

## Form #2

2006 MAY -2 AM 11:38

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**STATEMENT OF CIRCUMSTANCES**  
**Title 158, Series 9, Voting**

During the 2008 Legislative Session, the Ethics Act was amended. There is now a new provision in the Ethics Act which establishes limitations on voting by public officials. This Legislative Rule is being repealed as its general provisions have been overridden by the more specific provisions incorporated directly into the Ethics Act.

**BRIEF SUMMARY OF PROPOSED RULE**  
**Title 158, Series 9, Voting**

The proposed amendment repeals the rule. The reasons for the repeal are set forth in the  
“Statement of Circumstances.”

TITLE 158  
LEGISLATIVE RULES  
WEST VIRGINIA ETHICS COMMISSION

SERIES 9  
VOTING

2008 MAY -2 AM 11:38

SECRETARY OF STATE

**~~§158-9-1 General Provisions:~~**

~~— 1.1. Scope. -- These legislative rules establish the guidelines for voting for persons covered by the WV Governmental Ethics Act.~~

~~— 1.2. Authority. -- W. Va. Code §§6B-1-2(c) and 6B-2-5(d)(1):~~

~~— 1.3. Filing Date. -- April 29, 1992:~~

~~— 1.4. Effective Date. -- June 1, 1992.~~

**~~§158-9-2 Personal:~~**

~~— 2.1. A public official or public employee may not vote on or decide a matter that has become "personal" to that individual:~~

~~— 2.2. For the purpose of this section a matter will be considered "personal" to a public official or public employee when he or she has any pecuniary interest either directly or indirectly in the matter or is affected in a manner which may influence his or her vote or would clearly give the appearance of impropriety. An interest is not "personal" if the interest of the public official or public employee in the matter is affected as a member of, and to no greater extent than any other member of, a profession, occupation or class.~~

~~— 2.3. For a public official's or public employee's recusal to be effective, it is necessary for the official or employee to excuse himself from participating in the discussion and decision-making process by physically removing himself from the room during that period, fully disclose his interest, and recuse himself from voting on the issue.~~

~~— 2.4. In any case where a Senator or Delegate is voting as part of their official duties of office, the members of the Senate and the members of the House of Delegates are governed by the rules of their respective houses. The provisions of subsection 2.3 of this rule shall not apply to members of the Legislature when acting as a member thereof.~~

## APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Voting

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: WV Ethics Commission

Address: 210 Brooks St., Suite 300  
Charleston, WV 25301

Phone Number: 558-0664 Email: theresa.m.kirk@wv.gov

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This rule will have no fiscal impact.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

| <b>FISCAL YEAR</b>          |                                           |                                        |                                           |
|-----------------------------|-------------------------------------------|----------------------------------------|-------------------------------------------|
| Effect of Proposal          | Current<br>Increase/Decrease<br>(use "-") | Next<br>Increase/Decrease<br>(use "-") | Fiscal Year<br>(Upon Full Implementation) |
| 1. Estimated Total Cost     | 0.00                                      |                                        | 0.00                                      |
| Personal Services           | 0.00                                      |                                        | 0.00                                      |
| Current Expenses            |                                           |                                        |                                           |
| Repairs & Alterations       | 0.00                                      |                                        | 0.00                                      |
| Assets                      |                                           |                                        |                                           |
| Other                       |                                           |                                        |                                           |
| 2. Estimated Total Revenues | 0.00                                      |                                        | 0.00                                      |

Rule Title: \_\_\_\_\_

Rule Title: Voting

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

There is no fiscal impact as the proposed amendment repeals the existing rules on voting. The repeal of the rule, for purposes of making it consistent with the Ethics Act, will not have a fiscal impact on the Ethics Commission.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: \_\_\_\_\_

Signature of Agency Head or Authorized Representative

Lewis D. Brown  
Executive Director

4/28/08