



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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November 20, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Donna Prunty
Administration, Department of
Capitol Complex
Building 1, Room E-119

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **General Administration of Records Management and Preservation, 148CSR12**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

DEK

FILED

Agency: Department of Administration, Ethics Commission
Subject: General Administration of Records Management and Preservation, 148CSR12

2012 JUL 13 A 10:12
CLERK OF THE SENATE
SECRETARY OF STATE

PERTINENT DATES

Filed for public comment: May 30, 2002
Public comment period ended: July 25, 2002
Filed following public comment period: July 25, 2002
Filed LRMRC: July 25, 2002
Filed as emergency: N/A

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

ABSTRACT

Brief Summary

- This Rule is in response to the Public Records Management and Preservation Act previously established by the Legislature.
- This Rule establishes the Records Management Program policies, definitions and procedures used by each executive agency.

Section Summary

The following is a synopsis of the rule.

Section 2 Applicability.

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

Section 3 defines terms.

- This section defines various terms necessary for this rule.

Section 4 Duties.

- This section sets forth the duties of the State Records Administrator, Executive Agency Chief Officer, Agency Records Manager, and Agency Division Chiefs and those positions relate to Records Management Program policies.

Section 5 Executive Agency Records Management Program.

- This section provides that the agencies shall submit their programs for record management to the Administrator for approval.

Section 6 Special Programs.

- This section sets forth procedures for agencies to develop studies, surveys and programs for improving efficiency of their records management program. Action on such studies, surveys and programs must have the permission of the Administrator.

Section 7 Electronic Media.

- This section states that state agencies should implement and enforce comprehensive policies governing the appropriate handling of electronic communications.

AUTHORITY

Statutory authority: W. Va. Code, §5A-8-8; which provides as follows:

The administrator shall promulgate such rules and regulations concerning the management and selection and preservation of essential state records as are

necessary or proper to effectuate the purpose of this article.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes

VIII. OTHER

Counsel has technical modifications to suggest.