

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

Form #5

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2003 NOV 17 P 2:36

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: WV Development Office TITLE NUMBER: 165

CITE AUTHORITY: W. Va. §5B-2-3

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§5B-2-3(c)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Council Organization and Meeting Procedure

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS ~~September 8, 2003~~ NOV 17, 2003



Authorized Signature

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TITLE 165
PROCEDURAL RULE
COMMUNITY AND ECONOMIC DEVELOPMENT

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SERIES 1
COUNCIL ORGANIZATION AND MEETING PROCEDURE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

'165-1-1. General.

1.1. Scope. -- The following procedural rules govern all regularly-scheduled meetings, special meetings, emergency meetings, records, members, and officers of the West Virginia Council for Community and Economic Development.

1.2. Authority. -- W. Va. Code '5B-2-3.

1.3. Filing Date. -- ~~June 6, 2004~~ September 8, 2003

1.4. Effective Date. -- ~~July 13, 2004~~ September 8, 2003

'165-1-2. Application and Enforcement.

2.1. Application. -- These procedural rules shall apply to the Council and to all persons desiring to attend or to address the Council.

2.2. Enforcement. -- The enforcement of these rules shall be vested with the Council.

'165-1-3. Definitions.

3.1. "Council" means the West Virginia Council for Community and Economic Development.

3.2. "Development Office" means the West Virginia Development Office.

3.3. "Director" means the Executive Director of the Development Office as appointed by the Council.

3.4. "Member" means member of the West Virginia Council for Community and Economic Development.

'165-1-4. Council.

4.1. Powers. -- Subject to the limitations of W. Va. Code '5B-2-1 et seq., and the laws of West Virginia concerning community and industrial development, all corporate powers shall be exercised by or under the authority of the Council, and the business and affairs of the corporation shall be controlled by the Council.

4.2. Membership. -- The Council shall consist of no less than fifteen (15) nor more than seventeen (17) voting members.

(1) No less than nine (9) nor more than eleven members to be appointed by the Governor with the advice and consent of the Senate, representing community or regional interests, including economic

development, commerce, banking, manufacturing, the utility industry, the mining industry, the telecommunications/data processing industry, small business, labor, tourism or agriculture: Provided, that one member appointed pursuant to this subsection shall be a member of a regional planning and development council. Of the members representing community or regional interests, there shall be at least three members from each congressional district of the state and they shall be appointed in such a manner as to provide a broad geographical distribution of members of the council;

(2) ~~Two~~ Four at-large members to be appointed by the Governor with the advice and consent of the Senate;

(3) ~~One member to be appointed by the Governor from a list of two (2) persons recommended by the speaker of the House of Delegates;~~

(4) ~~One member to be appointed by the Governor from a list of two (2) persons recommended by the president of the Senate;~~

(5) ~~(3)~~ The president of the West Virginia economic development council;

(6) ~~(4)~~ The chair, or his or her designee, of the tourism commission created pursuant to the provisions of section eight of this article.

In addition, the president of the Senate and the speaker of the House of Delegates, or his or her designee, shall serve as ex officio nonvoting members.

4.3. Term of Office. -- The terms of the appointed Council members first taking office shall expire as designated by the Governor at the time of their nomination; three (3) at the end of the first year, three (3) at the end of the second year, three (3) at the end of the third year, and four (4) at the end of the fourth year. As original appointments expire, subsequent appointments shall be for a period of four (4) years. Members shall be eligible for reappointment, and any member whose term has expired shall serve until his successor has been duly appointed and qualified. Terms shall end on June 30 of the calendar year in which said term expires.

4.4. Vacancies. -- In the case of a vacancy on the Council, such vacancy shall be filled by the Governor in the same manner as the original appointment, or if caused by a change in the statute, as provided therein. A vacancy in the Council shall exist on the happening of any of the following events:

4.4.1. The death, incompetency, expiration of term, resignation or removal of any member.

4.4.2. An increase in the authorized number of members by statute or rule without the simultaneous appointment of a member to fill the newly authorized position.

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 Council shall impair the rights of a quorum to exercise all the rights and perform all of the duties of the Council.

4.5. Quorum. -- The majority of currently appointed members of the Council shall constitute a quorum, and the affirmative vote of a majority of the members present at a meeting in person, by telephone, or by proxy shall be necessary for any action taken by vote of the Council, except that the affirmative vote of the majority of currently appointed members to the Council shall be required for the following actions:

4.5.1. Hiring, termination, and discipline of the Director.

4.5.2. Termination of existing programs.

4.5.3. The creation or termination of new programs.

4.5.4. The amendment of these procedural or other rules, except as provided in Section 9.1 hereof.

4.6. Proxies. -- Council members shall be permitted to designate any other Council member as their proxy for all votes except for those actions designated in Sections 4.5.1 through 4.5.4 hereof. Designations must be in writing and notarized, and copies sent by electronic transfer or otherwise shall be deemed sufficient.

4.7. Compensation. -- Members of the Council shall not be entitled to compensation for services performed as members, but shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

4.8. Delegation of Authority. -- The Council may delegate, to the extent that it considers necessary, any portion of its authority to manage, control, and conduct the current business of the Council, to the Executive Director of the West Virginia Development Office, or to any executive officer of the Council or agent thereof, subject to the Council's approval of the terms and conditions. Notwithstanding any delegation of authority that the Council may make hereunder, it shall exercise general supervision over the executive officers of the Council and shall be responsible for the proper performance of their respective duties.

' 165-1-5. Meetings.

5.1. Regular and Special Meetings. -- The Council shall meet at least quarterly on a date designated by the Chairperson. The Executive Director or Secretary of the Council shall notify the Council members of meeting dates and agenda items at least five (5) working days prior to regular meetings.

5.2. Emergency Meetings. -- Emergency meetings of the Council may be called by the Chairperson or upon the written demand of six (6) members of the Council. Emergency meetings shall be for the consideration of only those matters designated in the call for an emergency meeting.

5.3. Telephone Conferences and Voting. -- Telephone conferences and voting may be held by the Council on issues involving administrative functions of the Council or Development Office. Meetings held in this manner shall require twenty-four (24) hours notice to the members and may be electronically recorded.

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

5.5. Procedure at Meetings. -- At all regular and special meetings of the Council, the following shall be the order of business:

5.5.1. Roll call.

5.5.2. Approval of minutes of previous meeting.

5.5.3. Report of the Chairperson.

5.5.4. Report of Executive Director.

5.5.5. Reports of committees.

5.5.6. Unfinished business.

5.5.7. New business.

5.5.8. Other business.

5.5.9. Adjournment.

In all other respects not otherwise provided for in these rules, Robert's Rules of Order shall govern the conduct of all meetings of the Council.

5.6. Open Meetings. -- All meetings of the Council shall be open to the public, except for such executive sessions as permitted by W. Va. Code ' 6-9A-4. The Council may cause the removal of any person from a meeting, other than a Council member, who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised. A determination to remove any person shall be vested in the sole discretion of the Chair.

5.7. Notice of Regular or Special Meeting. -- Except in the event of an emergency requiring immediate official action, notice of the time, place, and purpose of all meetings of the Council shall be filed with the Secretary of State for publication in the State Register in a manner to allow each notice to appear in the State Register at least five (5) days prior to the date of such meeting.

5.8. Notice of Emergency Meeting. -- In the event of an emergency requiring immediate official action, the Council may file a notice with the Secretary of State at any time prior to the meeting, provided that all Council members have been notified of such meeting in writing, by telephone, or by electronic transfer at least twenty-four (24) hours in advance of the time scheduled for the commencement of the meeting. Notification shall include leaving a message at the regular place of business of said members or at their homes. The notice filed with the Secretary of State in such an emergency shall state the time, place, and purpose of the meeting, and the facts which constitute the emergency.

5.9. Waiver of Notice. -- Unless otherwise provided by law, whenever any notice is required to be given to any member of the Council under the provisions of these procedural rules or under the provision of state law, a waiver thereof in writing, signed by the member or members entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

' 165-1-6. Officers.

6.1. Executive Officers. -- The executive officers of the Council shall be the Chairperson, Vice Chairperson, Secretary, and Treasurer.

6.2. Chairperson. -- The Council shall elect a Chairperson from its membership. The term of the Chairperson shall run concurrent with the appointed term of office of the member so elected. The Chairperson shall be eligible for successive terms in the position of Chairperson. The Chairperson shall preside at all meetings of the Council, shall appoint committees as from time to time shall be deemed

necessary or expedient, and shall perform such other duties as prescribed by the Council. In the absence of the Chairperson, or if there is no Chairperson, the Vice-Chairperson shall preside at all meetings of the Council. The Chairperson shall also make reports to the Council, but shall generally perform all duties incident to the office of Chairperson, and shall perform such other duties as may be prescribed by the Council.

6.3. Vice Chairperson. -- The Council shall annually elect one (1) of its members as Vice Chairperson. In the absence or disability of the Chairperson, whether temporary or otherwise, the Vice Chairperson shall perform the duties of the Chairperson. The Vice Chairperson shall also perform such other duties as prescribed by the Council.

6.4. Secretary. -- The Council shall annually elect one (1) of its members as Secretary. The Secretary shall keep the minutes of all meetings of the Council; oversee the accuracy of written records of the Council; provide copies of approved minutes to the members of the Council; give notice of meetings of the Council; certify, when necessary, the records, proceedings, documents, and resolutions of the Council; and shall perform such other duties as shall be prescribed by the Council.

6.5. Treasurer. -- The Council shall annually elect one (1) of its members as Treasurer. The Treasurer shall have charge and custody of and be responsible for all funds of the Council; receive and give receipts for monies payable to the Council from any sources whatsoever, and deposit all such monies in the name of the Council in such depositories as shall be selected by the Members of the Council; advise and update the Members of the Council as to the status of its fundraising activities; provide for and oversee the audit of the Council's financial books and records annually; oversee and manage the Council's financial affairs; serve as Chairperson of the Council's Finance Committee; and in general, perform such other duties as shall be prescribed by the Council. If required by the members of the Council, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Council shall determine.

6.6. Executive Director. -- The Council shall also employ an Executive Director of the West Virginia Development Office to serve at the will and pleasure of the Council. The salary of the Executive Director shall be fixed by the Council. The Executive Director shall have overall management responsibility and administrative control provided for in W. Va. Code ' 5B-2-4, the Executive Director is authorized to hire and fire economic development representatives employed pursuant to the provisions of W. Va. Code ' 5B-2-5.

6.7. Removal. -- Any executive officer may be removed from office at any time, with or without cause, on the affirmative vote of a majority of the Council.

6.8. Vacancies. -- Vacancies in offices, however caused, shall be filled by election by the Council at the first meeting following such expiration or vacancy.

6.9. Absence or Disability of Officers. -- In the case of the absence or disability of any executive officer of the Council and of any person hereby authorized to act in his or her place during their absence or disability, the Council may, by resolution, delegate the powers and duties of such officer to any other executive officer, any member, or any other person whom it may select.

6.10. Facsimile Signatures. -- Facsimile signatures of any executive officer of the Council may be used whenever and as authorized by the majority vote of the members of the Council.

' 165-1-7. Executive Committee.

7.1. Executive Committee. -- The Council shall be authorized upon the affirmative vote of a majority of the members to form an Executive Committee consisting of not less than five (5) nor more than eight (8) members of the Council which shall be authorized to manage, control, and conduct such business of the

Council as shall be authorized from time to time. The members of the Executive Committee shall consist of the Chairperson, Vice Chairperson, Secretary, and Treasurer of the Council, and at least one (1) but not more than four (4) members of the Council as shall be recommended by the Chairperson and approved by a majority vote of the Council.

The members of the Executive Committee shall serve at the pleasure of the Council for one (1) year. Members shall be eligible for reappointment, and any member whose term has expired shall serve until his successor has been duly appointed and qualified.

Notwithstanding any delegation of authority that the Council may make to the Executive Committee hereunder, the Council shall exercise general supervision over the Executive Committee, its officers and agents, and shall be responsible for the proper performance of the Executive Committee, its officers and agents, and their respective duties.

7.2. Meetings. -- The Executive Committee shall meet upon the call of the Chairperson.

Notice of regular, emergency, or special meetings of the Executive Committee shall be governed by the same provisions as set forth with regard to meetings of the Council in sections 5.7 and 5.8.

7.3. Quorum and Voting. -- A majority of the authorized number of members of the Executive Committee shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of the members of the Executive Committee present at a meeting in person, by telephone, or by proxy shall be necessary for any actions taken by a vote of the Executive Committee.

7.4. Vacancies. -- A vacancy on the Executive Committee shall exist on the happening of any of the following events:

7.4.1. The death, incompetency, resignation, or removal of any member of the Executive Committee;
or

7.4.2. An increase in the authorized number of members of the Executive Committee by a revision, amendment, or alteration of these procedural rules of the Council with the simultaneous appointment of a member to the Executive Committee to fill the newly authorized position.

A vacancy on the Executive Committee shall be filled in the same manner as the original appointment, or, if caused by a change in the procedural rules of the Council, as provided therein. Each member of the Executive Committee so appointed shall hold office for the unexpired term of his predecessor in office.

7.5. Proxies. -- Executive Committee members shall be permitted to designate any other Executive Committee member as their proxy for all votes except for those actions as shall be specifically excluded from time to time by the majority vote of the members of the Council or by specific provision provided in these procedural rules as they herein exist or may hereinafter be amended. Designations must be in writing and notarized, and copies sent by electronic transfer or otherwise shall be deemed sufficient.

7.6. Compensation. -- Members of the Executive Committee shall not be entitled to receive compensation for their services, but shall be entitled to reimbursement for any reasonable and necessary expenses incurred in the performance of their duties.

'165-1-8. Minutes.

8.1. Preparation of Minutes. -- The Council shall provide for the preparation of written minutes of all its meetings. All minutes shall specify the following:

8.1.1. The date, time, and place of the meeting.

8.1.2. The name of each Council member present.

8.1.3. All motions, proposals, resolutions, orders, and measures proposed, the name of the Council member(s) proposing the same, and their disposition.

8.1.4. The results of all votes and, upon the request of any Council member, the vote of each member by name.

8.2. Availability of Minutes. -- The Council shall keep correct and complete books and records, and shall keep minutes of its proceedings. All minutes shall be available to the public after they have been approved by the Council at any regular or special meeting. Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with W. Va. Code '6-9A-4.

' 165-1-9. Amendments.

9.1. Amendment of Rules. -- The Council shall have the power to make, alter, amend, suspend, and repeal the rules of the Council by a vote of not less than eight (8) of its members at any meeting of the Council. A quorum shall have the power to make, alter, amend, suspend, or repeal the rules of the Council in whole or in part Provided That the substance of the proposed action has been provided to each member at least five (5) working days before said meeting.

' 165-1-10. Miscellaneous.

10.1. Fiscal Year. -- The fiscal year of the Council shall begin on the 1st of July of each year and end at 12:00 p.m. on the 30th day of June of the following year.

10.2. Construction and Definition. -- Unless the context requires otherwise, the general provisions, rules of construction, and definitions contained in the statutory laws and regulations of the State of West Virginia shall govern the construction of these procedural rules. Without limiting the foregoing, except as otherwise specifically provided, for the purpose of these procedural rules, and as the context may require, the masculine use of pronouns of the masculine gender and the use of pronouns of the feminine gender shall be deemed to include the masculine and neuter gender; gender shall be deemed to include pronouns of the feminine and neuter; the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular; "shall" is deemed to be mandatory and "may" is deemed to be permissive.