

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2003 JUL -2 P 12:09

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Administration TITLE NUMBER: 148

RULE TYPE: Legislative CITE AUTHORITY: 5A-4-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Parking

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Aug 1, 2003 AT 10:00 am ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Donna Prunty, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East

Room E-119

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Agency: Department of Administration
Rule Type: Legislative

Title Number: 148
Cite Authority: 5A-4-5

STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The Department of Administration is proposing to modify the Legislative rules relative to parking in order to make the monthly parking fees paid by employees the same throughout State government and to allow the funds received from the parking fines to be divided with one half going toward a handling fee to be used for operational purposes related to parking, including the costs associated with the enforcement of the parking rules.

FILED

TITLE 148
LEGISLATIVE RULE
DEPARTMENT OF ADMINISTRATION

2003 JUL -2 P 12: 09

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 6
PARKING

§148-6-1. General.

1.1. Scope. -- This legislative rule provides for the regulation of parking of motor vehicles by the Secretary of the Department of Administration on property owned or leased by the State of West Virginia, or any of its agencies, in the city of Charleston, Kanawha County, West Virginia, including penalties.

1.2. Authority -- W. Va. Code §5A-4-5.

1.3. Filing Date. --

1.4. Effective Date. -- _____

The Secretary of Administration may also designate any area as a parking or no parking area, as he or she determines for the conduct of business at the capitol or any state office buildings in the City of Charleston on a daily basis or for special occasions, as they may arise, except as provided in Sub Section 2.2 of this rule.

2.2. Legislative Sessions. During sessions of the Legislature, including regular, extended, extraordinary and interim sessions, parking in the following areas is designated for legislators and employees of the Legislature and subject to rules promulgated jointly by the Speaker of the House of Delegates and President of the Senate:

§148-6-2. Parking Areas.

2.1. General. Parking on property owned by the State of West Virginia in the City of Charleston, Kanawha County, West Virginia is subject to this rule and includes but is not limited to:

(a). The east side of Greenbrier Street between Kanawha Boulevard and Washington Street, East;

(b). The west side of California Avenue between Kanawha Boulevard and Washington Street, East;

(c). State-owned or leased grounds upon which state office buildings.

(d). Any other property now or subsequently owned or leased by the State or any of its agencies and used for parking purposes in conjunction with the state capitol or any state office buildings.

(a). The east side of Greenbrier Street between Kanawha Boulevard and Washington Street, East;

(b). The Science and Culture Center parking lot;

(c). The north side of Kanawha Boulevard between Greenbrier Street and California Avenue; and

(d). The west side of California Avenue between Kanawha Boulevard and Washington Street, East;

§148-6-3. Personnel

The Secretary shall employ such persons as he or she considers necessary to enforce this parking rule. The persons employed by the Secretary have authority to direct traffic and issue tickets in violation of this rule, as well as any other authority determined by the Secretary.

§148-6-4. Metered Parking.

The Secretary may install metered parking in any areas designated for parking he or she considers prudent to permit convenient parking spaces for visitors to the state capitol or any state office buildings in the City of Charleston. The amount to be charged for parking at meters shall be .50 cents per hour.

§148-6-5. Parking

Parking may be provided, at the discretion of the Secretary, to state spending units. The spending unit shall issue individual parking spaces in accordance with the parking allocation policies of the spending unit, subject to this rule. The fee to park shall be sixteen dollars (\$16.00) per month as of July 1, 2003; seventeen dollars (\$17.00) per month as of July 1, 2004; eighteen dollars (\$18.00) per month as of July 1, 2005; nineteen dollars (\$19.00) per month as of July 1, 2006; twenty dollars (\$20.00) per month as of July 1, 2007. Payment by the employees shall be made through payroll deduction, unless otherwise authorized by the Secretary. The Secretary may charge a reasonable fee to replace a parking tag or access card issued to a public officer or employee.

For locations outside the Capitol Complex, the spending units shall issue individual parking spaces in accordance with the parking allocation policies of the spending unit subject to this rule and the fee to park shall be the same as the fees for employees who park on the Capitol Complex Campus ~~all spending units shall charge \$20.00 per month for parking unless the facility consists of all free, public access parking (i.e., shopping centers or other facilities approved by the Secretary) or unless they have a contractual obligation in which case the Secretary of Administration may set a different fee.~~

§148-6-6. Violations.

6.1. General. The owner of any motor vehicle parked in violation of this rule is subject to the penalty specified in Section 7 of this rule and is responsible for the payment of any fines, penalties or costs assessed, regardless of whether

the owner was operating the motor vehicle at the time of the violation. The Secretary may waive the violation and assessed fines, penalties and costs, in his or her discretion. Further, the Secretary may authorize the removal, immobilization, or any other remedy considered necessary, at owner expense, of any motor vehicle parked in violation of this rule. For the purpose of this subdivision, a motor vehicle parked in violation of this rule shall include a motor vehicle owned by a person who owes more than ten (10) unpaid violations and is parked on property described in subsection 2.1 of this rule. The Secretary may also authorize the revocation of a state issued parking space of a vehicle whose owner owes more than ten (10) unpaid violations.

6.2. Metered Parking. The owner of a motor vehicle parked at metered parking with elapsed time during the hours of 8:00 a.m. through 5:00 p.m. Monday through Friday, except holidays, is subject to overtime parking fine(s) in accordance with Section 7 of this rule or other hours as the Secretary considers appropriate. In no event may a singular vehicle at a single parking meter be ticketed more than four times in one working day.

6.3. Designated Area Parking. The owner of a motor vehicle parked at any time in an area designated handicapped parking, legislative parking, or reserved parking is subject to parking fine(s) in accordance with Section 7 of this rule.

6.4. Parking in Travel Lanes. The owner of a motor vehicle parked in a travel lane is subject to a parking in travel lane parking fine in accordance with Section 7 of this rule.

6.5. Other Violations. The owner of a motor vehicle parked in a space that has not been assigned for purpose of parking that vehicle is subject to an improper parking fine in accordance with Section 7 of this rule.

§148-6-7. Penalties.

7.1. Fines. A person who violates this rule is subject to the ~~following fines:~~ fines identified below. Revenues received from the fines shall be

split on a 50/50 basis with one half going toward the current account and the other one half going toward a handling fee to be used to maintain the parking facilities and for the costs associated with enforcement for the parking rules.

Handicapped Area	\$100.00
Legislative Parking Area	10.00
Reserved Parking Area	10.00
Parking in Travel Lane	10.00
Overtime Parking	5.00
No Parking Area	10.00
Improper Parking	10.00
Other Violations	10.00

7.2. Payment. Payment of fines is required within ten days (10) of the time the ticket was issued to either the ticket receipt boxes provided by the Department of Administration or to the address printed on the ticket. Fines not paid within ten days (10) are subject to double additional fines not to exceed twenty dollars (\$20.00) each. A summons may be issued for tickets not paid within fourteen (14) days.

7.3. Jurisdiction. Magistrates in Kanawha County, West Virginia have jurisdiction of violations and offenses of this rule.

7.4. Exceptions. The Secretary may grant necessary exceptions to this Rule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 148, Series 6, Parking

Type of Rule: X Legislative Interpretive Procedural

Agency: Department of Administration

Address: 1900 Kanawha Boulevard, East
Building 1, Room E-119
Charleston, WV 25305

1. Effect of Proposed Rule:

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	-0-	-0-	-0-	-0-	-0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

No costs will be associated with the passage of the proposed rule. Although by decreasing the monthly fees for off-site parking would have generated additional revenues to the state, those addition revenues would have been offset by costs associated with potential grievances filed due to the disparity of the monthly fees. Also, by allowing 50% of the fines to go toward a handling fee it will slightly increase the funds in general revenue. The costs associated with the filing of lawsuits and the enforcement of the parking rules will be offset by this handling fee.

3. Objectives of These Rules:

To make the monthly parking fees paid by employees the same throughout State government and allows the funds received from parking to be divided and used for operational purposes.

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:

July 2 2003

Signature of Agency Head or Authorized Representative:

Dave Tischer by [Signature]
Dave Tischer, Director of Purchasing

[Signature]
Tom Busman, Acting Cabinet Secretary
Department of Administration



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

BOB WISE
GOVERNOR

TOM SUSMAN
ACTING CABINET SECRETARY

July 1, 2003

Via Hand-Delivery

The Honorable Joe Manchin, III
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: Legislative Rules

Dear Secretary Manchin,

I am enclosing an original and one copy of the documents listed below for filing. The proposed rules are being filed in regard to Parking. I will provide a copy of the enclosed documents to the Legislative Rule Making Review Committee once they are marked filed by your office.

The documents enclosed consist of the following:

1. Notice of Comment Period on a Proposed Rule,
2. Statement of Circumstance and Brief Summary,
3. Proposed Rules, and
4. Fiscal Note for Proposed Rules.

Thank you very much for your assistance. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna M. Prunty".

Donna M. Prunty
Executive Coordinator

DMP:dp
Enclosures