

Form #3

FILE

2012 AUG 31 PM 12:21

OFFICE OF THE VIRGINIA
SECRETARY OF STATE

Natalie Emond

Authorized Signature

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: August 31, 2012

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305
304-558-6000

LEGISLATIVE RULE TITLE: Regulation of Late Voter Registration

1. Authorizing statute(s) citation §3-2-6a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 31, 2012

b. What other notice, including advertising, did you give of the hearing?
N/A

c. Date of Public Hearing(s) *or* Public Comment Period ended:
August 31, 2012 11:00am

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)

N/A

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

Curt Zickafoose, Legislative Liaison

Building 1, Suite 157-K

1900 Kanawha Blvd., East

Charleston, West Virginia

Phone: 304-558-6000

Fax: 304-558-0900

Email: rczickafoose@wvsos.com

- 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)

N/A

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

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.

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Regulation of Late Voter Registration

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

Secretary Of Sate

Address:

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

Phone Number:

304-558-6000

Email: rczickafoose@yahoo.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

Regulation of Late Voter Registration

Rule Title:

Rule Title: _____

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 31, 2012

Signature of Agency Head or Authorized Representative

Matilda E. Bennett

**TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE**

**SERIES 44
REGULATION OF LATE VOTER REGISTRATION**

FILED
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OFFICE OF THE 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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