

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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1991 JAN 31 PM 3:02

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: Dept. of Admn., WV Ethics Commission TITLE NUMBER: 158

CITE AUTHORITY WV Code Section 6B-2-5 (c)

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 158-7

TITLE OF RULE BEING PROPOSED: Gifts

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.



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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STATE OF WEST VIRGINIA

Rule Title: 158-7 GIFTS

Type of Rule: X Legislative Interpretive Procedural

Dept. of Administration
Agency W V 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	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

No additional costs are anticipated

3. Objectives of these rules:

To establish guidelines concerning gifts for persons covered by the WV Governmental Ethics Act.

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.

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: 1/30/91

Signature of Agency Head or Authorized Representative



DATE: 1/30/91

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Richard Alker, Executive Director, WV Ethics Commission

LEGISLATIVE RULE TITLE: Gifts 158-7

1. Authorizing statute(s) citation WV Code Sec. 6B-2-5(c)

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

August 8, 1990

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

none

c. Date of hearing (s): Comment period ended Sept. 14, 1990

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

Attached No comments received xx

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

1-30-91

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

Richard Alker, Executive Director

WV Ethics Commission

348--0664

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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: _____

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

d. Attach findings and determinations and reasons:

Attached

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SECRETARY OF STATE

SUMMARY

158-7 GIFTS

These Legislative rules establish the guidelines concerning gifts for persons covered by the WV Governmental Ethics Act.

SERIES 7

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1999 AUG -8 PM 3:20

158-7-1 GIFTS

1.1 Scope -- These legislative rules establish the guidelines concerning gifts for persons covered by the WV Governmental Ethics Act.

1.2 Authority -- WV Code Section 6B-2-5(c)

1.3 Filing Date --

1.4 Effective Date --

158-7-2 Honorarium

2.1 Defined 1 - Payment made in recognition of published works, appearances, speeches and presentations which is not intended as consideration for the value of such services and which are not occupational or professional in nature. These payments are not legally or traditionally required such as in an employment contract.

2.2 The following guidelines will be used in determining whether the amount of an honorarium is reasonable and permitted under the Ethics Act:

- a. length of time spent on preparing or researching material for the presentation,
- b. amount of time for actual presentation,
- c. distance to be traveled to make the appearance, speech or presentation,
- d. the public official or public employee's experience, qualifications and educational background, and
- e. the usual and customary fee paid to others for similar work.

2.3 It shall be unlawful for all elected public officials to accept an honorarium except as set out below in 2.4 and 2.5.

2.4 An elected public official is not prohibited from accepting an honorarium if it is given for an appearance, speech or presentation made of a professional nature not related to the official's public position. An example would be a profession such as a Physician, Certified Public Accountant, Pharmacist or Attorney speaking at a conference or seminar in his or her field.

2.5 An elected public official may receive an honorarium and donate it to a recognized charity or the State Treasury. Such public official must file notice with the Ethics Commission identifying the honorarium, the date received and the group it was donated to.

2.6 Any public employee who receives an honorarium is required to seek his supervisor's approval and take annual leave or leave without compensation from his public employment during the time he prepares for or makes such presentation, speech or appearance.

2.7 A public official or employee may not use public time, facilities, equipment or personnel in the preparation or presentation of a private presentation, speech or appearance.

158-7-3 Free Admission to Seminar/Conference

3.1 A public employee may receive **free admission** to attend a privately sponsored conference or seminar if the overall benefit is to assist in the performance of his or her public job responsibilities. Such activities enhance the accessibility by the public to State employees and are to be encouraged if compatible with the performance of the public official or public employees official duties.

3.2 A public employee may receive a **reduced rate** to attend a privately sponsored conference or seminar if the overall benefit is to assist in the performance of his or her public job responsibilities. Such activities enhance the accessibility by the public to State employees and are to be encouraged if compatible with the performance of the public official or public employees official duties.

158-7-4 Nominal Gifts

4.1 Defined - For a gift to qualify as nominal and its acceptance be permitted by a public official or a public employee it must have a monetary value of \$20 or less.

4.2 Certain hotel benefits are considered part and parcel of the room package and are not considered a "gift" to a public official or public employee. These are nominal benefits purchased with and incidental to the use of the hotel room such as, free parking and a free complementary daily newspaper.

4.3 It is not unlawful for a public official or public employee who attends a conference, with the fee being paid by the State to receive a door prize having more than a nominal value. The public official or public employee shall remit the gift to the Treasurer of the State. Some examples of nominal gifts would be a T-shirt, hat, key chain, pencil or any memento of that caliber. A television set would not be nominal, nor would an expense paid trip to Hawaii.

158-7-5 Reasonable expenses for Panelist or Speaker

5.1 When lodging expenses incurred by a public official or employee who is a speaker or panelist are greater than other hotels the Ethics Commission in determining reasonableness will look to see if the expenditures are limited to the usual and customary basic charges of the hotel for room and board. In determining reasonableness of the lodging charges for public officials or employees it must be the same as that afforded other hotel guests.

5.2 It shall be unlawful for a public official or public employee who is a speaker or panelist to accept payment of or reimbursement for any costs incurred as a result of his participation in activities such as golf, carriage rides or health club services. A panelist or speaker who is a public official or a public employee is limited to receiving reasonable lodging and travel expenses.

5.3 Public officials and public employees are permitted to accept gifts (such as free attendance at and payment of expenses at a conference or seminar) from persons who are not:

- a. conducting business with their governmental agency,
- b. engaged in any activity which is regulated or controlled by their agency,
- c. with a financial interest which may be affected by the performance of the public official or public employee's job responsibilities, or
- d. a lobbyist.

158-7-6 Solicitation of gifts

6.1 The Ethics Act only prohibits solicitation of certain gifts by public officials and public employees. There is no prohibition against third parties (non-covered persons under the Ethics Act) volunteering to solicit gifts or things of value to benefit a State Association, governmental agency or State employees.

6.2 Public officials and public employees may solicit gifts for a charitable purpose when there is no resulting direct pecuniary benefit to the public official or public employee or an immediate family member.

6.3 It shall be unlawful for a public official or public employee to solicit any gift or donation (including those for a charitable purpose) from a subordinate employee.

158-7-7 Free Tickets

7.1 Sporting events - It shall be unlawful for public officials and public employees to accept free admission or tickets to any sporting events from anyone who:

- a. is seeking to do business with their governmental agency,
- b. is engaged in activities which are regulated by their governmental agency,
- c. as a financial interest which may be affected by the performance of the public official's or public employee's official duties, or
- d. a lobbyist.

7.2 Public officials and public employees may accept free tickets or admission to cultural, political or charitable events from any of the four groups of individuals identified in 7.1 (a)-(d) above.



STATE OF WEST VIRGINIA
WEST VIRGINIA ETHICS COMMISSION
4TH FLOOR — LITTON BUILDING
1207 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301
(304) 348-0664

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

RICHARD M. ALKER
EXECUTIVE DIRECTOR

TO: The Honorable Ken Hechler, Secretary of State
FROM: Richard Alker, Executive Director
DATE: January 30, 1991
SUBJECT: Gifts 158-7

A comment period was held on the proposed rule, ending on September 14, 1990.
No comments were received. Therefore, the proposed rule is filed for your review.

Enclosures