



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Auditor TITLE-SERIES: 155-11
RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: Rules for Electronic Filing of Legal Notices for
State Agencies
CITE STATUTORY AUTHORITY: 59-3-2(f)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/14/2023 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Vincent Smith
ADDRESS: 1900 Kanawha Blvd E, W-100
Charleston, WV 25305
EMAIL: vincent.smith@wvsao.gov

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 procedural rule establishes the processes for agencies of the State of West Virginia to file electronic legal notices in the State Auditors legal notices database. It contains instructions to request access to file legal notices on the database. It provides procedures to post legal notices on the database, and requirements for the legal notices. It provides procedures to amend or delete legal notices from the database.

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

In 2021, the legislature amended W. Va. Code § 59-3-2 to require all legal notices, advertisements, publications, statements, or whatever kind or character to be published by the State of West Virginia to be published on a public notice database beginning on July 1, 2022. The database is to be created and maintained by the West Virginia State Auditor. This rule standardizes how agencies may access and post legal notices to this database.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

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

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 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

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

The legal notices database was created by and is maintained on existing resources available to the State Auditor's Office, at no additional cost to the State Auditor's Office. Legal notices can be uploaded by agencies without charge.

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

Yes

Vincent J Smith -- 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 155
PROCEDURAL RULE
STATE AUDITOR

SERIES 11
RULES FOR ELECTRONIC FILING OF LEGAL NOTICES FOR STATE AGENCIES

§155-11-1. General.

1.1. Scope. -- This procedural rule establishes the processes for electronic filing of legal notices in the State Auditor's legal notices database.

1.2. Authority. -- W. Va. Code §59-3-2(f)

1.3. Filing Date. -- .

1.4. Effective Date. --

§155-11-2. Definitions.

2.1. "Active status" means a status of a legal notice that has been successfully entered into the State Auditor's legal notice database that is currently featured as an active notice and visible to the public.

2.2. "Agency" means any state agency, board, department, or commission.

2.3. "Agency Head" means the cabinet secretary or top administrator for any agency, board, department or commission who has the authority to grant or withhold written consent for any employee of an agency to post legal notices on behalf of that agency.

2.4. "Archived status" means a status of a legal notice that has been successfully entered into the State Auditor's legal notice database in which the legal notice is no longer featured in the database as an active legal notice, but the legal notice is still visible to the public.

2.5 "Attachment" means a file uploaded by an agency which corresponds to a legal notice record in the legal notice database.

2.6. "Beginning date" means the beginning date a legal notice record will be featured as an active notice to the public.

2.7. "Body" means the physical text and content of a legal notice record on the State Auditor's Office legal notices database.

2.8. "Ending Date" means the last date a legal notice record will be featured as an active notice to the public.

2.9. "Last updated date" means the date a legal notice was last modified or updated in the State Auditor's Office legal notices database.

2.10. “Legal notice” means an electronic record entered by a state agency in the State Auditor’s legal notice database meant to provide notice, advertisement, publication, statement, of whatever kind and character required to be published by the State of West Virginia or its agencies as prescribed in W. Va. Code §59-3-2, et seq.

2.11. “Legal notice access form” means an electronic form completed by employees of an agency, signed by an agency head and filed with the State Auditor, requesting permission to grant or revoke access to create or modify records in the legal notices database.

2.12. “Legal notices database” means the electronic legal notices database system maintained by the State Auditor.

2.13. “MyApps” means the electronic MyApps system maintained by the State Auditor in which users access various financial applications maintained by the State Auditor.

2.14. “Not released status” means a status of a legal notice that has been successfully entered into the State Auditor’s legal notice database but the beginning date of the legal notice has not yet occurred and the notice is not visible to the public.

2.15. “Rescinded status” means a status of a legal notice that has been successfully entered into the State Auditor’s legal notice database and was active or archived status but has later been modified or deleted by an agency within the legal notice database. Rescinded notices are publicly accessible but are marked as rescinded.

2.16 “State Auditor” means the State Auditor of West Virginia, by himself or herself, or by any person appointed, designated, or approved by the State Auditor to perform the service.

2.17 “Status” means the status of the legal notice on the State Auditor’s legal notices database.

2.18 “Title” means a short title in which to describe a legal notice record on the State Auditor’s Office legal notices database.

§155-11-3. Procedures to request access to legal notices database.

3.1. All legal notices posted to the legal notice database in active, archived, and rescinded status are accessible by the public to view at no cost to the public on the State Auditor’s Office website.

3.2. Any individual desiring to create, modify, or delete legal notices in the State Auditor’s Office legal notices database must meet all requirements prior to access being granted by the State Auditor.

3.2.1. Individuals must be an employee of a state agency.

3.2.2. Individuals must have an active MyApps account in good standing.

3.2.3. A completed legal notice access form for that employee must be on file with the State Auditor’s Office. The legal notice access form must be signed by the agency’s agency head. Legal notice access forms must denote the agencies for which an individual requests access to create, modify, or delete legal notices.

3.3. Blank legal notice access forms are available on the State Auditor's Office website.

3.4. Access to create, modify, or delete legal notices in the State Auditor's Office legal notice database may be revoked at any time by the state agency or the State Auditor. Prior to access being revoked by a state agency, a legal notice access form must be filed with the State Auditor and signed by the agency head and must denote which employee is to have access revoked.

§155-11-4. Procedures to post legal notices to State Auditor's legal notices database.

4.1. Legal notices must be posted using the Notices app within MyApps.

4.2. Legal notices must contain certain information in order to be valid.

4.2.1. Legal notices must correspond with a certain state agency. The agency is selected by the user and, when posted to the database, will be the agency in which the legal notice is filed under.

4.2.2. Legal notices must contain a title.

4.2.3. Legal notices must contain a beginning date.

4.2.4. Legal notices must contain a body.

4.3. Legal notices may, at the discretion of the agency, contain certain additional information.

4.3.1. Legal notices may contain an ending date.

4.3.2. Legal notices may contain an attachment. Members of the public who access the legal notice will be able to download and view the attachment.

4.4. If uploaded by an agency, attachments must be in Adobe PDF format only. No other formats are accepted.

4.5. If uploaded by an agency, the maximum file size of an attachment is 25 MB.

4.6. If uploaded by an agency, no attachment may contain personally identifiable information that, when used alone or with other relevant data, can identify an individual.

4.7. A legal notice successfully posted to the legal notices database will be assigned a status once the notice is successfully posted to the database.

4.8. A legal notice with active status is a legal notice visible to the public in the legal notice database and featured as an active notice.

4.8.1. Unless later deleted or amended, legal notices are in active status beginning at 12:00 AM Eastern Standard Time of the legal notice's beginning date to 11:59 PM Eastern Standard Time of the legal notice's ending date, if supplied. If no ending date is provided for the legal notice, unless later deleted or amended the legal notice will be in active status from the hours of 12:00 AM to 11:59 PM Eastern Standard Time on the date supplied as the beginning date of the legal notice.

4.8.2. A legal notice with archived status is a legal notice that was once visible to the public but ceased to be publicly available due to the current date and time elapsing past 11:59 PM Eastern Standard Time on the ending date or, if no ending date was supplied, 11:59 PM Eastern Standard Time of the beginning date. Legal notices with archived statuses are not featured in the active notices section of the database but are still publicly accessible for historical purposes as a public record.

4.8.3. A legal notice with not released status is a legal notice that has been successfully uploaded to the legal notices database but the beginning date has not yet arrived. Legal notices with not released status are not visible to the public but are visible to any users of the database who have security access granted for the state agency under which the legal notice is filed.

4.8.4. A legal notice with rescinded status is a legal notice that has been successfully uploaded to the legal notices database but has been deleted or modified while the status of the legal notice was active or archived. Rescinded legal notices are not featured as active notices in the database but are still publicly accessible for historical purposes as a public record.

§155-11-5. Amending or deleting legal notices from the legal notice database.

5.1. A legal notice that is modified or deleted from the legal notice database will be modified or deleted only if the legal notice's status is not released status. The last updated date of the notice will automatically modify to denote the date and time of the last change.

5.2. A legal notice that is modified or deleted from the legal notice database while the status is active or archived will not be modified or deleted from the legal notice database and the status will revert to rescinded status. This is to warn any member of the public who may have viewed the legal notice while active that the legal notice has been modified or deleted and that the information contained therein may be unreliable or may have changed. The last updated date of the notice will automatically modify to denote the date and time of the last change.

5.3. State agencies should consider recreating or posting new legal notice records if deleting or modifying an active record is necessary, as the rescinded legal notice will not be featured on the active section of the legal notices database and will be marked as rescinded.