

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED
APR 8 1 25 PM '94
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Division of Health TITLE NUMBER: 64

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: 67

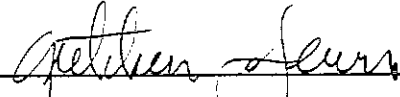
TITLE OF RULE BEING PROPOSED: Distribution of State Aid Funds to
Local Boards of Health

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

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 1006

SECTION 64-5-1(f), PASSED ON March 15, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 8, 1994



Authorized Signature

DEPARTMENT OF HEALTH AND HUMAN RESOURCES
RULE PROMULGATION HISTORY ABSTRACT

Rule Title: Distribution of State Aid Funds to Local Boards of Health

Series Number: 67

Amendment of Existing Rule: New Rule:

Responsible Agency: Division of Health

Date Filed for Public Hearing or Comment Period: 7-20-93

Date of Public Hearing (if any): N/A

Date Public Comment Period Ended: 8-20-93

Date Agency-Approved Rule Filed with the
Legislative Rule-Making Review Committee: 9-9-93

Date of Filing of Modified Rule as Approved by
the Legislative Rule-Making Review Committee: 1-24-94

Date of Final Filing: 4-8-94

Effective Date: 4-8-94

Authorized by: S.B. 1006 (With amendments? Yes No)
Passed: March 15, 1994.

Dates Emergency Rule in Effect (if any): N/A

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF HEALTH

DISTRIBUTION OF STATE AID FUNDS TO
LOCAL BOARDS OF HEALTH

Series 67

1994

WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF HEALTH

DISTRIBUTION OF STATE AID FUNDS TO
LOCAL BOARDS OF HEALTH
64 CSR 67

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TITLE 64
WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF HEALTH

SERIES 67
DISTRIBUTION OF STATE AID FUNDS TO
LOCAL BOARDS OF HEALTH

§64-67-1. General.

1.1. **Scope** - This legislative rule establishes a formula for the director of the division of health to use in distributing State aid funds to local boards of health.

1.2. **Authority** - W. Va. Code §§16-2-3 and 16-2A-6.

1.3. **Filing Date** - April 8, 1994.

1.4. **Effective Date** - April 8, 1994.

§64-67-2. Application and Enforcement.

2.1. **Application** - This rule applies to the distribution of State aid funds to local boards of health by the director of the division of health.

2.2. **Enforcement** - This rule is enforced by the director of the division of health.

§64-67-3. Definitions.

3.1. **Director** - The director of the division of health or his or her designee.

3.2. **Division of Health (Division)** - The division of health of the department of health and human resources.

3.3. **Fiscal Year** - Twelve (12) month period beginning the first day of July and ending the thirtieth day of June.

3.4. **Local Board of Health** - A board of health created under the provisions of W. Va. Code §§16-2-1 to 16-2-7 or §§16-2A-1 to 16-2A-10. A local board of health may be organized to encompass one (single-county board of health) or more counties (multi-county board of health).

3.5. **State Aid Funds** - Funds appropriated by the Legislature to provide aid to local boards of health.

§64-67-4. Formula; Allocation of Funds.

4.1. The director shall distribute State aid funds to local boards of health as directed by the State Legislature, this rule and State law.

4.2. The amount of State aid funds available for distribution to local boards of health by the formula established by Section 4.3 of this rule is the amount of funds appropriated by the Legislature for this purpose: Provided, That prior to applying the formula, the director may withhold no more than two percent (2%) of the funds, as shown in the appropriate line item in the State budget, for use in emergencies according to the provisions of Section 5 of this rule: and, Provided further, That prior to applying the formula, the director shall subtract and distribute funds necessary to implement any special instructions of the Legislature.

4.3. The director shall calculate the amount of State aid funds to be distributed to each local board of health according to the following formula:

4.3.1. The director shall first determine a per capita dollar figure by dividing the amount of State funds available for distribution by the total State population;

4.3.2. The director shall multiply the population of each county by the per capita dollar figure to determine each county's share of the funds; and

4.3.3. In the instance of a single-county local board of health, the director shall distribute to the board the county's share of funds as calculated according to Section 4.3.2 of this rule; in the instance of a multi-county board of health, the director shall distribute to the board the sum of the funds calculated for the individual counties under the jurisdiction of the board.

4.4. In performing the calculations described in Section 4.3 of this rule, the director shall use the most recent United States Bureau of the Census state and county population figures available.

4.5. The director shall complete the calculations as soon as possible, but not more than two (2) weeks after the budget is passed and the legislative budget instructions, commonly referred to as the budget digest, are approved.

4.6. After completing the calculations described in Section 4.3 of this rule, the director shall inform local boards of health in writing of their allocation as quickly as possible, but in any case not more than four (4) weeks after the Legislature has passed the budget and approved the legislative budget instructions.

4.7. The director shall cause State aid funds to be dis-

64 CSR 67

tributed to eligible local boards of health according to standard State procedures beginning the first day of July of the fiscal year for which the funds have been appropriated or as soon as possible after the Legislature has passed the budget and approved the legislative budget instructions.

4.8. To minimize the impact of potential losses for some counties, the director shall phase in the use of the per capita formula.

4.9. Beginning with fiscal year 1997, the director shall distribute State aid funds to local boards of health on a per capita basis as provided by this rule and as otherwise required by State law.

§64-67-5. Emergency Fund; Establishment; Administration.

5.1. The director shall use the emergency fund established under the provisions of Section 4.2 of this rule to assist local boards of health in need of funds to meet unanticipated financial emergencies.

5.2. Funds not obligated for emergency use by the fifteenth day of May shall be distributed by the director to local boards of health according to the provisions of Section 4.3 of this rule.

§64-67-6. Administrative Due Process - Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

§64-67-7. Severability - The provisions of this rule are severable. If any provision of this rule is invalid, the remaining provisions remain in effect.

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H. B. 4266

(By Delegates Gallagher, Douglas, Condon,
Runtwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on Finance then the Judiciary)

10 A BILL to amend and reenact section one, article five, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 department of health and human resources to promulgate
14 legislative rules relating to the distribution of state aid
15 funds to local boards of health.

16 Be it enacted by the Legislature of West Virginia:

17 That section one, article five, chapter sixty-four of the
18 code of West Virginia, one thousand nine hundred thirty-one, as
19 amended, be amended and reenacted, to read as follows:

20 **ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN**
21 **RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

22 §64-5-1. Department of health and human resources.

23 (a) The legislative rules filed in the state register on the
24 twenty-second day of January, one thousand nine hundred ninety,

4266

1 modified by the secretary of the department of health and human
2 resources to meet the objections of the legislative rule-making
3 review committee and refiled in the state register on the
4 twenty-fifth day of January, one thousand nine hundred ninety,
5 relating to the secretary of the department of health and human
6 resources (implementation of omnibus health care act), are
7 authorized.

8 (b) The legislative rules filed in the state register on the
9 twenty-second day of January, one thousand nine hundred ninety,
10 modified by the secretary of the department of health and human
11 resources to meet the objections of the legislative rule-making
12 review committee and refiled in the state register on the
13 twenty-fifth day of January, one thousand nine hundred ninety,
14 relating to the secretary of the department of health and human
15 resources (implementation of omnibus health care act payment
16 provisions), are authorized.

17 (c) The legislative rules filed in the state register on the
18 twentieth day of March, one thousand nine hundred ninety-two,
19 modified by the department of health and human resources to meet
20 the objections of the legislative rule-making review committee
21 and refiled in the state register on the seventeenth day of
22 November, one thousand nine hundred ninety-two, relating to the
23 department of health and human resources (infectious medical
24 waste), are authorized with the amendments set forth below:

1 "On page seventeen, subsection 8.2, by after the words '(45)
2 days.' by inserting the following language: 'Facilities that
3 treat infectious medical waste on-site shall not store the
4 infectious medical waste more than thirty (30) days.';

5 On page twenty-one, subdivision 10.1.2., by after the words
6 'disposed of' striking out the words 'as solid waste' and
7 inserting in lieu thereof the words 'in the same manner as ash
8 from solid waste incineration and as provided in subdivision
9 10.2.5. of this rule.';

10 On page twenty-six, subsection 11.7., by after the words
11 'permit to' inserting the words 'own, operate and';

12 On page twenty-six, subsection 11.7., by striking out the
13 word 'publish' and inserting in lieu thereof the words 'announce
14 the public hearing required by subsection 11.9. of this rule by
15 publishing';

16 On page twenty-six, by further amending subsection 11.7. by
17 adding thereto a new subdivision, designated subdivision
18 11.7.1.4. to read as follows: 'The announcement of the date,
19 time and place where the hearing is to be conducted, shall be
20 made at least fourteen (14) but not more than forty-five (45)
21 days prior to the hearing;

22 And,

23 On page twenty-six, subsection 11.9, by after the words
24 'proposing to' inserting the words 'own, construct and'.

1 (d) The legislative rules filed in the state register on the
2 third day of September, one thousand nine hundred ninety-two,
3 modified by the department of health and human resources to meet
4 the objections of the legislative rule-making review committee
5 and refiled in the state register on the twenty-seventh day of
6 January one thousand nine hundred ninety-three, relating to the
7 department of health and human resources (residential board and
8 care homes), are authorized.

9 (e) The legislative rules filed in the state register on the
10 ninth day of September, one thousand nine hundred ninety-three,
11 modified by the department of health and human resources to meet
12 the objections of the legislative rule-making review committee
13 and refiled in the state register on the twenty-fourth day of
14 January, one thousand nine hundred ninety-four, relating to the
15 department of health and human resources (distribution of state
16 aid funds to local boards of health), are authorized.

17

18 NOTE: The purpose of this bill is to authorize the
19 Department of Health and Human Resources to promulgate
20 legislative rules relating to the distribution of state aid funds
21 to local boards of health.

22

23 Strike-throughs indicate language that would be stricken from
24 the present law, and underscoring indicates new language that
25 would be added.

SENATE BILL NO. 181

1 (By Senators Manchin, Anderson, Grubb, Macnaughtan,
2 and Minard)

3 [Introduced January 31, 1994; referred to the
4 Committee on

HEALTH AND HUMAN RESOURCES

5
6 Judiciary
7
8
9

10 A BILL to amend and reenact section one, article five, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 department of health and human resources to promulgate
14 legislative rules relating to the distribution of state aid
15 funds to local boards of health.

16 Be it enacted by the Legislature of West Virginia:

17 That section one, article five, chapter sixty-four of the
18 code of West Virginia, one thousand nine hundred thirty-one, as
19 amended, be amended and reenacted, to read as follows:

20 ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN
21 RESOURCES TO PROMULGATE LEGISLATIVE RULES.

22 §64-5-1. Department of health and human resources.

23 (a) The legislative rules filed in the state register on the
24 twenty-second day of January, one thousand nine hundred ninety,

1 modified by the secretary of the department of health and human
2 resources to meet the objections of the legislative rule-making
3 review committee and refiled in the state register on the
4 twenty-fifth day of January, one thousand nine hundred ninety,
5 relating to the secretary of the department of health and human
6 resources (implementation of omnibus health care act), are
7 authorized.

8 (b) The legislative rules filed in the state register on the
9 twenty-second day of January, one thousand nine hundred ninety,
10 modified by the secretary of the department of health and human
11 resources to meet the objections of the legislative rule-making
12 review committee and refiled in the state register on the
13 twenty-fifth day of January, one thousand nine hundred ninety,
14 relating to the secretary of the department of health and human
15 resources (implementation of omnibus health care act payment
16 provisions), are authorized.

17 (c) The legislative rules filed in the state register on the
18 twentieth day of March, one thousand nine hundred ninety-two,
19 modified by the department of health and human resources to meet
20 the objections of the legislative rule-making review committee
21 and refiled in the state register on the seventeenth day of
22 November, one thousand nine hundred ninety-two, relating to the
23 department of health and human resources (infectious medical
24 waste), are authorized with the amendments set forth below:

1 "On page seventeen, subsection 8.2, by after the words '(45)
2 days.' by inserting the following language: 'Facilities that
3 treat infectious medical waste on-site shall not store the
4 infectious medical waste more than thirty (30) days.';

5 On page twenty-one, subdivision 10.1.2., by after the words
6 'disposed of' striking out the words 'as solid waste' and
7 inserting in lieu thereof the words 'in the same manner as ash
8 from solid waste incineration and as provided in subdivision
9 10.2.5. of this rule.';

10 On page twenty-six, subsection 11.7., by after the words
11 'permit to' inserting the words 'own, operate and';

12 On page twenty-six, subsection 11.7., by striking out the
13 word 'publish' and inserting in lieu thereof the words 'announce
14 the public hearing required by subsection 11.9. of this rule by
15 publishing';

16 On page twenty-six, by further amending subsection 11.7. by
17 adding thereto a new subdivision, designated subdivision
18 11.7.1.4. to read as follows: 'The announcement of the date,
19 time and place where the hearing is to be conducted, shall be
20 made at least fourteen (14) but not more than forty-five (45)
21 days prior to the hearing;

22 And,

23 On page twenty-six, subsection 11.9, by after the words
24 'proposing to' inserting the words 'own, construct and'.

1 (d) The legislative rules filed in the state register on the
2 third day of September, one thousand nine hundred ninety-two,
3 modified by the department of health and human resources to meet
4 the objections of the legislative rule-making review committee
5 and refiled in the state register on the twenty-seventh day of
6 January one thousand nine hundred ninety-three, relating to the
7 department of health and human resources (residential board and
8 care homes), are authorized.

9 (e) The legislative rules filed in the state register on the
10 ninth day of September, one thousand nine hundred ninety-three,
11 modified by the department of health and human resources to meet
12 the objections of the legislative rule-making review committee
13 and refiled in the state register on the twenty-fourth day of
14 January, one thousand nine hundred ninety-four, relating to the
15 department of health and human resources (distribution of state
16 aid funds to local boards of health), are authorized.

17

18 NOTE: The purpose of this bill is to authorize the
19 Department of Health and Human Resources to promulgate
20 legislative rules relating to the distribution of state aid funds
21 to local boards of health.

22

23 Strike-throughs indicate language that would be stricken from
24 the present law, and underscoring indicates new language that
25 would be added.



RECEIVED

JUN - 2 1994

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

KEN HECHLER
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Deputy Secretary of State

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REGULATORY DEVELOPMENT
SECTION
STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

TO: Kay Howard

AGENCY: Health

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 1, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 67 TITLE: 64 Health

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: Kay Howard, Director, Regulatory Development

DATE: July 12, 1994

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
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(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 16, 1994

Kay Howard
Health
Bldg. 3, Rm. 204
State Capitol Complex
Charleston, WV 25305

SB 1006 authorizing, Title 64, Series 67, Distribution of State Aid Funds to Local Boards of Health, passed the Legislature on March 15, 1994. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 1006, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 1006** section **64-5-1(f)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division