

**WEST VIRGINIA
SECRETARY OF STATE**

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #5

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WEST VIRGINIA
SECRETARY OF STATE

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

Economic Development Grant Comm.

AGENCY: West Virginia Department of Tax and Revenue TITLE NUMBER: 120

CITE AUTHORITY W. Va. Code §§ 6-9A-3, 29A-3-3 and 29B-1-3(5)

RULE TYPE: PROCEDURAL X INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE (s) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 1

TITLE OF RULE BEING ADOPTED: West Virginia Economic Development Grant Committee

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 25, 2002



Brian M. Kastick, Secretary Of Tax And Revenue

SCANNED

TITLE 120
PROCEDURAL RULE
WEST VIRGINIA ECONOMIC DEVELOPMENT GRANT COMMITTEE

FILED
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SERIES 1
COMMITTEE MEETINGS, ORGANIZATION and OPERATIONS

WEST VIRGINIA
DEPT. OF STATE

§120-1-1. General.

1.1. **Scope.** - This rule shall govern the conduct of the committee and shall be interpreted to insure fair and open deliberations and decision making. This rule is intended to comply with requirements of the State Administrative Procedures Act, the government open meetings laws and the State Freedom of Information Act.

1.2. **Authority.** - W. Va. Code §§6-9A-3; 29A-3-3; and 29B-1-3(5).

1.3. **Filing Date.** - June 25, 2002

1.4. **Effective Date.** - July 25, 2002

§120-1-2. Organization.

2.1. The members of the committee shall at the first meeting at which there is a quorum elect, by majority vote, a chair, a vice chair and a secretary.

2.2. The members shall also determine, by majority vote, the name of the committee.

§120-1-3. Technical parliamentary forms abolished.

Except as specifically required by this rule, the committee shall not use any formal points of parliamentary order, personal privilege, parliamentary inquiry or other technical forms.

§120-1-4. Matters not covered by these rules.

Any matter, procedure or order not covered by these rules shall be referred to the presiding officer who shall decide the matter in conformity with the purpose of these rules in a fair and expeditious manner. The decision of the presiding officer may be reversed by a majority vote of the committee.

§120-1-5. Interpretation.

These rules are intended to supplement and be interpreted to conform to the statutes of the State of West Virginia.

§120-1-6. Expenses of private citizen members of committee.

6.1. Members of the committee who are not employed in the executive branch of State government shall be reimbursed their reasonable and necessary expenses for attending meetings of the committee, including any public hearing scheduled by the committee.

6.2. Expenses shall be reimbursed in accordance with the Governor's Travel Management Regulations for State Employees.

6.3. Claims for reimbursement of expenses shall be submitted directly to the Executive Director of the West Virginia Development Office.

§120-1-7. Conflicts of interest.

7.1. A member of the committee may not decide, evaluate or vote on the award of a grant, or on whether to approve or not approve creation of a downtown redevelopment district, when the member has a conflict of interest.

7.2. A member who believes that he or she has a conflict of interest shall request in open meeting a ruling from the presiding officer after having fully disclosed the extent of his or her interest in the economic development project, capital improvement project, infrastructure development project or downtown redevelopment district.

7.3. The ruling of the presiding officer may be reversed by majority vote of the committee.

Sections 120-1-8 through 120-1-10 are reserved.

§120-1-11. Time and place of meetings.

11.1. **Meetings.** - Meetings of the committee shall be at the call of the chair, or upon the request of five members of the committee. When prudent, discussion of the next meeting of the committee shall be the last Agenda item of the then current meeting.

11.1.a. The committee is required to meet and approve or not approve an application to create a downtown redevelopment

district within 30 days after receiving the application.

11.2. Time of meetings. - The time for the start of meetings of the committee shall be set, in so far as practical, to permit maximum participation by members of the committee and to facilitate public participation.

11.3. Location of meetings. - Meetings shall be held at locations and in facilities large enough to comfortably accommodate members of the committee and a reasonable number of public observers and participants. The meeting location shall have a sound system so that members of the committee and members of the public in the room may hear what is being said.

§120-1-12. Quorum.

A majority of all members appointed to the committee, by or pursuant to the provisions of W. Va. Code § 29-22-18a, shall constitute a quorum for transaction of all business, except that a quorum shall not be required to hold a public hearing at which no vote is taken of the committee.

§120-1-13. Electronic participation by committee members.

13.1. To allow more members of the committee to participate in public meetings and hearings the committee will allow members to participate using the telephone or the Internet provided at least four members of the committee are physically present in the room where the public meeting is being held, and at least one committee member is physically present in the room where the public hearing is being held, and the sound system in the room and the electronic equipment is such that the committee members participating electronically can hear what is being said by all members of the committee participating in the meeting and any person from the public making a presentation or answering questions of the committee, and all of the committee members and the public physically present in the meeting or hearing room can reasonably hear what is being said by the committee member(s) who is participating electronically.

13.2. A member participating electronically in a meeting may vote for or against any motion offered by a member of the committee that is seconded by another committee member. The moving member and the seconding member may be physically present or be participating electronically or be any combination thereof.

Sections 120-1-14 through 120-1-20 are reserved.

§120-1-21. Agenda.

Prior to each regular meeting, the secretary of the committee shall publish an agenda that contains all items the committee anticipates acting upon at the meeting. The committee may adopt the agenda as presented, or may amend the agenda as provided by these rules and may adopt the agenda as amended.

§120-1-22. Agenda deadline.

22.1. Any member of the committee may have an item included on the agenda by requesting the secretary to include the item by 5:00 p.m. on the Tuesday preceding the Wednesday by which the agenda must be filed in the State Register in order to comply with the open meetings laws of this State.

22.2. If a meeting is to be held on a Sunday, Monday, Tuesday or Wednesday, notice of the meeting must be published in the State Register by noon on the second Wednesday immediately preceding the day of meeting.

22.3. If a meeting is to be held on a Thursday, Friday or Saturday of the calendar week immediately following publication of the State Register, notice of the meeting must be filed by noon on the Wednesday preceding the Friday publication of the State Register.

§120-1-23. Extra items.

Items requested or filed after 5:00 p.m. on the Tuesday preceding the deadline for filing the Agenda in the State Register shall not be included on the Agenda unless a committee member deems the item of sufficient urgency to warrant immediate committee action. These items shall be designated as "Extra" items and will be considered at the end of the regular Agenda. The secretary shall record on the Extra item the name of the sponsoring committee member.

§120-1-24. Reconsideration; sponsor required.

The secretary shall not place on the Agenda any matter for reconsideration unless sponsored by a committee member who voted on the originally prevailing side or who was absent at the time of the original action.

§120-1-25. Withdrawal of items.

Only the committee member requesting the placement of an item

on the Agenda may withdraw the item prior to the filing of the Agenda in the State Register, but in withdrawing the item the member shall identify the reason therefore which reason shall be transmitted to the committee.

§120-1-26. Committee action to defer, continue or not act.

26.1. Except as provided in Rule 25, a member of the committee shall not withdraw any Agenda item prior to the start of a meeting.

26.2. A committee member wishing the committee to continue, defer, or not act on an Agenda item has a right to make and have a his or her motion to continue, defer, or not act on any Agenda item considered before any other act that the committee may consider on the Agenda item.

Sections 120-1-27 through 120-1-30 are reserved.

§120-1-31. Roll call.

Before proceeding with the business of the committee, the secretary shall call the roll call of members present, and enter the name in the minutes of the meeting. The secretary shall determine the presence of a quorum as required by these rules.

§120-1-32. Call to order.

The chair or vice chair of the committee shall call the meeting to order at the appointed hour. In the absence of the chair or vice chair, the secretary shall call the meeting to order and a temporary presiding officer shall then be selected under Rule 33.

§120-1-33. Presiding officer.

The chair, or in the chair's absence or incapacity, the vice chair, shall be the presiding officer at the meeting of the committee. If both the chair and the vice chair are absent, the secretary shall call the meeting to order and the members present shall select a presiding officer by majority vote. In the absence of a majority vote, the secretary shall remain and continue to be the presiding officer of the meeting.

§120-1-34. Control of discussion.

The presiding officer shall control the discussion of the committee on each Agenda item to assure full participation in accordance with these rules.

§120-1-35. Order of consideration of agenda items.

Except as otherwise provided in these rules, each Agenda item shall be considered in the numerical order assigned by the secretary. Each Agenda item shall be separately announced by the presiding officer, or the secretary, for purposes of discussion and consideration. To announce an item it shall be sufficient to identify the item by the number assigned and summary provided by the secretary.

§120-1-36. Discussion.

36.1. A committee member shall speak only after being recognized by the presiding officer. A committee member recognized for a specific purpose shall limit his or her remarks to that purpose. A committee member, after being recognized, shall not be interrupted except by the presiding officer to enforce these rules.

36.2. Each committee member shall limit his or her remarks to a reasonable length.

§120-1-37. Presiding officer's right to enter into discussion and speak last.

37.1. The presiding officer as a member of the committee may enter into any discussion.

37.2. The presiding officer has the right to close debate and speak last on any item.

§120-1-38. Closing debate.

Discussion shall be closed on any item by the presiding officer with concurrence of a majority of the committee. Except as provided by Rule 75, the presiding officer's call for the vote shall not close discussion if any member of the committee still wishes to be heard or the presiding officer determines the continued participation of citizens will be helpful to the committee.

§120-1-39. Written ballots and proxy votes prohibited.

No member of the committee may vote by secret or written ballot and no member may cast the vote of another member.

Section 120-1-40 is reserved.

§120-1-41. When committee may go into executive session.

41.1. The committee may hold an executive session only when one of the exceptions allowed by W. Va. Code § 6-9A-4 applies.

41.2. Reasons for an executive session include, but are not limited to:

41.2.a. To discuss any material the disclosure of which would constitute an unwarranted invasion of an individual's privacy such as any records, data, reports, recommendations or other personal material of any educational, training, social service, rehabilitation, welfare, housing, relocation, insurance and similar program or institution operated by a public agency pertaining to any specific individual admitted to or served by the institution or program, the individual's personal and family circumstances, as allowed by W. Va. Code § 6-9A-4(b)(6).

41.2.b. To consider matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision: Provided, That information relied on during the course of deliberations on matters involving commercial competition are exempt from disclosure under the open meetings requirements of this article only until the commercial competition has been finalized and completed: Provided, However, that information not subject to release pursuant to the West Virginia freedom of information act does not become subject to disclosure as a result of executive session, as allowed by W. Va. Code § 6-9A-4(b)(9).

41.2.c. To discuss any matter which, by express provision of federal law or state statute or rule of court is rendered confidential, or which is not considered a public record within the meaning of the State Freedom of Information Act as set forth in W. Va. Code § 29B-1-1 et seq., as allowed by W. Va. Code § 6-9A-4(b)(12).

§120-1-42. Motion for executive session required.

A motion to go into executive session must include the reason(s) for going into executive session, must be seconded by another member, and approved by a majority of committee members participating in the meeting.

§120-1-43. Executive sessions not open to public.

Meetings of the commission shall be open to the public except

during the time the committee meets in executive session as provided in this rule.

§120-1-44. Decisions during executive session prohibited.

No decisions may be made during an executive session of the committee.

Sections 120-1-45 through 120-1-50 are reserved.

§120-1-51. Citizen's right to address committee.

51.1. Persons other than committee members shall be permitted to address the committee only upon specific Agenda items, which may include an Agenda item called "General Public Comment Period."

51.2. Persons desiring to address the committee shall register to speak prior to the start of the committee meeting. The form for registration shall require the following information: (1) name of the person, (2) mailing address, (3) telephone number where the person may be reached during the day, (4) the person's group affiliation, if any, and (4) the Agenda item to which the person desires to speak. If the person does not desire to speak to a particular Agenda item, the person shall identify the subject matter about which he or she wishes to speak.

§120-1-52. Manner of addressing committee; registration.

A person desiring to address the committee shall, after being recognized, step to the podium, state his or her name, address, and group affiliation (if any), and speak clearly into the microphone.

§120-1-53. Time limits on citizen's remarks.

53.1. Citizens shall be limited to five minutes speaking time per item, unless additional time is granted by the presiding officer. Total citizen in-put on any subject under committee consideration can be limited to a fixed period by the presiding officer. A majority vote of the committee may extend the time limitations of this rule.

53.2. This rule shall not apply to persons whom the committee has asked to come and address the committee. They shall have such time as the presiding officer or the committee allows for the presentation, including any question and answer period.

§120-1-54. Remarks of citizens to be germane.

54.1. Citizen comments must be directed to a specific item on the Agenda, unless the comments are offered during a general public comment period when the public may comment on any aspect of the work of the committee.

54.2. The presiding officer shall rule on the germaneness of citizen remarks. The ruling may be initiated by the presiding officer or pursuant to a point of order raised by a member of the committee.

54.3. Citizens making personal, impertinent, or slanderous remarks shall be barred by the presiding officer from further comment before the committee during that meeting.

§120-1-55. Matters not on Agenda.

The committee may, in its discretion, allow citizens who wish to raise a matter not on the Agenda to speak.

§120-1-56. Written public comments after public meeting.

56.1. Any person, whether in attendance or not in attendance at a public meeting of the committee, may within ten days after the public meeting submit written comments to the secretary of the committee on any item in the Agenda for the public meeting.

56.2. Depositing the comments in the United States mail, postage prepaid, in an envelope addressed to the secretary of the committee, on the 10th day shall be deemed compliance with this rule. If the 10th day falls on a Saturday, Sunday or legal holiday in this State, compliance shall be timely if the postmark bears the date of the next day that is not a Saturday, Sunday or legal holiday in this State.

§120-1-57. When room is too small.

57.1. When the meeting room is too small to safely hold the number of people who want to attend the public meeting, based upon applicable guidelines of the State fire marshal or local fire chief, the presiding member of the committee, or the committee as a whole, shall take such action as may be appropriate under the circumstances to allow the meeting to be safely held. This may include, but is not limited to:

57.1.a. Determining whether a larger room is available.

57.1.b. Determine whether or not the number of persons in the room are present for the same Agenda item or for different

Agenda items and whether an additional room or space is available where members of the public could wait until the Agenda item in which they have an interest is ready to be considered by the committee.

57.1.c. Determining whether persons in attendance represent the same or different groups and allocating the allowable space for the public among those groups.

§120-1-58. Press, radio and television.

58.1. Any radio or television station is allowed to broadcast or record for later broadcast all or any part of a public meeting that is required to be open to the public or any public hearing authorized by the committee.

58.2. The placement and use of equipment necessary to broadcast, record or photograph a meeting or public hearing may not unduly interfere with the meeting or hearing. The committee must allow equipment to be placed within the room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference with the committee. When the room is too small to accommodate all of the media equipment and a reasonable number individuals desiring to attend the public meeting or hearing, and adequate alternative meeting room is not readily available, the committee, acting in good faith and consistent with the purposes of the government open meetings law, may require the pooling of equipment and the personnel operating it.

Sections 120-1-59 and 120-1-60 are reserved.

§120-1-61. Public hearings.

61.1. The committee may hold a public hearing for purposes of gathering information and public comment pertaining to any recommendation for an economic development project, capital improvement project or infrastructure project to be funded in whole or in part by the committee.

61.2. The committee shall hold a public hearing before certifying any project for funding. Notice of this public hearing must be published in one newspaper of general circulation in each of the three congressional districts at least 14 days before the public hearing.

61.3. The committee may hold a public hearing to gather information and obtain public comments on whether it should approve

or not approve an application for creation of a downtown redevelopment district under the Downtown Redevelopment Act, W. Va. Code § 8-13B-1 et seq.

61.4. A public hearing may be held prior to, after, or as part of a regular meeting of the committee. A public hearing may also be held on a day when no meeting of the committee is scheduled.

61.4.a. When the public hearing is held during a scheduled meeting of the committee the public hearing shall be convened by the presiding officer of the committee.

61.4.b. When a public hearing is not held during a scheduled meeting of the committee, the public hearing may be convened by any member authorized by the committee or the chair of the committee to preside over the public hearing.

§120-1-62. Notice of public hearings.

62.1 The secretary of the committee shall file notice of any public hearing in the State Register. The notice shall also be published as a class I-O legal advertisement in a newspaper of general circulation in the area that will be the site of the economic development project, the capital improvement project, or the infrastructure project, as the case may be, if funding for the project is approved by the committee in whole or in part.

62.1.a. When the public hearing pertains to projects located in two or more different areas that are served by different newspapers of general circulation, the class I-O legal advertisement shall be published in at least one newspaper of general circulation in each area.

62.1.b. When the public hearing is held as a condition precedent to certifying a project for funding, in whole or in part, notice of the public hearing notice shall also be published in at least one newspaper of general circulation in each of the three congressional districts at least 14 days prior to the day of the public hearing.

62.2. The secretary of the committee shall take such additional steps as the committee, by affirmative vote, directs or in the absence thereof such steps as the secretary deems to be appropriate under the circumstances to notify the print, radio and television media and the public of the date, time and place of the public hearing and the subject matter of the hearing.

§120-1-63. Conduct of public hearings.

63.1. At the appointed time, the presiding member of the committee shall convene the public hearing. Each project for which the hearing is being held shall be discussed separately, in the order they appear in the notice of public hearing: *Provided*, That the presiding committee member present at the hearing may, in his or her discretion, reorder consideration of the projects when reordering facilitates the conduct of the public hearing and is in the public interest.

63.2. If the committee has requested one or more persons to appear at the public hearing to make one or more presentations regarding a particular project, they shall speak first, in the order decided by the presiding member, and answer any questions committee members may have. After the requested presentation or presentations have been made, the presiding member shall then allow members of the public in attendance who registered prior to the start of the public hearing to speak either as an opponent or proponent of the project. The opponents shall speak first and the proponents last and may have their time to speak limited to five minutes each. Members of the committee present may then ask the opponents and proponents any questions they have and may request any of the presenters or speakers to provide additional information in writing, which shall be sent to the secretary within 10 days after the day of the public hearing. Depositing the information in the United States mail, postage prepaid address to the secretary on the 10th day shall be deemed compliance with this rule. If the 10th day falls on a Saturday, Sunday or legal holiday in this State, compliance shall be timely if the postmark bears the date of the next day that is not a Saturday, Sunday or legal holiday in this State.

§120-1-64. Written comments after public hearing.

64.1. Any person, whether in attendance or not in attendance at a public hearing of the committee, may within ten days after the public hearing submit written comments to the secretary of the committee on any item in the Agenda for the public hearing.

64.2. Depositing the comments in the United States mail, postage prepaid, in an envelope addressed to the secretary of the committee, on the 10th day shall be deemed compliance with this rule. If the 10th day falls on a Saturday, Sunday or legal holiday in this State, compliance shall be timely if the postmark bears the date of the next day that is not a Saturday, Sunday or legal holiday in this State.

Sections 120-1-65 through 120-1-70 are reserved.

§120-1-71. Motion require.

All action requiring a vote shall be moved by a member of the committee and seconded by a different member of the committee.

§120-1-72. Majority rule.

72.1. The vote of the majority of committee members present at the time the vote is taken shall be determinative of the action of the committee except as otherwise provided in these rules, unless a quorum is absent at the time the vote is taken.

72.2. A vote to adjourn shall not require presence of a quorum.

§120-1-73. Motion to reconsider.

A motion to reconsider must be made by a committee member who was on the prevailing side in the original action, or by a committee member absent at the time of the original action. The sponsoring of the reconsideration of a matter by the chair of the committee, or other presiding officer, has the effect of a motion to reconsider.

§120-1-74. Motions when less than seven members present.

74.1. Notwithstanding Rule 72, when less than seven members of the committee are in attendance at a meeting and an Agenda item fails to receive at least five affirmative or negative votes, the Agenda item shall, upon request of any committee member in attendance at the meeting, be placed by the secretary on the Agenda for the next committee meeting, and continued thereafter upon the Agenda for subsequent meetings until it shall receive five affirmative or negative votes.

74.2. This rule does not apply to a motion to adjourn.

§120-1-75. Call for vote.

At the conclusion of debate, the presiding officer shall call for a vote: *Provided*, That a majority of the committee members present may require a vote at any time.

§120-1-76. Separate consideration.

Except as otherwise required by these rules, each Agenda item shall be voted upon separately.

§120-1-77. Consideration of Agenda items out of order.

Without objection, any Agenda item may be considered out of order at the request of a committee member. If an objection is heard, the request shall be voted upon by the committee.

§120-1-78. Recording names of moving members.

The secretary shall record the name of the committee member moving and seconding each motion.

§120-1-79. Consideration of items not on Agenda.

Except as to any item that by law requires the publication of notice before consideration by the committee, any member of the committee may, at the close of the regular Agenda, bring a matter not on the Agenda to the committee's attention. The committee may act on such matters or direct that such matter be included in an Agenda for a later meeting of the committee.

§120-1-80. Motion to act on matters.

At any appropriate place on the Agenda, any member of the committee may make a motion for the committee to act upon any matter if the motion is germane to the matter then under consideration.

§120-1-81. Minutes.

81.1. The secretary of the committee shall prepare written minutes of each meeting within 10 days after date of adjournment of the meeting, or by the next meeting of the committee, whichever is the shorter period of time. Minutes for a meeting that is recessed to another day need not be prepared until after the day the meeting reconvenes and then is adjourned.

81.2. The minutes shall include at least the following information:

81.2.1. The date, time and place of the meeting;

81.2.2. The name of each member of the committee present and absent;

81.2.3. All motions, proposals, resolutions, certifications and other measures proposed, the name of the committee member proposing the same, the name of the committee member seconding the motion, if any, and the disposition of the

motion, proposal, resolution, certification or other measure; and

81.2.4. The results of all votes and, upon the request of a member, the roll call votes of each member, by name.

81.3. Minutes of each meeting shall be prepared after the meeting and approved, or corrected and approved, at the next meeting of the committee.

81.4. In lieu of minutes, the committee may have a record made of each meeting by a certified court reporter who shall promptly prepare the transcript after each meeting. The transcript shall be approved, or corrected and approved, at the next meeting of the committee and the approved transcript shall constitute public minutes and record of the committee meeting to which it relates, except that the public minutes and transcript shall not include minutes or the transcript of any executive session of the committee allowed under W. Va. Code § 6-9B-4.

§120-1-82. Public records of the committee; inspection and copying.

82.1. All written recommendations for possible projects, all applications for project funding, all attachments, exhibits and maps, by whatever name called, submitted to the committee during a public meeting or hearing or by mail or hand delivery to a committee member and all minutes of meetings and transcripts of public meetings and hearings are public records that shall be available for public inspection in the office of the Secretary of Tax and Revenue, Building 1, Room W-300, State Capitol Complex, during normal business hours of his or her office.

82.2. Members of the public, including the media, may purchase copies of some, all or any portion of the records described in subsection 82.1 of this rule upon paying or agreeing to pay a copying charge of 25 cents per page plus the cost of postage if the item is to be mailed to the person requesting the copy.

82.3. Notwithstanding subsection 82.1 and 82.2 of this rule, minutes of and transcripts of matters discussed in executive session are not available for inspection and no copies shall be made without an affirmative vote of the committee.

§120-1-83. Written protest to committee.

83.1. In the event the custodian of public records of the committee denies, in whole or in part, any written request made to the custodian under the West Virginia Freedom of Information Act,

W. Va. Code § 29B-1-1, to inspect or copy any public record of the committee, and the person making the request is not satisfied with the response, he or she shall file a written protest with the committee requesting that the matter be taken up by the committee the next time the committee meets. The protest shall be mailed or hand delivered to chair or secretary of the committee.

83.2. For purposes of this rule, the custodian of public records of the committee shall be the Secretary of Tax and Revenue.

83.3. Subsection 83.1 shall be of no effect after the committee completes its work and disbands.

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Effective date of rule - Rule 1	1
Expenses of private citizen members - Rule 6	2
Filing date of rule - Rule 1	1
Interpretation of rules - Rule 5	2
Matters not covered by rules - Rule 4	1
Organization of committee - Rule 2	1
Scope of rule - Rule 1	1
Technical parliamentary forms abolished - Rule 3	1
Inspection of public records of committee - Rule 82	15
Interpretation of rules - Rule 5	2
Majority rule - Rule 72	13
Matters not on Agenda - Rule 55	9
Matters not covered by specific rule - Rule 4	1
Media - Rule 58	10
Meetings - Rule 11.1	2
Location of - Rule 11.3	3
Time of - Rule 11.2	3
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Minutes - Rule 81	14
Approval of minutes - Rule 81.3	14
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Order of consideration of Agenda items - Rule 35	6
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Press, radio and television - Rule 58	10
Proxy voting prohibited - Rule 39	6
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Conduct of public hearings - Rule 63	11
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Public records of the committee - Rule 82	15
Custodian of - Rule 83.2	16
Generally - Rule 82.1	15
Place of inspection - Rule 82.1	15
Purchase of copies - Rule 82.2	15
Quorum - Rule 12	3
Radio - Rule 58	10
Recording names of moving members - Rule 78	14
Roll call - Rule 31	5
Separate consideration of Agenda items - Rule 76	13
Television - Rule 58	10
Technical parliamentary forms abolished - Rule 3	1
Time and place of meetings	2
Time and place of meetings - Rule 11	2
Meetings - Rule 11.1	2
Location of - Rule 11.3	3
Time of - Rule 11.2	3
Quorum - Rule 12	3
Electronic participation by members - Rule 13	3
Time limits on citizen's remarks - Rule 53	8
Time after public hearing to provide information - Rule 63	11
When meeting room is too small - Rule 57	9
Withdrawal of agenda item - Rule 25	4

Written ballots prohibited - Rule 39	6
Written protest to committee - Rule 83	15
Written public comments	
After public meeting - Rule 56	9
After public hearing - Rule 64	12

RESPONSES TO COMMENTS RECEIVED ON PROPOSED PROCEDURAL RULE

Comment 1. One person suggested that with the severe damage to life and property caused by the July 1, 2002, floods fresh in the minds of southern West Virginians and with the scars remaining from the major flooding events of 1985 and 1996, we believe it is proper and imperative that procedural language be incorporated that includes "flood prevention and recovery" activities as eligible for inclusion in the program.

Response: The proposed procedural rules cover the conduct of meetings and public hearings of the Committee and disclosure of its public records. The proposed procedural rule does not identify or discuss the types of projects that are eligible or not eligible for funding by the Committee. For this reason, the change was not adopted by the Committee.

Comment 2. One person wrote that the basic question not addressed in the draft procedural rule is when will grant applications be approved by the committee? The person suggested that if certification dates were known, that would allow the public to submit written comments on the project to be included in the project evaluation process.

Response: The draft procedural rule does not include a time-line for processing grant applications and certifying projects for funding or establish a schedule for periodic meetings of the Committee or for project certification public hearings. The Committee believes that these do not need to be in the procedural rule. The Committee observes that the proposed procedural rule provides for adequate public notice of both meetings and public hearing of the Committee. Moreover, we have amended the procedural rule to allow the public to submit written comments on a proposed project during the public hearing on the project, or within 10 days after the hearing was held, see new section 120-1-64.

Comment 3. One person suggested the Committee post on the Internet, in downloadable PDF files, agenda's, project summaries, meeting dates, meeting minutes, a list of projects approved/rejected, etc.

Response: Notices of meeting, meeting agendas, minutes of meetings and certain other documents will be posted on the Internet in Microsoft Word. Project applications and project summaries will not be posted on the Internet.

Comment 4. One person suggested that the public should be able to provide comments prior and during meetings via e-mail. Public feedback after meetings should be allowed by email, as well by mail.

Response: The Committee will treat submitted e-mails as written comments. Comments submitted in an e-mail must be sent to Christopher Morris at cmorris@tax.state.wv.us.

Comment 5. One person recommended that the public records of the Committee be available for free as opposed to there being a charge for copies of the information.

Response: This Committee has no budget and the agencies supporting the Committee did not receive additional funding for this purpose. The public may view project applications and other records of the Committee during normal business hours of the Secretary of Tax and Revenue. The proposed rule provides that when a person wants a copy of a public record, there will be a charge of 25 cents per page, plus postage. The Committee believes this requirement is reasonable.

Comment 6. One person commented that the procedural rule was silent on whether or not all of the grant applications would be considered in committee meetings or will there be a preselection process prior to committee meetings. The person then asked how the Wheeling project was approved for a public hearing on April 25.

Response: The proposed procedural rule provides for the work of the committee to be done in public and for the public to receive notice of meeting in conformity with the open government meetings law of this State. The decision to hold a public hearing on the Wheeling Outlet project was made during the meeting of the Committee held on April 8, 2002.

Comment 7. One person observed that there was no mention in the proposed procedural rule of the evaluation process the committee will use to approve/reject applications. The person also observed that the draft of the grant application did not include evaluation criteria.

Response: The method by which projects will be considered and the criteria by which projects will be certified are outside the scope of this particular rule.

Comment 8. One person commented that reconsideration should not be allowed. This person believes that this power could be abused to the point of filibuster, i.e., if I really want this project, I will bring it up for reconsideration every meeting until it is approved.

Response: Careful reading of the rule discloses that it prohibits the abuse envisioned by the person who offered this comment. The motion for reconsideration may only be made by a member who was absent from the meeting in which the vote was taken, or by a member who was on the prevailing side.

Comment 9. One person recommended that the provision permitting electronic participation by committee members be removed from the rule. Additionally, a meeting should only be held if there are at least six committee members physically in attendance.

Response. While it is anticipated that committee members will be physically present at meetings, the rule recognizes that the citizen members have many other obligations and

that, from time to time, one or more members may not be able to participate in a meeting except electronically. This rule is a reasonable accommodation particularly for the citizen members of the Committee who receive no compensation for serving on the Committee. The proposed rule requires that when there is electronic participation of members, the physical location of the meeting must be such that the member(s) participating electronically can hear what is being said by all of the members participating in the meeting and that the public in attendance at the meeting can hear what is being said by the members participating electronically. The Committee sees no reason to prohibit electronic participation in meetings by committee members. Additionally, the Committee sees no reason to require that six members be physically present at the location of a meeting in order for the Committee to meet.