

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

April 3, 2012

The Honorable Natalie E. Tennant
Secretary of State
State Capitol
Charleston, West Virginia

Dear Ms. Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Second Enrollment of Committee Substitute for House Bill No. 2278.

I must object to the bill because its object is not adequately expressed in the title. The bill removes the provisions regarding legislative records concerning use of certain storage formats and inserts a provision that procedures for the storage and destruction of legislative records shall be determined by each house, or by a joint rule. In addition, the bill mandates that the state records administrator shall establish a procedure for executive agencies to follow implementing subsection (b) of W. Va. Code §5A-8-20 by July 1, 2012, and the bill sets forth the minimum requirements for the procedure. The bill adds a new subsection (f) which provides, "Upon request and payment of a reasonable cost, one copy of any state record archived or preserved pursuant to the provisions of

this article shall be provided to any person or entity: *Provided*, That the person or entity that has produced the state record may receive one copy without charge." However, none of the provisions itemized above are reflected in the title.

The itemized provisions above cannot be read to be encapsulated into the title's "relating to" language. It is apparent that the Senate's strike and insert amendment adopted on March 9, 2012, included language concerning the providing of one copy of any state record to any county historical society upon request and payment of a reasonable cost. However, the conference report adopted on March 10, 2012, amended this section by inserting in lieu of the county historical society language the language quoted above allowing any person or entity to be provided one copy upon request and upon payment of a reasonable fee. The conference report failed to include a title amendment for this change and also failed to reference each of the above listed provisions. After the Governor vetoed the bill on March 16, 2012, due to a constitutionally defective title, the House adopted a title amendment which sought to meet the objections of the Governor. The Senate concurred. However, the House title amendment still contains each of the aforementioned flaws and is, therefore, constitutionally defective.

Accordingly, I find the title of the bill inconsistent with the substance of the bill, so as to render the Second Enrollment of Committee Substitute for House Bill No. 2278 constitutionally

defective.

For this reason, I must veto the legislation. However, I encourage the Legislature to reconsider this matter and return it to my desk for consideration at a future date.

Very truly yours,

Earl Ray Tomblin,

Governor.

cc: The Honorable Richard Thompson

The Honorable Jeffrey V. Kessler