

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

Form #7

Do Not Mark In This Box
Filing Date

FILED

2005 AUG 12 A 10:08

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

CITE AUTHORITY: W.Va. Code 6B-2-5(k)

EMERGENCY 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

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Extensive changes were made to the Ethics Act during 2005. The new law became effective on July 1, 2005. The law requires that after July 1, 2005 in certain instances public employees who also hold another public position or employment must maintain and file time records with the Ethics Commission. The rule is necessary to provide guidance to public employees and employers. In the absence of an emergency rule, there may be substantial harm to the public interest if employee and employers are not provided guidance in regards to when time records must be filed.

Use additional sheets if necessary

Lewis D. Brown, Executive Director
Authorized Signature

[Handwritten Signature]

#4.20

EMERGENCY RULE QUESTIONNAIRE

DATE: 08-02-05

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Ethics Commission

210 Brooks Street, Suite 300

Charleston, WV 25301-1804

(304) 558-0664

EMERGENCY RULE TITLE: Filing of Verified Time Records

1. Date of filing August 11, 2005
2. Statutory authority for promulgating emergency rule:
W Va. Code 29A-3-15
3. Date of filing of proposed legislative rule: 07-27-05
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Adopts new language.
5. Has the same or similar emergency rule previously been filed and expired?
No.
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
N/A

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~Certain public employees who hold another public office or employment are required to~~
file time records. If guidance is not provided to public employees and employers, then
~~there may be instances when they fail to file the records when required. In the~~
alternative they may file records when not required, hence unnecessarily expending
~~time and public resources.~~

**BRIEF SUMMARY OF PROPOSED EMERGENCY RULE
AND STATEMENT OF CIRCUMSTANCES CONSTITUTING THE EMERGENCY
Filing of Verified Time Records - Title 158, Series 14**

The rule establishes guidelines for the maintenance of verified time records by public employees who also have other public employment or hold another 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.

It is necessary to file an emergency rule in order that both employees and employers will have guidance in regards to when records must be kept and submitted.

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

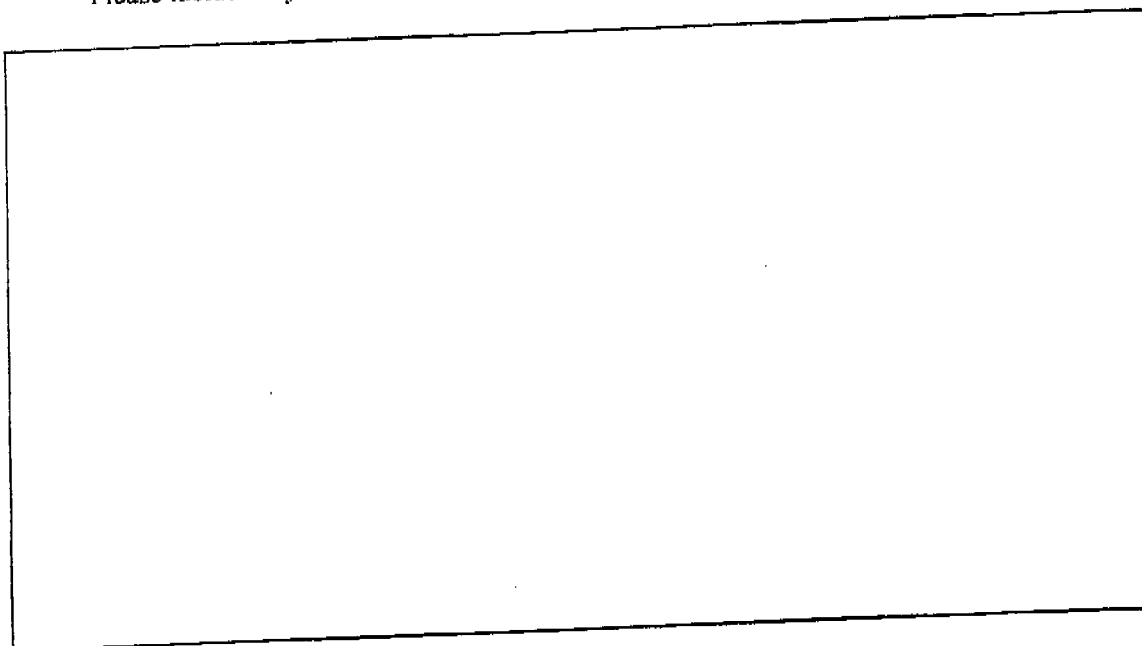
Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

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:

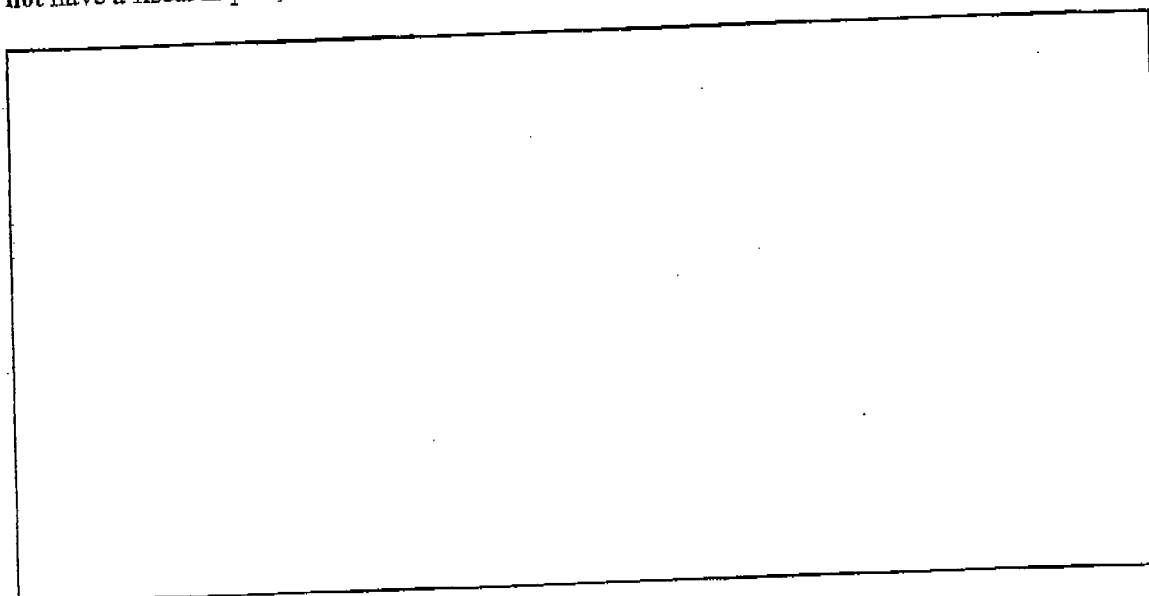
FILING OF VERIFIED TIME RECORDS

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: 5/10/05

Signature of Agency Head or Authorized Representative

Lewis D. Brown

TITLE 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION

FILED

2005 AUG 12 A 10: 08

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 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).

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), 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) 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