

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

Form #2

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2002 JUN 25 P 4:53

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Administration TITLE NUMBER: 148

RULE TYPE: Legislative CITE AUTHORITY: W.Va. Code § 5A-8-1

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: 12

TITLE OF RULE BEING PROPOSED: General Administration of Records Management and Preservation

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 7/25/02 AT 10:00 am ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Donna Prunty, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East

Building 1, Room E-119

Charleston, WV 25305

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

3.80

Agency: Department of Administration
Rule Type: Legislative

Title Number: 148
Cite Authority: 5A-8-1

STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The Public Records Management and Preservation Act was previously established by the Legislature. The purpose of the rules is to establish the Records Management Program policies, definitions and procedures to be followed and used by each executive agency and its subordinate offices.

TITLE 148
WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
RECORDS MANAGEMENT AND PRESERVATION

SERIES 12
RULES FOR THE GENERAL ADMINISTRATION OF
RECORDS MANAGEMENT AND PRESERVATION

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SECRETARY OF STATE

§ 148-12-1 General.

1.1 Scope.-- This Legislative Rule sets forth the Standards, Procedures and Techniques for effective management of records.

1.2 Authority. - W.Va. Code §5A-8-1 through §5A-8-20.

1.3 Filing Date. - _____

1.4 Effective Date. - _____

1.5 Purpose. - The purpose of the rules is to establish the Records Management Program policies, definitions and procedures to be followed and used by each executive agency and its subordinate offices.

§ 148-12-2 Applicability.

2.1 This legislative rule applies to all agencies, except those statutorily exempted from its application.

§ 148-12-3 Definitions.

3.1 Definitions. -

(a) "Accession Number" means a number assigned by the Administrator to identify each shipment of records to the State Records Center.

(b) "Active Record" means records maintained by the agency.

(c) "Administrator" means Secretary of the Department of Administration, as designated by the

Code as State Records Administrator.

(d) "Agency" means any department, office, commission, board or other unit, however designated, of the executive branch of state government and all subordinate offices statewide.

(e) "Code" means the West Virginia Code of 1931, as amended.

(f) "Essential Records" means those records which would permit the continuity of government and/or protect the residual rights of the citizens in case of a disaster.

(g) "Filing Equipment" means equipment, regardless of size, used for the storing of records; e.g., filing cabinets, mechanical shelving, open-shelving, rotary card files, map files, cardex files, blueprint files, computers, computer disks, etc.

(h) "Record" means any information bearing media generated or received by an organization. This includes documents, spreadsheets, images, web pages and e-mail.

(i) "Inactive Record" means records which are infrequently required in the conduct of current administrative work and are retired to the State Records Center.

(j) "Local Record" means a record of a county, city, town, authority or any public corporation or political entity whether organized and existing under charter or under general law unless the record is designated or treated as a state record under state law.

(k) "Non-Record" means library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of processed documents.

(l) "Preservation Duplicate" a copy of an essential state record used for reference purposes thereby preserving the records and/or to provide for

continuity of government, as may be needed.

(m) "Records Manager" means an employee appointed by the agency's chief executive officer to act as liaison with the Administrator and delegated the authority and responsibility for the agency's Records Management Program.

(n) "Records Retention Authorization" means the Administrator's approval of agency's recommended retention of a record series.

(o) "Record Series" means a group of identical or related records which are normally used and filed as a unit, and which permit evaluation as a unit for retention scheduling purposes.

(p) "Retention and Disposal Schedule" means a schedule of established retention periods for the records of an executive agency.

(q) "Retention Period" means a period of time during which records must be held before they may be legally disposed. The retention period is usually stated in terms of months or years, but sometimes is contingent upon the occurrence of an event; e.g., employee termination and contract expiration. The retention period includes the life span of each record from creation to final disposition.

(r) "State Records Center" means the low cost storage facility for the housing and servicing of inactive records whose reference does not warrant their retention in expensive office space and equipment.

§ 148-12-4 Duties.

4.1 Duties, State Records Administrator.

Secure the benefits available through efficient and economical management practices and techniques by the establishment of standards, procedures, studies, surveys, and retention and disposal schedules.

Obtain required reports from each agency for analysis, collation and submission to the Governor.

Provide forms management assistance to the agencies regarding forms design, forms implementation, procedural analysis, and forms

procurement.

Seek the assistance of the State Archivist, as required, in determining whether or not a record has archival value.

Coordinate the transfer of all records of archival value from the agency to the Department of Archives and History.

4.2 Duties, Executive Agency Chief Officer

Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency and their subordinate offices.

Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state, and of persons directly affected by the agency's activities.

Submit to the Administrator a Records Retention Authorization proposing the length of time each state record series warrants retention for the administrative, legal, fiscal or historical purposes after it has been received or created by the agency.

Use the Records Center to store inactive records.

Furnish Administrator a listing of people authorized to retrieve records, or information contained in records, from the Records Center. This list shall be reviewed and updated semi-annually. Interim additions and deletions to this list shall be furnished as appropriate.

Comply with the rules, regulations, standards and procedures issued by the Administrator.

Cooperate with the Administrator in the conduct of surveys made by him/her.

Appoint an agency Records Manager from his/her staff who is conversant with the agency's total mission. The Records Manager should be delegated the authority to reconcile major records management problems in the name of the agency head.

Request Administrator's approval before employing anyone other than a state employee to consult or assist in any phase or facet of Records Management.

4.3 Duties, Agency Records Manager

Be conversant with the Records Management Manual of Procedures in its entirety to assure compliance with the statewide Records Management Program.

Act as liaison between the agency and the Administrator.

Coordinate the biennial inventory of the agency's total records holdings and submit to the Administrator as required.

Review biennially the agency's Retention and Disposal Schedule to determine if revisions are necessary and certify by letter to the Administrator this review has been completed.

Coordinate the transfer between agency and Records Center regarding packing, transferring and retrieval of records stored in the Records Center.

Prepare and submit to the Administrator all completed forms as required.

4.4 Duties, Agency Division Chiefs

Channel all requests for Administrator's assistance on records management problems through agency Records Manager.

Report through its respective Records Manager, all divisional records disposition made in compliance with the agency's Retention and Disposal Schedule.

Cooperate with the agency Records Manager in any surveys, inventories, or special projects being made to assure a more comprehensive Records Management Program within the agency.

§ 148-12-5 Executive Agency Records Management Program

Each agency shall develop their Records Management Program within the guidelines. The

agency developed program shall be submitted to the Administrator for approval as to form and compliance with the overall state program.

§ 148-12-6 Special Programs

6.1 Agencies may, with their own personnel, initiate studies, surveys and programs for improving the efficiency and effectiveness of their records management functions. Agencies are encouraged to develop Records Management improvement projects.

6.2 The Administrator will, upon request, recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records. If assistance is desired by an agency, a written request shall be forwarded to the Administrator specifying the type of assistance required.

6.3 The Administrator's written approval must be obtained prior to any agency retaining or employing any firm, partnership, person or persons, other than state employees to consult and/or assist in any phase or facet of Records Management.

6.4 Upon completion of any agency initiated records management survey, study or program, a copy of the findings and recommendations shall be furnished to the Administrator.

6.5 A copy of the findings and recommendations of any consulting service employed by any agency concerning any phase or facet of Records Management shall be furnished to the Administrator.

§ 148-12-7 Electronic Media

7.1 The business environment is migrating from reliance upon hard copy for the distribution, storage and retrieval of information to a single, read-only "electronic file cabinets" that can be accessed by an authorized user.

With e-mail, imaging, and web pages growing in volume and taking on the status of vital record in many business processes, the practice of archiving this electronic information has become an increasingly important issue.

E-mail is an important record of business transactions; sometimes it is the only record of a transaction. Decisions of what should be kept, and how long, should be consistent with the policies on paper documents. The way electronic information is stored will depend in large part on the length of time it will be stored and the way the information will be used.

State agencies should implement and enforce comprehensive policies governing the appropriate handling of electronic communications. Agencies should also consider archiving the essential information to meet the retention requirements.

An enterprise's document retention policy must evaluate paper and electronic documents consistently, based not on media type but on information value to the enterprise, legal requirements, potential liability issues and storage costs (in terms of space and money).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 148, Series 12, 13 & 14, W.Va. Code §5A-8-1

Type of Rule: Legislative Interpretive Procedural

Agency: Department of Administration

Address: 1900 Kanawha Boulevard, East

Building 1, Room E-119

Charleston, WV 25305

1. Effect of Proposed Rule:

| | ANNUAL FISCAL YEAR | | | | |
|-----------------------|--------------------|----------|---------|------|------------|
| | Increase | Decrease | Current | Next | Thereafter |
| ESTIMATED TOTAL COST | | | | | 250,000.00 |
| PERSONAL SERVICES | | | | | |
| CURRENT EXPENSE | | | | | |
| REPAIRS & ALTERATIONS | | | | | |
| EQUIPMENT | | | | | |
| OTHER | | | | | |

2. Explanation of Above Estimates:

There would be no anticipated increased cost to the State for the management and preservation of hard-copy records maintained at the records center. However, the State needs to evaluate the possibility of providing a place for agencies to archive their digital data much like the Records Center and the possibility of an automated Records Management system. The estimated cost would be approximately \$250,000.00 just for the study and then hardware and software would come later.

3. Objectives of These Rules:

To establish policies, definitions and procedures to be followed and used by each executive agency and its subordinate offices.

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

No immediate fiscal impact to the State. However, future costs for the storage of digital data would be estimated at \$250,000.00.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

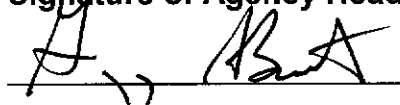
None

C. Economic Impact on Citizens/Public at Large.

None

Date: 6/25/02

Signature of Agency Head or Authorized Representative:





BOB WISE
GOVERNOR

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

GREGORY A. BURTON
CABINET SECRETARY

June 25, 2002

Via Hand-Delivery

The Honorable Joe Manchin, III
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: Legislative Rules

Dear Secretary Manchin,

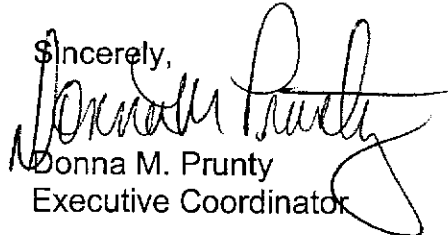
I am enclosing an original and one copy of the documents listed below for filing. The proposed rules are being filed in regard to Records Management and Preservation. I will provide a copy of the enclosed documents to the Legislative Rule Making Review Committee once they are marked filed by your office.

The documents enclosed consist of the following:

1. Notice of Comment Period on a Proposed Rule,
2. Statement of Circumstance and Brief Summary,
3. Proposed Rules, and
4. Fiscal Note for Proposed Rules.

Thank you very much for your assistance. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,



Donna M. Prunty
Executive Coordinator

DMP:dp
Enclosures
cc: Gregory A. Burton, Cabinet Secretary