

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

Form #3

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05 JUL 29 PM 4: 10

OFFICE OF 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-3-45

AMENDMENT TO AN EXISTING RULE: YES  NO

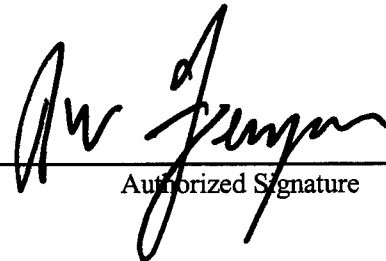
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

44.00

**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 only one comment regarding the rules. The comment was from Sandra Gillispie of the Department of Agriculture. The comments reflected their concerns that the impact of the rules would hinder their ability to operate as they felt that the costs would increase and the efficiency would suffer. Our response to their concerns are that the proposed rules do not establish any policy that would impact their concerns as the Statute already sets forth the law that impacts their agency. Therefore, no modifications were made as a result of their comments.

**TITLE 148**  
**DEPARTMENT OF ADMINISTRATION**  
**PURCHASING DIVISION**

**SERIES 16**  
**CANNIBALIZATION OF STATE PROPERTY**

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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 The requesting agency submits a "Cannibalization Asset Request Form" to the state agency for surplus property outlining:
  - (a.) commodity identification number,
  - (b.) commodity acquisition date;
  - (c.) commodity acquisition cost;
  - (d.) description of the commodity;
  - (e.) whether commodity is operable and, if so, how well it operates;
  - (f.) how the agency will dispose of the remaining parts of the commodity; and,
  - (g.) who will cannibalize the commodity and how the person is qualified to remove and reinstall the parts.
- 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;
  - (b.) the cost of the parts and labor to restore the commodity to an operable condition without cannibalization.
- 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.
- 5.4 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.

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.

<b>FISCAL YEAR</b>			
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.

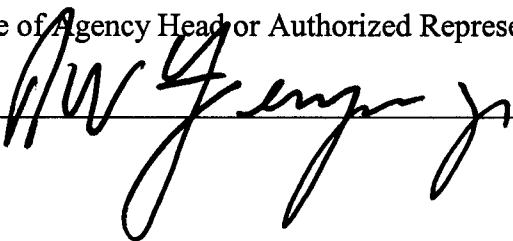
**MEMORANDUM**

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.

[Empty box for identifying 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: \_\_\_\_\_

Signature of Agency Head or Authorized Representative

 \_\_\_\_\_



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 28, 2005 through July 28, 2005

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 28, 2005

***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,

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

Donna M. Lipscomb  
Executive Coordinator

Enclosures