

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

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JUL 14 3 26 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Secretary of State TITLE NUMBER: 153

CITE AUTHORITY §§3-1A-6, 3-2-13

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 28

TITLE OF RULE BEING AMENDED: Agencies Designated to Provide Voter
Registration Services

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC
COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH
THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR
THEIR REVIEW.

Ken Hechler

\$3.80

SUMMARY OF FACTS AND CIRCUMSTANCES

FACTS

The National Voter Registration Act of 1993 required all states to implement voter registration at public assistance agencies and through state-funded program whose primary purpose was to serve persons with disabilities. S.B. 520, passed in 1994, established these requirements as state law and provided for a rule-making process to identify the agencies required to provide these services beginning January 1, 1995.

CIRCUMSTANCES

West Virginia Code §3-2-13 requires a reevaluation of agencies designated to provide voter registration services and the refiling of the rule making changes, if any, to these designated agencies. The Secretary of State has contacted the various agencies of state government to identify any changes, additions or deletions of appropriate programs and office sites. The appropriate changes have been made.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Agencies Designated to Provide Voter Registration Servi
Type of Rule: X Legislative Interpretive Procedural
Agency Secretary of State
Address Building 1, Suite 158-K
1900 Kanawha Blvd., E.
Charleston, WV 25305-0770

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$140,000	\$	\$156,070	\$140,000	\$137,000
PERSONAL SERVICES					
CURRENT EXPENSE	135,000		97,500	135,000	135,000
REPAIRS & ALTERATIONS					
EQUIPMENT	5,000		58,570	5,000	2,000
OTHER	0	0	0	0	0

2. Explanation of above estimates:

Agency voter registration will be conducted at approximately 650 sites. Each site will be provided with equipment to date stamp the voter registration applications. Forms, envelopes and postage for mailing will be supplied by the secretary of state. No additional personnel will be required.

3. Objectives of these rules:

These rules provide the specific names of agencies and programs which are required to provide voter registration services.

Rule Title: Agencies Designated to Provide Voter Registration Services

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Minimal impact. Cost is borne by "Combined Voter Registration & Driver Licensing Fund", a current general revenue fund.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

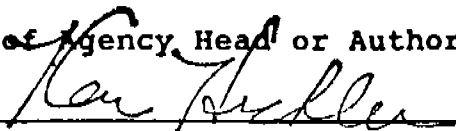
Minimal impact on local government. Some cost arising from increased voter registration.

C. Economic Impact on Citizens/Public at Large.

No change.

Date: 6/12/98

Signature of Agency Head or Authorized Representative



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 14, 1998

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Secretary of State
Building 1, Suite 157-K, 1900 Kanawha Blvd., E., Charleston, WV 25305

LEGISLATIVE RULE TITLE: Agencies Designated to Provide Voter
Registration Services

1. Authorizing statute(s) citation §§3-1A-6, 3-2-13
2.
 - a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 12, 1998
 - b. What other notice, including advertising, did you give of the hearing?
memo to state supervisors affected by rule
 - c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 13, 1998
 - d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached X No comments received

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

June 12, 1998

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

Jan Casto, Deputy Secretary of State jcasto@secretary.state.wv.us

Cindy Smith, Special Assistant csmith@secretary.state.wv.us

Building 1, Suite 157-K, 1900 Kanawha Blvd., E.
Charleston, WV 25305

phone: (304)558-6000

fax: (304)558-0900

- 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)

same as "f"

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

Attached is the correspondence received during the comment period for Legislative Rule §153-28. The corrections indicated in this correspondence have been made.



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STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
ROOM 206, BUILDING 3, CAPITOL COMPLEX
CHARLESTON, WV 25305
(304) 558-0684

Cecil H. Underwood
Governor

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Joan E. Ohl
Secretary

Date: July 7, 1998

To: The Honorable Ken Hechler
Secretary of State

From: Joan E. Ohl, Secretary
Department of Health and Human Resources

Re: **Agencies Designated to Provide Voter Registration Services,
153CSR28**

These are comments on the proposed amendments to the above referenced rule.

- §2.2 Reference to the Aid to Families with Dependent Children (AFDC) program should be changed to Temporary Assistance to Needy Families as proposed for §3.1. ✓
- §3.1 The words "under the Office of Family Support," should be struck-through, since an Office with that name no longer exists. ✓
- §4.2 The Commission for the Hearing Impaired is now known as the West Virginia Commission for the Deaf and Hard-of-Hearing. See W. Va. Code § 5-14-3. ✓
- §§4.2, 4.3 and 4.4 References to the West Virginia Division of Health and Human Resources should be to the West Virginia Department of Health and Human Resources. ✓

Thank you for the opportunity to comment on your proposed amendments to this rule. I hope my comments are helpful.

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TITLE 153
SECRETARY OF STATE

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SERIES 28

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AGENCIES DESIGNATED TO PROVIDE VOTER REGISTRATION SERVICES

§153-28-1. General.

1.1. Scope - To designate those agencies and programs required to provide voter registration according to the provisions of the West Virginia Code §3-2-13.

1.2. Authority - West Virginia Code §§3-1A-6, 3-2-13

1.3. Filing Date -

1.4. Effective Date -

§153-28-2. Definitions.

For the purposes of this rule:

2.1. "Designated agency" means a department, division or office of state or local government, or a program supported by state funds which is designated by this rule to provide voter registration services according to the provisions of West Virginia Code §3-2-13 beginning July 1, 1997.

2.2. "Public assistance agency" means a designated agency which receives applications for assistance as defined in West Virginia Code §9-1-2(e) for which an income means test is applied for determination of eligibility for assistance and includes the food stamp program, ~~the "Aid to Families with Dependent Children" (AFDC) program~~ Temporary Assistance to Needy Families, the "Women, Infants and Children" (WIC) program and the Medicaid program as specified in West Virginia Code §3-2-13(b)(1).

2.3. "Disabilities Services agency" means a designated agency primarily engaged in providing services to persons with disabilities.

2.4. "Offices which issue marriage licenses" means those sections or divisions of the offices of the clerk of the county commission and/or those employees assigned to provide or receive marriage license applications, and shall not include those sections, divisions or employees delivering other services of the clerk's office.

§153-28-3. Designated Public Assistance Agencies.

Voter registration services will be provided to applicants for services through:

3.1. ~~the Aid to Families with Dependent Children Temporary Assistance to Needy Families, the Food Stamp program, the Transportation Remuneration and Incentive Program (TRIP), the Emergency Assistance Program, the Low Income Energy Assistance Program (LIEAP) and the Medicaid program under the Office of Family Support~~ within the West Virginia Department of Health and Human Resources;

3.2. the Women, Infants and Children program (WIC) under the Nutrition Services Section, Bureau of Public Health within the West Virginia Department of Health and Human Resources; and

3.3. the Homeless program under the Social Services Division within the West Virginia Department of Health and Human Resources.

§153-28-4. Designated Disabilities Services Agencies.

Voter registration services will be provided to applicants for services through:

4.1. ~~the Aging program and the Geriatrics and Long-term Care program under the Office of Aging within the West Virginia Division of Health and Human Resources~~ WV Bureau of Senior Services under the Governor's Office;

4.2. programs offered by the WV Commission for the Hearing Impaired Deaf and Hard-of-Hearing within the West Virginia Division Department of Health and Human Resources;

4.3. the early Intervention program and the Handicapped Children program under the Infant and Child Health section within the West Virginia Division Department of Health and Human Resources;

4.4. the Behavioral Health Services program within the West Virginia Division Department of Health and Human Resources;

4.5. programs offered by the Blind and Handicapped Division of the Library Commission and the Division of Rehabilitation Services within the West Virginia Department of Education and the Arts;

4.6. programs offered by the West Virginia School for the Deaf and Blind within the West Virginia State Board of Education; and

4.7. programs offered by the Division of Veteran Affairs within the West Virginia Department of Public Safety.

§153-28-5. Designated County Marriage License Offices.

The county offices which issue marriage licenses within the office of the clerk of the county commission in each county of the state are designated to provide voter registration services.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Secretary of State

Subject: Agencies Designated to Provide Voter Registration Services, 153CSR28

PERTINENT DATES

Filed for public comment: June 12, 1998
Public comment period ended: July 13, 1998
Filed following public comment period: July 14, 1998
Filed LRMRC: July 14, 1998
Filed as emergency:

Fiscal Impact: \$140,000 increase

ABSTRACT

The proposed rule amends a current legislative rule. It has been amended to provide the correct designations for those agencies which are required to provide voter registration services.

AUTHORITY

Statutory authority: W.Va. Code, §§3-1A-6 & 3-2-13, which provide, in part, as follows:

§3-1A-6

The secretary of state shall be the chief election official of the state. Except for those rules required by the provisions of section five of this article to be promulgated by the commission, the secretary of state shall have the authority, after consultation with the state election commission, of which he is a member, to make, amend

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WEST VIRGINIA

and rescind such orders and to promulgate such legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, as may be necessary to standardize and make effective the provisions of this chapter...

§3-2-13

...(d) No later than the first day of July, one thousand nine hundred ninety-six, and each even-numbered year thereafter, the secretary of state shall, in conjunction with the designated representatives of the appropriate state agencies, perform the review as required by the provisions of subsection (c) of this section and the secretary of state shall promulgate a legislative rule pursuant to the provisions of chapter twenty-nine-a of this code designating the specific agencies required to provide voter registration services beginning on the first day of July of the following year...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY

ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED
RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS
IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS
AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR
MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN
COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH
ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.