

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

Form #2

Do Not Mark In This Box

FILED

2005 MAY 13 P 3: 26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

RULE TYPE: Legislative CITE AUTHORITY: W.Va. Code 6B-2-5

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: 14

TITLE OF RULE BEING PROPOSED: Filing of Verified Time Records

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 17, 2005 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Ethics Commission

1207 Quarrier St., Suite 407

Charleston, WV 25301-1836

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Lewis D. Brown

Authorized Signature

Robert M. Ferguson

\$3.80

BRIEF SUMMARY OF PROPOSED RULE
Title 158, Series 14

The rule provides guidelines for the maintenance of verified time records by public employees who also have other public employment or hold a public office. A public employee is defined as any full-time or part-time employee of any state, county or municipal governmental body.

The rule also provides a procedure for the filing of the time records by an employee's immediate supervisor. The time records, in accordance with W.Va. Code § 6B-2-5(k), must be filed on a quarterly basis with the West Virginia Ethics Commission. The quarterly filing deadlines are incorporated into the rule as well as a form which must be submitted with the time records.

STATEMENT OF CIRCUMSTANCES
Title 158, Series 14

The Legislature amended the West Virginia Ethics Act during the January 2005 Special Session. A new provision, W.Va. Code § 6B-2-5(k), prohibits a public employee from receiving additional compensation from another publicly funded source for working the same hours. This section also outlines various exceptions to the general prohibition. For instance an employee can use earned paid vacation, personal or compensatory time if they miss work to perform the duties of their other public employment.

The section also requires any state, county or municipal employee, who is also employed by another public body or holds public office, to maintain verified time records on a quarterly basis if: (1) the public employee is in a part-time position and does not have regularly scheduled work hours; or, (2) the public employee is authorized to make up, outside of regularly scheduled employment, time missed to perform the duties of another public office or employment. The time records must be verified by the public employee and his or her immediate supervisor, and filed on a quarterly basis with the Ethics Commission.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: FILING OF VERIFIED TIME RECORDS

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Ethics Commission

Address: 1207 Quarrier Street, Suite 407
Charleston, WV 25301-1836

Phone Number: (304) 558-0664 Email: tkirk@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.

During the 2005 Special Session, extensive changes were made to the Ethics Act. The Legislature added a provision to the Act which prohibits a public employee from receiving additional compensation from another publicly funded source for working the same hours. Pursuant to this provision, in certain circumstances a public official or employee who holds two public positions must file verified time records with the Ethics Commission. The proposed rule implements this provision. While the amendments to the Ethics Act created additional duties for the Ethics Commission, and hence resulted in the Legislature appropriating additional monies to the Commission, this proposed rule has no independent 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	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues			

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.

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: _____

Signature of Agency Head or Authorized Representative

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

FILED

2005 MAY 13 P 3:27

**SERIES 14
FILING OF VERIFIED TIME RECORDS**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 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).

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

1.3. Filing Date. -

1.4. Effective Date. -

§ 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; 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.

- 3.2. 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, the elected or appointed public official must maintain verified time records for their 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).
- 3.3. 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), then the public employer shall submit the time records to the Ethics Commission on a quarterly basis.

§ 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:

15th. 5.1.a. For any pay period ending between January 1st and March 31st, by April

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

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

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