

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In this Box

**FILED**

May 24 2 10 PM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: STATE ELECTION COMMISSION TITLE NUMBER: 146

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: ELECTION EXPENDITURES

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 162

SECTION §64-9-4, PASSED ON MARCH 25, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: JUNE 7, 1996

Ken Hechler

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## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

(Plus all the volunteer  
help we can get)

March 12, 1996

Bill Harrington  
Election Commission  
Secretary of State  
Bldg 1 Rm 157K  
Charleston, WV 25305

**SB 162** authorizing, **Title 146, Series 04, Election Expenditures** passed the Legislature on **March 9, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 162** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 162 Section 64-9-4(a)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,  
Administrative Law Division

TITLE 146  
LEGISLATIVE RULES  
ELECTION COMMISSION

SERIES 4  
ELECTION EXPENDITURES

§146-4-1. General.

1.1. Scope. -- These legislative rules regulate the employment of election workers and regular campaign staff, rate of payment, method of payment, reporting requirements and forms utilized for compliance. These legislative rules apply to all municipal, county, state or national elections conducted in this State.

1.2. Authority. -- W. Va. Code §3-1A-5, §3-1A-6, §3-8-1, §3-8-11, §3-8-12, §3-9-12, §3-9-13, §3-9-16 and West Virginia Supreme Court of Appeals Order No. 16884

1.3. Filing Date. -- May 24, 1996

1.4. Effective Date. -- June 7, 1996

§146-4-2. Policy.

The Legislature through West Virginia Code subsection (d), section six, article one-a; section one, article eight; subsection (c), section eleven; subsection (e), section twelve, article eight; sections twelve, thirteen and sixteen, article nine, all of chapter three clearly addresses the intent of the Legislature to prevent the buying and selling of votes. Pursuant to statutory authority, it is the policy of the State Election Commission and the Secretary of State that unreasonable, excessive and grossly disproportionate expenditure of money in relation to services rendered represents the buying of votes or influence to obtain a public office. The following rules are established to carry out this policy.

§146-4-3. Definitions.

3.1. "Paid Campaign Staff" means an individual employed by a candidate, party committee or political action committee who works in excess of twenty (20) hours per week on a regular and continuing basis and who is paid a regular salary out of which is deducted withholding tax and social security obligations.

3.2. "Paid Election Worker" means an individual employed by a candidate, party committee or political action committee on an intermittent, temporary or irregular basis.

3.3. "Volunteer Election Worker" means an individual

providing services to a candidate or committee without pay or other compensation for services, not including expenses.

3.4. "Committee" means an association of persons organized to advocate the election or defeat of one or more candidates or the passage or defeat of one or more ballot issues, and which is required to file a statement of organization pursuant to West Virginia Code section four, article eight, chapter three no later than twenty-eight (28) days before the election.

3.5. "Candidate's Authorized Committee" means a committee organized for the support of one (1) candidate with the knowledge and consent of that candidate.

3.6. "Party Committee" means the municipal, county, district or state executive committee of a political party.

3.7. "Political Action Committee" means a committee organized by one or more individuals, corporations, associations, labor unions or organizations for the purpose of advocating or opposing the nomination or election of one or more candidates or the passage or defeat of one or more ballot issues.

3.8. "Political Subdivision" means those precincts comprising the electoral district from which a candidate is to be elected. (i.e. senatorial district, delegate district)

#### §146-4-4. Exceptions.

4.1. Payments for contracted services with a person or business licensed to do business in the State of West Virginia are not limited by these regulations: Provided, however, That payments to election workers or campaign staff employed or provided by a licensed person or business on behalf of a candidate or committee are subject to these regulations. Such paid election workers employed for election day work will be calculated as part of the total paid workers allowed for that candidate or committee pursuant to Section 8 of these rules.

4.2. The number of volunteer election workers utilized on election day is not limited by these regulations.

#### §146-4-5. Payment Of Election Workers.

5.1. An election worker's pay, including direct or indirect payments for expenses, shall not exceed six dollars (\$6.00) per hour up to a maximum of fifty dollars (\$50.00) per day regardless of the source or sources of the payment or the hours worked in any given day.

5.2. Payment shall be by check for any and all services provided or expenses incurred by any paid election worker.

5.3. Any check issued for payment to any paid election worker shall clearly indicate the name of the candidate or committee issuing the check, and the name and social security number of the person to whom the check is issued.

5.4. No check may be issued to any paid election worker before that worker has submitted to the candidate or committee an itemized statement on a form prescribed by the Secretary of State showing the specific work performed, the times and dates of the work and the amount of pay to be issued by the candidate or committee to the election worker for the work reported.

5.5. The candidate or committee shall attach all itemized statements, upon which payment was made, with the financial statement, for the reporting period during which the check was issued.

5.6. The candidate or committee shall comply with all Internal Revenue Service laws, regulations and reporting requirements as they relate to the payment of election workers.

#### §146-4-6. Payment Of Campaign Staff.

6.1. Paid campaign staff may be paid in excess of fifty dollars (\$50.00) per day, but such pay may not exceed that which is reasonable and fairly commensurate with similar services rendered in the private sector.

6.2. Payment shall be by check for any or all service provided by any paid campaign staff worker.

6.3. Any check issued for payment to any paid campaign staff worker shall clearly indicate the name of the organization or person issuing the check and the name and social security number of the person to whom the check is issued.

6.4. The candidate or committee shall file with the financial statement the names and social security number of each paid campaign staff worker employed during the reporting period covered by the financial statement, along with the job title, description of duties, rate of pay, beginning and ending employment dates and work schedule of each paid campaign staff worker.

6.5. The candidate, party committee or committee shall comply with all Internal Revenue Service laws, regulations and reporting requirements as they apply to the payment of campaign staff.

#### §146-4-7. Reimbursement For Expenses Of Volunteer Election Workers.

7.1. A candidate or committee may reimburse a volunteer election worker for actual expenses incurred up to a maximum of

fifteen dollars (\$15.00) per day, except

7.1.1. That a volunteer election worker may, by presentment of a receipt or receipts for the expenditures, be reimbursed for out-of-pocket purchases of goods or services made for the candidate or committee. Such out-of-pocket expenditure reimbursements shall be reflected in the candidate's or committee's financial report.

7.2. Payment to a volunteer election worker for any and all expenses incurred shall be made by the candidate or committee by check.

7.3. A volunteer election worker who receives a total reimbursement for expenses of fifty dollars (\$50) or more during any election campaign shall submit to the candidate or committee an itemized statement on a form prescribed by the Secretary of State showing the date, the specific amount and purpose of each expense incurred, the name of each vendor paid and the total amount of reimbursement to be received.

7.4. Reimbursement for mileage shall not exceed the current state-mandated reimbursement rate per mile.

7.5. The candidate or committee shall attach any forms itemizing expenditures to the post election financial statement.

**§146-4-8. Employment Of Election Workers By Candidates Or Candidate's Authorized Committee.**

8.1. Each candidate or candidate's authorized committee, but not both, may employ paid election workers solely for the candidate's personal campaign: Provided, however, That within the limits of one (1) election worker per precinct, as set forth in Section 8.2 of these rules, two (2) or more candidates or candidates' authorized committees may jointly employ paid election workers only when the payment to each worker is equally divided among the candidates or committees.

8.2. Under no circumstances shall a candidate or candidate's authorized committee employ directly or indirectly in excess of one (1) paid election worker per number of precincts within the area the candidate is seeking to represent. The total number of election worker(s) employed to work within any political subdivision shall not exceed the total number of precincts in which the candidate appears on the ballot within that political subdivision. The candidate or candidate's authorized committee may employ any number of worker(s) per day per political subdivision, so long as the total number of worker-days do not exceed the number of precincts in the political subdivision. (Example: In a delegate district with thirty (30) precincts, thirty (30) workers may be employed for one (1) day; or, one (1) worker may be employed

for thirty (30) days; or, three (3) workers may be employed for ten (10) days; or, any variation so long as the number of workers or worker-days do not exceed the total precincts within that delegate district).

8.3. A candidate or candidate's authorized committee may not make indirect contributions to other candidates or committees by having paid election workers drive voters, distribute literature or perform any other task on behalf of another candidate.

8.4. The candidate or candidates authorized committee shall comply with all Internal Revenue Service laws, regulations and reporting requirements as they apply to the payment of campaign staff.

#### **§146-4-9. Employment Of Election Workers By Party Committees.**

9.1. Each party committee may employ election workers: Provided, however, That a municipal executive committee may not employ election workers on any county, district or statewide election day and a county, district or statewide executive committee may not employ election workers on any municipal election day.

9.2. Any state party executive committee may employ not more than one (1) paid election worker per precinct within any county.

9.3. Any county executive committee, or combination of county and district executive committees of the same political party, may employ not more than one (1) election worker per precinct within a county.

9.4. Any municipal executive committee may employ not more than one (1) paid election worker per precinct within the city.

#### **§146-4-10. Employment Of Election Workers By Political Action Committees.**

10.1. Each political action committee may employ election workers.

10.2. Regardless of the number of candidates or issues supported or opposed by a political action committee, the total number of paid election workers employed by such committee to work within any county may not exceed the total number of precincts within that county in which candidates or issues supported or opposed appear on the ballot.

10.3. Each political action committee shall report the amount of expenditures made on behalf of each candidate or to promote the defeat of a candidate.

§146-4-11. Forms.

All forms necessary to comply with this rule shall be prescribed by the State Election Commission and available from the Secretary of State's office, county clerk's office, and the municipal election officer.

§146-4-12. Severability.

If any provision of these rules or the application to any person or circumstances shall be held invalid, such invalidity shall not affect the provision or application of these regulations which can be given effect without the invalid provision or application and to this end the provisions of these regulations are declared to be severable.

§146-4-13. Penalties.

Penalty for violation shall be as prescribed in West Virginia Code section twenty-three, article nine, chapter three, as a misdemeanor, and, upon conviction shall be fined not more than one thousand dollars (\$1,000), or, in the discretion of the court, be confined in jail for not more than one (1) year.

1 SENATE BILL NO. 222

2 (By Senators Ross, Anderson, Boley,  
3 Buckalew, Grubb and Macnaughtan)

4 [Introduced January 29, 1996; referred  
5 to the Committee on

6 *the Judiciary*

7 *146-4*

8  
9  
10 A BILL to amend article nine, chapter sixty-four of the  
11 code of West Virginia, one thousand nine hundred  
12 thirty-one, as amended, by adding thereto a new  
13 section, designated section nine, relating to  
14 authorizing the state election commission to  
15 promulgate legislative rules relating to election  
16 expenditures.

17 Be it enacted by the Legislature of West Virginia:

18 That article nine, chapter sixty-four of the code of  
19 West Virginia, one thousand nine hundred thirty-one, as  
20 amended, be amended by adding thereto a new section,  
21 designated section nine, to read as follows:

22 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS BOARDS AND  
23 AGENCIES TO PROMULGATE LEGISLATIVE RULES.

24 §64-9-9. State election commission.

1           The legislative rules filed in the state register on  
2 the thirty-first day of July, one thousand nine hundred  
3 ninety-five, under the authority of section five, article  
4 one-a, chapter three, of this code, modified by the state  
5 election commission to meet the objections of the  
6 legislative rule-making review committee and refiled in the  
7 state register on the twenty-second day of December, one  
8 thousand nine hundred ninety-five, relating to the state  
9 election commission (election expenditures, 146 CSR 4), are  
10 authorized.

11

12           NOTE: The purpose of this bill is to authorize the  
13 State Election Commission to promulgate legislative rules  
14 relating to election expenditures.

15

16           This section is new; therefore, strike-throughs and  
17 underscoring have been omitted.

2627

H. B. 4292

(By Delegates Douglas, Gallagher, Faircloth, Compton,  
Linch and Riggs )

(Introduced January 29, 1996 ; referred to the  
Committee on the Judiciary.)

A BILL to amend article nine, chapter sixty-four of the  
code of West Virginia, one thousand nine hundred  
thirty-one, as amended, by adding thereto a new  
section, designated section nine, relating to  
authorizing the state election commission to  
promulgate legislative rules relating to election  
expenditures. 146-4

Be it enacted by the Legislature of West Virginia:

That article nine, chapter sixty-four of the code of  
West Virginia, one thousand nine hundred thirty-one, as  
amended, be amended by adding thereto a new section,  
designated section nine, to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS BOARDS AND  
AGENCIES TO PROMULGATE LEGISLATIVE RULES.

§64-9-9. State election commission.

4292

1       The legislative rules filed in the state register on  
2 the thirty-first day of July, one thousand nine hundred  
3 ninety-five, under the authority of section five, article  
4 one-a, chapter three, of this code, modified by the state  
5 election commission to meet the objections of the  
6 legislative rule-making review committee and refiled in the  
7 state register on the twenty-second day of December, one  
8 thousand nine hundred ninety-five, relating to the state  
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
OCT 9 10 29 AM '96  
FILED  
(Plus all the volunteer help we can get)

TO: JAN CASTO

AGENCY: ELECTIONS

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: August 27, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 4 TITLE: 146 ELECTIONS

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: William H. Harrington

TITLE OF PERSON SIGNING: Chief of Staff

DATE: Oct 9, 1996

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.