

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Secretary of State TITLE NUMBER: 153

CITE AUTHORITY: §3-4a-9a & 9b

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: 11

TITLE OF RULE BEING PROPOSED: Public Testing of Ballot-Marking Voting Systems &  
Precinct Ballot-Scanning Devices

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
\_\_\_\_\_  
Authorized Signature

#2.40

**TITLE 153  
LEGISLATIVE RULE  
SECRETARY OF STATE**

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OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

**SERIES 11**

**PUBLIC TESTING OF BALLOT-MARKING VOTING SYSTEMS AND PRECINCT BALLOT-  
SCANNING DEVICES**

**§153-11-1. General.**

1.1. Scope. -- To provide for ballot-marking voting systems and precinct ballot scanning the approval and use of various types of vote recording devices to be publicly tested in accordance with H.B. # 2950 (2005).

1.2. Authority. -- W. Va. Code. § §3-4A-9a and 3-4A-9b.

1.3. Filing Date. -- \_\_\_\_\_, 2006.

1.4. Effective Date. -- \_\_\_\_\_, 2006.

**§153-11-2. Definitions.**

2.1. For the purposes of this rule:

2.1.a. "Ballot-marking accessible voting system" means a device which allows voters, including voters with disabilities, to mark an optical scanning or mark-sensing voting system ballot, privately and independently.

2.1.b. "Precinct ballot-scanning device" means a device used by the voter at the precinct on election day or during early voting for the purpose of scanning the voter's ballot after the ballot has been voted but prior to depositing the ballot into the ballot box.

**§153-11-3. Implementation of Ballot-Marking Accessible Voting System.**

Prior to the use of a ballot-marking accessible voting system in an election, the appropriate county authorities will publicly test the equipment in accordance with WV Code §3-4a-13 and 17.

**§153-11-4. Implementation of Precinct Ballot-Scanning Device.**

Prior to the use of a precinct ballot-scanning device in an election, the device shall be publicly tested in accordance with WV Code §3-4a-13 and 17.

**§153-11-5. Procedures Manual for Using the Precinct Ballot-Scanning Device.**

5.1. At least once annually, the Secretary of State shall provide a procedures manual for using the precinct ballot-scanning device in an election. The manual shall include a step-by-step procedure to be followed in the precinct where the device is being used.

5.2. Election officials shall carry out the procedures set out in the procedures manual when using the precinct ballot-scanning device in an election.