



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: **Records Retention and Disposal Scheduling, 148CSR13**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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

FILED  
AUG 13 10 12  
COMMONWEALTH OF VIRGINIA  
SECRETARY OF STATE

DEK

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Department of Administration, Ethics Commission  
**Subject:** Records Retention and Disposal Scheduling, 148CSR13

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 Destruction of Record and Non-Record Material.**

- This section sets for the different procedures for the disposal of "records" and "non-record material".

**Section 4 Inventory of Agency Records Holdings.**

- This section sets forth biennial inventory requirements for agencies, relating to their records holdings.

**Section 5 Records Retention Authorization.**

- This section sets forth the procedures by which an agency shall prepare and submit a Records Retention Authorization to the Administrator for each record series held by them.

**Section 6 Record Retention and Disposal Schedules.**

- This section states that the Administrator shall develop a Retention Disposal Schedule and submit said schedule to the State Archivist and the agency head for approval.

**Section 7 Retirement of Records to Record Center.**

- This section states that records eligible for storage should be transferred annually by the agency as needed to the record center.

**Section 8 Destruction of Records by the Agency.**

- This section sets forth procedures for agencies to destroy records held by them once said records have become eligible for disposal as indicated by the agency's current Records Retention and Disposal Schedule.

**Section 9 Microfilming.**

- When a record series or portion is microfilmed and the original is destroyed, this disposal shall be recorded on the quarterly Records Disposal Report.

Section 10 Filing Plans.

- This section requires that supervisors have a written plan of the filing system under their supervision.

Section 11 Forms.

- This section requires that all reports be submitted to the Administrator on forms provided by or approved by the Administrator.

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.