

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

Form #7

Do Not Mark In This Box
Filing Date

FILED

2003 JUL -9 P 4: 33

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Department of Administration TITLE NUMBER: 148

CITE AUTHORITY: 5A-4-5

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Parking

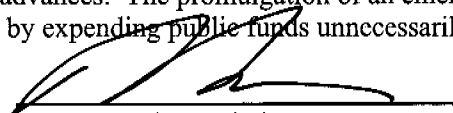
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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:

The parking rules were modified by the Legislature during the last regular session and as a result of the modifications a disparity of monthly parking fees exist among state employees. An emergency rule is necessary in order to make all state employees pay the same amount for monthly parking. Without the emergency rule there is a potential for the filing of grievances which will require the expending of public funds for the costs associated with defending the grievances. These costs are estimated to be \$2,000 to \$5,000 per grievance depending upon how many levels the grievance advances. The promulgation of an emergency rule is necessary to prevent substantial harm to the public interest by expending public funds unnecessarily.



Authorized Signature

Use additional sheets if necessary

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 requesting an Emergency Rule be in place in regard to parking in order to remove the disparity within the current rules. The Legislative rules relative to parking were modified by the Legislature during the last session and a disparity of monthly parking fees now exists among state employees. The Emergency rule is necessary in order to make the monthly fees the same among all state employees. Without the emergency rule there is a potential for the filing of grievances. The promulgation of an emergency rule is necessary in order to prevent substantial harm to the public interest by expending public funds unnecessarily for costs associated with defending potential grievances.

FILED

TITLE 148
LEGISLATIVE RULE
DEPARTMENT OF ADMINISTRATION

2003 JUL -9 P 4: 33

SERIES 6
PARKING

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§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:

148CSR6

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.



EMERGENCY RULE QUESTIONNAIRE

DATE: July 8, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Department of Administration
1900 Kanawha Boulevard, East, Room E-119
Charleston, WV 25305

EMERGENCY RULE TITLE: Parking

1. Date of filing July 9, 2003

2. Statutory authority for promulgating emergency rule:
5A-4-5

3. Date of filing of proposed legislative rule: July 9, 2003

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?
Amends a current legislative rule

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 parking rules were modified during the last legislative session and as a result there is a disparity of monthly parking fees among state employees. The emergency rule is necessary in order to make all employees pay the same amount. Without the rule there is a potential for the filing of grievances which would require expending public funds for the costs associated with defending the grievances. Those costs are estimated to be \$2,000 to \$5,000 per grievance. The emergency rule is necessary to prevent substantial harm to the public interest by expending public funds unnecessarily.~~

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.

N/A

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

~~The parking rules were modified during the last legislative session and as a result there~~
is a disparity of monthly parking fees among state employees. The emergency rule is
necessary in order to make all employees pay the same amount. Without the rule there
is a potential for the filing of grievances which would require expending public funds
for the costs associated with defending the grievances. Those costs are estimated to be
\$2,000 to \$5,000 per grievance. The emergency rule is necessary to prevent substantial
harm to the public interest by expending public funds unnecessarily.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 148, Series 6, Parking

Type of Rule: 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 increasing the monthly fees for off-site parking would have generated additional revenues to the state, those additional revenues would have been offset by costs associated with potential grievances filed due to the disparity of the monthly fees. It is estimated that the costs to the state to defend each grievance filed would be \$2,000 to \$5,000 depending upon how many levels the grievance advances.

3. Objectives of These Rules:

To make the monthly parking fees paid by employees the same throughout State government.

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: 7/9/03

Signature of Agency Head or Authorized Representative:



Tom Susman, 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 9, 2003

Via Hand-Delivery

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

Re: Emergency Legislative Rules

Dear Secretary Manchin,

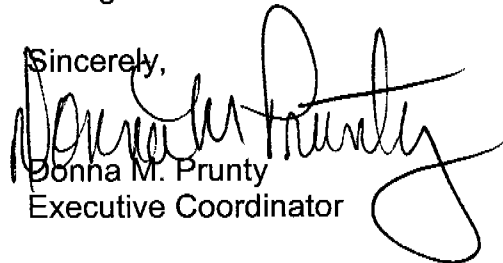
I am enclosing an original and fifteen copies of the documents listed below for filing. The proposed emergency rules are being filed in regard to Parking.

The documents enclosed consist of the following:

1. Notice of an Emergency Rule,
2. Statement of Circumstance and Brief Summary,
3. Proposed Rules,
4. Emergency Rule Questionnaire, and
5. 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,



Donna M. Prunty
Executive Coordinator

DMP:dp
Enclosures