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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 15, 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: David C. Jolliffe
Courthouse Facilities Improvement Authority
550 Eagan Street
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Courthouse Facilities Improvement Authority, 203CSR1**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Courthouse Facilities Improvement Authority

Subject: Courthouse Facilities Improvement Authority, 203CSR1

PERTINENT DATES

Filed for public comment: May 23, 2002

Public comment period ended: June 24, 2002

Filed following public comment period: July 25, 2002

Filed LRMRC: July 25, 2002

Filed as emergency: N/A

Fiscal Impact: None

ABSTRACTBrief Summary

- The Rule establishes uniform guidelines for use by the West Virginia Courthouse Facilities Improvement Authority.
- The Rule Defines terms
- The Rule sets forth procedures for Project review; application filing, review, and approval; Funding; and Denial.
- The Rule sets forth procedures for Administering the Fund.

Section Summary

The proposed rule is new. The following is a section-by-section synopsis of the proposed new rule.

Section 1 Sets forth Scope and Purpose.

- The rule establishes guidelines for use by the West Virginia Courthouse Facilities Improvement Authority in evaluating requests by a county for funding assistance

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for modification or new construction of courthouse facilities.

Section 2 defines terms.

- The Rule defines the terms "Fund" and "Project".

Section 3 relates to Project review; application filing, review, and approval; Funding; and Denial.

- The Rule sets forth procedures for:

Project review: Prior to receiving any financial assistance for the modification or construction of a courthouse facility, the county applicant must complete an application and receive the Authority's approval.

Application filing, review, and approval: Counties must use the Authority's application form; the Authority must review a completed application within 90 days and make their recommendation; and if approved, the Authority must make a written recommendation as to kind, amount and source of funding.

Funding: The Authority grants permission to counties to submit applications for supplemental consideration of alternate funding.

Denial: If the Authority determines that a project is not eligible for funding assistance or the construction is not a prudent investment of state funds, the Authority shall provide the county with a written statement outlining its decision.

Section 4 relates to Fund Administration.

- This section of the Rule describes the sources of the Fund revenues; how the money is to be used in connection with courthouse improvements; outlines the authority and criteria for awarding grants; and, places a five (5) percent fund cap (of the total funds available for the funding of projects) and an eighty (80) percent project cap (no county shall receive money from the Authority in an amount in excess of eighty percent of the total cost of the project).

AUTHORITY

Statutory authority: W.Va. Code, §29-26-3(a), which provides,
as follows:

(a) The authority shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the authority in evaluating any request by a county for funding assistance for the modification of an existing courthouse facility or the construction of a new county courthouse facility.

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

Certain technical changes are recommended.