



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Ethics Commission

TITLE-SERIES: 158-20

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

RULE NAME: 158-20 Forms

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code § 6B-2-2(a)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code § 6B-2-2(a) states: The commission may propose rules for promulgation in accordance with the provisions of §29A-1-1 et seq. of this code to carry out the purposes of this chapter: Provided, That any disclosure form, statement, or report required under any provision of this chapter shall be made in a manner prescribed by legislative rule of the commission. The cited code provision authorizes the Commission to file the rule, and the rule prescribes the manner in which the Ethics Commission shall prepare disclosure forms, statements, or reports.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/13/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/15/2024

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

There was a 30-day public comment period, but not a hearing. The Ethics Commission posted the Notice of Public Comment Period on its website. The Ethics Commission also emailed the proposed rule to the West Virginia Municipal League, the West Virginia Association of Counties, the West Virginia School Board Association, the West Virginia Sheriffs Association, the County Commission Association, and the West Virginia Division of Personnel. The Commission also emailed the rule to its registered lobbyists, consisting of approximately 330 people.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

There is a requirement in the Ethics Act governing forms, at W. Va. Code § 6B-2-2(a), which states, [A]ny disclosure form, statement, or report required under any provision of this chapter shall be made in a manner prescribed by legislative rule of the commission.

The proposed rule cleans up the existing rule and states that 1) the Ethics Commission staff shall prepare necessary disclosure forms, statements, or reports; 2) persons required to file such disclosure forms, statements, or reports may request that they be modified; and 3) the Ethics Commission will consider requests and respond to the same. Additionally, the lobbyist registration forms that are Appendices A and B to the current rule are eliminated in the proposed rule because the law does not require the legislature to approve the actual format of the lobbyist forms used by the Commission, and the general requirements relating to lobbyist forms are now incorporated into Title 158, Series 12, Lobbying, which is also being filed with proposed changes.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Senate Bill 482, passed during the 2024 Regular Session, repealed an old and unnecessary article in the Ethics Act, W. Va. Code § 6B-2A-1. That bill also moved some of the language from the repealed article, relating to disclosure forms, statements, and reports, to another section of the Act, W. Va. Code § 6B-2-2(a). The changes to the rule correct the statutory citations and make technical changes.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

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

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 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):

Not applicable.

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

Yes

Theresa M Kirk -- 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 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION

SERIES 20
FORMS

§158-20-1. General.

1.1. Scope. -- ~~This legislative rule relates to forms created by the Ethics Commission for filings by public servants and lobbyists. W. Va. Code § 6B-2-2(a) directs that “any disclosure form, statement, or report required under any provision of this chapter shall be made in a manner prescribed by legislative rule of the commission.” This rule implements the cited requirement.~~

1.2. Authority. -- ~~W. Va. Code §§ 6B-2-2(a), 6B-2A-1 and 6B-3-2.~~ W. Va. Code § 6B-2-2(a).

1.3. Filing Date. -- ~~April 22, 2011~~

1.4. Effective Date. -- ~~May 1, 2011~~

1.5. Sunset Provision -- This rule shall terminate and have no further force or effect on August 1, 2030.

~~§ 158-20-2. Definitions.~~

2.1 ~~"Commission" means the West Virginia Ethics Commission.~~

2.2. ~~"Executive Director" means the Executive Director of the West Virginia Ethics Commission.~~

2.3. ~~"Form" means any form, report or statement prepared or mandated for use by the Commission.~~

2.4. ~~"Lobbyist" means a person required to register as a lobbyist with the Commission in accordance with article three, chapter six-b of the Code.~~

~~§ 158-20-3. General Rules.~~ **§158-20-2. Requirements.**

~~3.1. 2.1. A blank copy of all financial disclosure forms or lobbyist registration statements or expenditure reports required to be prepared by the Commission shall be made available for inspection and review upon the Commission's website and upon request. Ethics Commission staff shall prepare any disclosure forms, statements, or reports that the Ethics Act requires the Ethics Commission to prepare and make them available for review on the Ethics Commission's website or upon request.~~

3.2. 2.2. Any person who is required to file a form in accordance with the requirements of the Ethics Act, W. Va. Code §§ 6B-1-1 et seq., may request that the format of a form be modified. Any person who must file a disclosure form, statement, or report with the Ethics Commission may request that the format of the disclosure form, statement, or report be modified.

~~3.3. 2.3. A request that a form disclosure form, statement, or report be modified may be made orally or in writing to the Executive Director of the Ethics Commission either orally or in writing. The Executive Director or his or her designee shall reply to a request within the following time frames:~~

~~a. 2.3.1. Oral requests - An oral response shall be provided within five business days of receipt~~

of the request for modification.

~~b. 2.3.2.~~ Written request - A written response shall be provided within ten business days of receipt of the request for modification by mail or electronic mail.

~~c. 2.3.3.~~ For purposes of calculating days, the day of the receipt of the request shall not be included or Saturdays, Sundays, and legal holidays. A written response sent by mail shall be considered timely if postmarked by the due date.

~~3.4. 2.4.~~ If the Executive Director or his or her designee declines to make the requested modification to the disclosure form, statement, or report, the requester may submit a formal advisory opinion request to the Ethics Commission to make the modification. ~~Any such request must comply with the requirements of W.Va. Code § 6B-2-3(a).~~ The Ethics Commission shall rule upon the request within sixty days of receipt of the request receiving it. In calculating this period, the day of the receipt of the request shall not be included.

~~§ 158-20-4. Lobbyist Registration Forms.~~

~~4.1. Lobbyists shall register on a form which is the same as the form attached as Appendix A to this rule. If the Commission implements electronic registration, then the electronic form shall be substantially similar.~~

~~4.2. Lobbyists shall submit a written authorization from each of their employers confirming the lobbyist's employment and the subjects on which the employer is to be represented on a form which is the same as the form attached as Appendix B to this rule. If the Commission implements electronic registration, then the electronic form shall be substantially similar.~~