

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

FILED

2004 AUG 27 P 2:11

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Capitol Building Commission TITLE NUMBER: 188

CITE AUTHORITY: 4-8-2, 4-8-4, 4-8-5; 29A-1-1, et seq.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Previewing Plans for Substantial  
Changes to the Capitol Complex.

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Previewing Plans for Substantial Changes to the Capitol Complex (188-2)

Type of Rule: XX Legislative \_\_\_\_\_ Interpretive \_\_\_\_\_ Procedural

Agency: Capitol Building Commission

Address: c/o Commissioner Troy O. Body, Chairman  
The Cultural Center  
1900 Kanawha Blvd. East  
Charleston, WV 25305

FILED  
 2004 AUG 31 A 10:30  
 OFFICE WEST VIRGINIA  
 SECRETARY OF STATE

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	0	0	0	0	0
<b>PERSONAL SERVICES</b>	0	0	0	0	0
<b>CURRENT EXPENSE</b>	0	0	0	0	0
<b>REPAIRS &amp; ALTERATIONS</b>	0	0	0	0	0
<b>EQUIPMENT</b>	0	0	0	0	0
<b>OTHER</b>	0	0	0	0	0

2. Explanation of Above Estimates:

The proposed rules should have no financial impact. The Commission currently has no budget, and the proposed rules do not intend to create or expend revenue.

3. Objectives of These Rules:

To enhance the authority of the Capitol Building Commission to enforce its law and rules, following the requests of a Preliminary Performance Review Audit.

Rule Title: Previewing Plans for Substantial Changes to the Capitol Complex

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: None

C. Economic Impact on Citizens/Public at Large.

None

Date: August 27, 2004

Signature of Agency Head or Authorized Representative:



**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: 8/27/2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* Capitol Building Commission; The Cultural Center; 1900  
Kanawha Blvd. East; Charleston, WV 25305; (304) 558-  
0220

LEGISLATIVE RULE TITLE: Previewing Plans for Substantial Changes to the Capitol  
Complex.

1. Authorizing statute(s) citation 4-8-2, 4, & 5; 29A-1-1, et seq.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
July 22, 2004- Comment Period

b. What other notice, including advertising, did you give of the hearing?  
Newspaper article concerning rule changes.  
\_\_\_\_\_  
\_\_\_\_\_

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
Comment Period Ended August 26, 2004

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

Attached \_\_\_\_\_ No comments received 2

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 27, 2004

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

Troy O. Body, Acting Commissioner of Culture & History

The Cultural Center

1900 Kanawha Blvd. East

Charleston, WV 25305

(304) 558-0220

(304) 558-2279 (fax)

Troy.Body@wvculture.org

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- 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)

Chad N. Proudfoot, Vice-Chairman,

Capitol Building Commission

2 West Greene Dr.

Morgantown, WV 26508

(304) 598-9226

cnproudf@yahoo.com

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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

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b. Date of hearing or comment period:

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

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d. Attach findings and determinations and reasons:

Attached 

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## Summary of Rule Changes

Agency: Capitol Building Commission  
Rule No.: 188-2 (Re-designation of Interpretive as Legislative Rules)  
Rule Title: Previewing Plans for Substantial Physical Changes to Capitol Complex; *change to:* Regulations for Substantial Physical Changes to Capitol Complex.

### Rule Summary:

The proposed changes, approved for filing by the Capitol Building Commission, to Title 188, Series 2 of the Code of State Regulations are to re-designate 188-2 (currently interpretive rules) as Legislative Rules and include the following:

1. Expansion of definition of "substantial physical changes," and provisions for providing examples to assist affected state agencies.
2. Expansion of definition of "surrounding complex" to include statuary and memorials.
3. Additional definitions regarding the Commission's responsibility and regulations of material furnishings at the Capitol Complex.
4. Added provisions regarding Commission oversight of Capitol Complex projects.
5. Provisions regarding time limitations for projects that have been approved.
6. Expansion of procedures during "emergency situations" to provide for better record-keeping and journalizing, as well as contact of members.
7. Expansion of authority to enter into agreements with other agencies to ensure law is not violated, and to establish good working relationships.
8. Provisions for the Commission to order unauthorized work to be stopped until reviewed by the Commission.

## Statement of Circumstances for Rule Modification

Agency: Capitol Building Commission  
Rule No.: 188-2 (Re-designation of Interpretive as Legislative Rules)  
Rule Title: Previewing Plans for Substantial Physical Changes to Capitol Complex; *change to:* Regulations for Substantial Physical Changes to Capitol Complex.

### Statement of Circumstances:

The proposed changes, approved for filing by the Capitol Building Commission, to Title 188, Series 2 of the Code of State Regulations are necessary to comply with recommendations of a Preliminary Performance Review Audit conducted by the Joint Committee on Government and Finance, and to provide the Commission with greater control regarding its statutory authority since the Commission currently has no means of enforcing its own law and regulations.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Regulations for Substantial Physical Changes to the Capitol Complex (188-2)

Type of Rule:  Legislative     Interpretive     Procedural

Agency: Capitol Building Commission

Address: c/o Commissioner Troy O. Body, Chairman  
The Cultural Center  
1900 Kanawha Blvd. East  
Charleston, WV 25305

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	Unknown	None	None	Unknown	Unknown
<b>PERSONAL SERVICES</b>	Unknown	None	None	Unknown	Unknown
<b>CURRENT EXPENSE</b>	0	0	0	0	0
<b>REPAIRS &amp; ALTERATIONS</b>	0	0	0	0	0
<b>EQUIPMENT</b>	0	0	0	0	0
<b>OTHER</b>	0	0	0	0	0

2. Explanation of Above Estimates:

A portion of these rules allows the Commission to fine violators. It is unknown how much, if any, revenue this would produce, so it is not fair to speculate. It can be assumed that the amount collected would be minimal. The Commission currently has no budget or revenue of its own. These rules are not intended to create a revenue source.

3. Objectives of These Rules:

To better define terminology, to bring the agency into compliance with its performance review audits, to provide for working with other agencies, and to establish a system for the commission to enforce its law through fining violators.

Rule Title: Regulations for Substantial Physical Changes to the Capitol Complex (188-2)

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Rule could force agencies of state government to pay fines for violations. Hopefully, no violations would occur and no fines would have to be paid. The objective is not to create a revenue source, but to deter violations of the commission's law and rules.

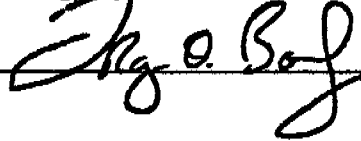
B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: None

C. Economic Impact on Citizens/Public at Large.

No impact, except the indirect effects of moving monies within government agencies.

Date: July 22, 2004

Signature of Agency Head or Authorized Representative:



FILED

TITLE 188  
~~INTERPRETIVE RULES~~ LEGISLATIVE RULES  
CAPITOL BUILDING COMMISSION

2004 AUG 27 P 2: 11

SERIES 2  
~~PREVIEWING PLANS~~ REGULATIONS FOR SUBSTANTIAL PHYSICAL CHANGES TO THE  
CAPITOL COMPLEX

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

§188-2-1. General.

1.1. Scope. -- The scope of these interpretive legislative rules involves the review and approval of plans recommending substantial physical changes to the Capitol Complex by the Capitol Building Commission.

1.2. Authority. -- W. Va. Code §4-8-2,4 & 5; §29A-1-1, et seq.

1.3. Filing Date. --

1.4. Effective Date. --

§188-2-2. Definitions.

2.1. "Substantial physical changes" shall mean, without limitation, permanent physical changes that alter the ~~structural integrity or aesthetic beauty of the public areas of the capitol building and surrounding complex;~~ the design, location, demolition, and/or erection of buildings, statues, memorials, etc.; ~~but~~ and shall not include renovations or repairs of a non-emergency nature needed to maintain the capitol building and surrounding complex in public areas or areas that are deemed historically significant. The Commission shall adopt policies, examples, etc. of changes under its jurisdiction for use by state agencies to assist those agencies to maintain compliance with the Commission's law and rules. Such policies, examples, etc. shall be amendable at the discretion of the Commission.

2.2. "Surrounding complex" shall mean the buildings, grounds, statuary, memorials, and roads surrounding the capitol building and owned by the State of West Virginia or any of its agencies, known as the capitol complex, including the Governor's mansion and other buildings used by the Governor as part of his residence, the Cultural Center, and the State office buildings located in the immediate vicinity of the capitol, and the roadways, structures, statuary, memorials, and facilities which are incidental to such buildings.

2.3. "Emergency situation" shall mean a situation in which inaction for any time period will cause either harm to the capitol building or surrounding complex or dramatic increases in the cost of the plan.

§188-2-3. Approval Requirements.

3.1. Plans -- The Capitol Building Commission ("Commission") shall review all plans recommending substantial physical changes to the capitol building and surrounding complex prior to the letting of a contract for the work or before the changes are commenced if the work is not to be performed under a contract. The plans shall include anticipated costs, as well as the written approval of the Secretary of Administration. The Commission shall either approve or reject the plans within ninety (90) days of submission of the plans. The

Commission shall regulate all signage, fixed seating, paintings, murals, statuary, and all other material furnishings that alter the visual appearance of the public and/or historically significant areas of the capitol complex. The Commission may designate ~~the Chairman~~ any of its members, officers, or agents to act in its behalf when the Commission deems it appropriate and necessary.

3.2. Contracts -- No contract for substantial physical changes to the capitol building or any approaches, structures or facilities incidental thereto shall be let, nor any such substantial physical changes be made, without the prior written approval of the ~~contract~~ commission. The Commission shall either approve or reject the contract or plan within ninety (90) days of submission of the plans.

3.3. Oversight – The Commission, or any of its designated officers, shall assist with the oversight of the construction, work, etc. of any physical change for which approval of the Commission is required and obtained to try to see that the integrity of the building and surrounding complex are maintained. The Commission shall work closely with the Department of Administration and other state agencies in the performance of its authority.

3.4. Time Limitation- Once a project or contract is approved by the Commission, an agency must start work on the project within one calendar year or seek re-approval. At the expiration of one calendar if work is not started, and the project has not been re-approved, it shall constitute a violation of these rules and shall be subject to such fines as are hereinafter prescribed.

#### **§188-2-4. Emergencies.**

4.1. In the event of an emergency situation, the Chairman may grant approval of the plans upon the recommendation of the Secretary of Administration, according to the rules of this section.

4.2. Before approval is granted during any emergency situation, the Chairman shall call an emergency meeting of the Commission to deal with the matter. If this is not possible, the Chairman shall contact the members of the commission by courier, telephonic, electronic, or any other expedient means to attempt to obtain approval, disapproval, and any recommendations from each member regarding the matter. Members contacted through telephonic means shall then provide a written notice of their approval or disapproval, and recommendations for record-keeping purposes. This written record shall be directed to the Office of the Chairman.

4.3. In any event of an emergency situation, the written decision of the Chairman, as well as all documentation regarding contact with the members, shall be fully reported at the next meeting of the Commission, ratified if necessary, and entered into its minute record and journal.

#### **§188-2-5. Agreements.**

The Commission is authorized to enter into agreements with the Department of Administration, and any other agencies to help ensure that its law and rules are not violated. Such agreements may contain, without limitation, provisions regarding communication, reciprocity, additional fines/penalties, etc.

#### **§188-2-6. Violations.**

6.1. In case a project is proposed or work is started that has not been approved by the Capitol Building

Commission, the Commission may issue an order to immediately halt all work on the project until such time as the project may be approved, modified, or disapproved by the Commission. If disapproved, the Commission may order that any effected area be restored to its original environment.

6.2. Whenever a stop-work order is issued under this rule it shall be directed to the Cabinet Secretary responsible for maintaining the work on the project, or the Cabinet Secretary who is responsible for supervising the project contractor if the work is done under a contract.

6.3. If a stop-work order is issued, the Commission must resolve all issues dealing with the proposed project within seven (7) days, and the Commission shall operate as in an "Emergency Situation" described in Section 4 of these rules.

6.4. The Commission shall have the authority to petition the court of competent jurisdiction in Kanawha County to enforce any order under this section.

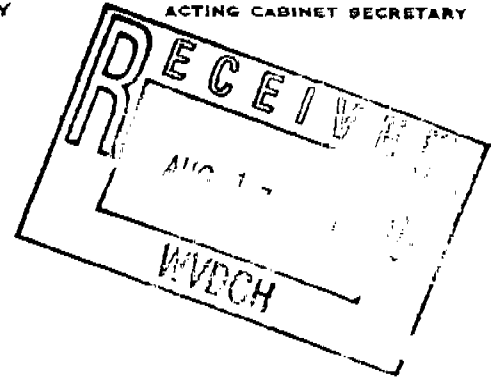


STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE CABINET SECRETARY

JOHN T. POFFENBARGER  
ACTING CABINET SECRETARY

BOB WISE  
GOVERNOR

August 13, 2004



Commissioner Troy O. Body, Chairman  
Capitol Building Commission  
The Cultural Center  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

**Re: Legislative Rules**

Dear Commissioner Body,

I would like to offer the following comments in regard to the Legislative rules filed for "Previewing Plans for Substantial Physical Changes to the Capitol Complex" from the Department of Administration.

1. WV Code §4-8-4 states that the Department of Administration shall promulgate rules and regulations, pursuant to the provisions of chapter twenty-nine-a of the Code. I do not believe that there is any authority providing for the filing of these rules by the Capitol Building Commission.
2. I do not agree with the definition of "substantial physical change" in the proposed rules. The definition should not include "without limitation" and should not delete the wording "structural integrity or aesthetic beauty" That wording should remain. Additionally, the design, location, demolition and/or erection of buildings is something that needs to be decided by the Department of Administration and the Legislature as they are the ones who fund such projects. The policies to be adopted by the Commission should be approved by the Secretary of the Department of Administration. Additionally, I do not believe that it was the intent of the Legislature that the Department of Administration would need to get approval for everything they do at the capitol complex. I believe that the section of the code pertaining to the Capitol Building Commission was set up to protect the historical preservation and integrity of the buildings and grounds. The Department of Administration should not be required to get approval every time they need to do work on the capitol. If that was the case then the Commission should meet weekly to handle all of the requests rather than twice a year.

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE CABINET SECRETARY

3. Under 188-2-3 where you have added "The commission shall regulate all signage, fixed seating, paintings, murals, statuary, and all other material furnishing that alter the visual appearance of the capitol complex" you should insert "in the public areas of the capitol". Again, the Department of Administration would need to get approval for everything they do at the capitol complex. If work is to be done in the public areas it is different than if they are going to do work in an office that has no historical concerns or will not be seen by the public.
4. In regard to Oversight, the Department of Administration oversees all projects already to assure that the specifications in the contracts are met. The Department of Administration does not have any problems with the Commission members keeping an eye on projects but you can not have two different governing bodies be in charge of oversight or conflict will arise.
5. In regard to Agreements, I do not believe that it takes a legislative rule for agencies to enter into agreements. It is my understanding that a Memorandum of Understanding is routinely entered into between agencies.
6. In regard to contracts, if the Commission is authorized to enter into contracts regarding the capitol complex master plan, etc. then the rules should also state that the costs of such studies shall be funded by the Commission. Additionally, the rules should specifically state that the Department of Administration has no duty to implement the recommendations of any such study or be required to undertake or fund the suggestions outlined in any such studies. The Department of Administration works closely with the legislature on all issues of this nature and any decisions for what projects get funded rest with the Department of Administration and the Legislature.
7. In regard to the Commission accepting gifts, I believe that they need Statutory authority to do this and a separate entity would need to be established to accept the funds and decide where they are spent just like the Mansion Preservation Foundation is set up.
8. In regard to Violations, the Commission does not have the Statutory authority to assess fines. Prior to any fines being established the Legislature would need to change the statute and outline all violations for which a fine could be assessed and the amounts of the fines. Additionally, the Department of Administration is opposed to assessing fines as we are the governmental body responsible for maintaining the capitol. Any such fines would only be assessed against us. We do not

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE CABINET SECRETARY

believe that taking funds from the agency responsible for doing the work on the capitol and giving it to another agency would be beneficial. It is more important to use those funds toward their purpose of maintaining the capitol.

I realize that I expressed many of these concerns during the Capitol Building Commission meeting and several changes have already been made to the proposed rules as a result of my concerns. However, I believe that if these rules are passed as proposed it would tie the hands of the Department of Administration from getting their work done timely and efficiently and would only create an undue burden on us as well as the Capitol Building Commission.

I hope that the Commission will consider these comments prior to finalizing the rules. Thank you for the opportunity to comment.

Sincerely,



Donna M. Lipscomb  
Executive Coordinator

1834 Trout Run Road  
Wardensville, WV 26851  
Hardy County

August 19, 2004

Commissioner Troy O. Body  
Chairman, Capitol Building Commission  
The Cultural Center  
1900 Kanawha Blvd. East  
Charleston, WV 25305

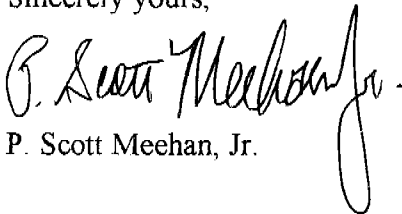
Dear Mr. Body:

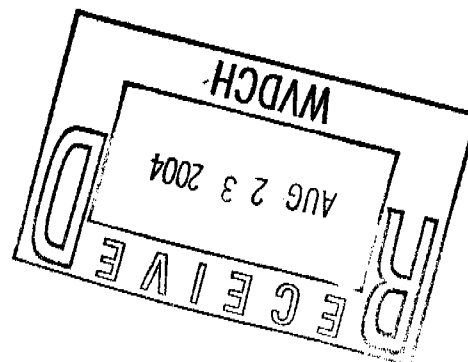
I wanted write to make a public comment on the new legislative rules for the Capitol Building Commission, #188-2. I was very excited when I saw in the paper that the CBC was finally starting to take some really positive steps toward being a viable agency. I think the additions and rules that are being proposed are wonderful, and as a citizen I would be happy to support these changes, especially the right of the CBC to fine violators.

I read the story in the paper a few days ago when people were questioning if the CBC could use this fining power. I was very happy to see that the CBC was going to try and do it anyway, and that if it didn't pass then it would be sending a good message to the legislature. I feel that the commission needs this power. How is it supposed to be a real agency if it does not have any authority to enforce its own laws and rules? Everyone needs to realize that the CBC is not just some advisory committee; it is a real agency that serves an important purpose. If the fining provision cannot be done through the rules, then I hope that the legislature amends the CBC statute and gives the commission this real authority that it needs.

I feel that the new rules are well written, and I hope that they are not changed after the comment period to remove any needed authority.

Sincerely yours,

  
P. Scott Meehan, Jr.





**WEST VIRGINIA DIVISION OF  
CULTURE AND HISTORY**

August 27, 2004

Donna M. Lipscomb  
Executive Coordinator  
Department of Administration  
Building 1, Room E-119  
1900 Kanawha Blvd. East  
Charleston, WV 25305-0120

Dear Donna:

This letter is in response to the public comments you submitted on August 13, 2004 regarding CSR 188-2, "Previewing Plans for Substantial Changes to the Capitol Complex." Let me begin by saying "thank you" on behalf of the Capitol Building Commission for submitting your comments. We have been very lucky throughout this process that several persons have submitted comments and that there was an article in the newspaper concerning the proposed rules. This certainly helps to ensure that there is an adequate opportunity for public participation according to the Administrative Procedures Act.

Since I have been the principal author of the revised rules, I have been asked to write this reply on behalf of the commission. To facilitate an easier response, I should like to adopt the method you used in your original comment and address each point separately.

1. The Commission does not concur with your recommendation that the words "structural integrity or aesthetic beauty" should be added back into the rules. Also, the Commission does not concur with your opinion that the Commission was created solely for historic preservation and integrity. §4-8-4 defines the Commission's purpose by saying "The capitol building commission shall review and approve or reject all plans recommending substantial physical changes inside or outside the state capitol building or surrounding complex, including the public meeting rooms, hallways and grounds, which affect the appearance thereof. The approval of the commission is mandatory before a contract may be let for work which constitutes a substantial physical change, or before changes are started if the work is not done under a contract." This does not serve to imply a limitation only to historic preservation, and in fact the current interpretive rule of the Commission limits itself with the "structural integrity and aesthetic beauty" phrase. Therefore, the Commission is fully within its rights to restore its rules back to those stated in the Code, and to comply with the requests made in the Commission's preliminary performance review audit from the Legislative Auditor's office. However, the Commission does believe that it is in the best interests of all parties to insert the

words "in public areas or areas that are deemed historically significant" following "...maintain the capitol building and surrounding complex."

The Commission concurs with your opinion that the Department of Administration and the Legislature should have a significant and dominating role regarding the "design, location, demolition, and/or erection of buildings." However, the Commission also believes that the Legislature intends for there to be a permanent fixture for public participation regarding these issues, as well as a bi-partisan organization composed of both professionals and the public to ensure that such issues are in compliance with architectural standards, historic preservation statues, long-term development, and not bowing to the political whims of the day. The Capitol Building Commission serves in this permanent capacity, while the Department of Administration can not provide these safeguards.

Also, the Commission agrees that the Department of Administration should not need the approval of the CBC every time that work must be done, but it does believe that the continued violation of CBC laws and rules by any agency or officer can not be tolerated. The rules proposed by the Commission do not intend to needlessly hamper the Department of Administration, and the Commission feels that a Memorandum of Understanding between the two agencies will serve to define actions which require approval so that the efficiency of the Department of Administration may be maintained.

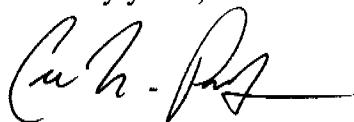
2. The Commission concurs with your opinion and the words "public and/or historically significant areas of the" will be inserted in the new sentence following "of the" and preceding "capitol complex."
3. In regard to oversight, the Commission does not intend to claim authority as a "governing body" to supervise construction, and acknowledges that authority as properly belonging to the Department of Administration. The wording in this section is meant only to ensure the Commission's right to "keep an eye on" projects, as you mention, and to be regularly informed about projects after they are approved.
4. Even though the Commission may not need specific authority to enter into agreements with other agencies, it feels that by stating this fact in the proposed rules it will ensure that Commission members in the future will be able to readily see that the Commission can exercise such authority when it feels that it is in the best interests of the citizens.
5. Since a Memorandum of Understanding can be adopted by the Commission and the Department of Administration regarding the formulation and adoption of master plans, etc., the Commission feels that section 5.2 should be omitted from the proposed rules.
6. Because there is a question regarding accepting gifts, and because the Commission has already authorized the investigation of forming a Capitol Foundation that would serve this purpose, the Commission feels that section 5.3 should be omitted from the proposed rules.

7. The Commission concurs with your opinions regarding the fining of other agencies. To this effect, the Commission has amended the proposed rules to remove this provision and replace it with a "stop-work order" provision that it feels will be acceptable to both the CBC and the Department of Administration.

Again, I thank you for taking the time to make so many constructive comments regarding the proposed rules, and I assure you that all of your points were given full consideration. I also thank you for the continued help and support that you have continuously provided to the Commission during its meetings.

I hope that you will respectfully receive this reply to your comments, and if you have any further questions or concerns I hope that you will not hesitate to contact me. I look forward to working with you again as we all strive to fully serve the great citizens of the State of West Virginia. Until then, I am...

Sincerely yours,



Chad N. Proudfoot  
Vice-Chairman  
Capitol Building Commission



**WEST VIRGINIA DIVISION OF  
CULTURE AND HISTORY**

August 27, 2004

P. Scott Meehan, Jr.  
1834 Trout Run Rd.  
Wardensville, WV 26851

Dear Mr. Meehan:

This letter is in response to the public comments you submitted on August 19, 2004 regarding CSR 188-2, "Previewing Plans for Substantial Changes to the Capitol Complex." Let me begin by saying "thank you" on behalf of the Capitol Building Commission for submitting your comments. We have been very lucky throughout this process that several persons have submitted comments and that there was an article in the newspaper concerning the proposed rules. This certainly helps to ensure that there is an adequate opportunity for public participation according to the Administrative Procedures Act. Since I have been the principal author of the revised rules, I have been asked to write this reply on behalf of the commission.

The Commission takes your comments very seriously, and we thank you for your support and positive feelings. The Commission did feel that it was in the best interest to remove the fining power that you refer to in your letter, but it has been replaced with a "stop-work order" provision that carries just as much weight, and we hope that you will find this to be acceptable. Although there have been some modifications made to the rules since the end of the comment period, the CBC has taken great care to adhere to the requests made in your letter.

The Commission hope that you will continue to closely follow CBC activities, and that you will use your public comment authority again in for future CBC rule modifications. If you have any questions or concerns, please do not hesitate to contact me. With kindest regards, I am...

Sincerely yours,

Chad N. Proudfoot  
Vice-Chairman  
Capitol Building Commission

## **Amendments to Proposed Rule following Comment Period**

Agency: Capitol Building Commission

Rule No.: 188-2 (Legislative)

Rule Title: Previewing Plans for Substantial Changes to the Capitol Complex

### Amendments:

Section 2.1- Addition of “in public areas or areas that are deemed historically significant” following “...maintain the capitol building and surrounding complex.”

Section 3.1- Addition of “public and/or historically significant areas of the” following “of the” and preceding “capitol complex.”

Section 5.2- Section deleted.

Section 5.3- Section deleted.

Section 6.- Section amended to remove provisions for fining violators and replace with provision for stopping unauthorized work.