



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

11/14/2018 3:40:28 PM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Secretary Of State

TITLE-SERIES: 153-41

RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: Online Meeting Notices

CITE STATUTORY AUTHORITY: §6-9A-3(e)(3)(g)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 12/17/2018 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Maureen Lewis, Secretary of State's Office

ADDRESS: Building 1 Suite 157, State Capitol Complex

Charleston, WV 25305

EMAIL: mlewis@wvsos.com

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule details procedures for filing online meeting notices with the Secretary of State's Office.

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

After a thorough review of W. Va. Code §6-9A et. seq. changes to the filing and display of meeting notices on the Secretary of State's website are being made for consistency and clarity.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

0

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

0

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2018 Increase/Decrease (use "-")	2019 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. 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
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No fiscal impact

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Stephen Robert Connolly -- 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 153
PROCEDURAL RULE
SECRETARY OF STATE

SERIES 41
ONLINE MEETING NOTICES

§153-41-1. General.

1.1. Scope. -- This rule details procedures for filing online meeting notices with the Secretary of State's Office.

1.2. Authority. -- W. Va. Code §6-9A-3(e)(3)(g).

1.3. Filing Date. --

1.4. Effective Date. --

§153-41-2. Definitions.

2.1. "AdLaw" means the Administrative Law Division within the Secretary of State's Office.

2.2. "Agency" means a public agency that is an administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power (see W. Va. Code §6-9A-2(7)).

2.3. "Decision" means any determination, action, vote or final disposition of a motion, proposal, resolution, order, ordinance or measure on which a vote of the governing body is required at any meeting at which a quorum is present.

2.4. "Emergency meeting" means any meeting called by a governing body for the purpose of addressing an unexpected event which requires immediate attention because it poses:

2.4.1. An imminent threat to public health or safety;

2.4.2. An imminent threat of damage to public or private property; or

2.4.3. An imminent material financial loss or other imminent substantial harm to a public agency, its employees or the members of the public which it serves.

2.5. "Filer" means the individual(s) who has been granted authority by the agency to file a meeting notice on its behalf.

2.6. "Governing body" means the members of any public agency having the authority to make decisions for or recommendations to a public agency on policy or administration, the membership of a governing body consists of two or more members. This should be the name of the group having the meeting.

2.7. "Meeting" means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in an official action.

2.8. "Official action" means action which is taken by virtue of power granted by law, ordinance, policy, rule, or by virtue of the office held.

2.9. "Posted" means the meeting notice has been reviewed by SOS staff and is now viewable online.

2.10. "Provisions" means the provisions of the Open Governmental Meetings Act, W. Va. Code §6-9A *et seq.*

2.11. "Regular meeting" means a meeting of a governing body at which the regular business of the public is conducted.

2.12. "SOS" means Secretary of State.

2.13. "Special meeting" means a meeting of a governing body other than a regular meeting or an emergency meeting.

§153-41-3. Procedure for filing an online meeting notice.

3.1. Go to the WV Secretary of State's website (sos.wv.gov).

3.2. Under the "Administrative Law" tab, click on "Add Meeting Notice".

3.3. The box indicating an understanding that the meeting information provided will be made public and acknowledgement that acceptance by SOS does not imply compliance with the Open Governmental Proceedings Act must be checked in order to continue. If statements are agreeable, click on the "I Agree and Want to Continue" tab.

3.4. Fill in the fields.

3.4.1. The E-mail provided is the address that all correspondences regarding the meeting notice will be sent.

3.4.2. The "Governing Body" field is for the name of the group having the meeting. This is the primary field for searching and displaying.

3.4.2.a. TNOTGB - The name of the Governing Body should not be listed as an acronym.

3.4.3. The "Agency" field is for the name of the larger, governing agency, if applicable. This is not a required field for the submission of the notice.

3.4.4. The "Division/Committee/Etc." can be used if applicable. This is not a required field for the submission of the notice.

3.4.5. The "Date of Meeting" field is the day the meeting will be held.

3.4.6. The "Time of Meeting" field is the time the meeting will take place.

3.4.7. The “Location” field is where the meeting will take place.

3.4.7.a. The location should include an address.

3.4.7.b. In the event of a teleconference meeting, the location should include the address of the origin of the call.

3.4.8. The “Purpose” field should be a brief overview of the main reasons for having the meeting. It may include action items.

3.4.8.a. Executive branch agencies may list the purpose as “regular meeting” or “special meeting”.

3.4.9. The “Emergency Meeting” box is auto set to “No”. It should be changed to “Yes” only when applicable.

3.4.9.a. The notice of an emergency meeting should include the facts and circumstances of the emergency.

3.5. Click on the “Submit” tab.

3.5.1. Upon clicking the Submit tab, a message will come up stating “Meeting Notice Saved”.

3.5.2. An email will be sent to the address provided indicating the meeting notice was submitted to SOS staff and is being reviewed.

3.6. The meeting information provided will be displayed as submitted. Things to consider include:

3.6.1. Removing “WV”, “Department of”, “Division of”, or “Board of”, etc. from the beginning of an agency name when not necessary. The identifying name is sufficient;

3.6.2. The spacing for the location of the meeting. It should be listed as though addressing an envelope; and

3.6.3. Removing extra spaces or lines. Spacing should be concise for easier viewing.

3.7. It is the responsibility of the filer to omit any confidential, inappropriate, or potentially harmful information.

3.8. It is a good practice to consider whether the notice will provide the public with reasonable notice of the name of the group having the meeting as well as the date, time, place and purpose of the meeting.

3.9. Meeting notices should not be filed more than 6 months in advance of the meeting date.

3.10. Meeting notices should not be submitted in all caps or bolded text.

3.11. Upon acceptance of the meeting notice for display on the Secretary of State’s website, a notification will be sent to the email address provided indicating the notice has been posted. This does not imply compliance with the Open Governmental Proceedings Act.

3.11.1. The online posting will include the date and time the notice was accepted by SOS staff.

3.11.2. If an email confirmation of the posting of a meeting notice is not received in a reasonable time after submission, check the online database for the meeting notice. If not found, contact the Administrative Law Division.

3.12. For amendments to a notice or cancellation of a meeting, please contact the Administrative Law Division. Do not submit a second notice for this purpose.

§153-41-4. Meeting notice timelines.

4.1. Each notice of a special meeting or a regular meeting must be filed to allow the notice to appear on the Secretary of State's website at least five business days prior to the date of the meeting (see W. Va. Code §6-9A-3(e)(2)).

4.2. When calculating the days, the day of the meeting, weekends, or State holidays cannot be counted.

4.2.1. If a meeting notice is filed anytime other than during the Secretary of State's regular business hours, the date of filing will be considered the next business day (see W. Va. Code §6-9A-3(e)(3)).

4.3. In the event of an emergency meeting, the agency shall file an online notice for an emergency meeting with the Secretary of State as soon as practicable prior to the meeting (see W. Va. Code §6-9A-3(h)(1)).

§153-41-5. Meeting notice compliance.

5.1. The circuit court in the county where the agency regularly meets has jurisdiction to enforce the Open Governmental Proceedings Act, W. Va. Code §6-9A *et seq.*, upon civil action commenced by any citizen of this state within 120 days after the action complained of was taken or the decision complained of was made (see W. Va. Code §6-9A-6).

5.2. It is the responsibility of any agency subject to the provisions, to understand and abide by the provisions.

5.3. Any agency, governing body, or member thereof subject to the provisions may seek advice and information from the executive director of the WV Ethics Commission or request in writing an advisory opinion from the West Virginia Ethics Commission Committee on Open Governmental Meetings (see W. Va. Code §6-9A-11).