



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

*Building 1, Room MB-49
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4840
(304) 347-4919 FAX*

email: tanders@mail.wvnet.edu

*Senator Mike Ross, Cochair
Delegate Virginia Mahan, Cochair
Debra A. Graham, Counsel*

November 20, 2002

*Joseph A. Altizer, Associate Counsel
Connie A. Bowling, Associate Counsel
Teri Anderson, Administrative Assistant*

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: **Management of Records Maintained by Records Center, 148CSR14**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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

Agency: Department of Administration, Ethics Commission

Subject: Management of Records Maintained by Records Center,
148CSR14

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.

ABSTRACTBrief 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 SummarySection 2 Applicability.

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

Section 3 Records Center.

- This sections sets forth that a Records Center shall be a fireproof storage facility located in a centralized West Virginia location.

Section 4 Selection of Records for Retirement.

- This section sets forth guidelines for the listing and timing of records retirement.

Section 5 Standard Records Storage.

- This section sets forth authority for the Record Center to set standards for containing and organizing records for storage.

Section 6 Authorized Personnel.

- This section states that an Agency Chief Executive Officer must submit to the Administrator a listing of agency personnel authorized to request records or information from the Records Center.

Section 7 Procedure.

- This section states that records and/or information may be requested from the Records Center as required by the State Records Center.

Section 8 Disposal of Records by Records Center Personnel.

- This section sets forth the timing procedure of disposing of records and documents stored at the Records Center.

Section 9 Request for Authorization to Destroy Records Stored Records Center.

- This section states that the Administrator must request permission to dispose of records from the appropriate agency. The section sets forth the appropriate response

by the Administrator to an affirming answer, no answer, or a negative answer by the agency.

Section 10 Destruction of Eligible Records by the Records Center.

- This section sets forth procedures for logging of disposed records and other "record" keeping procedures internal to the Records Center's administration.

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?

Yes

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.