

## Form #3

2006 JUL 28 A 10: 23

*Betty Ireland*  
Authorized Signature

## APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Absentee Voting by Military Voters Who are members of Reserve Units Called to Active Duty

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Jason Williams, Manager

Address: Elections  
Secretary of State's Office  
1900 Kanawha Boulevard E  
Charleston WV 25305

Phone Number: 558-6000 Email: jwilliams@wvsos.com

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This rule changes circuit clerk to county in this rule and has no fiscal impact

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title:

Absentee Voting by Military Voters Who are members of Reserve Units Called to Active  
Duty

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

No impact

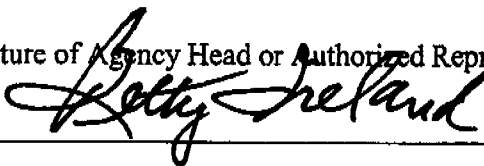
### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

No impact

Date: 6/28/2006

Signature of Agency Head or Authorized Representative





OFFICE OF THE SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**Betty Ireland**

Secretary of State

This rule provides for absentee voting procedures to be used when a member of the reserves, who has been called to active duty, applies for an absentee ballot and is unable to receive and return that ballot within the time required using normal procedures.

This rule changes circuit clerk to county clerk.

The amendments take out references to lever voting machines & punch card ballots.

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, West Virginia 25305

TITLE 153  
LEGISLATIVE RULE  
SECRETARY OF STATE

FILED

2006 JUN 28 P 2:29

SERIES 23  
ABSENTEE VOTING BY MILITARY VOTERS  
WHO ARE MEMBERS OF RESERVE  
UNITS CALLED TO ACTIVE DUTY

OFFICE WEST VIRGINIA  
SECRETARY OF STATE**§153-23-1. General.**

1.1. Scope. -- This rule provides for absentee voting procedures to be used when a member of the reserves, who has been called to active duty, applies for an absentee ballot and is unable to receive and return that ballot within the time required using normal procedures.

1.2. Authority. -- W.Va. Code §3-1A-6; also see 42 U.S.C. §1973ff-1.

1.3. Filing Date. -- ~~April 22, 1996~~

1.4. Effective Date. -- ~~June 7, 1996~~

**§153-23-2. Absentee Voting for Activated Reservists.**

2.1. Any registered voter who is a member of a reserve unit that is called into active duty as a result of an order of the President of the United States and who, as a result of that order, will not be able to vote in any primary, general, or special election held in this state because they will be unable to vote in person or by normal procedures for absentee voting, shall be allowed to cast an absentee ballot by mail or by voting in person at the office of the ~~circuit clerk~~ county clerk, in the county in which he or she is registered, as provided for in this rule.

2.2. For the purposes of this rule, a reserve unit includes all united that can be called into active duty as part of the United States Army, Navy, Air Force, Marine Corps or Coast Guard.

**§153-23-3. Procedures.**

3.1. Any person who has been ordered to active duty, pursuant to the terms of section two of this rule, may apply to the ~~circuit clerk~~ county clerk, in the county where registered, to cast an absentee ballot by completing a federal postcard application (FPCA) or a state Application for Voting an Absent Voters Ballot and Form A-8, entitled "Affidavit of Military Voter Called to Active Service Requesting to Vote Absentee."

3.2. The ~~circuit clerk~~ county clerk shall examine the application and the affidavit and if the voter requests that an absentee ballot be sent to the voter's home address, then a ballot shall be sent to the address provided by the voter in the affidavit and shall not be challenged for the reason of being returned from within the county. The request shall, in all other respects, be handled as provided for in W. Va. Code §3-3-5.

3.3. If the voter requests permission to cast an absentee ballot in person, and the application is made

at the time within forty-two (42) days of the election, then the voter shall be allowed to vote at the ~~circuit clerk's~~ county clerk's office pursuant to the provisions of W. Va. Code §3-3-3.

**AFFIDAVIT OF MILITARY VOTER CALLED TO ACTIVE SERVICE  
REQUESTING TO VOTE ABSENTEE**

I, \_\_\_\_\_, a registered voter in Precinct \_\_\_\_\_  
in the County of \_\_\_\_\_, do solemnly swear or affirm under penalty of perjury, that I am required to be absent  
from the county in which I am registered during the entire period of absentee voting in the office of the ~~Circuit Clerk~~  
County Clerk, \_\_\_\_\_,  
dates \_\_\_\_\_  
and during the hours which polls are open on election day on \_\_\_\_\_.  
date \_\_\_\_\_

I further swear of affirm that, because I have been called to active service in the  
\_\_\_\_\_(branch of service) on \_\_\_\_\_, I will be unable  
to vote by mail at my service date address, therefore, I request: (Check one)  
\_\_\_\_(1) The official absentee ballot be mailed to my home address within the county at  
\_\_\_\_\_  
(address/city)

before my departure, and that I will return the ballot from within the county before my departure to active service.

**OR**

\_\_\_\_(2) To vote an absentee ballot in person at the clerk's office before my departure because I will be unable to receive  
and return a ballot by mail within the time allowed.

\_\_\_\_\_  
Signature of Voter

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public or ~~Circuit Clerk~~ County Clerk

My commission expires \_\_\_\_\_.

(seal)

## QUESTIONNAIRE

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

DATE: July 28, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Secretary of State  
Elections Division  
Suite 157K, Building 1  
Charleston WV  
558-6000 jwilliams@wvsos.com

LEGISLATIVE RULE TITLE: Absentee Voting by Military Voters Who are Members of  
Reserve Units Called to Active Duty

1. Authorizing statute(s) citation §§3-1A-6; 42 U.S.C. §1973ff.1

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 28, 2006

b. What other notice, including advertising, did you give of the hearing?  
None

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 28, 2006

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received X



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

July 28, 2006

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

Jason Williams, Manager	jwilliams@wvsos.com
Elections Division	558-6000
Secretary of State	Fax 558-0900
1900 Kanawha Blvd E	
Charleston WV	

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

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

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

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A