

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box

FILED

2009 JUN -8 PM 4: 28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

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

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 08

TITLE OF RULE BEING AMENDED: Title 158, Series 08, Interest in Public Contracts

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

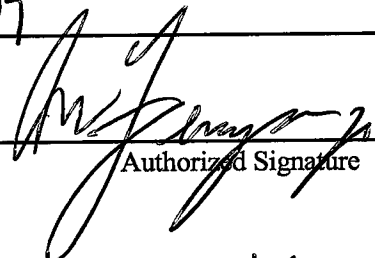
TITLE OF RULE BEING PROPOSED: _____


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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 172

SECTION §64-2-4 (b), PASSED ON 4/11/09

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2009


Authorized Signature


6/8/09

TITLE 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION

SERIES 8
INTEREST IN PUBLIC CONTRACTS

FILED
2009 JUN -8 PM 4:28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 158-8-1. General.

1.1. Scope. -- These legislative rules establish the guidelines concerning interest in public contracts for persons covered by the WV Governmental Ethics Act.

1.2. Authority. -- W. Va. Code §6B-2-5(d)

1.3. Filing Date. -- June 8, 2009

1.4. Effective Date. -- July 1, 2009

§ 158-8-2. Direct Authority and Control.

Examples of individuals with direct authority and control over the awarding of public contracts include all elected or appointed public officials in the executive branch of City, County and State government, superintendents, assistant superintendents, purchasing directors, County Commissioners, County Board members and City managers.

§158-8-3. Limited Interest.

3.1. A limited interest is:

a. An amount not to exceed \$1,000.00 in the gross revenues in a public contract or contracts per calendar year. The \$1,000.00 limit is applicable to gross revenues received through a public contract by a public official or employee, an immediate family member thereof or a business with which the public official or employee or immediate family member is associated; or,

b. An interest as a creditor if a public official or employee or an immediate family member is owed an amount not exceeding \$5,000.00 by a person or business which is awarded a public contract.

3.2. If a public official or employee has more than a limited interest in a public contract, then such an interest is only permissible if the public agency with whom the public

official or employee works or serves seeks and receives a contract exemption in accordance with W. Va. Code § 6B-2-5(d)(4)). This requirement does not apply to part-time appointed officials who, in accordance with the Ethics Act, may have an interest in a public contract if they recuse themselves from the decision-making process.

3.3. The provisions of this rule do not apply to elected or appointed County officials, full or part-time, including superintendents, principals and teachers who are governed by the more stringent restrictions imposed by W.Va. Code § 61-10-15.

3.4. If a public official has a limited interest in a contract, he or she should recuse him or herself from voting. A public employee who has a limited interest should not be involved in any decision-making process relating to the award or review of the contract.

§ 158-8-4. Public Contract and Business Association.

The prohibition of W. Va. Code §6B-2-5(d) against being a party to or having an interest in the profits or benefits of a contract applies only to public contracts involving a governmental body or agency.

Public officials or public employees or members of their immediate family are considered to be "associated" with a business if they or their immediate family member are a director, officer or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

§ 158-8-5. Recusal.

5.1. For the purposes of W. Va. Code §6B-2-5(d), the Ethics Commission will consider a person "recused" if he or she (1) has made a full disclosure of his or her interest in the public contract, (2) has refrained from discussing, voting on or otherwise influencing or deciding the matter, and (3) is absent from the room during the discussion and voting process.

5.2. Making a full disclosure of one's interest means making a prior public disclosure including the amount of interest held directly or indirectly by a public employee or public official or immediate family thereof in a public contract.

§ 158-8-6. Legislator's Contracting.

A member of the Legislature, or Legislator's immediate family or a business with which a Legislator is associated may contract with any governmental body or agency.