

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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CLERK OF COURTS
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Form #6

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

AGENCY: WV State Auditor's Office TITLE NUMBER: 155

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: "State Purchasing Card Program"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 349

SECTION 64-9-3(b), PASSED ON March 27, 2008 (Signed)

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 7, 2008

Carrie J. Chambers

Authorized Signature

FILED

TITLE 155
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION AND STATE AUDITOR

2009 APR -7 PM 2: 23

SERIES 7
STATE PURCHASING CARD PROGRAM

DEPARTMENT OF ADMINISTRATION
SECRETARY OF STATE

§155-7-1. General.

1.1. Scope. -- This legislative rule is an explanation and clarification of operative procedures for the State Purchasing Card Program. This program provides the preferred method of payment for goods and services.

1.2. Authority. -- WV Code §12-3-10a.

1.3. Filing Date. -- April 7, 2008.

1.4. Effective Date. -- April 7, 2008.

§155-7-2. Definitions.

2.1. "Auditor" means the Auditor of the State of West Virginia.

2.2. "Cardholder" means the individual responsible for and named on the Pcard.

2.3. "Chief Financial Officer" means the individual responsible for oversight of the financial activity within a spending unit.

2.4. "Director of Auditing" means the audit program administrator for the Auditor's purchasing card division.

2.5. "Director of Operations" means the operations' program administrator for the Auditor's purchasing card division.

2.6. "Emergency management or response personnel" means all persons acting under color of authority of state law engaged in rescue efforts, emergency or disaster relief recovery or coordination of emergency services, and are identified as such by a Board of Public Works member or the President of an institution of higher education as set forth in subsections 3.2

and 3.3 of this rule.

2.7. "Executive Director" means the individual appointed by the Auditor to oversee and coordinate the operations and audit functions of the Purchasing Card Program and manage the purchasing card division.

2.8. "Goods" means commodities, supplies, materials, printing, equipment, and any other articles or items used by or furnished to a spending unit.

2.9. "Maintenance" means services including, but not limited to, the care and preservation of facilities, grounds, equipment or computer software, including parts incidental to providing the service.

2.10. "Point of Sale Vendor" means the point of sale or supplier of goods or services that accepts the purchasing card for payment.

2.11. "Purchasing card" or "Pcard" means the payment account issued by the financial institution to make payment for transactions.

2.12. "Purchasing Card Coordinator" or "Coordinator" means the spending unit's Chief Financial Officer or his or her designee responsible for the administration of the Pcard Program within his or her spending unit.

2.13. "Purchasing Card Provider" or "Provider" means the financial institution providing the State with Pcard services.

2.14. "Services" means the furnishing of labor, time or effort by a vendor.

2.15. "Spending unit" means a department, agency or institution of State government.

2.16. "State Purchasing Card Program" or "Pcard Program" means the Division of the Auditor's office that administers, oversees and enforces the rules, procedures, and operations governing use of the Pcard.

2.17. "Transactions" means the payment for:

2.17.a. Goods;

2.17.b. Services, including but not limited to, maintenance and utilities;

2.17.c. Registration, license or membership fees for spending units or for individuals where the fees are required for the performance of the employee's job;

2.17.d. Tuition for seminars, academic courses, or other education, continuing or otherwise as are required for the performance of an employee's job duties and authorized by law or Attorney General opinion;

2.17.e. Travel in accordance with the applicable spending unit guidelines; and

2.17.f. Routine, regularly scheduled payments. This includes all payments which have either received Attorney General approval in accordance with statute or do not require approval, and are made on a regular, predictable and routine basis whether weekly, monthly, annually, or on any other regular schedule. The routine, regularly scheduled payments shall include but are not limited to the following: association dues; accreditation fees; contracts; software licenses and maintenance fees; resale merchandise; maintenance contracts; temporary space rentals; inter-library loan charges; inter/intra-institutional charges; contracts for artists, entertainers, and speakers; open end

contracts; license fees of all types; utilities of all types; federal, state and municipal fees and assessments; real property rental fees; postage; books and related items, including those for libraries and bookstores; hospitality expenses; travel expenses; shipping, handling, and freight charges; advertising; subscriptions; periodicals, and publications; athletic and academic team related expenses; and necessary job related medical or drug testing and treatment.

2.18. "Transaction Limit" means the maximum dollar amount permitted in any single transaction as approved by the Auditor.

2.19. "Utilities" means electricity, gas, heating oil, telecommunications, water, sewage, garbage collection, and similar services.

§155-7-3. Applicability.

3.1. This legislative rule applies to all spending units of State government except those statutorily exempted. Exempted spending units may elect to follow the provisions of this rule.

3.2. In the event of a public necessity, rescue, relief, disaster, or state or federally declared emergency, a member of the Board of Public Works or his or her designee may authorize the use of the Pcard by emergency management or response personnel. Emergency management and response personnel may use the Pcard for all transactions permitted by this rule: Provided, That the Board of Public Works member or his or her designee shall provide to the Director of Operations a list containing the names of persons designated as emergency management and response personnel, and any other information required for the use of a state Pcard. An emergency terminates thirty (30) days from the date of occurrence unless previously extended or terminated in writing by the initiating member: Provided, however, That emergency use of the Pcard is permitted only during the emergency,

public necessity, rescue relief or disaster, to which the emergency management or response personnel are responding, and that upon termination of the emergency, public necessity, rescue relief or disaster by the initiating member, or the passage by the legislature of a concurrent resolution terminating the emergency, public necessity, rescue relief or disaster, the privilege of use terminates: Provided, further, That emergency management and response personnel have an additional thirty (30) days after the termination of the emergency to pay invoices for goods and services rendered during the declared emergency.

3.3. In the event of an emergency affecting an institution of Higher Education, declared by the president of the institution and approved by the chancellor, the president or his or her designee may authorize the use of emergency Pcards by designated representatives: Provided, That the president or his or her designee shall provide to the Director of Operations a list containing the names of designated emergency purchasers, and any other information required for the use of a state Pcard. An emergency terminates thirty (30) days from the date of proclamation, unless previously extended or terminated by written proclamation signed by the president and approved by the chancellor: Provided, however, That emergency use of the Pcard is permitted only to pay for goods and services rendered during the emergency: Provided, further, That the institution shall have an additional thirty (30) days after the termination of the emergency to pay for goods and services rendered during the emergency.

§155-7-4. Power and Authority.

4.1. The Director of Operations may:

4.1.a. Allow agency participation in the Pcard Program;

4.1.b. Require documentation of appropriate accounting and internal control

procedures related to Pcard use;

4.1.c. Allow Pcard purchases of transactions not exceeding transaction limits;

4.1.d. Establish the procedures by which spending units may use the Pcard for cash advances;

4.1.e. Monitor spending unit records of transactions;

4.1.f. In joint effort with the Director of Auditing, resolve questions and conflicts regarding procedural matters related to the implementation and administration of the Pcard;

4.1.g. Revoke authority to use a Pcard at any level of use if it is determined that a spending unit is in violation of this rule;

4.1.h. Draft letters and memorandum concerning Pcard policies and procedures and changes in the program;

4.1.i. Maintain a current cardholder list;

4.1.j. Coordinate contractual agreements between the Provider and the State of West Virginia;

4.1.k. Receive, review and approve new Pcard application forms and cardholder maintenance forms reflecting cancellations or other changes to cardholder information;

4.1.l. Maintain a Pcard coordinator list;

4.1.m. Advise and train coordinators and cardholders in correct business usage of the Pcard;

4.1.n. Authorize cardholder renewals;

4.1.o. Approve all limit changes for

cardholders and spending units as requested by the coordinators;

4.1.p. Research new applications for the Pcard;

4.1.q. Assist spending units with establishing Pcard Programs;

4.1.r. Assist point of sale vendors who wish to participate in the Pcard Program;

4.1.s. Direct the Pcard provider to restrict a point of sale vendor from using the program when the restriction is in the best interest of the State;

4.1.t. Establish procedures for documenting, reconciling and paying invoices for Pcard transactions;

4.1.u. Approve the format of Pcard provider invoices;

4.1.v. Monitor available credit by spending units on a daily basis, and, when necessary intervene with the provider and/or spending unit to prevent a spending unit from exceeding the maximum credit level; and

4.1.w. In joint effort with the Director of Auditing, market the program to spending units, the general public and municipalities.

4.2. The Director of Auditing may:

4.2.a. Establish the manner of inspection and review of all records and reconciliation of documents associated with Pcard transactions;

4.2.b. Conduct inspections and reviews associated with Pcard transactions;

4.2.c. Require documentation of appropriate accounting and internal control procedures;

4.2.d. Determine that goods and services purchased are properly received;

4.2.e. Determine if Pcard transactions are in compliance with applicable law, rules and regulations, and policies and procedures and other governing instruments;

4.2.f. In joint effort with the Director of Operations, resolve questions and conflicts regarding procedural matters related to the implementation and administration of the Pcard;

4.2.g. Revoke authority to use Pcards at any level of use if it is determined that a spending unit is in violation of this rule; and

4.2.h. In joint effort with the Director of Operations, market the program to spending units, the general public and municipalities;

4.3. Purchasing Card Coordinators:

4.3.a. Each spending unit's Chief Financial Officer or his or her designee shall serve as the spending unit Pcard Coordinator and shall determine to whom Pcards will be issued.

4.3.a.1. Pcard Coordinators may restrict usage of the Pcard consistent with the needs of the spending unit.

4.3.a.2. A Pcard Coordinator shall maintain appropriate accounting and internal control procedures for his or her spending unit.

4.4. Penalties:

The Auditor may, in cooperation with the State Treasurer, assess and collect penalty fees against spending units for failing to use the Pcard for transactions that qualify for the program, and deposit the fees in the Technology Support and Acquisition Fund. The Auditor and Treasurer shall set the fee in a legislative rule.

§155-7-5. Payment Methods.

5.1. The provisions of WV Code §5A-3-1 et seq., and the Purchasing Division Purchasing Rules, 148 CSR 1, apply to purchases made with the Pcard, except where exempt by statute.

5.2. The Pcard is to be used in the State's best interest.

§155-7-6. Itemizing Claims for Payment.

6.1. The Pcard provider shall issue a detailed statement of transactions to each spending unit, as required by the Auditor. The Auditor may consolidate payments to the Pcard provider.

§155-7.7. Violations.

7.1. Any person who uses a Pcard in a manner which violates this rule or the West Virginia Code is guilty of a felony, pursuant to WV Code §12-3-10b.

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 349

(Senators Minard, Fanning, Prezioso,

Unger, Boley and Facemyer, *original sponsors*)

[Passed March 8, 2008; in effect from passage.]

AN ACT to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Board of Acupuncture to promulgate a legislative rule relating to disciplinary and complaint procedures for acupuncturists; authorizing the Board of Acupuncture to promulgate a legislative rule relating to continuing education requirements; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the fee structure for the Pesticide Control Act of 1990; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Plant Pest Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to frozen desserts and imitation frozen desserts; authorizing the State Auditor to promulgate a legislative rule relating to standards for requisitions for payment issued to state officers on the Auditor; authorizing the State Auditor to promulgate a legislative rule relating to the State Purchasing Card Program; authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the board; authorizing the State Election Commission to promulgate a legislative rule relating to corporate political activity; authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the State Election Commission to promulgate a legislative rule relating to election expenditures; authorizing the Board of Funeral Service Examiners to promulgate a

legislative rule relating to funeral director, embalmer, apprentice, courtesy card holder and funeral establishment requirements; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to the board; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to general provisions; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to continuing education; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to a standard of ethics; authorizing the Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatrists; authorizing the Board of Medicine to promulgate a legislative rule relating to collaborative pharmacy practice; authorizing the Board of Medicine to promulgate a legislative rule relating to certification, disciplinary and complaint procedures, continuing education and radiologist assistants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Pharmaceutical Cost Management Council to promulgate a legislative rule relating to prescription drug advertising expense reporting; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to the examination and licensing of professional surveyors in West Virginia; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to fees for surveyors and surveying firms; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to standards for the practice of surveying in West Virginia; authorizing the Public Service Commission to promulgate a legislative rule relating to emergency telephone service; authorizing the Secretary of State to promulgate a legislative rule relating to the use of digital signatures, state certificate authority and the state repository; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech-pathology and audiology; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to the registration of veterinary technicians.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Acupuncture.

(a) The legislative rule filed in the State Register on the seventeenth day of July, two thousand seven, authorized under the authority of section seven, article thirty-six, chapter thirty of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixth day of November, two thousand seven, relating to the Board of Acupuncture (disciplinary and complaint procedures for acupuncturists, 32 CSR 7), is authorized with the following amendments:

On page one, by striking out subsection 3.7. and renumbering the remaining subsection;

And,

On page seven, section five, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

'32-7-5. Complaint Disposition.'

(b) The legislative rule filed in the State Register on the seventeenth day of July, two thousand seven, authorized under the authority of section seven, article thirty-six, chapter thirty of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the sixth day of November, two thousand seven, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 9), is authorized with the following amendment:

On page two, subsection 5.2., after the word 'shall' by inserting the word 'assign';

And,

On page three, subsection 7.1., by striking out the word "fourty-eight" and inserting in lieu thereof the word "forty- eight".

§64-9-2. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on the twenty-fourth day of July, two thousand seven, authorized under the authority of section four, article sixteen-a, chapter nineteen of this code, relating to the Commissioner of Agriculture (fee structure for the Pesticide Control Act of 1990, 61 CSR 12), is authorized.

(b) The legislative rule filed in the State Register on the twenty-ninth day of June, two thousand seven, authorized under the authority of section five, article two-c, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-eighth day of August, two thousand seven, relating to the Commissioner of Agriculture (auctioneers, 61 CSR 11B), is authorized with the following amendment:

On page one, subsection 3.1., by striking out the word 'applicant's' and inserting in lieu thereof the word 'applicant'.

(c) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section three, article twelve, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-seventh day of August, two thousand seven, relating to the Commissioner of Agriculture (West Virginia Plant Pest Act, 61 CSR 14), is authorized.

(d) The legislative rule filed in the State Register on the twenty-sixth day of June, two thousand seven, authorized under the authority of section three, article two-b, chapter nineteen of this code, relating to the Commissioner of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

(e) The legislative rule filed in the State Register on the twenty-fourth day of July, two thousand seven, authorized under the authority of section ten, article eleven-b, chapter nineteen of this code, relating to the Commissioner of Agriculture (frozen desserts and imitation frozen desserts, 61 CSR 4B), is authorized.

§64-9-3. State Auditor.

(a) The legislative rule filed in the State Register on the twenty-fifth day of July, two thousand seven, authorized under the authority of section ten, article three, chapter twelve of this code, modified by the State Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the eighteenth day of October, two thousand seven, relating to the State Auditor (standards for requisitions for payment issued to state officers on the auditor, 155 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on the twenty-fifth day of July, two thousand seven, authorized under the authority of section ten-a, article three, chapter twelve of this code,

modified by the State Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the eighteenth day of October, two thousand seven, relating to the State Auditor (State Purchasing Card Program, 155 CSR 7), is authorized.

§64-9-4. Board of Dental Examiners.

The legislative rule filed in the State Register on the nineteenth day of July, two thousand seven, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dental Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventeenth day of October, two thousand seven, relating to the Board of Dental Examiners (rule for the West Virginia Board of Dental Examiners, 5 CSR 1), is authorized.

§64-9-5. State Election Commission.

(a) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section eight, article eight, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventh day of December, two thousand seven, relating to the State Election Commission (corporate political activity, 146 CSR 1), is authorized with the following amendments:

On page one, subsection 2.2., by striking out the words "'Contribution or Expenditure'" and inserting in lieu thereof the words "'Contribution' or 'Expenditure'";

On page one, subdivision 2.2.e., by striking out "WV" and inserting in lieu thereof "W. Va.";

On page three, subsection 3.1., line two, by striking out the word "series" and inserting in lieu thereof the word "rule";

On page four, subdivision 3.3.a., by striking out "WV" and inserting in lieu thereof "W. Va.";

On page four, paragraph 3.3.c.1., by striking out "WV" and inserting in lieu thereof "W. Va.";

On page four, paragraph 3.3.d.1., by striking out "WV" and inserting in lieu thereof "W. Va.";

On page five, paragraph 3.3.f.5., lines four and seven, by striking out the word "Paragraph" and inserting in lieu thereof the word "paragraph";

On page five, paragraph 3.3.f.5., lines five and seven, by striking out the word "subsection" and inserting in lieu thereof the word "subdivision";

On page five, paragraph 3.3.f.6., by striking out the words "the above regulations" and inserting in lieu thereof the words "this rule";

On page five, paragraph 3.3.f.7., by changing the colon to a comma and by striking out the words "Provided, that such" and inserting in lieu thereof the words "provided that the";

On page six, subsection 4.3., by striking out the words "The establishment, administration and solicitation of contributions to a Corporate Political Action Committee, by means and in amounts as herein specified:

4.3.a.";

On page seven, subdivision 4.4.a., by striking out the word "Section" and inserting in lieu thereof the word "subsection";

On page seven, subdivision 4.4.b., line five, by striking out the word "Section" and inserting in lieu thereof the word "subsection";

On page eight, subsection 5.1., by striking out "WV" and inserting in lieu thereof "W. Va.";

On page eight, subdivision 5.1.a., by striking out "5.1.a." and by adding the subsequent sentence to the end of subsection 5.1.;

On page eight, subdivision 5.2.b., by striking out "WV" and inserting in lieu thereof "W. Va.";

And,

On page nine, section seven, by striking out "7.1."

(b) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section five, article one-a, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making