

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

FILED
1991 JAN 31 PM 3:06
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-3-2, 6B-3-3, 6B-3-4, 6B-3-7

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: 158-12

TITLE OF RULE BEING PROPOSED: Lobbying

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

Rule Title: 158-12 Lobbying

Type of Rule: X Legislative Interpretative 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 lobbying under 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



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DATE: 1/30/91

1991 JAN 31 PM 3:07

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA

FROM: Richard Alker, Executive Director ~~SEC~~ WV Ethics Commission

LEGISLATIVE RULE TITLE: Lobbying

1. Authorizing statute(s) citation WV Code Sec. 6B-3-2,

6B-3-3, 6B-3-4, 6B-3-7

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

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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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SUMMARY -

158-12 LOBBYING

These legislative rules establish the guidelines concerning lobbying under the WV Governmental Ethics Act.

SERIES 12

158-12-1 LOBBYING

1.1 Scope -- These legislative rules establish the guidelines concerning lobbying under the WV Governmental Ethics Act.

1.2 Authority -- WV Code sections 6B-3-2, 6B-3-3, 6B-3-4, and 6B-3-7

1.3 Filing Date --

1.4 Effective Date --

158-12-2 General

2.1 It is the expressed intent of the Legislature that citizens be permitted and encouraged to consult with their government representatives without incurring registration or reporting obligations under the West Virginia Governmental Ethics Act.

2.2 Persons who lobby without compensation and make no expenditure for or on behalf of any government officer or employee in connection with such lobbying are not required to register or report as Lobbyists.

158-12-3 Definitions

3.1 "Lobbyist": a person who, through communication with a government officer or employee, promotes, advocates or opposes or otherwise attempts to influence:

- a. The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this State; or
- b. The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee, or other delegated legislative or quasi-legislative action to be taken or withheld by any executive department.

3.2 "Government officer or employee": any public officer or employee of the executive or legislative branch of state government who is empowered to make policy and perform nonministerial functions. The term includes candidates who have been elected but not yet assumed office.

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3.3 "Person": any individual, partnership, trust, estate, business trust, association, or corporation; any department, commission; board, publicly supported college or university, division, institution, bureau, or any other instrumentality of the State; or any county, municipal corporation, school district, or any other political subdivision of the State

158-12-4 Registration

4.1 Before engaging in any lobbying activity, or within 30 days after being employed as a Lobbyist, whichever occurs first, a Lobbyist shall register with the West Virginia Ethics Commission.

4.2 Lobbying is not permitted until registration with the Commission is completed. Lobbyists will receive written notification when their registration is completed. Lobbying prior to registration is a violation of the law.

4.3 Registration as a Lobbyist must be done on original forms provided by the Commission. **Do not** use copies of forms. Registration and reporting forms **may not** be submitted by facimile machine (FAX).

4.4 The Act's requirement that copies of the Lobbyist Registration Statement and Lobbyist Activities Reports be filed with the House and Senate is satisfied by submitting an original to the Commission. The Commission provides copies to the House and Senate.

4.5 Registration forms will be processed the same day they are received by the Commission. Incomplete applications will be returned without action and lobbying privileges delayed.

4.6 Application for registration requires the submission of **all** the following:

- a. A completed, signed and notarized Lobbyist Registration Statement.
- b. Three recent 2" x 2" **BLACK & WHITE** passport style photographs of the Lobbyist.
- c. A Lobbyist Employer Authorization for each of the employers identified on the Lobbyist Registration Statement.
- d. A check for the \$20 registration fee payable to the WV Ethics Commission.

4.7 Registered Lobbyists must **reregister** by the 2nd Monday in January of each odd-numbered year. Failure to do so terminates the Lobbyist's registration and no lobbying may be done until the registration is renewed.

4.8 It is not necessary to submit photographs with a reregistration, if the Commission received photographs from the Lobbyist within the previous calendar year.

4.9 Lobbyists are required to report any change or termination of employment to the Commission within one week by filing an Amended Registration Statement.

4.10 Lobbyist are required to report the termination of any employment relationship included on the Lobbyist Registration Statement by filing a Notice of Termination with the Commission within one week of the termination.

4.11 Any person wishing to engage in lobbying activities may be registered as a lobbyist with the Commission, notwithstanding there is no requirement to do so.

158-12-5 Lobbyist Booklet

5.1 At least annually, the Commission publishes a booklet containing each registered Lobbyist's name and address, photo and employer and lobbying information. Lobbyists who are registered by the second Friday in January will be included in the booklet.

5.2 Midway through a regular legislative session a supplement to the booklet may be published, if a significant number of lobbyists have been registered since publication of the booklet.

5.3 Copies of the booklet and any supplement are mailed to registered lobbyists at the "Business Address" shown on their Lobbyist Registration Statement.

158-12-6 Reporting

6.1 Lobbyist are required to file with the Commission periodic reports of their lobbying activities, signed under oath or affirmation by the Lobbyist.

6.2 All Lobbyist are required to file an annual report on or before the second Monday in January of their activities of the prior calendar year.

6.3 Lobbyist engaged in legislative lobbying must also make a report:

- a. on or before the 45th day of a regular session, of their activities from the first of the year through the 42nd day of the session and,
- b. on or before the 21st day after the adjournment of the regular session, of their activities from the first of the year, or since filing their last report, through the end of the session and,

- c. on or before the 21st day after the adjournment of any extraordinary session, of their activities from the first of the year, or since filing their last report, through the end of the session.

6.4 With the exception of the annual report, a report need not be filed if no lobbying activity took place during the reporting period. If lobbying activity occurred, a report must be filed even though no lobbying expenditures were made.

6.5 The Commission will send Lobbyist Activities Report forms and Notice of No Activity forms to all registered Lobbyists as required. It is the responsibility of the Lobbyist to complete and return either the Report or the Notice on a timely basis.

6.6 If the Commission has not received the required Report or Notice within 5 working days of the due date, the Lobbyist shall be given written notice of delinquency.

6.7 If the Commission has not received the required Report or Notice within 10 working days of the date on which Notice of Delinquency was mailed, the Lobbyist's registration shall be suspended. The Lobbyist may not engage in lobbying activities until the Report or Notice is received by the Commission and registration is restored.

6.8 The Commission shall prepare a composite report of the returns of registered Lobbyists for each reporting period within 10 working days of the due date. The report shall contain the names of those making returns and list of expenditures reported. Those failing to report or give required notice are to be identified as delinquent and listed separately.

6.9 Copies of the composite report shall be sent to both the House and Senate Clerks for distribution to the members. Copies shall also be provided to the press.

158-12-7 Lobbyist Duties

7.1 A Lobbyist not exempt from registration shall register with and make all required reports to the Commission in a professional and timely manner, so that the members of the Legislature and the public may be kept aware of lobbying activities in the State.

7.2 A registered Lobbyist shall obtain and preserve for five years all accounts, bills, receipts, books, papers and documents necessary to substantiate financial reports filed with the Commission. These shall be made available for inspection by the Commission at any time.

158-12-8 Employer Duties

8.1 It shall be a violation for any person to employ another to lobby who is not registered with the Commission, except upon condition that such person register and the person does in fact so register as soon as practical.

8.2 No Lobbyist may be registered to lobby on behalf of another without having filed with the Commission a Lobbyist Employer Authorization signed by the employer.

8.3 Any person who employs a registered Lobbyist and makes expenditures on behalf of the Lobbyist's lobbying activities shall be responsible to insure that such expenditures are included on the Lobbyist Activities Report(s) filed by the Lobbyist.

8.4 Employers who require their Lobbyist to turn over to them the records necessary to substantiate the Lobbyist Activities Reports filed must preserve those records for a period of at least five years.

158-12-9 Grass Roots Lobbying Campaigns

9.1 A grass roots lobbying campaign is a program addressed to the public, a substantial portion of which is intended primarily to influence legislation by the West Virginia Legislature. Such programs are directed at the public rather than legislators or other governmental policy makers.

9.2 Any person who spends more than \$200 in one month, or more than \$500 in a three month period, presenting a grass roots lobbying campaign is required to register with the Commission within 30 days of making the expenditures.

9.3 Sponsors of grass roots lobbying campaigns are required to report their activities to the Commission for the same time periods required of registered Lobbyists. Forms necessary for reporting will be mailed to Sponsors as required.

9.4 Sponsors must, within 30 days of the termination of the campaign, give notice of termination and make a final report including total contributions and expenditures made on behalf of the campaign.



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: Lobbying 158-12

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