

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

Form #4 ■

Do Not Mark In This Box

FILED

OCT 26 2 21 PM '00

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Culture & History TITLE NUMBER: 82

CITE AUTHORITY: W.Va. Code 29-1-6 and 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 RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Frederick H. Armstrong
Authorized Signature

**TITLE 82
LEGISLATIVE RULES
DIVISION OF CULTURE AND HISTORY**

**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.--_____

§82- 8- 2. Definitions.

2.1. "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, the National Bureau of Standards, the National Archives and Records Administration, and others as applicable to the project submitted for funding.

2.2. "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," "fiscal," "historical," and "legal" shall be defined as:

2.2.a. "Administrative value" means the records have continuing utility in the operation of an agency of a county or municipality.

2.2.b. "Fiscal value" means the records are needed to document and verify financial authorizations, obligations and transactions.

2.2.c. "Historical value" means the records contain information, regardless of age, which provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

2.2.d. "Legal value" means the records document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

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

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

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

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

2.7. "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.

2.8. "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 the 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.

§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 seeks 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. No grant award will exceed fifty percent of the total cost of the project.

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 and 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 the program.

4.4. Each grant period is for one year to run 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 staff recommendations and ratings and approve, amend or reject for funding.

4.6. Availability of project application form and selection criteria will be announced in February of each year and accessible on the Archives and History web page or upon request to the Director of Archives and History, 1900 Kanawha Boulevard East, Charleston, WV 25305-0030. 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 a 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 general accounting standards for audit of government entities and organizations;

4.8.c. be agreeable to participate in pre-grant meetings and on-site visits; and

4.8.d. provide report, by way of example, detailing project accomplishments, successes and failures, products, and etc., and financial reports within ninety (90) days of the completion of the project or 30 September, whichever is the earlier to the Director of Archives and History, 1900 Kanawha Boulevard East, Charleston, WV 25305-0300.

4.9. Unsuccessful applicants will be notified in writing within fifteen (15) days of the Commission's decision on the application.

4.9.a. Any grant applicant failing to receive an award may appeal this action by submitting a written request for reconsideration with specific reasons as to why the Commission's original decision should be overturned.

4.9.b. 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.

4.9.c. Within thirty (30) days of the request for reconsideration the Commission will issue its final administrative determination on the grant request. The director will notify the appellant of the Commission's decision in writing.