meetings

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 August 26, 2004 AT 4:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Commissioner Troy O. Body
Chairman, Capitol Building Commission
The Cultural Center
1900 Kanawha Blvd. East
Charleston, WV 25305

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Summary of Rule Changes

Agency: Capitol Building Commission

Rule No: Title 188, Series 1

Rule Type: Procedural

Rule Summary:

The proposed changes, approved for filing by the Capitol Building Commission, to Title 188, Series 1 of the Code of State Regulations include the following:

1. Codification of the Commission's duty to inform state agencies of statutory responsibility to submit projects to the Commission, and implementation of the same.
2. Explanation regarding Commissioners' terms of office under WV Code 6-5-2.
3. Provision for Commission to hold mandatory quarterly meetings instead of only an annual mandatory meeting, and Commission's authority to set a regular meeting schedule.
4. Parliamentary authority changed to current edition of *Robert's Rules of Order Newly Revised*.
5. Codification of the Commission's policy to invite state Americans With Disabilities Act Coordinator to all meetings.
6. Explanation of procedures for election of Vice-Chairman and Secretary, and provisions for filling vacancies in executive offices.
7. Codification of Commission's policy to delegate some investigative or advisory authority to committees.

Statement of Circumstances for Rule Modification

Agency: Capitol Building Commission

Rule No.: Title 188, Series 1

Rule Type: Procedural

Statement of Circumstances:

The proposed changes, approved for filing by the Capitol Building Commission, to Title 188, Series 1 of the Code of State Regulations are necessary due to routine and periodic rule evaluation and modification, and to comply with recommendations of a Preliminary Performance Review Audit conducted by the Joint Committee on Government and Finance.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 188-1 Procedural Rules for Meetings

Type of Rule: _____ Legislative _____ Interpretive XX Procedural

Agency: Captiol Building Commission

Address: c/o Commissioner Troy O. Body, Chairman
The Cultural Center
1900 Kanawha Blvd. East
Charleston, WV 25305

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates:
 Procedural rule for meeting has no financial effect on agency.

3. Objectives of These Rules:
 Update procedural rule for meetings.

Rule Title: 188-1 Procedural Rules for Meetings

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

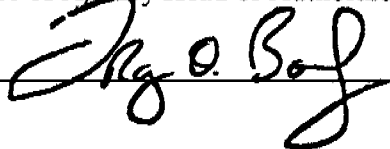
B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: None

C. Economic Impact on Citizens/Public at Large.

None

Date: July 21, 2004

Signature of Agency Head or Authorized Representative:

A handwritten signature in black ink, appearing to read "Eric O. Boy", is written over a horizontal line.

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**TITLE 188
PROCEDURAL RULE
CAPITOL BUILDING COMMISSION**

2004 JUL 22 A 9:55

**SERIES 1
PROCEDURAL RULES FOR MEETINGS**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§188-1-1. General.

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

1.2. Authority. -- W. Va. Code §§6-9A-3, and 4-8-1 to 4.

1.3. Filing Date. --

1.4. Effective Date. --

§188-1-2. Office.

2.1. The principal office of the Capitol Building Commission ("Commission") shall be in the City of Charleston, County of Kanawha, State of West Virginia.

§188-1-3. Commission.

3.1. Powers. - The Commission shall have such duties and responsibilities as provided for in W. Va. Code §4-8, as amended. The Commission shall see that all state agencies are annually notified, by any means it feels expedient, of their statutory responsibility to submit projects to the Commission before work is started. The Commission shall adopt policies, rules, etc. regarding the types of projects which fall under the Commission's jurisdiction, and it shall notify state agencies of such policies, rules, etc. as well as the necessary procedures for submitting projects and the like.

3.2. Membership, Number, Term of Office and Compensation. - The Commission membership shall consist of five (5) members to be appointed by the Governor, by and with the advice and consent of the Senate. The Secretary of the Department of Administration shall be a non-voting member of the Commission.

No more than three (3) of the members shall be members of the same political party. One (1) member shall be an architect selected from three (3) persons recommended by the Board of Architects, one (1) member shall be a registered professional engineer selected from three (3) persons recommended by the Board of Registration for Professional Engineers, one (1) member shall be the Commissioner of the Division of Culture and History, who shall be the Chairman of the Commission, and two (2) members shall be selected from the public at large. The terms of office for members appointed by the Governor shall be for four (4) years and members may be reappointed at the expiration of their terms. As prescribed by the provisions of WV Code 6-5-2, the term of every member of the commission shall continue (unless the office be vacated by death, resignation, removal from office, or otherwise) until his successor is appointed, and shall have qualified.

Members shall serve without compensation, but shall be entitled to reimbursement for such necessary travel expenses, subsistence and other reasonable expenses as may be actually incurred by them in the

performance of their duties. Such expenses shall be paid by the joint committee on government and finance.

3.3. Quorum. - Three (3) 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.

3.4. 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.

3.5. Meetings. - The Commission shall meet at least annually quarterly. Special Meetings of the Commission may be called at any time by the Chairman or any two (2) members of the Commission. The Commission shall have the right to set a regular meeting schedule or to delegate such authority to the Chairman. The secretary of the Commission shall give notice to each member of the Commission of each regular meeting and each special meeting by mailing a notice at least two (2) days 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 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, unless otherwise ordered by the Commission:

3.9.1. Roll Call

3.9.2. Approval of minutes of previous meeting

3.9.3. Report of Chairman

3.9.4. Unfinished Business

3.9.5. New Business

3.9.6. Other Business

3.9.7. Adjournment

In all other respects not otherwise provided for in these By-Laws, ~~Robert's Rules of Order~~ the current edition of Robert's Rules of Order Newly Revised shall govern the conduct of all meetings of the Board. If expedient, the commission may adopt any or all of the special rules of order and procedures contained in Robert's Rules of Order Newly Revised regarding the conduct of meetings of "small boards."

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 public, as provided in W. Va. Code §6-9A, 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:

3.11.1. 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.

3.11.2. 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 forty eight (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 by the front door of the meeting place as soon as feasible after such cancellation has been determined.

3.11.3. 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 (5) days prior to the date of such meeting. If the meeting is an emergency meeting, notice shall be filed with the Secretary of State as soon as is possible, and every attempt shall be made to alert the public of the emergency meeting.

3.12. State ADA Coordinator. - The Chairman or Vice-Chairman shall see that the state Americans With Disabilities Act Coordinator, or such successor officer, is officially invited to attend, and participate in the discussion of, all meetings.

§188-1-4. Officers.

4.1. Executive Officers. - The executive officers of the Commission shall be the Chairman, Vice Chairman and Secretary.

4.2. Chairman. - The Commissioner of the Division of Culture and History shall be the Chairman of the Commission, shall preside at all meetings of the Commission and shall perform such other duties as prescribed by the Commission.

4.3. Vice Chairman. - The Commission shall annually elect one of the appointed members as Vice

Chairman. In the absence or disability of the Chairman, whether temporary or otherwise, the Vice Chairman shall assume the duties of the Chairman. The Vice Chairman shall also perform such other duties as prescribed by the Commission.

4.4. Secretary. - The Commission shall annually elect one of its appointed members as Secretary. 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; 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 Secretary shall give any bond required by law.

4.5. Elections. - The election of the Vice-Chairman and Secretary shall take place at a meeting prior to July, and commissioners shall begin to discharge their offices at the beginning of the fiscal year. Elections shall also take place to fill vacancies in the offices of Vice-Chairman or Secretary as soon as possible after a vacancy in one of these respective offices becomes known. A commissioner elected to fill a vacancy shall take office immediately and shall serve for the remainder of the term. There is no limit to the number of times a commissioner may be elected to any office.

§188-1-5. Miscellaneous.

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

5.2. Books and Records. - All final actions of the Commission shall be journalized, and such journals and other records of the Commission shall be open to public inspection at all reasonable times, except such information specifically exempted from disclosure by operation of law.

5.3. 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 and each member of the Commission shall maintain constant vigilance against conflicts of interest, or the mere appearance of conflicts of interest.

5.6. Committees. - The Commission may delegate investigative or advisory authority to such committees as it shall see fit to establish. Committees shall be appointed by the Chairman, with the approval of the Commission. All members of a committee need not be members of the Commission, provided that a member

of the Commission shall serve as Chairman of each committee. Committees shall report to the Commission, at such times as it shall require, and make recommendations on matters that the committees feel are expedient. Committees only have the authority to investigate, research, advise, and recommend. The authority to act on any matter lies with the Commission.

§188-1-6. Amendments.

6.1. 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 in whole or in part at such meeting and of the substance of the proposed action shall have been previously given to each member.