

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED

11 00 AUG -7 PM 12:02

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY Department of Administration: Purchasing Division TITLE NUMBER: 148

CITE AUTHORITY West Virginia Code Section 9-8-7

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: Five (5)

TITLE OF RULE BEING PROPOSED: Availability Of State Surplus
Buildings And Equipment To Charity Food Bank

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.

Chel Pugh



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

FILED
1990 AUG -7 PM 12:02
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
Chuck Polan
Secretary

MEMORANDUM

TO: The Honorable Ken Hechler
Secretary of State

FROM: Chuck Polan *CP*
Secretary

DATE: August 3, 1990

SUBJECT: Availability of State Surplus Buildings and Equipment to
Charity Food Banks

A comment period was held on the proposed rule, ending on August 1, 1990. No comments were received. Therefore, the proposed rule is filed for your review.

1998 AUG -7 PM 12:02

TITLE 148
LEGISLATIVE RULES
DEPARTMENT OF ADMINISTRATION
Purchasing Division

OFFICE OF THE CLERK
LEGISLATIVE STATE

SERIES 5

AVAILABILITY OF STATE SURPLUS BUILDINGS AND EQUIPMENT TO CHARITY
FOOD BANKS

Section 148-5-1. General.

1.1 Scope.--These legislative rules establish requirements for providing available state surplus buildings and equipment necessary for the operation of a charity food banks for use without charge.

1.2 Authority.--West Virginia Code Section 9-8-7.

1.3 Filing Date.--

1.4 Effective Date.--

Section 148-5-2. Definitions.

As used in these rules, all terms have the same meaning as provided in the Charity Food Banks Act, article eight, chapter nine of the West Virginia Code, and as provided in the Department of Administration Act, chapter five-a of the West Virginia Code.

Section 148-5-3. Charity food bank eligibility.

To be eligible to use without charge available state surplus buildings or equipment, a charity food bank must meet the minimum standards established in section 6, article 8, chapter 9 of the West Virginia Code and provide a copy of the current contract with the Division of Human Services of the Department of Health and Human Resources under the Hunger Prevention Act of 1985, P. L. 100-435, to the Director of the Purchasing Division of the Department of Administration.

Section 148-5-4. State surplus buildings.

(a) Upon request from an eligible charity food bank to use a surplus state building, the Director of Purchasing shall determine whether or not the building is vacant and available for such use.

(b) If the building is vacant and available, the charity food bank shall submit a letter of intent to the Director of Purchasing with a copy of the contract between the charity food bank and the Division of Human Services of the Department of Health and Human Resources. The letter of intent shall be signed and dated by an authorized representative of the charity food bank.

The letter of intent shall provide the following:

(i) Identification of the applicant, complete address and name, title and telephone number of the authorized representative signing the letter of intent;

(ii) Description of the building requested, including location and owner; and

(iii) Details on the planned utilization of the building.

The Director of Purchasing shall determine whether the information provided in a letter of intent is sufficient.

(c) In the event the building is vacant and available for use by the requesting charity food bank and the letter of intent has been determined sufficient, the Director of Purchasing shall cause a lease between the owner of the building and the charity food bank to be prepared and executed. The lease shall contain a term consistent with the contract between the charity food bank and the Division of Human Services of the Department of Health and Human Resources and such other terms and conditions as deemed reasonable and prudent by the Director of Purchasing, in a form similar to attached Exhibit A.

Section 148-5-5. State surplus equipment.

(a) Upon request from an eligible charity food bank to use surplus state equipment, the Director of Purchasing shall determine whether or not such equipment is available for such use.

(b) If the surplus equipment is available, the charity food bank shall submit a letter of intent to the Director of Purchasing with a copy of the contract between the charity food bank and the Division of Human Services of the Department of Health and Human Resources. The letter of intent shall be signed and dated by an authorized representative of the charity food bank.

The letter of intent shall provide the following:

(i) Identification of the applicant, complete address and name, title and telephone number of the authorized representative signing the letter of intent;

(ii) Description of the equipment requested, including the type, model, serial number, location and owner;

(iii) Details on the planned utilization of the equipment, including location; and

(iv) In the event the equipment requires trained operation, listing of the persons who will operate the equipment and their level of training.

The Director of Purchasing shall determine whether such letter of intent is sufficient.

(c) In the event the equipment is available for use by the requesting charity food bank and the letter of intent has been determined sufficient, the Director of Purchasing shall cause a lease between the owner of the equipment and the charity food bank to be prepared and executed. The lease shall contain a term consistent with the contract between the charity food bank and the Division of Human Services of the Department of Health and Human Resources and such other terms and conditions as deemed reasonable and prudent by the Director of Purchasing, in a form similar to attached Exhibit B.

Section 148-5-6. Restrictions.

The Purchasing Division of the Department of Administration may place such restrictions on the use and disposition of any building or equipment obtained in accordance with these regulations in order to protect the State and to comply with any and all federal, state and local laws and regulations pertaining to such use and disposition.

FILED

1990 AUG -7 PM 3:03

DATE August 8, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Department of Administration: Purchasing Division

LEGISLATIVE RULE TITLE: Availability Of State Surplus Buildings
And Equipment To Charity Food Bank

1. Authorizing statute(s) citation W.V.Code Section 9-8-7

2. a. Date filed in State Register with Notice of Hearing:

June 26, 1990

b. What other notice, including advertising, did you give of the hearing?

None.

c. Date of hearing (s): Comment Period was held from June 26, 1990

To August 1, 1990

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 7, 1990

f. Name and phone number of agency person to contact for additional information:

Department of Administration: Diana Stout 348-2300

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.

Public Comment Filed June 26, 1990

b. Date of hearing: Public Comment held from June 26, 1990 to August 1, 1990

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

August 7, 1990

d. Attach findings and determinations and reasons:

Attached No comments were received.

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: August 8, 1990

Signature of Agency Head or Authorized Representative

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Availability Of State Surplus Buildings And Equipment To Charity

Food Banks

Type of Rule: Legislative Interpretive Procedural

Agency Purchasing Division Address Capitol Complex Bldg. 1

Room E-108 Charleston, W.V. 25305

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 by promulgating these rules.

3. Objectives of these rules: To permit charity food banks to obtain available State surplus buildings and equipment in accordance with the provisions of West Virginia Code Section 9-8-7.

TITLE 148
LEGISLATIVE RULES
DEPARTMENT OF ADMINISTRATION
Purchasing Division

SERIES 5
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