

STATEMENT OF CIRCUMSTANCES
Title 158, Series 14, Filing of Verified Time Records

The Ethics Act was amended during the 2008 Regular Legislative Session through the passage of H. B. 4524. As a result of the amendments, the subsections in W.Va. Code § 6B-2-5 were re-designated. The proposed amendment is technical in nature. It changes various code citations in the Rule to make them consistent with the re-designated code section.

BRIEF SUMMARY OF PROPOSED RULE
Title 158, Series 14, Filing of Verified Time Records

The proposed amendment is technical in nature. It changes various code citations in the Rule in order that they accurately reference the corresponding subsection in the Ethics Act. This technical amendment is necessary due to the re-designation of a section of the Ethics Act, W.Va. Code § 6B-2-5, during the 2008 Regular Legislative Session through the passage of H. B. 4524 .

FILED

2008 AUG 21 PM 1: 22

**TITLE 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 14
FILING OF VERIFIED TIME RECORDS**

§ 158-14-1. General.

1.1. Scope. -- This legislative rule sets forth the guidelines for the maintenance of verified time records by public employees who have other public employment or hold another public office and the submission of time records to the Ethics Commission by the immediate supervisor of these public employees in accordance with W. Va. Code § ~~6B-2-5(k)~~ § 6B-2-5(l).

1.2. Authority. -- W. Va. Code § ~~6B-2-5(k)~~ § 6B-2-5(l).

1.3. Filing Date. -- ~~April 14, 2006.~~

1.4. Effective Date. -- ~~April 20, 2006.~~

§ 158-14-2. Definitions.

2.1. "Public employee" means any full-time or part-time employee of any state, county or municipal governmental body or any political subdivision thereof, including county school boards.

2.2. "Public official" means any person who is elected or appointed to any state, county or municipal office or position who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods and services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating or auditing any person; or, (5) any other activity where the official action has an economic impact of greater than de minimis nature on the interest or interests of any person.

§158-14-3. Public Employees Required to Maintain Verified Time Records.

3.1. If a public employee has other public employment or holds a public office, then the public employee shall maintain verified time records for each pay period in which:

3.1.a. the public employee is employed on a part-time basis and does not have regularly scheduled work hours and is authorized to make up time missed to perform the duties of another public office or employment; or,

3.1.b. the public employee is either part-time or full-time and is authorized to make up, outside of regularly scheduled work hours, time missed to perform the duties of another public office or employment.

3.1.c. No verified time records are required to be submitted when:

3.1.c.1. The public employee's compensation from one public employer is reduced by the

amount of compensation received from the other public employer;

3.1.c.2. The public employee's compensation from one public employer is reduced on a pro rata basis for any work time missed to perform duties for the other public employer;

3.1.c.3. The public employee uses earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment.

3.1.c.4. The employee is a full-time employee who does not have regularly scheduled work hours.

3.2. For a part-time or full-time employee who has regularly scheduled work hours, a verified time record only needs to be maintained and submitted for the actual workday or workdays where there was time missed to perform the functions of the other public position or employment and the public employee is permitted to make up the time missed in lieu of having their compensation reduced on a pro rata basis for the time missed or using earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment.

3.3. For a part-time employee who does not have regularly scheduled work hours, a verified time record only needs to be maintained and submitted for the actual workday or workdays where there was time missed to perform the functions of the other public position or employment and the public employee is permitted to make up the time missed in another pay period in lieu of having their compensation reduced on a pro rata basis for the time missed or using earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment.

3.4. An elected or appointed public official who has other public employment, does not have to maintain time records for the office to which they have been elected or appointed; Provided, That, when applicable the elected or appointed public official must maintain verified time records for his or her other public employment, and these records must be filed with the Commission, in accordance with the requirements of this section and W. Va. Code § ~~6B-2-5(k)~~ § 6B-2-5(l).

3.5. The requirements of this section do not apply to public employees who have taken a military leave of absence in accordance with W. Va. Code § 15-F-1.

§ 158-14-4. Public Employers Required to File Verified Time Records.

4.1. If a public employer employs a person who is required to maintain verified time records, as required by this rule and W. Va. Code § ~~6B-2-5(k)~~ § 6B-2-5(l), then the public employer shall submit the time records to the Ethics Commission on a quarterly basis. Time records only need to be submitted for the actual days where an employee missed work to perform the functions of another public position and was granted permission to make up the work in lieu of having his or her compensation reduced on a pro rata basis for the time missed, using earned paid vacation, personal or compensatory time, or taking unpaid leave from his or her public employment to perform the duties of the other public office or employment. Time records shall also be submitted for the day or days on which the employee makes up the work.

4.2. If a public employer has actual knowledge that an employee is subject to the requirements of this section and W. Va. Code § ~~6B-2-5(k)~~ § 6B-2-5(l) then the employer shall require the employee to keep time records when required by this rule.

§158-14-5. Form of Filing.

5.1. Copies of the time records must be submitted with a form which is attached as Appendix A to this rule. The form must be completed and signed by both the public employee and his or her immediate supervisor.

§158-14-6. Designation of Quarters and Time for Filing.

5.1. The records and attached form must either be filed with the Commission or postmarked by the following dates:

- 5.1.a. For any pay period ending between January 1st and March 31st, by April 15th
- 5.1.b. For any pay period ending between April 1st and June 30th, by August 15th
- 5.1.c. For any pay period ending between July 1st and September 30th, by October 15th.
- 5.1.d. For any pay period ending between October 1st and December 31st, by January 15th.

APPENDIX A
Title 158, Series 14
VERIFIED TIME RECORDS

THIS FORM AND THE CORRESPONDING VERIFIED TIME RECORDS ONLY HAVE TO BE FILED IF DURING THE QUARTERLY REPORTING PERIOD THE PUBLIC EMPLOYEE MISSED TIME TO PERFORM THE WORK DUTIES OF ANOTHER PUBLIC OFFICE OR EMPLOYMENT AND WAS AUTHORIZED TO MAKE UP TIME. THE TIME RECORDS MUST BE SUBMITTED FOR THE ACTUAL WORK DAYS OR PAY PERIODS DURING WHICH THE TIME WAS EITHER MISSED OR MADE UP. IF THE TIME IS MADE UP IN ANOTHER REPORTING PERIOD, THEN THE PUBLIC EMPLOYEE IS REQUIRED TO SUBMIT THIS FORM AND CORRESPONDING TIME RECORDS DURING THAT REPORTING PERIOD AS WELL.

NAME OF PUBLIC EMPLOYEE: _____
JOB TITLE OF PUBLIC EMPLOYEE: _____
CHECK THE BOX TO INDICATE IF THE EMPLOYEE IS PART-TIME OR FULL-TIME.

PART-TIME: _____
FULL-TIME: _____

PUBLIC EMPLOYER: _____
NAME: _____
MAILING ADDRESS: _____

TELEPHONE NUMBER: _____

PUBLIC EMPLOYEE'S IMMEDIATE SUPERVISOR: _____
JOB TITLE OF IMMEDIATE SUPERVISOR: _____
CHECK A BOX TO INDICATE THE DESIGNATED PAY PERIOD FOR THE PUBLIC EMPLOYEE:

WEEKLY: _____
EVERY TWO WEEKS: _____
TWICE A MONTH: _____
OTHER: _____

IF OTHER, INDICATE IN THE SPACE PROVIDED THE DESIGNATED PAY PERIOD: _____

LIST THE OTHER PUBLIC OFFICE OR EMPLOYMENT HELD BY EMPLOYEE. INCLUDE THE ADDRESS AND TELEPHONE NUMBER: _____

CHECK A BOX TO INDICATE WHETHER THE OTHER PUBLIC OFFICE OR EMPLOYMENT IS A PART-TIME OR FULL-TIME POSITION.

PART-TIME: _____

FULL-TIME: _____

CHECK QUARTER FOR WHICH THE FORM IS BEING FILED:

January 1st - March 31st _____

April 1st - June 30th _____

July 1st - September 30th _____

October 1st - December 31st _____

**I, _____, IN ACCORDANCE WITH WEST VIRGINIA CODE § 6B-2-5(k),
VERIFY THAT THE TIME RECORDS SUBMITTED SHOW THE HOURS THAT I DID IN FACT
WORK FOR THIS PUBLIC EMPLOYER.**

EMPLOYEE SIGNATURE

DATE

**I, _____, IN ACCORDANCE WITH WEST VIRGINIA CODE § 6B-2-5(k)
VERIFY THAT I AM THE IMMEDIATE SUPERVISOR OF THIS EMPLOYEE AND THAT, TO
THE BEST OF MY KNOWLEDGE, THE TIME RECORDS SUBMITTED SHOW THE HOURS
THAT THE EMPLOYEE DID IN FACT WORK.**

IMMEDIATE SUPERVISOR SIGNATURE

DATE

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 21, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Ethics Commission, 210 Brooks Street, Suite 300,
Charleston, WV 25301
(304) 558-0664

LEGISLATIVE RULE TITLE: _____
Title 158, Series 14, Verified Time Records

1. Authorizing statute(s) citation W.Va. Code §6B-2-5(l)

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

June 16, 2008

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

None. The proposed change is technical in nature.

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

July 18, 2008

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

Attached _____

No comments received X

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Filing of Verified Time Records

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: WV Ethics Commission

Address: 210 Brooks St., Suite 300
Charleston, WV 25301

Phone Number: 558-0664 Email: theresa.m.kirk@wv.gov

Fiscal Note Summary

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

This rule will have no fiscal impact.

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	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00		0.00
Personal Services	0.00		0.00
Current Expenses			
Repairs & Alterations	0.00		0.00
Assets			
Other			
2. Estimated Total Revenues	0.00		0.00

Rule Title: _____

Rule Title: Filing of Verified Time Records

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

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

There is no fiscal impact. The change is technical in nature.

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: 8/18/08

Signature of Agency Head or Authorized Representative

Chris D. Brown

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 21, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Ethics Commission, 210 Brooks Street, Suite 300,
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1. Authorizing statute(s) citation W.Va. Code §6B-2-5(l)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 16, 2008

b. What other notice, including advertising, did you give of the hearing?
None. The proposed change is technical in nature.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 18, 2008

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)

August 21, 2008

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

Theresa M. Kirk, Legal Counsel
210 Brooks Street, Suite 300
Charleston, WV 25301

- 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)

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.

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached
