

Form #4

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Robert L. Garner
Authorized Signature



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

Gaston Caperton
Governor

Chuck Polan
Cabinet Secretary

August 23, 1994

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

Re: Legislative Rules

Dear Mr. Hechler:

Approval is hereby given for filing of the proposed legislative rules entitled, "Guidelines and Standards for Determining the Existence of Disqualifying Financial Interests," as modified following the review of the Legislative Rule-Making Review Committee.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chuck Polan".

Chuck Polan
Cabinet Secretary

CP:tj

**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. -- This rule sets 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 "Person and business entity" means an individual, corporation, association, firm, partnership, limited partnership, committee, or other organization or group of persons, irrespective of the denomination given the organization or group.

2.2 "Specified services" are the services provided by 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 connection with a person or business entity as an employee who exercises discretion in the operation of the entity, or as an 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 The Authority shall consider it contrary to the public interest for a person or business entity to provide, and they are 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 :

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

3.1.2.) Gave or promised to give any political contribution in excess of the allowable limits as set forth in W.Va. Code §3-8-1, et seq., to a designated public servant or to a political campaign committee of a designated public servant;

3.1.3.) 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;

3.1.4.) 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

3.1.5.) 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 is considered contrary to the public interest for a person or business entity to provide, and they are 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 that person or business entity is 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 a person or business entity, or persons associated with them, from:

3.3.1. 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; or

3.3.2. the 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.



FILED

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West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator Joe Manchin, III, Co-Chair
Delegate Brian A. Gallagher, Co-Chair

August 9, 1994

Debra A. Graham, Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Robert Lamont
WV Ethics Commission
1207 Quarrier St., 4th Floor
Charleston, WV 25302

FROM: Legislative Rule-Making Review Committee

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

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Mr. Richard Alker