



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Auditor

RULE TYPE: Legislative

TITLE-SERIES: 155-08

RULE NAME: Procedure for Local Levying Bodies to
Apply for Permission to Extend Time to
Meet as Levying Body

CITE AUTHORITY: W. Va. Code 11-8-9

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR**

**SERIES 8
PROCEDURE FOR LOCAL LEVYING BODIES TO APPLY FOR PERMISSION
TO EXTEND TIME TO MEET AS LEVYING BODY**

§155-8-1. General.

1.1. Scope. -- This rule establishes a procedure for local levying bodies to apply for permission to extend the time to meet as a levying body, requires the local levying body to cite the reason a timely meeting was not held and that the meeting, if approved by the State Auditor, be held in compliance with article nine-a, chapter six of the West Virginia Code relating to open governmental proceedings at a time set by the State Auditor.

1.2. Authority. -- W.Va. Code §11-8-9.

1.3. Filing Date. -- ~~May 4, 2022.~~

1.4. Effective Date. -- ~~July 1, 2022.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on ~~August 1, 2027~~
August 1, 2032.

§155-8-2. Definitions.

2.1. Filing Office. -- As used herein, the term “Filing Office” shall mean the West Virginia State Auditor’s Office, 1900 Kanawha Boulevard East, Building 1, Room W-100, Charleston, WV 25305.

2.2. Good Cause. -- As used herein, the term “Good Cause” means a cause not reasonably foreseeable at the time at which it arose, circumstances which arise that are beyond the control of the levying body, or circumstances which, in the discretion of the Auditor, sufficiently excuse strict compliance with W. Va. Code §11-8-9.

2.3. Report. -- As used herein, the term “Report” means a report required to be filed by local levying bodies in accordance with W. Va. Code §11-8-9, W. Va. Code §11-8-10, and W. Va. Code §11-8-12.

2.4. State Auditor. -- As used herein, the term “State Auditor” means the West Virginia State Auditor, and any employee or agent thereof who is delegated responsibility for carrying out the provisions of this rule.

§155-8-3. Report of Meetings.

3.1. Generally. -- A Report must be filed with the State Auditor on or before the first day of April of the year in which the meeting takes place.

3.2. Manner to File Report. -- A Report shall be deemed filed by mailing to the State Auditor by certified mail, return receipt requested, or, if given prior authorization, by email transmission. Upon receipt, the State Auditor shall affix a time stamp which shows the date on which the Report was received.

3.3. Failure to File Report. -- If any levying body fails to file a Report as required by W. Va. Code §11-8-9, the State Auditor shall notify the levying body that it must meet and file a Report of that meeting on or before the fifteenth (15th) day of April of that year.

3.4. Manner to Notify of Failure to File a Report. -- The State Auditor shall notify any levying body that fails to file a Report by sending a Notice of Failure to File a Report to the levying body by certified mail, return receipt requested, or by other written means with a reasonable assurance of delivery, including email transmission. The Notice of Failure to File a Report shall contain a statement that the levying body must meet and file a Report on or before the fifteenth day of April of that year.

3.5. Meetings Held after April 15. -- The State Auditor may allow a late meeting and late Report if the State Auditor finds Good Cause to so allow a meeting and Report to be filed after April 15.

§155-8-4. Procedure to Extend Time for Local Levying Body to Meet.

4.1. Generally. -- If any levying body is unable to meet and file a Report with the State Auditor on or before the fifteenth day of April, the levying body may request an extension of time to meet and file a Report, ~~which extension shall not extend beyond May 1 of that year.~~

4.2. Notice to Be Filed. -- In order to request an extension of the time to meet as a levying body, the levying body shall file with the State Auditor a Notice of Request for Extension Pursuant to W. Va. Code §11-8-9. The notice shall state the reasons that the levying body has not yet been able to meet. The notice shall be deemed filed by mailing to the State Auditor by certified mail, return receipt requested or, if given prior authorization, by email transmission.

4.3. Good Cause Alleged. -- The Notice of Request for Extension must explain why Good Cause exists for the State Auditor to grant the levying body an extension.

4.4. Receipt of Filing. -- Upon receipt of the notice, the State Auditor shall affix a time stamp which shows the date on which the Report was received. The State Auditor shall forthwith review the notice and determine whether Good Cause exists to grant the request for extension.

4.5. Grant or Denial of Request. -- Upon review of the request for extension, and after determining whether or not Good Cause exists to grant the extension, but no later than five (5) business days after receipt, the State Auditor shall inform the levying body whether its request has been granted or denied. Notification shall be made in writing by the most expeditious means available, including, but not limited to, email or facsimile transmission.

4.6. Effect of Granting. -- If the State Auditor determines that Good Cause exists to grant the requested extension, the State Auditor shall so inform the levying body and set a date in which the levying body must meet, ~~which date shall be on or before May 1 of that year.~~

4.7. Compliance with W. Va. Code § 6-9A-1 *et seq.* -- If the State Auditor grants a request for extension, the State Auditor shall inform the levying body that the meeting set by the State Auditor shall comply with the provisions of W. Va. Code § 6-9A-1 *et seq.* relating to open governmental proceedings.

4.8. Effect of Denial. -- If the State Auditor determines that Good Cause does not exist, the State Auditor shall so inform the levying body. The levying body shall thereafter forthwith meet, file a Report, and otherwise comply with the provisions of W. Va. Code §11-8-9.