WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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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: WV Ethics Commission TITLE NUMBER: 158

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 & Standards for Determining the Existence of Disqualifying Financial Interests

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THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

[signature]

4.20

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

Gaston Caperton
Governor

Chuck Polan
Cabinet Secretary

February 15, 1994

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

Re: Legislative Rules
West Virginia Ethics Commission

Dear Mr. Hechler:

Approval is hereby given for filing of the enclosed proposed legislative rules and regulations of the West Virginia Ethics Commission, entitled "Guidelines and Standards for Determining the Existence of Disqualifying Financial Interests" are in accordance with the West Virginia Code.

Sincerely,

Chuck Polan
Secretary

CP:tj

Attachment

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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

Type of Rule: XX Legislative ____ Interpretive ____ Procedural

Agency West Virginia Ethics Commission

Address 1207 Quarrier St., 4th Floor

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 West Virginia Ethics Commission 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 guidelines 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.

None.

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

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

C. Economic Impact on Citizens/Public at Large.

None.

Date: April 8, 1994

Signature of Agency Head or Authorized Reprensentative

DATE: April 8, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Robert Lamont, WV Ethics Commission

LEGISLATIVE RULE TITLE: Guidelines and Standards for Determining the Existence of Disqualifying Financial Interests

1. Authorizing statute(s) citation WV Code §§ 18-9D-17(c) and 31-20-28(c)

2. a. Date filed in State Register with Notice of Hearing

   Dec. 18, 1993 with comments until Jan. 13, 1994
   Refiled Feb. 16, 1994 with comments until March 21, 1994

   b. What other notice, including advertising, did you give of the hearing?

   Copies were sent to the Governor, the Speaker of the House of Delegates and the President of the Senate.

   c. Date of Hearing(s) No hearing was held. Written comments were accepted until March 21, 1994

   d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

   Attached N/A No comments received none received

   e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

   April 8, 1994

   f. Name and phone number(s) of agency person(s) to contact for additional information:

   Robert Lamont 558-0664

   Richard Alker 558-0664

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

BRIEF SUMMARY OF PROPOSED LEGISLATIVE RULE

These 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 or business entities required to be disqualified from providing specified services to the Authorities in connection with the issuance of bonds or other securities.

FILED

APR 8 10 49 AM '94

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

TITLE 158
LEGISLATIVE 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 to 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 "Substantial financial investment" means an aggregate financial commitment of $1,000 or more by a person or business entity and/or any person associated with them.

2.5 "Significant financial interest" means an interest worth $1,000 or more.

2.6 "Designated public servant" means a public officer, employee, agent or attorney of State government with the authority to make, or join in making, or who, lacking such authority has in fact personally and substantially influenced the making of, discretionary actions of the Authority regarding the issuance of bonds or other securities. Members of the WV Legislature will not be considered designated public servants, unless they are found by the Authority to have personally and substantially influenced its discretionary action.

2.7 "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 :

1.) Gave or promised to give to a designated public servant, or a member of his or her immediate family, any special rate or terms, of more than $25 value, not available to the general public;

2.) Gave or promised to give any political contribution in excess of the allowable limits as set forth in W.Va. Code, Article 8, Chapter 3, to a designated public servant or to a political campaign committee of a designated public servant;

3.) Gave or promised to give a gift of more than $25 value to a designated public servant or a member of his or her immediate family;

4.) Made any form of an employment offer 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

5.) Currently has, or has offered to make in the future, a substantial financial investment in any business transaction in which a significant financial interest is held by a designated public servant, or a member of his or her immediate family.

3.2 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 it is likely that a designated public servant will obtain compensation beyond his or her official salary, if they are selected to provide specified services to the Authority regarding the issuance of bonds or other securities.

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

SUMMARY OF COMMENT PERIOD ACTIONS

The Proposed legislative rule was filed with the Secretary of State's Office on February 15, 1994. Although a public hearing was not held, a written comment period was open through March 21, 1994. In addition to the notice in the Public Register, copies of the proposed rule were sent to the Governor, the Speaker of the House of Delegates, and the President of the Senate. No comments were received.

Since no comments were received on the proposed rule, no amendments have been made to it. The Agency approved version of the rule is therefore in the same form as originally proposed.