WEST VIRGINIA CODE: §55-17-3

§55-17-3. Preliminary procedures; service on Attorney General; notice to the Legislature.

(a)(1) Notwithstanding any provision of law to the contrary, at least 30 days prior to the institution of an action against a governmental agency, the complaining party or parties shall provide the chief officer of the governmental agency and the Attorney General written notice, by certified mail, return receipt requested, of the alleged claim and the relief desired. Upon receipt, the chief officer of the governmental agency shall immediately forward a copy of the notice to the President of the Senate and the Speaker of the House of Delegates. The provisions of this subdivision do not apply in actions seeking injunctive relief where the court finds that irreparable harm would have occurred if the institution of the action was delayed by the provisions of this subsection.

(2) The written notice to the chief officer of the governmental agency and the Attorney General required by subdivision (1) of this subsection is considered to be provided on the date of mailing of the notice by certified mail, return receipt requested. If the written notice is provided to the chief officer of the governmental agency as required by subdivision (1) of this subsection, any applicable statute of limitations is tolled for 30 days from the date the notice is provided and, if received by the governmental agency as evidenced by the return receipt of the certified mail, for 30 days from the date of the returned receipt.

(3) A copy of any complaint filed in an action as defined in §55-17-2 of this code shall be served on the Attorney General.

(b) (1) Notwithstanding any procedural rule or any provision of this code to the contrary in an action instituted against a governmental agency that seeks a judgment, as defined in §55-17-2 of this code, the chief officer of the governmental agency which is named a party to the action shall, upon receipt of service, immediately give written notice thereof, together with a copy of the complaint filed, to the President of the Senate and the Speaker of the House of Delegates.

(2) Upon request, the chief officer of the governmental agency shall furnish the President of the Senate and Speaker of the House with copies of pleadings filed and discovery produced in the proceeding and other documents, information, and periodic reports relating to the proceeding as may be requested.

(3) The chief officer of a governmental agency who fails without good cause to comply with the provisions of this subsection is guilty of misfeasance. This subsection does not require a notice or report to the President of the Senate and the Speaker of the House that no action has been instituted or is pending against a governmental agency during a specified period.

(c) The requirements for notice and delivery of pleadings and other documents to the

WV Legislature

President of the Senate or Speaker of the House of Delegates pursuant to the provisions of this section do not constitute a waiver of any constitutional immunity or protection that proscribes or limits actions, suits, or proceedings against the Legislature or the State of West Virginia.

(d) The exercise of authority granted by the provisions of this section does not subject the Legislature or any member of the Legislature to any terms of a judgment.

(e) If 90 days elapse after service of notice required by subsection (a) of this section has been effected and action has not been instituted, then the notice shall be considered to have expired, and before an action may be instituted, the complaining party or parties must provide new notice as required by subsection (a) of this section which shall be accompanied by a second or subsequent notice fee of $250 to the attorney general and by a second or subsequent notice fee of $250 to the chief officer of the governmental agency: *Provided*, That no further tolling of any applicable statute of limitations shall occur during any second or subsequent notice.

WV Legislature