

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

Form #3 □

Do Not Mark In This Box

FILED
2001 AUG 13 P 4:53
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Department of Administration TITLE NUMBER: 148

CITE AUTHORITY: 5A-3-33

AMENDMENT TO AN EXISTING RULE: YES NO

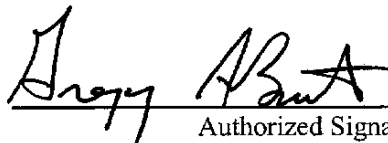
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Purchasing - Vendor Debarment

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.


Authorized Signature

Agency: Department of Administration
Rule Type: Legislative

Title Number: 148
Cite Authority: 5A-3-33

COMMENTS / RESPONSES

No comments were received by Donna Prunty, the designated individual to accept comments on behalf of the Department of Administration, or by David Tincher, the Director of Purchasing, during the comment period on this proposed rule. Therefore, no responses were required.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 8, 2001

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

LEGISLATIVE RULE TITLE: _____

Purchasing - Vendor Department

1. Authorizing statute(s) citation 5A-3-33

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 3, 2001

b. What other notice, including advertising, did you give of the hearing?
None

c. Date of Public Hearing(s) *or* Public Comment Period ended:
August 3, 2001

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

Attached None No comments received None

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

August 13, 2001

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Donna M. Prunty, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East, Room E-119

Charleston, WV 25305

558-3391 (phone); 558-5749 (fax); dprunty@gwmail.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Donna Prunty, Executive Coordinator, Department of Administration (wrote rule)

David Tincher, Director of Purchasing Division (has responsibility for rule)

2019 Washington Street, East

Charleston, WV 25305

558-2538

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.

Not applicable

b. Date of hearing or comment period:

Not applicable

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

Not applicable

d. Attach findings and determinations and reasons:

Attached None

Agency: Department of Administration
Rule Type: Legislative

Title Number: 148
Cite Authority: 5A-3-33

STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The Department of Administration is proposing to establish legislative rules regarding vendor debarment. The 2000 Legislature addressed this issue in HB 4442 and this is in response to that legislation. The proposed rule outlines the procedures for the debarment of vendors by the Purchasing Division of the Department of Administration.

148 CSR 9
Title 148
Department of Administration
Purchasing Division
Series 9
Purchasing - Vendor Debarment

FILED

2001 AUG 13 P 4: 54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§148-9-1 General

- 1.1 Scope - This Legislative Rule is an explanation of the operative rules and procedure for the debarment of vendors by the Purchasing Division of the Department of Administration
- 1.2 Authority - WV Code 5A-3-33(a thru f)
- 1.3 Filing Date - July 3, 2001
- 1.4 Effective Date - _____

§148-9-2 Applicability

- 2.1 This Legislative Rule applies to all spending units of state government, all political subdivisions of state government, every administrative entity that includes such a subdivision, all municipalities and all county boards of education.

§148-9-3 Duties and Authority of the Director

The Director shall

- 3.1. Obtain and maintain lists of vendors declared ineligible under federal law and regulations from the federal website (<http://epls.arnet.gov/>) posting same. A link to this federal site is available from the Purchasing Division's website (www.state.wv.us/admin/purchase).
- 3.2 Notify all interested parties of debarred vendors by any method deemed appropriate by the Director, including but not limited to, posting on the official state Purchasing website, newsletters or other written communication, replies to written requests, etc.
- 3.3 Investigate written complaints from state officials and representatives from political subdivisions, municipalities and boards of education that are received by the Director to determine validity of the complaint. Investigation methods can include, but are not limited to, follow up calls, review of the contract, worksite and materials, etc.

- 3.4 Debarment proceedings will be at the request of the agency upon determination of probable cause by the Director. The time-frame for holding debarment proceedings will be at the convenience of the Purchasing Division within a reasonable time-frame.

§148-9-4 Complaint Forms

- 4.1 The Purchasing Division shall provide uniform Complaint Forms upon written request and on its official state Purchasing website. All complaints should be submitted on this form and submitted to the Purchasing Director.

§148-9-5 Posting of Debarred Vendors

- 5.1 The Purchasing Division shall post a list of debarred vendors, for the length of the debarment on its official state Purchasing website at <http://www.state.wv.us/admin/purchase>.
- 5.2 Information regarding those vendors declared ineligible shall be made available to the West Virginia Association of Counties, the West Virginia Municipal League and the West Virginia Department of Education for their constituents.



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Purchasing - Vendor Debarment

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					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					\$0.00

2. Explanation of Above Estimates:

The exact cost of the proposed rule is unknown, however, it is estimated that the costs will be de minimus

3. Objectives of These Rules:

The objective of this proposed rule is to outline the procedures for the debarment of vendors by the Purchasing Division of the Department of Administration.

Rule Title: Purchasing - Debarment

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:

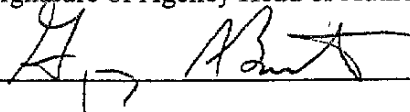
Inability of debarred vendors to do business with the State of West Virginia.

C. Economic Impact on Citizens/Public at Large.

None

Date: 7-3-01

Signature of Agency Head or Authorized Representative:





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

BOB WISE
GOVERNOR

GREGORY A. BURTON
CABINET SECRETARY

August 13, 2001

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,

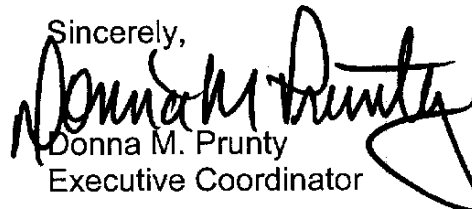
I am enclosing one original and fifteen copies of the documents listed below in regard to a proposed rule regarding vendor debarment. It is my understanding that your office will maintain the original on file and the copies will be forwarded to the Legislative Rule Making Committee.

The attached documents consist of the following:

- a. Notice of Agency Approval of a Proposed Rule
- b. Comments & Responses
- c. Rule Making Questionnaire
- d. Statement of Circumstance and Brief Summary
- e. Proposed Rule as requested
- f. Fiscal Note

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