

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

Form #7

Do Not Mark In This Box
Filing Date

FILED

2014 APR -7 P 3:30

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: WV Enterprise Resource Planning Board TITLE NUMBER: 213

CITE AUTHORITY: W. Va. Code 12-6D-2(7)

EMERGENCY 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 RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: "Enterprise Resource Planning System User Fee"

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME
EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER
FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE
AS FOLLOWS:

"See Attached Statement of Circumstances"

Use additional sheets if necessary

Carrie J. Chambers

Authorized Signature



State of West Virginia

Glen B. Gainer III
State Auditor

Office of the State Auditor
1900 Kanawha Boulevard, East
State Capitol Complex, Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
www.wvsao.gov

April 7, 2014

Ms. Judy Cooper
Director
Administrative Law Division
Secretary of State's Office
Capitol Complex
Charleston, West Virginia 25305

RE: 213CSR1 – "Enterprise Resource Planning System User Fee"

Dear Ms. Cooper:

In accordance with W. Va. Code §12-6D-2(7), this letter will serve as my approval to file the above-referenced rule with your Office as an Emergency Rule. The justification for filing this rule as an Emergency is attached.

We will await your review of the proposed Emergency Rule; however, in the meantime, should you have any questions or require additional information, please contact Carrie Chambers in my Office at 304-558-2251. Your assistance in this filing is very much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen B. Gainer III".

Glen B. Gainer III
State Auditor

GBGIII:cc

Attachment

c: Carrie Chambers



EMERGENCY RULE QUESTIONNAIRE

DATE: April 7, 2014

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Enterprise Resource Planning Board
1900 Kanawha Boulevard, East
State Capitol Building 1, Room W-100
Charleston, WV 25305
Attn: Carrie J. Chambers - (304)558-2251

EMERGENCY RULE TITLE: Enterprise Resource Planning System User Fee

1. Date of filing April 7, 2014

2. Statutory authority for promulgating emergency rule:

~~West Virginia Code §12-6D-2(7) authorizes the Enterprise Resource Planning Board to propose legislative rules, including emergency rules, to establish a user fee for the maintenance of the Enterprise Resource System.~~

3. Date of filing of proposed legislative rule: April 7, 2014

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? This is a new rule, adopting new language.

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

~~The establishment of a user fee for the Enterprise Resource Planning (ERP) System is necessary for the immediate preservation of the public welfare because these fees are needed for the continued operation and maintenance of the ERP System. The ERP System integrates the State's financial management, procurement, personnel, payroll, budget development and other administrative business processes into a unified system that reaches across all aspects of State government, affecting thousands of West Virginians every day.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

~~An emergency rule is needed so that the Enterprise Resource Planning (ERP) Board may establish the user fee prior to implementation of the core financial management phase of the project on or about July 1, 2014. The Governor has included increases in general revenue and lottery funded agency appropriations to cover these fees in the executive budget for Fiscal Year 2015, but they cannot be assessed or collected from the user agencies until the emergency rule is in place and the amount of the fee is actually determined by the ERP Board.~~

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~These user fees are needed to maintain sufficient funds in the Enterprise Resource Planning System Fund authorized by West Virginia Code §12-6D-5 to cover the costs of the operation and maintenance of the ERP System. Several phases of the System have already been implemented, and there will be insufficient monies available for its continued operation without the collection of these fees. Because the State will be depending on the ERP System for nearly all of its business and administrative functions, failure to provide adequate funding would cause substantial harm to the public interest.~~

PROMULGATION OF AN EMERGENCY RULE

BRIEF SUMMARY AND STATEMENT OF FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY

West Virginia Code §12-6D-2(7) authorizes the Enterprise Resource Planning Board to propose legislative rules, including emergency rules, to establish a user fee for the maintenance of the Enterprise Resource System.

The establishment of a user fee for the Enterprise Resource Planning (ERP) System is necessary for the immediate preservation of the public welfare because these fees are needed for the continued operation and maintenance of the ERP System. The ERP System integrates the State's financial management, procurement, personnel, payroll, budget development and other administrative business processes into a unified system that reaches across all aspects of State government, affecting thousands of West Virginians every day.

An emergency rule is needed so that the Enterprise Resource Planning (ERP) Board may establish the user fee prior to implementation of the core financial management phase of the project on or about July 1, 2014. The Governor has included increases in general revenue and lottery funded agency appropriations to cover these fees in the executive budget for Fiscal Year 2015, but they cannot be assessed or collected from the user agencies until the emergency rule is in place and the amount of the fee is actually determined by the ERP Board.

These user fees are needed to maintain sufficient funds in the Enterprise Resource Planning System Fund authorized by West Virginia Code §12-6D-5 to cover the costs of the operation and maintenance of the ERP

System. Several phases of the System have already been implemented, and there will be insufficient monies available for its continued operation without the collection of these fees. Because the State will be depending on the ERP System for nearly all of its business and administrative functions, failure to provide adequate funding would cause substantial harm to the public interest.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Enterprise Resource Planning System User Fee

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Enterprise Resource System Planning Board

Address: 1900 Kanawha Boulevard, East
State Capitol, Building 1, Room W-100
Charleston, WV 25305
Attn: Carrie J. Chambers

Phone Number: (304) 558-2251 Email: carrie.chambers@wvsao.gov

Fiscal Note Summary

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

The Governor, in his FY 2015 budget bill submitted to the Legislature in the 2014 regular session, included increases to general and lottery funded agencies for anticipated ERP fee assessments. This is the first step taken to address the ERP Planning Board's on-going funding needs. These dollar amounts were calculated using filled and vacant FTEs on 11/30/13 and assumed ERP fee assessments would be \$200 / FTE. Note that only general and lottery accounts were provided additional appropriations above their FY 2014 baseline budgets. It is assumed that all other funding sources would pay any ERP fee assessments from their FY 2015 appropriations. FTEs on 11/30/13 totalled 41,561 in all funding sources. Assuming the fee assessments are \$200 / FTE, \$8,312,200 would be the total fees generated per year.

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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	8,312,200.00	8,312,200.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other	0.00	8,312,200.00	8,312,200.00
2. Estimated Total Revenues	0.00	8,312,200.00	8,312,200.00

Rule Title: Enterprise Resource Planning System User Fee

Rule Title:

Enterprise Resource Planning System User Fee

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

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

The Governor, in his FY 2015 budget bill submitted to the Legislature in the 2014 regular session, included increases to general and lottery funded agencies for anticipated ERP fee assessments. This is the first step taken to address the ERP Planning Board's on-going funding needs. These dollar amounts were calculated using filled and vacant FTEs on 11/30/13 and assumed ERP fee assessments would be \$200 / FTE. Note that only general and lottery accounts were provided additional appropriations above their FY 2014 baseline budgets. It is assumed that all other funding sources would pay any ERP fee assessments from their FY 2015 appropriations.

FTEs on 11/30/13 totalled 41,561 in all funding sources. Assuming the fee assessments are \$200 / FTE, \$8,312,200 would be the total fees generated per year.

Total estimated costs by funding source would be as follows:

	FTEs	Cost
General	16,281	\$3,256,200
Lottery	240	48,000
Road	5,931	1,186,200
Federal	4,586	917,200
Special Apprp	2,712	542,400
Non App & Other	11,811	2,362,200
Total	41,561	\$8,312,200

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.

The above amounts assume a \$200 / FTE fee assessment and that billable FTEs total 41,561.

Date: April 7, 2014

Signature of Agency Head or Authorized Representative

Carrie J. Chambers

TITLE 213
EMERGENCY RULE
WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD
SERIES 1
ENTERPRISE RESOURCE PLANNING SYSTEM USER FEE

FILED
 APR -7 P 3:31
 OFFICE WEST VIRGINIA
 SECRETARY OF STATE

§ 213-1-1. General.

1.1. Scope. -- This rule authorizes the West Virginia Enterprise Resource Planning Board to charge a user fee for the operation and maintenance of the Enterprise Resource Planning (ERP) System.

1.2. Authority. -- W. Va. Code §12-6D-2(7).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. W. Va. Code §12-6D-2(7) authorizes the West Virginia Enterprise Resource Planning Board to establish a user fee for the maintenance of the Enterprise Resource Planning System established by the provisions of W. Va. Code §12-6D-1 *et seq.* and developed, implemented and managed by the Board.

§213-1-2. Definitions.

2.1. "Board" means the West Virginia Enterprise Resource Planning Board created by W. Va. Code § 12-6D-1.

2.2. "Enterprise Resource Planning System" ("ERP System") means the comprehensive group of hardware, software and applications which collectively provide for the integration of data sources into a unified system that includes the state's financial management, procurement, personnel, payroll, budget development and other administrative business processes.

2.3. "Enterprise Resource Planning System Fund" ("Fund") means the fund created in the state treasury as authorized by W. Va. Code §12-6D-5.

§213-1-3. User Fee Assessment.

3.1. The Board may assess a user fee to be imposed upon every spending unit of state government utilizing the ERP System, based upon the number of Full Time Equivalent (FTE) positions (filled and unfilled) assigned to that spending unit on July 1 of each year.

3.2. The amount of the user fee shall be established on an annual basis by the Board to determine whether any changes are required to maintain a sufficient balance in the Enterprise Resource Planning Fund during that fiscal year to meet the operational and maintenance requirements of the ERP System.

3.3 Any changes to the user fee shall be established by the Board in sufficient time to be included in the executive budget for the ensuing fiscal year.

3.4. The Board shall maintain all necessary documentation, including any cost or other financial schedules, that were used in determining the amount of the user fee.

§213-1-4. Disposition of Fees.

4.1. All fees collected shall be deposited in the state treasury and credited to the "Enterprise Resource Planning System Fund" as authorized by W. Va. Code §12-6D-5 to be administered by the Board.

4.2. Expenditures from the Fund may be made for the purposes set forth in Article 6D, Chapter 12 in accordance with appropriations by the Legislature.