

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #3 ■

Do Not Mark In This Box

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AUG 30 10 17 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Division of Culture & History TITLE NUMBER: 82

CITE AUTHORITY: §§29-1-6; 29-1-5

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: 8

TITLE OF RULE BEING PROPOSED: Records Preservation Grant Program for Political
Subdivisions

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

David R. Lee 8/30/00
Authorized Signature

DEPARTMENT OF EDUCATION AND THE ARTS
Office of the Secretary

State Capitol Bldg. 5, Room 205
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
Telephone: (304) 558-2440
Fax No.: (304) 558-1311



Cecil H. Underwood
Governor

David R. Ice
Cabinet Secretary

August 30, 2000

The Honorable Ken Hechler
Secretary of State
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Secretary Hechler:

I am hereby approving for filing with your office and the Legislative Rule-making Review Committee for their review the following legislative rule of the Division of Culture and History:

Title 82, Series 8: Records Preservation Grant Program for Political Subdivisions.

The rule is attached.

Sincerely,

A handwritten signature in cursive script that reads "David R. Ice".

David R. Ice
Cabinet Secretary

cc Fred Armstrong

Enclosure

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 28, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Culture & History, Archives & History,

1900 Kanawha Blvd., E., Charleston, WV 25305-0300

(304) 558-0230 X164

LEGISLATIVE RULE TITLE: Records Preservation Grant Program for Political

Subdivisions

1. Authorizing statute(s) citation §29-1-6 & 29-1-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

July 28, 2000

b. What other notice, including advertising, did you give of the hearing?

no hearing but press release with copies sent; posted on agency web page and linked to public libraries; sent to all county clerks for posting; sent to county and municipal associations for clerks; addressed in presentation of county and circuit clerks

c. Date of Public Hearing(s) or Public Comment Period ended:

August 28, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments. No comments received

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

29 AUGUST 2000

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Fredrick H. Armstrong, Director

Archives & History, Division of Culture & History

1900 Kanawha Blvd., E. Charleston, WV 25305-0300

PH: (304) 558-0230 X164 FAX: (304) 558-4193 e-mail: fharmstrong@wvculture.org

- g. **IF DIFFERENT FROM ITEM 'f',** please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

X

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing or comment period:

NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Records Preservation Grant Program for Political Subdivisions

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Culture and History
Archives and History Section

Address: The Cultural Center
1900 Kanawha Boulevard, East
Charleston, WV 25305-0300

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	5,000		0	5,000	5,000
PERSONAL SERVICES	4,000		0	4,000	4,000
CURRENT EXPENSE	1,000		0	1,000	1,000
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

No funds were provided in FY2001 budget for grants or administration. Conservative estimates based on appropriation of \$100,000 for grants. Would require incremental increase for larger grant fund to award.

3. Objectives of These Rules:

To establish fair and equitable procedure for political subdivisions to apply for matching grants for the preservation of records.

Rule Title: Records Preservation Grant Program for Political Subdivisions

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Preservation of records may save state from potential legal action to meet public records access, and provide efficiencies and uniformity in the preservation of public records.

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

Greater potential to provide same for political subdivisions as state, as well as save storage cost and provide additional office space.

C. Economic Impact on Citizens/Public at Large.

Increased and improved access will potentially reduce cost to citizens to locate and acquire public records.

Date: 28 July 2011

Signature of Agency Head or Authorized Representative:

Fredrick H. Armstrong

STATEMENT OF CIRCUMSTANCES

During the 2000 legislative session Senate Bill 460 was passed so as to provide the basis for a matching records preservation grants program for political subdivisions. The legislation required rules to be filed to provide for this program through Archives and History and the West Virginia Archives and History Commission. Submission of Title 82, Series 8: Records Preservation Grant Program for Political Subdivisions complies with this legislation.

BRIEF SUMMARY OF RULE

Title 82, Series 8: Records Preservation Grant Program for Political Subdivisions provides rules by which political subdivisions - county and municipal offices - may qualify and apply for state funds to match on an equal basis local funds to address critical storage, access and preservation needs of public records created and held in the public trust by these offices. It lays out eligible programs and priorities for funding grant requests, establishes a grant cycle, and grant application procedure, from submission to final reporting, including an appeals process for applicants who do not feel they were given proper consideration by the West Virginia Archives and History Commission.

DEPARTMENT OF EDUCATION AND THE ARTS

Office of the Secretary

State Capitol Bldg. 5, Room 205
1900 Kanawha Boulevard, East
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Telephone: (304) 558-2440
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Cecil H. Underwood
Governor

David R. Ice
Cabinet Secretary

July 28, 2000

Ken Hechler
West Virginia Secretary of State
Administrative Law Division
Building 1, Suite 157K
Charleston, WV 25305-0770

Dear Secretary Hechler:

I hereby approve for filing with your office the following Legislative rule for the Division of Culture and History:

Title 82, Series 8: Records Preservation Grant Program for Political Subdivisions

Attached is a copy of the proposed rule to be published for public comment and required forms.

Sincerely,

David R. Ice
Cabinet Secretary

cc: Renay Conlin
Fred Armstrong

TITLE 82
LEGISLATIVE RULES
DIVISION OF CULTURE AND HISTORY

JUL 28 3 51 PM '00

OFFICE OF THE CLERK OF THE SENATE
SECRETARY OF STATE

SERIES 8

RECORDS PRESERVATION GRANT PROGRAM FOR POLITICAL SUBDIVISIONS

§82-8-1. General.

1.1. Scope. -- This legislative rule establishes general guidelines for a competitive records preservation matching grants program for political subdivision records administered by the Archives and History section and considered by the Archives and History Commission of the West Virginia Division of Culture and History.

1.2. Authority.--W. Va. Code §§29-1-6 and 29-1-5.

1.3. Filing Date.-- _____

1.4. Effective Date.-- _____

FILED
JUL 30 10 27 AM '00
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§82- 8- 2. Definitions.

2.1. "Political Subdivision" means any municipal corporation or county government which transacts government business in the State of West Virginia.

2.2. "Preservation" means maintaining archival records in their original form by stabilizing them chemically or strengthening them physically to ensure their survival as long as possible in their original form. It also means the reformatting of written, printed, electronic or visual archival originals to extend the life of the information.

2.3. "Archival quality" means a quality of reproduction providing permanent, durable, and nondestructive storage or copying medium for records consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American National Standards Institute, and the National Bureau of Standards.

2.4. "Commission" means the West Virginia Archives and History Commission.

2.5. "Director" means the Director of the Archives and History Section.

2.6. "Custodian" means the county or municipal public official in charge of an office having public records.

2.7. "Public record" means recorded information that documents a transaction or activity by or

with any county or municipal public official, agency or employee. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business.

The medium on which such information is recorded may be, but is not limited to, paper, film, magnetic, optical or solid state devices which can store electronic signals, tapes, Mylar, linen, silk or vellum. The general types of records may be, but are not limited to books, papers, letters, documents, printouts, photographs, films, tapes, microfiche, microfilm, photostats, sound recordings, maps, drawings, and any representations held in machine readable form.

2.8. "Archival records" mean all non-current records of continuing and enduring value useful to the citizens of the state and necessary to the administrative functions of counties and municipalities in the conduct of services and activities mandated by law. In appraisal of public records deemed archival, the terms "administrative," "legal," "fiscal," and "historical" shall be defined as:

2.8.a. "Administrative value": Records shall be deemed of administrative value if they have continuing utility in the operation of an agency of a county or municipality.

2.8.b. "Legal value": Records shall be deemed of legal value when they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

2.8.c. "Fiscal value": Records shall be deemed of fiscal value so long as they are needed to document and verify financial authorizations, obligations and transactions.

2.8.d. "Historical value": Records shall be deemed of historical value when they contain information, regardless of age, which provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

§82-8-3. Introduction.

Public records created, filed, and stored under the auspices of county and municipal government offices, officers and officials have reached an age and volume challenging those charged with responsibility for their preservation and access. Records custodians lack adequate funds to provide for proper storage conditions, providing for the security of unique records and information required for governmental operations and citizen needs. They lack office and storage areas meeting minimum environmental requirements for paper, audio, film, tape, and electronic records. Many, charged with responsibility for records over 150 to 200 years old, have not had the resources and staff to provide the attention the records require. Most are also confronted with buildings which were not designed so as to provide adequate and proper storage space and environments. These problems have been compounded by the absence of training for staff in records management administration, changing records technologies and preservation techniques and formats for public records.

This records preservation grant program addresses these needs by providing for matching grants to county and municipal governments so as to provide for preservation of the record and

continued public access to the information recorded in a systematic manner. The program will seek to provide uniformity in records management, preservation, reformatting and access, utilizing the most efficient and cost effective applications, and applying best practices and standards available.

§82-8-4. Grant Program.

4.1. Only political subdivisions and their records custodians may qualify for funds under this program.

4.2. In general, grants will be awarded to address preservation of original historical public records and/or the historical information contained on these records:

Eligible program areas include, but are not limited to:

- (1.) Survey/Condition of records;
- (2.) Storage of records; and
- (3.) Reformatting of records.

Grant applications will be prioritized in this order initially. Priority will be given to applications utilizing recognized archival quality preservation practices, processes and technologies.

4.3. Funds available for records preservation matching grants are contingent upon legislative appropriation, less necessary expenses to administer program.

4.4. Grant period is one year, concurrent with state fiscal year.

4.5. All political subdivisions are eligible to apply for funds but will not automatically receive funds. Grants will be awarded on a competitive basis, evaluated by Archives and History staff and rated in accordance with program priorities established by section 4.2 above. The commission will consider the grant applications and make the final awards based on staff recommendations and ratings.

4.6. Availability of project application form and selection criteria will be announced in February and accessible on the Archives and History web page or upon written or verbal request. Hard copies of the completed application (one original and two copies) must be postmarked no later than the 31st day of March of each year.

4.7. Successful grant recipients will be notified on or before the first day of July of each year.

4.8. Successful applicants will be required to:

4.8.a. enter into binding contract to expend all grant funds awarded in accordance with state purchasing laws and rules;

4.8.b. meet standard financial management systems and be in accordance with general accounting standards for audit of government identities and organizations; be agreeable to participate in pre-grant meetings and on-site visits; and

4.8.c. provide narrative and financial reports within ninety (90) days of the completion of the project or 30 September, whichever is the earliest.

4.9. Unsuccessful applicants will be notified in writing within fifteen (15) days of the Commission's decision on the application. Any grant applicant failing to receive an award of award may appeal this action by submitting in writing a request for reconsideration with specific reasons as to why the Commission's original decision should be overturned. The request for reconsideration must be made to the Commission addressed to the Director at Archives and History, 1900 Kanawha Blvd., E., Charleston, WV 25305 within fifteen (15) days of receipt of notification of the denial of the grant request. Within thirty (30) of the request for reconsideration the Commission will issue its final administrative determination on the grant request. The Commission will notify the appellant of that decision in writing.



For more information contact:

Ginny Painter
Director of Public Information and Programming
West Virginia Division of Culture and History
The Cultural Center
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0300
(304) 558-0220, ext. 120, or (304) 722-2343
ginny.painter@wvculture.org

For Immediate Release
Aug. 3, 2000

Rules for proposed Records Preservation Grant Program posted for public comment

The West Virginia Division of Culture and History has filed proposed rules with the Secretary of State's Office for the implementation of a competitive matching grants program to assist county and municipal governments with the preservation of public records. The program was established earlier this year by the West Virginia Legislature.

The draft rules are posted for public comment in the Secretary of State's *State Register* publication, on the Division's website at www.wvculture.org and on the websites of public libraries across the state, and at all county courthouses.

All comments must be submitted in writing to: Fredrick H. Armstrong, Director of Archives and History, West Virginia Division of Culture and History, The Cultural Center, 1900 Kanawha Blvd., E., Charleston, WV 25305-0300, or by e-mail to fharmstrong@wvculture.org. The deadline for comments is 5 p.m. on Monday, Aug. 28.

For more information, call Armstrong at (304) 558-0230.

The West Virginia Division of Culture and History, an agency of the West Virginia Department of Education and the Arts, brings together the state's past, present and future through programs and services in the areas of archives and history, the arts, historic preservation and museums. Visit the Division's website at www.wvculture.org for more information about programs of the Division. The Division of Culture and History is an Equal Opportunity/Affirmative Action Employer.