WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form #2

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DEC 13 2 33 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

RULE TYPE: ~~Emergency~~ Legislative ; CITE AUTHORITY WV Code §18-9D-17(c) & 31-20-28(c)

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 PROPOSED: 4

TITLE OF RULE BEING PROPOSED: Guidelines and Standards for Determining the Existence of Disqualifying Financial Interests

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON January 13, 1994 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia Ethics Commission
ATTN: Robert Lamont, Legal Counsel
1207 Quarrier Street
Charleston, WV 25301-1809

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Carl Palmer

3.60

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Cabinet Secretary

December 13, 1993

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Honorable Ken Hechler
Secretary of State
Suite 157-K
Capitol Building
Charleston, West Virginia 25305

Re: Emergency Rule---158 CSR 4

Dear Mr. Hechler:

In accordance with West Virginia Code §5F-2-2(12), approval is hereby given for filing of the attached emergency rule of the West Virginia Ethics Commission, entitled "Guideliness and Standards for Determining the Existence of Disqualifying Financial Interests" and established as Title 158, Series 4.

If you have any questions, do not hesitate to contact me. Thank you for your consideration in this matter.

Sincerely,

Chuck Polan

Chuck Polan
Secretary

CP:tj

Attachment

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DEC 13 1993

Legislative Rule Making
Review Committee

STATEMENT OF CIRCUMSTANCES

In the last extraordinary session, the legislature passed Senate Bills 100 and 101 which direct the Ethics Commission to promulgate emergency rules by December 15, 1993 to establish guidelines and standards for the implementation of WV Code § 18-9D-17(c) and 31-20-28(c). The legislature found that continued public confidence in the sale of bonds required emergency rules to aid in the prevention of persons from profiting from the issuance of bonds because of influence based upon business or transactions with public servants on a personal, private basis.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Guidelines and Standards for determining the Existence of Disqualifying Financial Interests.

Type of Rule: ____Legislative ____Interpretive ____~~Procedural~~ Emergency

Agency: WV Ethics Commission

Address: 1207 Quarrier St.

Charleston WV 25301

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$ 0	$ 0	$ 0	$ 0	$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The proposed rule does not add any additional responsibilities to either the WVEC or the Authorities

3. Objectives of these rules:

To comply with the legislative mandate contained in Senate bills 100 and 101 which require the Ethics Commission to promulgate an emergency rule establishing guildellines and standards for the implementation of WV Code §§ 18-9D-17(c) and 31-20-28(c).

Rule Title: Guidelines and Standards for determining the Existence of Disqualifying Financial Interests.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This rule should not have any economic impact on State Government

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

The rule could prevent certain persons or business activities from providing financial services to the Authorities in connection with the issuance of bonds or other securities.

C. Economic Impact on Citizens/Public at Large.

NONE

Date: December 13, 1993

Signature of Agency Head or Authorized Reprensentative

DATE: December 13,1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV Ethics Commission

EMERGENCY RULE TITLE: Guidelines and Standards for determining the Existence of Disqualifying Financial Interests

1. Date of Filing December 13, 1993

2. Statutory authority for promulgating emergency rule:

   WV Code §§ 18-19D-17(c) and 31-20-28(c)

3. Date of filing of proposed legislative rule: December 13, 1993

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

   It adopts new language

5. Has the same or similar emergency rule previously been filed and expired?

   No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

The legislature found that continued public confidence in the sale of bonds or other securities required the establishment of standards to prevent persons or business entities to profit from the issuance of bonds because of influence based upon the existence of business or transactions with public servants. Since bonds are to be issued soon to take advantage of favorable interest rates and meet the immediate needs of many communities to build or refurbish educational facilities, the legislature required emergency rules to establish standards and guidelines for the authorities to use.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

WV Code §§18-9D-17(c) and 31-20-28(c) required to Ethics Commission to promulgate emergency rules by December 15, 1993.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See response to question 6 above.

SUMMARY

These emergency rules set forth the guidelines and standards established by the West Virginia Ethics Commission for use by the School Building Authority and the Regional Jail and Correctional Facility Authority in identifying persons and business entities required to be disqualified from providing services to the Authorities in connection with the issuance of bonds or other securities.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 158
EMERGENCY RULE
WEST VIRGINIA ETHICS COMMISSION

SERIES 4
GUIDELINES AND STANDARDS FOR DETERMINING THE EXISTENCE OF DISQUALIFYING FINANCIAL INTERESTS

§158-4-1 General Provisions.

1.1 Scope. -- These emergency rules set forth the guidelines and standards established by the West Virginia Ethics Commission for use by the School Building Authority and the Regional Jail and Correctional Facility Authority in identifying persons and business entities required to be disqualified from providing services the Authorities in connection with the issuance of bonds or other securities.

1.2 Authority. -- W. Va. Code §§18-9D-17(c) and 31-20-28(c).

1.3 Filing Date. --

1.4 Effective Date. --

§158-4-2 Definitions.

2.1 "Persons and business entities" means an individual, corporation, association, firm, partnership, limited partnership, committee, or other organization or group of persons, irrespective of the denomination given such organization or group.

2.2 "Specified services" means acting as an investment adviser, underwriter, broker, dealer, government securities broker, government securities dealer, transfer agent, attorney, bond counsel, trustee or accountant.

2.3 "Person associated with" means association as employee who exercises discretion in the operation of the entity, officer, trustee, agent, or the owner of an interest in the business entity greater than ten per cent (10%) or thirty thousand dollars ($30,000).

2.4 "Designated public servant" means a public officer, employee, agent or attorney of State government who is capable of influencing Authority decisions regarding the issuance of bonds or other securities.

2.5 "Authority" means the West Virginia School Building Authority and the West Virginia Regional Jail and Correctional Facility Authority.

§158-4-3 Guidelines and Standards.

3.1 It shall be deemed contrary to the public interest for persons and business entities to provide, and they shall be disqualified from providing, specified services to the Authority in regard to the issuance of bonds or other securities, if after notice and an opportunity for a hearing the Authority finds that they, or any person associated with them, gave or promised to give to a designated public servant:

1.) Any special rate or terms not available to the general public;

2.) Any gift or contribution to a designated public servant or to a political campaign committee of a designated public servant;

3.) Any form of employment offer made to a designated public servant or member of his or her immediate family as an inducement to receive favorable consideration in a contract for specified services; or

4.) If it is likely that a designated public servant would obtain compensation if a particular person or business entity provides specified services to the Authority regarding the issuance of bonds or other securities.

3.2 The provisions contained in subsection 3.1. of this rule shall apply only to actions taken by persons and business entities, or persons associated with such business entities, from the date the Authority announces a need for specified services in connection with the issuance of bonds or other securities through the date the bonds are issued.