

SURVEY REPORT: West Virginia

AALL Permanent Public Access Project

A. PUBLIC RECORDS STATUTES

As noted in the Introduction and Glossary of Terms, your state likely recognizes a distinction between "public records," which may include correspondence, office records, personnel records, etc., and "government publications," which may be compiled as a means to disseminate government information of educational or public interest. This section addresses statutes that concern public records and, in particular, those that focus on record keeping requirements and retention. The compilation of statutes for your state may combine record keeping requirements with public access provisions or freedom of information laws. Those statutes are addressed in Sections B & C.

1. Does your state have "public records statutes," as referred to in the paragraph above?

Yes
 No

- a. If "Yes," cite your state's public records statutes and the administrative regulations that supplement them.

W. Va. Code §5A-8 et seq

Public Records Management and Preservation of Essential Records Act

§ 5A-8-3. Definitions

As used in this article:

(a) "Disaster" means any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage or other condition of extreme peril resulting in substantial damage or injury to persons or property within this state, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States.

(b) "Record" means document, book, paper, photograph, sound recording or other material, **regardless of physical form or characteristics**, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this article.

(c) "State record" means:

(1) A record of a department, office, commission, board or other agency, however designated, of the state government.

(2) A record of the state Legislature.

(3) A record of any court of record, whether of statewide or local jurisdiction.

(4) Any record designated or treated as a state record under state law.

(d) "Local record" means a record of a county, city, town, authority or any public corporation or political entity whether organized and existing under charter or under general law unless the record is designated or treated as a state record under state law.

(e) "Agency" means any department, office, commission, board or other unit, however designated, of the executive branch of state government.

(f) "Preservation duplicate" means a copy of an essential state record which is used for the purpose of preserving such state record pursuant to this article.

W. Va. Code §10-1-18a

Establishment of state publications clearinghouse; definitions; powers of West Virginia library commission; designations by state agencies

(b) (1) “Public document” means any document, report, directive, bibliography, rule, newsletter, pamphlet, brochure, periodical, request for proposal, or other publication, whether in print or an unprinted format, that is paid for, in whole or in part, by funds appropriated by the Legislature any may be subject to distribution to the public;”

b. If “No,” skip this whole section.

Additional comments:

Enacted in 1996.

2. The public records statutes/regulations apply to which of the following branches?

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

3. Cite to public records statutes/regulations where “public record” is defined.

W. Va. Code §5A-8-3(b) defines “record”

W. Va. Code §5A-8-3(c) defines “state record”

Additional comments:

4. Do the public records statutes/regulations address electronic records separately vis-à-vis print records?

Yes

No

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

For County records only:

W. Va. Code §5A-8-15

“Records management and preservation of county records;... The Legislature finds that the use of electronic technology and other procedures to manage and preserve public records by counties should be uniform throughout the state where possible.”

Additional comments:

S.B. 472 (approved March 4, 2002) replaces (j) with “The records management and preservation board shall continue to exist until the first day of July, two thousand three, pursuant to the provisions of article ten, chapter four of this code, unless sooner terminated, continued or reestablished pursuant to the provisions of that article.”

5. Do the public records statutes/regulations address retention of records?

Yes
 No

a. If “Yes,” cite to and briefly summarize the retention provisions.

W. Va. Code §5A-8-7
Duties of administrator

(c) Establish standards for the preparation of **schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records** no longer possessing sufficient administrative, legal, or fiscal value to warrant their further keeping.

(d) Select the state records which are essential and determine their category pursuant to this article. In accordance with the rules and regulations promulgated by the administrator, each person who has custody or control of state records shall

- (1) inventory the state records in his custody or control;
- (2) submit to the administrator a report thereon containing such information as the administrator directs and containing recommendations as to which state records are essential; and
- (3) periodically review his inventory and his report and, if necessary, revise the report so that it is current, accurate and complete.

b. If “Yes,” also cite to and discuss any provisions/regulations that address retention of electronic records; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

W. Va. Code §5A-8-10
Essential state records--Preservation duplicates

- (a) The administrator may make or cause to be made preservation duplicates or may designate as preservation duplicates existing copies of essential state records. A preservation duplicate shall be durable, accurate, complete and clear, and a preservation duplicate made by means of photography, microphotography, photocopying, film, microfilm or **digital image** stored on unalterable media shall be made in conformity with the standards prescribed therefore by the administrator.
- (b) A preservation duplicate made by a photographic, photostatic, microfilm, microcard, miniature photographic, digital image or other process which accurately reproduces or forms a durable and unalterable medium for so reproducing the original, shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification or certified copy of such preservation

duplicate shall be deemed for all purposes to be a transcript, exemplification or certified copy of the original record.

Note: See A.1.a for definition of “preservation duplicate.”

Additional comments:

6. Do the public records statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes
 No

- a. If “Yes,” cite to and provide relevant language.

W. Va. Code § 5A-8-2.

Declaration of policy

The Legislature declares that programs for the efficient and economical management of state and local records will promote economy and efficiency in the day-to-day record-keeping activities of state and local government and will facilitate and expedite government operations; that records containing information essential to the operation of government and to the protection of the rights and interests of persons must be protected against the destructive effects of all forms of disaster and must be available when needed. It is necessary, therefore, to adopt special provisions for the selection and preservation of essential state and local records thereby providing for the protection and availability of such information.

See also:

§5A-8-12 Essential state records – Maintenance, inspection and use

- (a) The administrator shall properly maintain essential state records and preservation duplicates stored by him.
- (b) An essential state record or preservation duplicate stored by the administrator may be recalled by the regularly designated custodian of the state record for temporary use when necessary for the proper conduct of the office and shall be returned by such custodian to the administrator immediately after such use.
- (c) When an essential state record is stored by the administrator, the administrator, upon request of the regularly designated custodian of the state record, shall provide for its inspection, or for the making or certification of copies thereof, and such copies when certified by the administrator shall have the same force and effect as if certified by the regularly designated custodian.

Additional comments:

The term “permanent” does not appear in the maintenance sections or the records management sections.

7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes
 No

- a. If "Yes," cite to applicable statutes/regulations and identify the responsible officer/government entity.

W. Va. Code §5A-8-5 State records administrator

- b. If "Yes," also cite to and discuss any source of law requiring the responsible officer/government entity to permanently maintain government information; cite attorney general opinions, court decisions, and administrative rules or guidelines.

The term "permanent" does not appear in the maintenance sections or the records management sections. The state records administrator does have the authority to establish and administer "...maintenance and retention, preservation and disposal of state records; and shall establish and maintain a program for the selection and preservation of essential state records and shall advise and assist in the establishment of programs for the selection and preservation of essential local records."

Additional comments:

8. Has any public records legislation/administrative regulation been proposed calling for "permanent public access" to electronic public records?

Yes
 No

- a. If "Yes," cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
b. If "Yes," also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under the public records statutes resulted from the state's failure to "permanently" maintain a public record?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to "permanent public access" of public records under public records statutes/regulations.

Section 15 of article 8, chapter 5A was amended in February 20, 2002 and went into effect ninety days after passage:

W. Va. Code §5A-8-15. Records management and preservation of county records; alternate storage of county records; records management and preservation board created; qualifications and appointment of members; reimbursement of expenses; staffing; rule-making authority; study of records management needs of state agencies; grants to counties.

The Legislature finds that the use of electronic technology and other procedures to manage and preserve public records by counties should be uniform throughout the state where possible.

(a) The governing body and the chief elected official of any unit of each county, hereinafter referred to as a county government entity, whether organized and existing under a charter or under general law, shall promote the principles of efficient records management and preservation of local records. Such county governing entity may, as far as practical, follow the program established for the uniform management and preservation of county records as set out in a rule or rules proposed for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code as proposed by the records management and preservation board established herein.

(b) In the event any such governing body or the chief elected official of a unit of a county government entity decides to destroy or otherwise dispose of a county record, the governing body or such chief elected official may, prior to destruction or disposal thereof, offer the record to the director of the section of archives and history of the division of culture and history for preservation of the record as a document of historical value. Unless authorized by the supreme court of appeals, the records of courts of record and magistrate courts are not affected by the provisions of this section.

(c) A preservation duplicate of a county government entity record may be stored in any format, approved by the board as hereinafter established, where the image of the original record is preserved in a form, including CD-ROM and optical image storage media, in which the image thereof is incapable of erasure or alteration and from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original county government record.

Except for those formats, processes and systems used for the storage of records on the effective date of this section, no alternate format for the storage of county government entity records described in this section is authorized for the storage of county government entity records unless the particular format has been approved pursuant to a legislative rule promulgated by the board as herein created in accordance with the provisions of chapter twenty-nine-a of this code. The board as herein established may prohibit the use of any format, process or system used for the storage of records upon its determination that the same is not reasonably adequate to preserve the records from destruction, alteration or decay.

Upon creation of a preservation duplicate which stores an original county government entity record in an approved format in which the image thereof is incapable of erasure or alteration and from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record, the county government entity may destroy or otherwise

dispose of the original in accordance with the provisions of section seven-c, article one, chapter fifty-seven of this code.

(d) There is hereby created a records management and preservation board for county government entities, to be composed of nine members.

(1) Three members shall serve ex officio. One member shall be the commissioner of the division of culture and history who shall be the chairman of the board. One member shall be the administrator of the supreme court of appeals. One member shall be the administrator of the governor's office of technology or his or her designee.

(2) The governor shall appoint six members of the board with the advice and consent of the Senate. Not more than five appointments to the board may be from the same political party and not more than three members may be appointed from the same congressional district. Of the six members appointed by the governor:

- (i) Three appointments shall be county elected officials, one of whom shall be a clerk of the county commission, one of whom shall be a circuit court clerk and one of whom shall be a county commissioner, to be selected from a list of nine names, including the names of three clerks of county commissions and three circuit court clerks submitted to the governor by the West Virginia association of counties and the names of three county commissioners submitted to the governor jointly by the West Virginia association of counties and the West Virginia county commissioners association;
- (ii) One appointment shall be a county prosecuting attorney to be selected from a list of three names submitted by the West Virginia prosecuting attorneys institute;
- (iii) One appointment shall be an attorney licensed in West Virginia and in good standing as a member of the state bar with experience in real estate and mineral title examination, to be selected from a list of three names submitted by the state bar; and
- (iv) One appointment shall be a representative of a local historical or genealogical society;

(e) The members of the board shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as members of the board. In the event the expenses are paid, or are to be paid, by a third party, the member shall not be reimbursed by the state.

(f) The staff of the board shall consist of the director of the archives and history section of the division of culture and history and such staff as he or she may designate to assist him or her.

(g) On or before the first day of July, two thousand one, the board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish a system of records management and preservation for county governments: Provided, That, for the retention and disposition of records of courts of record and magistrate courts, the implementation of the rule is subject to action of the West Virginia supreme court of appeals. The proposed rule or rules shall include provisions for establishing a program of grants to county governments for making records management and preservation uniform throughout the state. The board is not authorized to propose or promulgate emergency rules under the provisions of this section.

(h) On or before the first day of April, two thousand two, the board, in cooperation with the administrator and state executive agencies under the general authority of the governor, shall conduct a study of the records management and preservation needs of state executive agencies. Should the board determine a need for a uniform records management and preservation system for such agencies, it shall recommend that the administrator propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to provide for the implementation of a uniform records management and preservation system for state executive agencies.

(i) In addition to the fees charged by the clerk of the county commission under the provisions of section ten, article one, chapter fifty-nine of this code, the clerk shall charge and collect an additional one-dollar fee for every document containing less than ten pages filed for recording and an additional one-dollar fee for each additional ten pages of such document filed for recording. At the end of each month, the clerk of the county commission shall deposit into the special public records and preservation account as herein established in the state treasury all fees collected: Provided, That the clerk may retain not more than ten percent of such fees for costs associated with the collection of the fees. Clerks shall be responsible for accounting for the collection and deposit in the state treasury of all fees collected by such clerk under the provisions of this section.

There is hereby created in the state treasury a special account entitled the "public records and preservation revenue account". The account shall consist of all fees collected under the provisions of this section, legislative appropriations, interest earned from fees, investments, gifts, grants or contributions received by the board. Expenditures from the account shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code: Provided, That for the fiscal year ending the thirtieth day of June, two thousand one, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature.

Subject to the above provision, the board may expend the funds in the account to implement the provisions of this article. In expending funds from the account, the board shall allocate not more than fifty percent of such funds for grants to counties for records management, access and preservation purposes. The board shall provide for applications, set guidelines and establish procedures for distributing grants to counties including a process for appealing an adverse decision on a grant application. Expenditures from the account shall be for the purposes set forth in this section, including the cost of additional staff of the division of archives and history.

Section 5A-8-15a. Continuation of board.

The records management and preservation board shall continue to exist until the first day of July, two thousand three, pursuant to the provisions of article ten, chapter four of this code, unless sooner terminated, continued or reestablished pursuant to the provisions of that article.”

B. FREEDOM OF INFORMATION ACT

A state's freedom of information act (or law) generally addresses public access to "public records." As noted under Section A above, the compilation of statutes for your state may combine record keeping requirements and public access provisions.

1. Does your state have a "freedom of information act," as referred to in the paragraph above?

Yes
 No

a. If "Yes," cite your state's freedom of information act (or law) statutes and the administrative regulations that supplement them.

W. Va. Code §29B-1-et al Public Records

b. If "No," skip this whole section.

Additional comments:

Enacted in 1977.

2. The freedom of information act statutes/regulations apply to which of the following branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

W. Va. Code §29B-1-2(3) Definitions; "Public body" means every state officer, agency, department, including the executive, legislative and judicial departments, division, bureau, board and commission;..."

Additional comments:

3. Cite to freedom of information law statutes/regulations where "public record" is defined.

W. Va. Code §29B-1-2(4)
Definitions

"Public record" includes any writing containing information relating to the conduct of the public's business, prepared, owned and retained by a public body."

Additional comments:

4. Do the freedom of information act statutes/regulations address electronic records separately vis-à-vis print records?

Yes
 No

- a. If "Yes," discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.

The original article was created in 1977. W. Va. Code §29B-1-3(3) Inspection and copying
This section was amended in 1992, "...if the records requested exist in magnetic, electronic or computer form, the custodian of the records shall make such copies available on magnetic or electronic media, if so requested."

- b. If "Yes," also cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Additional comments:

5. Do any freedom of information act statutes/regulations assure "permanent public access" of electronic public records?

Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address "permanent public access"; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

6. Do the freedom of information act statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to public records or acknowledge the state's responsibility to permanently maintain public records?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

Additional comments:

7. Has any freedom of information legislation/administrative regulation been proposed calling for "permanent public access" of electronic public records?

Yes
 No

- a. If "Yes," cite to and briefly discuss the legislation/proposed regulation; what was the outcome?

- b. If "Yes," also cite to documents from the legislative or regulatory history.

Additional comments:

8. Has litigation under the freedom of information act resulted from the state's failure to "permanently" maintain a public record?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

9. Discuss any unique circumstances in your state relevant to "permanent public access" of public records under freedom of information act statutes/regulations.

C. PUBLIC ACCESS LAWS

The term "public access law" is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the "Free Public Access to the Code of Maryland Regulations Act," whose title alone explains much about its purpose.

1. Does your state have any "public access laws," as referred to in the paragraph above?

Yes
 No

- a. If "Yes," cite each of your state's public access law statutes and the administrative regulations that supplement them.
- b. If "No," skip this whole section.

Additional comments:

W. Va. Code §§5A-8-1 to 5A-8-20 Public Records Management and Preservation Act
Addresses preservation of government information but does not address public access specifically. Copies of some records may be duplicated and preserved by the state archives which is accessible to the public.

The only portion of the West Virginia Code that discusses public access in regard to information concerns open governmental proceedings.

W. Va. Code §6-9A-1
Declaration of legislative policy

"The Legislature hereby finds and declares that public agencies in this state exist for the singular purpose of representing citizens of this state in governmental affairs, and it is, therefore, in the best interests of the people of this state for the proceedings of public agencies be conducted openly, with only a few clearly defined exceptions. The Legislature hereby further finds and declares that

the citizens of this state do not yield their sovereignty to the governmental agencies that serve them. The people in delegating authority do not give their public servants the right to decide what is good for them to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments of government created by them.

Open government allows the public to educate itself about government decision-making through individuals' attendance and participation at government functions, distribution of government information by the press or interested citizens, and public debate on issues deliberated within the government.

Public access to information promotes attendance at meetings, improves planning of meetings, and encourages more thorough preparation and complete discussion of issues by participating officials. The government also benefits from openness because better preparation and public input allow government agencies to gauge public preferences accurately and thereby tailor their actions and policies more closely to public needs. Public confidence and understanding ease potential resistance to government programs.

Accordingly, the benefits of openness inure to both the public affected by governmental decision-making and the decision makers themselves. The Legislature finds, however, that openness, public access to information and a desire to improve the operation of government do not require nor permit every meeting to be a public meeting. The Legislature finds that it would be unrealistic, if not impossible, to carry on the business of government should every meeting, every contact and every discussion seeking advice and counsel in order to acquire the necessary information, data or intelligence needed by a governing body were required to be a public meeting. It is the intent of the Legislature to balance these interests in order to allow government to function and the public to participate in a meaningful manner in public agency decision-making.”

2. For each public access law, specify the branches to which it applies.

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

3. For each public access law, cite to and discuss provisions/regulations addressing the particular form of government information addressed by the law.

Additional comments:

4. For each public access law, do the applicable statutes/regulations address electronic information separately vis-à-vis print information?

Yes
 No

- a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic information; how is it treated differently?

Additional comments:

5. For each public access law, do the applicable statutes/regulations specifically address permanency of the information?

Yes
 No

- a. If "Yes," for each public access law, cite to and briefly discuss the permanency provisions.

Additional comments:

6. For each public access law, do the applicable statutes/regulations specifically address accessibility of information?

Yes
 No

- a. If "Yes," cite to and briefly discuss the accessibility provisions.

Additional comments:

7. For each public access law, do the applicable statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government publications or acknowledge the state's responsibility to permanently maintain government publications?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

Additional comments:

8. Has any public access legislation/administrative regulation been proposed calling for "permanent public access" of electronic publications?

Yes
 No

- a. If "Yes," cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
- b. If "Yes," also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under any public access law resulted from the state's failure to "permanently" maintain a government publication?

Yes
 No

a. If "Yes," cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to "permanent public access" of government publications under public access laws.

D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER

1. Does your state have an office for technology (or department of information technology, department of information service, or equivalent) and/or a chief information officer (or equivalent)?

Yes
 No

a. If "Yes," provide the complete official name for the office and/or officer; cite to the statute giving that information.

W. Va. Code §5-1B-1 Chief Technology Officer

W. Va. Code §5A-8-15(d)(1) "...governor's office of technology..."

b. If "No," skip this whole section.

Additional comments:

The Chief Technology Officer is Keith Comstock. The Governor's Officer of Technology officer's names can be found at <http://www.state.wv.us/got/staff.asp>

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the office/officer; when was the statute first enacted?

W. Va. Code §5-1B-1 Chief Technology Officer (1997)

Additional comments:

3. Does the office/officer have power to promulgate administrative regulations?

Yes
 No

a. If "Yes," cite the body of administrative regulations promulgated by the office/officer.

W. Va. Code §5-1B-4 Powers and duties; professional staff (administrating rules and regulations is not contained in this section)

Additional comments:

4. The office/officer has jurisdiction over which branches?

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

W. Va. Code §5-1B-4(b)

W. Va. Code §5-1B-1

Findings and purposes

“...the office of chief technology officer with the authority to advise and make recommendations to all state spending units on their information systems.”

W. Va. Code §5-1B-8

Exemptions

“The provisions of this article do not apply to the Legislature or the judiciary.”

Additional comments:

5. Are the powers/responsibilities of the office/officer defined differently for electronic government information vis-à-vis print government information?

Yes

No

a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

W. Va. Code §5-1B-2

Definitions

As used in this article:

(a) "Information systems" means computer-based information equipment and related services designed for the automated transmission, storage, manipulation and retrieval of data by electronic or mechanical means;

(b) "Information technology" means data processing and telecommunications hardware, software, services, supplies, personnel, maintenance and training, and includes the programs and routines used to employ and control the capabilities of data processing hardware;

(c) "Information equipment" includes central processing units, front-end processing units, miniprocessors, microprocessors and related peripheral equipment such as data storage devices, networking equipment, services, routers, document scanners, data entry equipment, terminal controllers, data terminal equipment, computer-based word processing systems other than memory typewriters and equipment and systems for computer networks;

(d) "Related services" include feasibility studies, systems design, software development and time-sharing services whether provided by state employees or others;

(e) "Telecommunications" means any transmission, emission or reception of signs, signals, writings, images or sounds of intelligence of any nature by wire, radio or other electromagnetic or optical systems. The term includes all facilities and equipment performing those functions that are owned, leased or used by the executive agencies of state government;

(f) "Chief technology officer" means the person holding the position created in section three of this article and vested with authority to assist state spending units in planning and coordinating information systems that serve the effectiveness and efficiency of the individual state spending units, and further the overall management goals and purposes of government; and

(g) "Experimental program to stimulate competitive research" (EPSCoR) means the West Virginia component of the national EPSCoR program which is designed to improve the competitive research and development position of selected states through investments in academic research laboratories and laboratory equipment. The recognized West Virginia EPSCoR, which is part of the governor's office of technology, is the responsible organization for the coordination and submission of proposals to all federal agencies participating in the EPSCoR program.

Additional comments:

This section does not address printed materials.

W. Va. Code §5-1B-1. Findings and purposes

The Legislature finds and declares that information technology is essential to finding practical solutions to the everyday problems of government, and that the management goals and purposes of government are furthered by the development of compatible, linked information systems across government. Therefore, it is the purpose of this article to create, as an integral part of the office of the governor, the office of chief technology officer with the authority to advise and make recommendations to all state spending units on their information systems.

6. Do applicable statutes/regulations for the office/officer set forth powers/responsibilities relating to "permanent public access" of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

- 7. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

- 8. Whether or not a supporting source of law can be identified, does the office/officer acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

- 9. Has the office/officer undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

- 10. Has any litigation involving the office/officer resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

- 11. Discuss any unique circumstances in your state relevant to the office for technology and/or chief information officer.

E. STATE TECHNOLOGY PLANS

1. Does your state have a current official information technology plan (or equivalent)?

Yes
 No

a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.

W. Va. Code §5-1C-1(b) Legislative purpose

b. If "Yes," also provide complete bibliographic information about the plan; when was it published?

2001-2005 West Virginia State Government Information Technology Plan

<http://www.state.wv.us/got/ITPlan1300.pdf>

c. If "No," skip this whole section.

Additional comments:

2. The technology plan covers which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

In the Executive Summary of the WV State Government Information Technology Plan, Keith Comstock, Chief Technology Officer states, "...I have directed all state agencies to develop current and future projects with these goals in mind. This document is not an exercise of simply 'reporting' what each agency plans to accomplish over the next few years. This Strategic Plan enthusiastically sets a clear direction, provides leadership, and support cross-agency awareness and cooperation on strategically important initiatives."

Additional comments:

3. Does the current plan include a section on permanency and public accessibility of electronic government information?

Yes
 No

a. If "Yes," cite to and provide relevant language of the plan.

Additional comments:

4. Discuss any unique circumstances in your state relevant to technology planning or the current information technology plan.

F. STATE PRINTING OFFICE AND STATE PRINTER

1. Does your state have an official printing office (or equivalent) and/or an official printer (or equivalent)?

Yes
 No

- a. If “Yes,” provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.
- b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the printing office/official printer.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes
 No

- a. If “Yes,” cite the body of administrative regulations promulgated by the printing office/official printer.

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:

- a. Describe your state’s use of in-house agency publishing and/or commercial publishing of government information.

- b. What percentage of official state government documents are printed by the printing office/official printer?
- c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

Additional comments:

- 6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

- 7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to "permanent public access" of government information?

Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

- 8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

- 9. Whether or not a supporting source of law can be identified, does the printing office/official printer acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state’s official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

Yes
 No

- a. If “Yes,” provide the complete official name for the archives and/or archivist; cite the statute giving that information.

W. Va. Code §29-1-6 Archives and history section; director

- b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the archives/archivist.

W. Va. Code §29-1-6 Archives and history section; director

Additional comments:

3. Does the archive/archivist have power to promulgate administrative regulations?

Yes

No

a. If "Yes," cite the body of administrative regulations promulgated by the archive/archivist.

W. Va. Code §29-1-6(d)

Archives and history section; director

"The director shall promulgate rules with the approval of the archives and history commission and in accordance with chapter twenty-nine-a §§ 29A-1-1 et seq. of this code concerning: (1) The professional policies and functions of the archives and history section; and (2) any other rules determined necessary to effectuate the purposes of this article.

Code of State Rules (C.S.R.) Title 82 Procedural Rule Culture And History, Series 6 Archives And History Library Services And Fee Guidelines

Additional comments:

4. The archive/archivist has defined responsibilities for which branches?

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

W. Va. Code §29-1-6(a)

Archives and history section; director

"...to operate and maintain a state library for the preservation of all public records, state papers, documents and reports of all three branches of state government including all boards, commissions, departments and agencies as well as any other private of public papers, books or documents of peculiar or historic interest or significance..."

Additional comments:

5. Briefly discuss the functions of the archive/archivist.

W. Va. Code §29-1-6(a)

"The purposes and duties of the archives and history section are to locate, survey, investigate, register, identify, preserve, protect, restore and recommend to the commissioner for acquisition documents and records having historical, evidential, administrative and/or legal value relating to the state of West Virginia and the territory included in the state from the earliest times to the

present, upon its own initiative or in cooperation with any private or public society, organization or agency; to conduct a continuing survey and study throughout the state to develop a state plan to determine the needs and priorities for the preservation of the documents and records; to direct, protect, preserve, study and disseminate information on the documents and records; to provide matching grants to political subdivisions of this state to protect and preserve the documents and records; to operate and maintain a state library for the preservation of all public records, state papers, documents and reports of all three branches of state government including all boards, commissions, departments and agencies as well as any other private or public papers, books or documents of peculiar or historic interest or significance; to designate appropriate monuments, tablets or markers for historic, architectural and scenic sites within the state and to arrange for the purchase, replacement, care of and maintenance of the monuments, tablets and markers and to formulate and prepare suitable copy for them; to edit and publish a historical journal devoted to the history, biography, bibliography and genealogy of West Virginia; and to perform any other duties assigned to the section by the commissioner.”

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions /regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the archive/archivist acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the archive/archivist undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the archive/archivist resulted from the state's failure to "permanently" maintain government information?

Yes
 No

- a. If "Yes," briefly discuss the circumstances of each case and its outcome, and provide citations to any court decisions.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official archive and/or official archivist.

H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state's official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the library and/or librarian; cite to the statute giving that information.

West Virginia does not have an official state librarian, but rather a state library commission. All answers in this section will address the West Virginia Library Commission.

W. Va. Code §10-1-12
State library commission

“There shall be a state library commission, known as the "West Virginia library commission", which shall consist of five members who shall be appointed by the governor, by and with the advice and consent of the Senate, each for a term of four years. Thereafter, on the first day of July, one thousand nine hundred ninety-five, four additional members shall be appointed: Provided, That for the four new members added to the commission in the year one thousand nine hundred ninety-five, one shall serve an initial term of four years and three shall serve an initial term of two years. No more than three members may reside in the same congressional district. At least four members of the commission shall be women and at least four members shall be men. No member of the commission shall receive compensation for services rendered, nor be engaged or interested in the publishing business.

The members of the commission in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and have qualified. On or before the expiration of the terms for which said members are appointed, the governor shall appoint their successors.”

b. If “No,” skip this whole section.

Additional comments:

The state Law Library is the West Virginia Supreme Court of Appeals Library.

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the library/librarian.

W. Va. Code §10-1-18 Same – Powers of the West Virginia library commission

Article 1 addresses the powers of the library commission; section 18(b) addresses the powers and responsibilities of the librarian:

(b) To appoint a librarian and the necessary assistants, and to fix their compensation, such appointments to be based upon merit and efficiency as determined by the commission. The librarian shall hold a certificate from an approved school of library science and shall have had not less than three years of practical experience in library work. Said library commission shall also have the power to remove said librarian and other assistants;

Additional comments:

3. Does the library/librarian have power to promulgate administrative regulations?

 X Yes

No

- a. If “Yes,” cite the body of administrative regulations promulgated by the library/librarian.

W. Va. Code §10-1-18(g) Same – Powers of West Virginia Library Commission

“The West Virginia library commission shall have the following powers for the establishment and maintenance of regional areas and regional libraries:

(g) To make such bylaws, rules and regulations not inconsistent with this article as may be expedient for the government of such regional library areas and the regional libraries therein, and for the purpose of carrying out the provisions of this article...”

Additional comments:

4. The library/librarian has defined responsibilities for which branches?

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Regional libraries.

W. Va. Code §10-1-18

Same – Powers of West Virginia library commission

(g) To make such bylaws, rules and regulations not inconsistent with this article as may be expedient for the government of such regional library areas and the regional libraries therein, and for the purpose of carrying out the provisions of this article;”

Additional comments:

5. Briefly discuss the functions of the library/librarian.

W. Va. Code §10-1-18

Same – Powers of West Virginia library commission

“The West Virginia library commission shall have the following powers for the establishment and maintenance of regional areas and regional libraries:

(a) To establish, maintain, and operate a public library for the region;

(b) To appoint a librarian and the necessary assistants, and to fix their compensation, such appointments to be based upon merit and efficiency as determined by the commission. The librarian shall hold a certificate from an approved school of library science and shall have had not

less than three years of practical experience in library work. Said library commission shall also have the power to remove said librarian and other assistants;

(c) To purchase books, periodicals, equipment and supplies;

(d) To purchase sites and erect buildings, and/or to lease suitable quarters, and to have supervision and control of said property;

(e) To borrow books from and lend books to other libraries;

(f) To enter into contracts to receive service from or give service to libraries within or without the region and to give service to municipalities without the region which have no libraries, or to cooperate with and aid generally without such contracts, public school, institutional and other libraries;

(g) To make such bylaws, rules and regulations not inconsistent with this article as may be expedient for the government of such regional library areas and the regional libraries therein, and for the purpose of carrying out the provisions of this article;

(h) To accept for the State of West Virginia any appropriations of money that may hereafter be made out of the federal treasury by an act or acts of Congress and to disburse such funds for the purpose of carrying out the provisions of this article, in accordance with sections eleven and twelve [§§ 18-10-11, 18-10-12], article ten, chapter eighteen of the code of one thousand nine hundred thirty-one, as amended.”

Additional comments:

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

Yes
 No

a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities ; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the library/librarian resulted from the state's failure to "permanently" maintain government information?

Yes
 No

a. If "Yes," cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

I. STATE DEPOSITORY LIBRARY LAWS

States often have a depository library program patterned after the federal model for disseminating federal government publications.

1. Does your state have a "depository library program," as referred to in the paragraph above?

Yes
 No

- a. If "Yes," cite your state's depository library law statutes and the administrative regulations that supplement them.

W. Va. Code §10-1-18a(b)(2) Establishment of state publications clearinghouse; definitions; powers of West Virginia library commission; designations by state agencies

- b. If "No," skip this whole section.

Additional comments:

2. Do the depository library statutes/regulations address electronic government information separately vis-à-vis print government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?
- b. If "No," explain whether or not the statutes/regulations have been construed to cover electronic government information?

Additional comments:

3. Do any depository library statutes/regulations assure "permanent public access" of electronic government information?

Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address "permanent public access"; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

4. Do the depository library statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government information or acknowledge the state's responsibility to permanently maintain public records?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

Additional comments:

The West Virginia archives do maintain public records on a quasi-permanent basis, even though the term “permanent” is not contained in the statute.

5. Have depository libraries as a whole undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

6. Please determine the absolute number or percentage of titles:

Formerly distributed in print, now distributed exclusively in electronic format.
 Never before distributed, now distributed in electronic format.

Additional comments:

The West Virginia Library Commission’s Library Services Manager, has been unable to answer this question.

7. Discuss the depository library program’s effectiveness and actual accomplishments in disseminating, preserving and providing access of electronic government information?

Additional comments:

The West Virginia Library Commission’s Library Services Manager, has been unable to answer this question.

J. COOPERATIVE ARRANGEMENTS

One can imagine any number of cooperative arrangements to assure “permanent public access.” A well-known example is the partnership between the Texas Electronic Depository program (involving the Texas State Library and Archives Commission) and the University of North Texas Libraries (see description for program C304 at Computers in Libraries 2002 on the Information Today website). A hypothetical example of a less formalized cooperative arrangement is where a state’s highest court relies on the state bar association to publish the court’s decisions.

1. To secure PPA, has any state agency or other government entity (judicial, legislative or executive) partnered with any not for profit, educational, or for profit organization outside of government?

Yes
 No

- a. If “Yes,” describe each partnership, noting whether it is funded by a grant or through a government appropriation; give a brief history and summary of accomplishments.

Additional comments:

There is a West Virginia Digital Library <http://www.wvdl.org/> that may be able to address this issue, even though permanent public access to state government information is not one of the primary missions:

“The WV Digital library is a consortium of West Virginia libraries providing statewide access to books, magazines, and electronic information through academic, public and K-12 school libraries.

The WVDL will build upon cooperative arrangements already in place within each user community to provide learning tools for all educational levels.

With increased cooperation among educational institutions in the state, citizens in all geographic areas and from all economic levels can obtain information literacy skills.”

2. Does the state rely on any cooperative activities that are not actually formalized?

Yes
 No

- a. If “Yes,” describe each relationship and cooperative activity; give a brief history and a summary of accomplishments.

Additional comments:

Unknown.

3. Does any state agency or other government entity secure “permanent public access” through any other type of cooperative arrangement?

Yes
 No

- a. Describe each cooperative arrangement; give a brief history and a summary of accomplishments.

Additional comments:

Permanent public access could be included in Issue 6 – Access, of the West Virginia State Historical Records Strategic Plan (refer to <http://www.wvculture.org/history/srapplan.html> reprinted below).

Issue 6: Many West Virginia records of continuing value are inaccessible for research use.

Goal: Encourage improved bibliographic controls which ensure ready access to historical records while maintaining the integrity of collections.

Background: Many records in government offices or historical records repositories are inaccessible to users due to an absence of management controls or a lack of finding aids. As more records of continuing value are created in automated formats, archivists and records managers need to develop new skills to deal with electronic records and the challenges to access and preservation which they represent.

Priority Recommendation:

Expand access to historical records

- Encourage various repositories to produce finding aids and contribute to an on-line catalogue of collections (to be accomplished over the next 3-4 years of the project)
- Create a working group composed of representatives from the State Archives, the West Virginia Library Commission, state educational institutions, local governments, historical societies, and other appropriate organizations to develop a list of historical records access priorities and concerns (to be accomplished by the end of 1997)

Other Recommendations:

- Encourage local efforts to raise funds for providing electronic access to collections
- Encourage repositories to identify and organize their collections, possibly through the use of interns and qualified volunteers
- Identify public repositories in need of "image storage" of their collections, sources of funding, and technical expertise

K. FACTORS TO BE CONSIDERED IN FUTURE ADVOCACY OR REFORM EFFORTS

1. If "permanent public access" is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:
 - a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.

In Chapter 5A, Department of Administration, Article 8, Public Records Management and Preservation Act, there are a few sections that could be slightly altered to include "permanent public access" and "electronic government information." In section 3, Definitions, two ideas, "essential" and "electronic government information," would need to be described to keep within the scope and intent of this article. Suggested insertion points follow below:

W. Va. Code §5A-8-2 Declaration of policy

"The Legislature declares that programs for the efficient and economical management of state and local records will promote economy and efficiency in the day-to-day record-keeping activities of state and local government and will facilitate and expedite government operations; that records containing information essential to the operation of government and to the protection of the rights and interests of persons must be protected against the destructive effects of all forms of disaster and must be available when needed. It is necessary, therefore, to adopt special provisions for the selection and preservation of essential state and local records thereby providing for the protection and availability of such information." (insert: for permanent public access.)

Other sections within this article may need to be reviewed, such as §5A-8-5 State records administrator

“The secretary of the department of administration is hereby designated the state records administrator, hereinafter called the administrator. The administrator shall establish and administer in the department of administration of the executive branch of state government a records management program, which will apply efficient and economical management methods to the creation, utilization, maintenance and retention, preservation and disposal of state records; and shall establish and maintain a program for the selection and preservation of essential state records and shall advise and assist in the establishment of programs for the selection and preservation of essential local records.”

This section would not allow “permanent public access” uniformly; citing to the need for “retention” and “disposal.” Including a definition of “essential” should be added to section 3, Definitions. The Definitions section should also include language that identifies electronic government information more clearly as a format. Currently, a “record” is defined as, “...document, book, paper, photograph, sound recording or other material, regardless of physical form or characteristics...” Inserting “electronic government information” prior to “other material” would help define materials that are only produced in an electronic format. The language used throughout the West Virginia Code is “digital image,” but it is not defined and is not as inclusive as “electronic government information.” Including a definition of “electronic government information” should also be inserted into the definitions section that adheres to the standards laid out in this section.

In section 10, Essential state records – Preservation duplicates, the option for preserving state records in an electronic format, “...digital image stored on unalterable media...” is included. This section also states that the preservation duplicate “...shall have the same force and effect for all purposes as the original record whether the original record is in existence or not...” With the addition of “permanent public access” to the beginning of this article, the goal of preserving of electronic government information would be met.

- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

Additional comments:

2. Discuss known failed efforts in your state to achieve “permanent public access”; how might new efforts succeed?

Additional comments:

L. DIRECTORY

This section asks you to collect directory-type information for important state officials involved in the dissemination of government information.

Provide official contact information for:

1. State Chief Information Officer (or equivalent)

West Virginia Governor’s Office of Technology, <http://www.state.wv.us/got/>
Keith Comstock, Chief Information Officer

Governor's Office of Technology
505 Capitol Street, Suite 200
Phone (304) 558-3784
Fax (304) 558-0136

2. State Printer

N/A

3. State Archivist

West Virginia State Archives, <http://www.wvculture.org/history/wvsamenu.html>

Frederick H. Armstrong, Director, Archives and History Section and Commission secretary

Archives and History Library
The Cultural Center
1900 Kanawha Boulevard, East
Charleston, WV 25305-0300
Phone (304) 558-0230, ext. 168

4. State Librarian and/or State Law Librarian

West Virginia Library Commission
Cultural Center
1900 Kanawha Blvd. E.
Charleston, WV 25305
Phone (304) 558-2041
Fax (304) 558-2044

West Virginia library commission members: <http://129.71.160.4/>

Merle Moore, Chairman
Karen Coria
Alison Deem
Alan B. Gould
Emilie A. Holroyd
Duke Horstemeyer
Dr. Charles A. Julian
Jack W. Kessler
Elizabeth Mow

The West Virginia State Law Library is the West Virginia Supreme Court of Appeals

Jeannie L. Bess, State Law Librarian, <http://www.state.wv.us/wvsca/library/menu.htm>

West Virginia Supreme Court of Appeals
State Law Library

State Capitol Building, Room E-404
1900 Kanawha Blvd., E.
Charleston, WV 25305
Phone (304)558-2607
Fax (304)558-3673

5. State Attorney General (on freedom of information act issues, etc.)

Honorable Darrell V. McGraw, Jr. <http://www.state.wv.us/wvag/>

State of West Virginia
Office of the Attorney General
Honorable Darrel V. McGraw, Jr.
1900 Kanawha Blvd., East
Room 26E
Charleston, WV 25305-9924

(304) 558-2021 Main Office
(304) 558-8986 In-state Consumer Hotline
(800) 368-8808 In-state Toll-Free

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

<http://www.state.wv.us/>

2. State agency portal

a. Does the portal have a searching capability similar to FirstGov?

<http://www.state.wv.us/directory/default.htm> Agency Listings (alphabetical)

There is a site search engine for the West Virginia State Home Page -- not specifically for agencies.

3. Legislative website

<http://www.legis.state.wv.us/>

a. Does the website cover the current year only?

No – it includes the 1998 Acts of the Legislature, 1999 Enrolled Bills, 2000 Bill Summaries, and 2002 Bill Search (not sure why there isn't anything for 2001).

b. Are services free or fee-based?

Free

4. Judicial websites

West Virginia Supreme Court of Appeals <http://www.state.wv.us/wvsca/>

West Virginia Court of Claims <http://www.legis.state.wv.us/legishp.html>

Family Courts <http://www.state.wv.us/wvsca/familyct/fmlycts/map.htm> (map of the Family Court Circuits with links to court information – maintained by the West Virginia Supreme Court of Appeals)

Federal Courts

Northern District of West Virginia <http://www.wvnd.uscourts.gov/>

Southern District of West Virginia <http://www.wvsn.uscourts.gov/>

State Courts <http://www.state.wv.us/wvsca/circuits/map.htm> (map of West Virginia’s Judicial Circuits with links to court information – maintained by the West Virginia Supreme Court of Appeals)

County Magistrate Courts <http://www.state.wv.us/wvsca/maginfo.htm> (list of contact information for each court – maintained by the West Virginia Supreme Court of Appeals)

5. Regulatory agency websites

Some agency websites are listed on the Secretary of State’s web site:

<http://www.state.wv.us/wvag/>

6. Freedom of Information Service Hotline

- a. Does the state have an ombudsman for freedom of information act issues?

No

- b. Is the state attorney general’s office the public’s contact for freedom of information act issues?

For the most part, yes. The Code of Professional Responsibility records are exempt from disclosure. Public Records retained by the West Virginia State Police can be requested from the Superintendent of the West Virginia State Police. Public Records of the State Board or Department of Education should be requested in writing from the state superintendent of schools.