

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

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2007 MAY -7 AM 9:34

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Secretary of State TITLE NUMBER: 153

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 23

TITLE OF RULE BEING AMENDED: Absentee Voting by Military Voters Who Are Members  
of Reserve Units Called to Active Duty

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

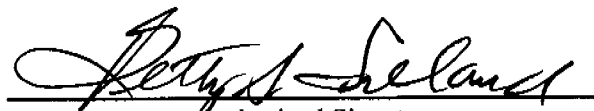
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 319

SECTION §64-9-14, PASSED ON March 18, 2007

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: May 7, 2007

  
Authorized Signature

#2.60

FILED

## TITLE 153

2007 MAY -7 AM 9: 34

LEGISLATIVE RULE  
SECRETARY OF STATEOFFICE WEST VIRGINIA  
SECRETARY OF STATESERIES 23  
ABSENTEE VOTING BY MILITARY VOTERS  
WHO ARE MEMBERS OF RESERVE  
UNITS CALLED TO ACTIVE DUTY**§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. -- May 7, 2007.

1.4. Effective Date. -- May 7, 2007.

**§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 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 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 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 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 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 County Clerk

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

(seal)