

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

Form #3

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FILED

2006 JUL 11 P 3:15

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, Purchasing Division TITLE NUMBER: 148

CITE AUTHORITY: 5A-3-45

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

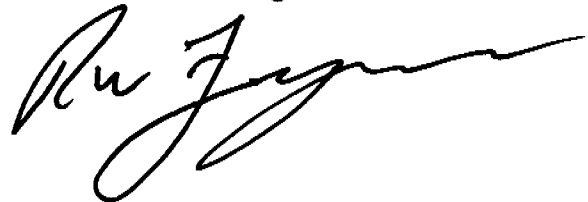
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 16

TITLE OF RULE BEING PROPOSED: Cannibalization of State Property

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-3-45

STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The proposed rules are a result of the passage of SB 728 during the 2005 legislative session which made statute changes that allows for the cannibalization of state property. Cannibalization of property has been prohibited in the past. The rules establish the procedures for cannibalization of property.

Agency: Department of Administration
Rule Type: Legislative

Title Number: 148
Cite Authority: 5A-3-45

BRIEF SUMMARY OF COMMENTS RECEIVED; AGENCY RESPONSE; AND AMENDMENTS

The Department of Administration received no comments regarding the proposed rules regarding cannibalization of state property. Therefore, no modifications were made.

TITLE 148
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION

FILED

SERIES 16
CANNIBALIZATION OF STATE PROPERTY

2006 JUL 11 P 3: 15

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§148-16-1. General.

- 1.1. Scope. - This Legislative Rule is an explanation and clarification of operative procedures for the disposal of state surplus property by cannibalization for use of component parts.
- 1.2. Authority. - W. Va. Code, §5A-3-45.
- 1.3. Filing Date. - May 15, 2005
- 1.4. Effective Date. -

§148-16-2. Definitions.

As used in this rule, all terms have the same meaning as provided in W.Va. Code §5A-1-1 and 5A-3-1 et seq., and as follows:

- (a) "Director" means the Director of the Purchasing Division of the Department of Administration.
- (b) "Cannibalization" means the removal of parts from one commodity to use in the creation or repair of another commodity.

§148-16-3. 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 this rule.
- 3.2. All requests for property cannibalization under this rule must be approved by the Director of the Purchasing Division, or a designee.

§148-16-4. Authority.

The Director shall:

- (a) Ensure state assets are disposed of exclusively through the state agency for surplus property;
- (b) Provide for a means of disposal, which includes cannibalization of property;
- (c) Require a written request to be submitted on a standardized form prescribed by the Purchasing Division;

- (d.) Evaluate requests for cannibalization of state property and respond to agencies with documented decision;
- (e.) Provide recommendation to agencies for disposal of assets if cannibalization method is not approved.

§148-16-5. Cannibalization Procedures.

- 5.1. All requests for cannibalization of property must be submitted by the agency inventory coordinator and approved by the agency head. A "Cannibalization Asset Request Form" (WV-105) must be submitted to the state agency for surplus property outlining:
 - (a.) commodity identification number which was originally assigned by the agency when the property was purchased and entered into the agency's inventory;
 - (b.) commodity acquisition date;
 - (c.) commodity acquisition cost which is the amount originally paid for the property;
 - (d.) description of the commodity;
 - (e.) whether commodity is operable and, if so, how well it operates. If item is operable, the agency must provide justification why the agency is removing parts from an asset in usable condition;
 - (f.) how the agency will dispose of the remaining parts of the commodity. All parts not being used or retained for future use to repair another piece of equipment must be retired to the state agency for surplus property for proper disposal; and,
 - (g.) who will cannibalize the commodity and how the person is qualified to remove and reinstall the parts. A separate document must accompany the "Cannibalization Asset Request Form" (WV-105), which will identify the individual(s) responsible for performing the disassembly and repair, along with their qualification. This document must be signed by the agency head.
- 5.2. If the agency plans to use the cannibalized parts immediately, information listed in 5.1 (a-e) must be submitted for the commodity receiving the part(s). In addition, the following information must be provided:
 - (a.) whether the part restores the commodity to an operable condition. If the part does not restore the operability of the property, additional justification for the initial cannibalization must be provided, along with the additional steps required to restore operability of the property;
 - (i) The inoperable part being replaced through this process must be properly retired to the state agency for surplus property using authorized means of disposal as outlined in §5A-3-45.
 - (b.) the cost of the parts and labor to restore the commodity to an operable condition without cannibalization. A comparison of the current value of the asset being

cannibalized, the value of the property being repaired, and the cost to repair the item without cannibalized will be made and evaluated. Cannibalization will not be authorized unless the value of the repaired asset exceeds the value of the asset to be cannibalized, along with the cost of the cannibalization/repair process.

- 5.3 If the agency plans to maintain the cannibalized parts for future use, justification must be submitted to and approved by the state agency for surplus property.
- 5.3.1 The justification must identify:
- (a) the potential agency-owned assets which may possibly utilize the cannibalized parts;
 - (b) the proposed retention time frame before the parts will be used;
 - (c) the location where the parts will be stored;
 - (d) the tracking process for which the parts will be accounted.
- 5.4 Upon receipt of the "Cannibalization Asset Request Form," the Surplus Property Director will evaluate the request and provide a recommendation to the Director for approval.
- 5.5 The Director shall make determination whether cannibalization is in the best interest of the state based on the following criteria:
- (a) The value of the component parts exceed the value of the equipment as a whole that is being cannibalized;
 - (b) There is no current need or requirement in state government or within any eligible organization for the equipment in the current form;
 - (c) The active cannibalization does not impose a liability on the state for the disposal of non-used components.
- 5.6 The Director shall review the recommendation and approve or disapprove the request.
- 5.6.1 If the Director approves the request, the approved parts will be cannibalized by the requesting agency. The residual components of the cannibalized commodity must be retired to the state agency for surplus property using other authorized means of disposal as outlined in §5A-3-45.
- 5.6.2 If the Director disapproves the request, the Director shall advise the requesting agency of the appropriate authorized means of disposal as outlined in §5A-3-45.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 148, Series 16

Type of Rule: X Legislative Interpretive Procedural

Agency: Department of Administration,

Address: 1900 Kanawha Boulevard, East
Capitol Complex, Room E-119
Charleston, WV 25305

Phone Number: 304- 558-3392 Email: dlipscomb@wvadmin.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The proposed rules are a result of the passage of SB 728 during the 2005 legislative session. The rules outline the procedures for cannibalization of state property. There should be no additional fiscal impact as a result of the rules as the Statute now allows for the cannibalization of property. These rules simply establish the procedures to be followed when an agency wants to cannibalize property.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "--")	2006 Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	-0-	-0-	-0-
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues			

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.



There will be a financial impact from the passage of SB 728 but the extent of that impact is hard to determine because cannibalization has been prohibited in the past. There will already be a negative impact on the Surplus Property Unit's revenues as a result of the Statute change which allows for cannibalization as they are a special revenue agency with 100% of funding generated from sales of property. When agencies cannibalize property the revenues from cannibalized items are expected to be far less than property which would be sold intact.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: 7-11-06

Signature of Agency Head or Authorized Representative

QUESTIONNAIRE

DATE: July 10, 2006

TO: Legislative Rule-Making Review Committee

FROM: Donna Lipscomb, Executive Coordinator
Department of Administration
1900 Kanawha Boulevard, East
Room E-119
Charleston, WV 25305
304-558-3392

LEGISLATIVE RULE TITLE: 148, Series 16, Cannibalization of State Property

1. Authorizing statute(s) citation 5A-3-45

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 6, 2006

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

Mailing to all Surplus Property Coordinators for all State Agencies and related entities as well as posting the proposed rules on the Purchasing web site.

c. Date of Public Hearing(s) or Public Comment Period Ended:

July 6, 2006

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)

July 12, 2006

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 Lipscomb, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East

State Capitol, Room E-119

Charleston, WV 25305

304-558-3392

- 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)

Ken Frye, Manager of Surplus Property

2019 Washington Street, East

Charleston, WV 25301

304-558-4212

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.

N/A

- b. Date of hearing or comment period:

June 6, 2006 through July 6, 2006

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

N/A

- d. Attach findings and determinations and reasons:

Attached N/A



JOE MANCHIN III
GOVERNOR

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

ROBERT W. FERGUSON, JR.
CABINET SECRETARY

July 11, 2006

Via Hand-Delivery

The Honorable Betty Ireland
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: Legislative Rules

Dear Secretary Ireland,

I am enclosing an original and fifteen copies of the documents listed below for filing. The proposed rules are in regard to Cannibalization of State Property. I will provide the copies 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 Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee,
2. Statement of Circumstance and Brief Summary of the rules,
3. Brief Summary of comments received, agency response, and amendments,
4. Proposed Rules,
5. Fiscal Note
6. Questionnaire,
7. Disc containing 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,

Handwritten signature of Donna M. Lipscomb in black ink.
Donna M. Lipscomb
Executive Coordinator

Enclosures