



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

7/27/2018 9:57:50 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Library Commission

TITLE-SERIES: 173-02

RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: Library Facilities Improvement Fund

CITE STATUTORY AUTHORITY: 10-1-24

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) 2890

Section 10-1-24 (d) Passed On 3/2/2018 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

August 27, 2018

This rule shall terminate and have no further force or effect from the following date:

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Karen E Goff -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

**TITLE 173  
FINAL PROCEDURAL RULE**

**WEST VIRGINIA LIBRARY COMMISSION**

**SERIES 2  
LIBRARY FACILITIES IMPROVEMENT FUND**

**§ 173-2-1. General.**

1.1. Scope. Establishes requirements and procedures for grants and loans from the Library Facilities Improvement Fund administered by the West Virginia Library Commission.

1.2. Authority. West Virginia Code § 10-1-24.

1.3. Filing Date. 07/27/2018

1.4. Effective Date: 08/27/2018

**§ 173-2-2. Purposes.**

2.1. The purposes of this rule are to:

2.1.1. Provide the West Virginia Library Commission and West Virginia public libraries with a process for submitting, reviewing, evaluating, awarding Library Facilities Improvement Fund grants and loans; and

2.1.2. Establish a system for administering Library Facilities Improvement Fund grants and loans.

2.2. The purposes of the Library Facilities Improvement Fund are to:

2.2.1. Provide grants to Public Libraries for the planning, design, improvement, expansion, or replacement of Public Library facilities so that there is a corresponding improvement in services offered and access to those services. Grants are not intended to aid with activities such as regular repair and maintenance except under extraordinary circumstances.

2.2.2. Provide grants and loans to Public Libraries to support energy savings and critical life safety projects.

**§ 173-2-3. Definitions.**

3.1. ADA. Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*

3.2. Alteration. Project addressing changing use of space.

3.3. Applicant. The governing board of a Public Library established in accordance with West Virginia Code § 10-1-2 and eligible to receive state aid to public libraries.

3.4. Application. The form, and any attachments, that a Public Library is required to file in order to apply for a grant or loan.

3.5. Application round. The period during which grant application materials are made available to prospective applicants, grant applications are submitted, grant applications are reviewed, provisional award requirements are fulfilled, and grants are awarded, and projects placed on the waiting list.

3.6. Capital project. The construction or renovation of a fixed asset, including buildings, fixed equipment and infrastructure.

3.7. Catastrophic loss. An emergency created when an existing Public Library is rendered permanently unusable. Loss cannot be the result of deferred maintenance or negligence.

3.8. Construction. New construction, alteration, renovation, rehabilitation, or other activity that is intended to result in a significant increase in the internal usable space of a Public Library.

3.9. Deferred maintenance. Repair, maintenance, and renewal of capital facilities which should be part of normal maintenance management, but which have been postponed to a future budget cycle or until funds become available.

3.10. Demolition. The act or process of tearing down or razing an existing structure or portions of the structure so that the site may be used for an approved Public Library project.

3.11. Design. Plans prepared by an engineering or architectural firm for the design or modification of a facility. Designs must include, but are not limited to: drawings, specifications, and other necessary project design documentation.

3.12. Development plan. A planning document that includes a Public Library's mission statement, needs statement, multi-year goals and objectives, an annual action plan with measurable objectives, a brief description of the planning methodology, and an indication that it has been approved by the Public Library's governing board.

3.13. Emergency. A situation involving life safety issues, issues that would result in extensive damage to a facility if not addressed immediately, any unforeseen opportunity to use external funds, or any other situation the Library Commission determines should warrant special consideration of a request.

3.14. Energy savings. Decreasing the amount of electricity, gas, or other forms of energy used to operate a library while maintaining or increasing the quality of the service.

3.15. Financial feasibility. The ability of a Public Library to achieve sufficient income, credit, and cash flow to financially sustain a project over the long term.

3.16. **Governing board.** The board created pursuant to West Virginia Code § XX that governs a Public Library.

3.17. **Governing authority.** Local government entity authorized to establish public libraries (*e.g.*, County Commission, County Board of Education, or Municipality).

3.18. **Library Commission.** The state agency known as the West Virginia Library Commission.

3.19. **Life safety.** A condition in a Public Library or on Public Library property that, if not corrected immediately, would jeopardize the safety and property of the staff and the visiting public.

3.20. **Maintenance.** The act or process of maintaining and repairing a Public Library Facility to keep it in appropriate operating condition.

3.21. **New construction.** The creation of a new facility or of an addition to an existing facility.

3.22. **Public Library.** A library established in accordance with West Virginia Code §10-1-1 et. seq.; includes branch libraries administered by a paid librarian, under direction of a head librarian of a main library, and open to the public with a posted schedule.

3.23. **Public Library facility.** A building or other structure utilized as a Public Library, or the portion of a shared facility utilized as a Public Library.

3.24. **Renovation.** Work required to restore and modernize most of a Public Library Facility in order that the facility may be effectively utilized for its designated functional purpose and comply with current building code requirements. Such projects consist of work of such scope that, if not completed, the present facility would require complete building replacement. A renovation project must provide a Public Library Facility substantially equivalent to that of a new facility and must consist substantially of work other than deferred maintenance.

3.25. **Service population.** The number of people in the geographic area for which a Public Library has been established as determined by the Library Commission.

3.26. **Shared facility.** A building or other structure incorporating a Public Library and one or more compatible partners independent of the Public Library and housed within one building. Some parts of the building may be shared, such as meeting rooms and common areas.

3.27. **Waiting list.** A list, created by the Library Commission, of capital projects approved for funding but awaiting the availability of funds.

#### **§ 173-2-4. Eligibility Requirements**

4.1. All Public Libraries may apply for grants or loans.

4.2. To receive a grant or loan, a Public Library governing board must complete the application process developed by the Library Commission, including providing any additional information requested during that process.

4.3. To receive a grant, a Public Library must provide a dollar per dollar match from non-state sources. Non-state sources include, but are not limited to, federal funds and Governing Authority funds.

**§ 173-2-5. Grant Application Process.**

5.1. The Library Commission shall at least annually invite public libraries to submit grant applications. These applications will enable the Library Commission to identify Public Library facility capital project needs and report these needs to the Legislature.

5.2. At a minimum, applications shall include:

5.2.1. A project description;

5.2.2. A project justification, including the need for the project and how the project will benefit the Public Library's service area;

5.2.3. A project time line, including major steps necessary to complete the project; and

5.2.4. A project budget.

**§ 173-2-6. Grant Evaluation Criteria.**

6.1. Unless supplemented in the grant announcement, the criteria listed in this section will be used by Library Commission staff to evaluate proposals submitted under this program. The distribution of points to be awarded per criterion will be identified in the grant announcement.

6.2. Project design and technical merit. Reviewers will consider the soundness of the applicant's approach, the project's technical and financial feasibility, the adequacy of financial and other resources, the capabilities and experience of the applicant and its project management team, the project goals, and identified community needs and benefits. Points will be awarded under the following project elements:

6.2.1. Comprehensiveness and feasibility. Reviewers will assess the technical and economic feasibility of the project and how well its goals and objectives address the challenges of the library service population area. Reviewers must make a finding of operational sustainability for any points to be awarded. Projects for which future grant funding is likely to be required to assure ongoing operations will not receive any points.

6.2.2. Demonstrated experience. Reviewers will consider whether the applicant or its project team have demonstrated experience in successfully administering and carrying out projects that are comparable to that proposed in the application.

6.2.3. Community needs. Reviewers will consider the applicant's assessment of community needs to be addressed by the proposed project as well as the severity of physical and economic challenges affecting the target communities.

6.2.4. Project evaluation and performance measures. Reviewers will consider the applicant's suggested project evaluation and performance criteria.

6.3. Priority considerations. Evaluation points may also be awarded for projects that advance any priority interests identified in the grant announcement. The grant announcement may incorporate all or some of the priority criteria listed below and may supplement these criteria.

6.3.1. Projects involving replacement or reconstruction of public library facilities destroyed or damaged by flood, tornado, fire, earthquake or other disasters, either man-made or produced by nature.

6.3.2. Projects to correct conditions in the library or on library property determined to be severe and continuing health or life safety hazards.

6.3.3. Alterations necessary to provide accessibility for qualified individuals with disabilities.

6.3.4. Projects designed to address population growth or to replace aging public library facilities.

6.3.5. Other unique solutions to facility needs. These projects include design concepts that enhance library service to the community, including, but not limited to, technological improvements and energy conservation.

6.3.6. Economic hardship points may be awarded when the service population area suffers from documented severe economic hardship.

6.3.7. Projects that evidence significant commitments of funds, contributed property, equipment, or other in-kind support for the project may be awarded additional points for this criterion.

#### **§ 173-2-7. Loan Application Process.**

7.1. Public libraries may apply for loans to support energy savings and critical life safety projects.

7.2. Applications for loans may be submitted at any time on forms developed by the Library Commission. Applications will be evaluated using the criteria listed in 173-2-6.

7.3. Loans are exempt from the match requirement, but the Library Commission may limit the percentage of the total project that can be borrowed.

7.4. Loans are subject to loan agreement between the Library Commission and the applicant.

7.5. The agreement will include a schedule of payment of the principal and any interest on the loan.

**§ 173-2-8. Grant/Loan Disbursements.**

8.1. Applicants receiving grant awards will be eligible for disbursements according to a schedule established by the Library Commission once they have signed a grant agreement with the Library Commission, provided all necessary certifications, and have agreed to all assurances.

8.1.1. The Library Commission reserves the right to terminate the project grant for failure of the grantee to comply with the provisions of the grant award agreement.

8.2. On-site construction inspections by Library Commission staff or designated representatives may occur during the construction phase and/or upon completion of the project.

**§ 173-2-9. Reporting.**

9.1. Project progress reports must be submitted in accordance with the procedures and schedule specified in the grant agreement and will include the following information unless otherwise specified in the grant agreement:

9.1.1. A comparison of planned and actual accomplishments according to the project timetable or list of project objectives;

9.1.2. An explanation of any delays or failures to meet the project timetable or list of project objectives;

9.1.3. A financial report comparing total project expenditures and grant expenditures for the specified period, with the estimated project budget, including, when appropriate, analysis and explanation of cost overruns of high unit costs

9.2. Any change from the original construction contract must be made by a formal "Change Order" accompanied by a letter of authorization from the president of the library board. If the change or addition requires additional funds over and above the approved budget, the library board must certify that the additional funds are available.

9.3. Record-Keeping Requirements

9.3.1. The grantee must maintain records that document compliance with the terms and conditions of the grant agreement. At a minimum, the grantee's records must fully disclose:

9.3.1.1. The amount and disposition of the Library Commission grant funds;

9.3.1.2. All project expenditures and procurement actions;

9.3.1.3. The total cost of the project;

9.3.1.4. Copies of all reports and disbursement requests submitted to the Library Commission.

9.4. Beginning January 2019 and annually thereafter, the Library Commission will prepare a status report for the Legislature on public library facilities and needs and recommend projects for funding. The report will also include the status of all projects funded through the Library Facilities Improvement Fund.