



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/25/2017 11:18 AM

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

AGENCY: Administration TITLE-SERIES: 148-06
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 148-06 Parking

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §5A-10-3a(c)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§5A-10-3a was created during the 2016 Regular Session in SB 345. That bill simply moved the language authorizing the Department of Administration to promulgate rules related to allocating parking spaces to public officers and employees of the state from Article 4, which relates to the General Services Division, to Article 10, which relates to the Real Estate Division, to reflect the current structure of the Department of Administration and the duties of the respective agencies. The Secretary of Administration has been required to promulgate rules related to parking at the Capitol Complex since 1998 (SB 760). The substantive amended provisions of the bill are summarized as follows:

1.5. is a new section required by §29A-3-19, passed in the 2016 Regular Session, and provides a sunset date. The changes to 2.2. would allow the Secretary to employ any parking scheme suitable for the parking areas at the Capitol Complex, such as permit parking, visitor parking, metered, or long-term. This is in line with the general authority in §5A-10-3a(c).

The new language in 2.3.d. incorporates into the Capitol Complex parking areas, the newly constructed lot on California Avenue, closest to Kanawha Boulevard, and allows for parts of that lot to be used by the Legislature during times designated by the Speaker and President, similar to other parking in existing language within the rule.

The changes in both 5.1. and 5.2. clarify authority of and allow for flexibility of spending units in assigning parking to employees. The Secretary is authorized to allocate parking to agencies on the Capitol Complex by §5A-10-3a. The rule makes other technical and non-substantive changes.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/21/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/21/2017

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The purpose of the proposed rule change is to provide the Parking Section of the Real Estate Division and spending units more flexibility in providing employee parking at the Capitol Complex. The proposed changes are offered in light of future anticipated increases in the number of employee vehicles on campus, especially from agencies possibly relocating to Buildings 4 and 6. The changes will allow agencies to better accommodate employee parking needs.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Completion of Building 3, and future relocation into Buildings 4 and 6, will likely increase the number of employees working at the Capitol Complex. The changes to the rule allow for flexibility of spending units in assigning parking to employees, allowing designated spots for off-campus employees when they need to come to the Capitol Complex, and allowing for spending units to assign parking as necessary for employees who work at the Capitol Complex.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2016 Increase/Decrease (use "-")	2017 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The proposed changes will have no effect on costs or revenues to the State of West Virginia.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**TITLE 148
LEGISLATIVE RULE
DEPARTMENT OF ADMINISTRATION**

**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~~ City of Charleston, Kanawha County, West Virginia, including penalties.

1.2. Authority. – W.Va. Code §5A-4-5.

1.3. Filing Date. – ~~June 9, 2009~~

1.4. Effective Date. – ~~July 1, 2009~~

1.5. Sunset provision. – This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§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:

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

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

2.1.c. State-owned or leased grounds upon which state office buildings are located.

2.1.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.

2.2. The Secretary of Administration may also designate any area as a parking or no parking area, and designate the type and scheme of parking to be used, 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.~~ Subsection 2.3 of this rule or joint policy of the Speaker of the House of Delegates and President of the Senate.

~~2.2~~ 2.3. Legislative Sessions. During session of the Legislature, including regular, extended, extraordinary, interim sessions, or any other times designated by the Speaker of the House of Delegates and/or the President of the Senate, parking in the following areas is designated for legislators and employees of the Legislature and subject to a joint policy of the Speaker of the House of Delegates and president of the Senate, and shall be managed and controlled by the Legislature:

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

2.3.b. The ~~Science and~~ Culture Center parking lot;

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

2.3.d. The west side of California Avenue between Kanawha Boulevard and Washington Street, East, and except as otherwise reserved by the Department of Administration, the lot on the east side of California Avenue between Kanawha Boulevard and Quarrier Street, East;

2.3.e. Any other areas designated by a joint policy of the Speaker of the House of Delegates and the President of the Senate.

§148-6-3. Personnel.

3.1. The Secretary, Speaker of the House of Delegates and/or the President of the Senate may employ such persons necessary to enforce this parking rule. The persons employed by the Secretary, Speaker of the House of Delegates and/or the President of the Senate may have authority to direct traffic and issue tickets in violation of this rule, as well as any other authority determined by the Secretary, or the Speaker of the House of Delegates and the President of the Senate.

§148-6-4. Metered Parking.

4.1. 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~~ State Capitol or any state office buildings in the City of Charleston. The amount to be charged for parking at meters shall be ~~.50~~ 50 cents per hour.

§148-6-5. Parking.

5.1. Parking may be provided, at the discretion of the Secretary, to state spending units. The spending unit shall ~~issue individual parking spaces~~ provide for parking in accordance with the parking allocation policies of the spending unit, subject to this rule. The fee to park shall be ~~twenty dollars (\$20)~~ \$20 per month. 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.

5.2. For locations outside the Capitol Complex, the spending units shall ~~issue individual parking spaces~~ provide for parking 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 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 parking 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)~~ 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)~~ 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 a area designated ~~handicapped~~ accessible 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 parking in a travel lane is subject to a parking in a travel lane fine in accordance with Section 7 of this rule.

6.5. Other violations. The owner of a motor vehicle parking 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:

7.1.a. Handicapped <u>Accessible</u> Area	\$100.00
7.1.b. Legislative Parking Area	10.00

7.1.c. Reserved Parking Area	10.00
7.1.d. Parking in a Travel Lane	10.00
7.1.e. Overtime Parking	5.00
7.1.f. No Parking Area	10.00
7.1.g. Improper Parking	10.00
7.1.h. Other Violations	10.00

7.2. Payment. Payment of fines is required within ~~ten~~ 10 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~~ 10 days (~~10~~) are subject to double additional fines not to exceed ~~twenty dollars (\$20.00)~~ \$20 each. A summons may be issued for tickets not paid within ~~fourteen (14)~~ 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~~ rule. The Speaker of the House of Delegates and the President of the Senate may grant an exception to a joint policy established pursuant to the provisions of W.Va. Code §5A-4-5(b).