

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

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2012 AUG -1 AM 10:18

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Secretary of State TITLE NUMBER: 153

RULE TYPE: Legislative CITE AUTHORITY: W.Va. Code §3-2-6a

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 44

TITLE OF RULE BEING PROPOSED: Regulation of Late Voter Registration

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 31, 2012 AT 11:00 am ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Secretary of State

Building 1, Suite 157-K

1900 Kanawha Blvd. East

Charleston, WV 25303

THE ISSUES TO BE HEARD SHALL BE  
LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

## **SUMMARY OF RULE**

### **REGULATION OF LATE VOTER REGISTRATION**

This new Legislative Rule is required to be created by W.Va. Code §3-2-6a. This rule provides for late voter registration of any member of a uniformed service of the United States who is active or was discharged 60 days preceding an election, any member of the Merchant Marine, any person residing overseas by virtue of his or her employment in support of national security functions or purposes, and the spouse or dependent(s) residing with one of the above, within the 20 days immediately preceding an election.

APPENDIX B  
**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: REGULATION OF LATE VOTER REGISTRATION

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Secretary of State

Address: Building 1, Suite 157-K  
1900 Kanawha Blvd. East  
Charleston, WV 25302

Phone Number: 304-558-6000 Email: rczickafoose@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.

Creation of additional form required. Minimal financial impact due to a low number of voters using this Process.

**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	100.00	0.00	0.00
Personal Services	100.00	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: Regulation of Late Voter Registration

Rule Title:

REGULATION OF LATE VOTER REGISTRATION

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

Creation of new forms. Mininal expenses and personnel use.

**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.

n/a

Date: August 1, 2012

Signature of Agency Head or Authorized Representative

Natalie Clement

**TITLE 153  
LEGISLATIVE RULE  
SECRETARY OF STATE**

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2012 AUG -1 AM 10:19

**SERIES 44  
REGULATION OF LATE VOTER REGISTRATION**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§153-44-1. General.**

1.1. Scope. -- This rule provides for late voter registration of any member of a uniformed service of the United States who is active or was discharged 60 days preceding an election, any member of the Merchant Marine, any person residing overseas by virtue of his or her employment in support of national security functions or purposes, and the spouse or dependent(s) residing with one of the above, within the 20 days immediately preceding an election.

1.2. Authority. -- W. Va. Code §3-2-6a.

1.3. Filing Date. -- \_\_\_\_\_.

1.4. Effective Date. -- \_\_\_\_\_.

**§153-44-2. Definitions.**

2.1. HAVA Approved Identification: Documentation approved in the Help America Vote Act of 2002 as appropriate identification to register to vote. This includes current and valid photo identification, utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

2.2. Voter Affidavit: The document to be signed by the voter which verifies their eligibility to participate in late voter registration.

2.3. Employer Affidavit: The document provided by the employer of a person returning from overseas which verifies their eligibility to participate in late registration.

**§153-44-3. Process for a member of a uniformed service of the United States on active duty, a member of a uniformed service of the United States who has been discharged from active duty during the 60 days preceding the election and a member of the Merchant Marine of the United States.**

3.1. The applicant shall file a voter registration form in person at the clerk of the county commission office.

3.2. The applicant shall file a voter affidavit prescribed by the Secretary of State.

3.3. The applicant shall present to the clerk of the county commission HAVA approved identification at the time of registration.

3.4. The applicant shall present to the clerk of the county commission an official discharge notice or military orders.

3.5. The applicant will vote a provisional absentee ballot by mail which will be counted by the board of canvassers unless the clerk of the county commission determines that the voter failed to meet the eligibility requirements.

3.6. The clerk of the county commission shall confirm the address of the applicant upon receipt of the absentee ballot.

**§153-44-4. Process for a person who was residing overseas because of employment in support of national security.**

4.1. The applicant shall file a voter registration form in person at the clerk of the county commission office.

4.2. The applicant shall file a voter affidavit prescribed by the Secretary of State.

4.3. The applicant shall present to the clerk of the county commission HAVA approved identification at the time of registration.

4.4. The applicant shall present to the clerk of the county commission, at the time of registration, a notarized employer affidavit completed by their employer that certifies the applicant's job was in support of national security. A copy of the original employer affidavit is acceptable.

4.5. The applicant will vote a provisional absentee ballot by mail which will be counted by the board of canvassers unless the clerk of the county commission determines that the voter failed to meet the eligibility requirements.

4.6. The clerk of the county commission shall confirm the address of the applicant upon receipt of the absentee ballot

**§153-44-5. A spouse or dependent of a member of a uniformed service of the United States on active duty, a member of a uniformed service of the United States who has been discharged from active duty during the 60 days preceding the election, a member of the Merchant Marine of the United States, and a person who was residing overseas because of employment which was in support of national security.**

5.1. The applicant shall file a voter registration form in person at the clerk of the county commission office.

5.2. The applicant shall file a voter affidavit prescribed by the Secretary of State.

5.3. The applicant shall present to the clerk of the county commission HAVA approved identification at the time of registration.

5.4. The applicant shall present to the clerk of the county commission, at the time of registration, one of the following documents, a copy of an official discharge notice or military

orders for the uniformed service member or a notarized affidavit from the spouse's/parent's employer.

5.5. The applicant will vote a provisional absentee ballot by mail which will be counted by the board of canvassers unless the clerk of the county commission determines that the voter failed to meet the eligibility requirements.

5.6. The clerk of the county commission shall confirm the address of the applicant upon receipt of the absentee ballot.

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