

Form #6

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Ken Hechler

TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE

SERIES 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. --

1.4. Effective date. --

§153-23-2. Absentee voting for activated reservists.

2.1. Any registered voter who is a member of a reserve unit that is called to 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 of being 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 circuit clerk, in the county where registered, as provided for in this rule.

2.2. For the purposes of this rule, a reserve unit includes all units that can be called to 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 circuit 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 circuit 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 §3-3-5 of the West Virginia Code.

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 circuit clerk's office pursuant to the provisions of §3-3-3 of the West Virginia Code.

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
Circuit Clerk, _____,
dates _____
and during the hours which polls are open on election day on _____
date _____.

I further swear or affirm that, because I have been called to active
service in the _____ (branch of service) on _____,
date _____.

I will be unable to vote by mail at my service 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 Circuit Clerk

My commission expires _____.

(seal)

1786

Bill Sec of State, Voting 153-23

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H. B. 4241

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the
Committee on the Judiciary)

10 A BILL to amend and reenact section twenty-four, article nine,
11 chapter sixty-four of the code of West Virginia, one thousand
12 nine hundred thirty-one, as amended, relating to authorizing
13 the secretary of state to promulgate legislative rules
14 relating to absentee voting by military voters who are
15 members of reserve units called to active duty.

16 Be it enacted by the Legislature of West Virginia:

17 That section twenty-four, article nine, chapter sixty-four of
18 the code of West Virginia, one thousand nine hundred thirty-one,
19 as amended, be amended and reenacted, to read as follows:

20 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
21 TO PROMULGATE LEGISLATIVE RULES.

22 §64-9-24. Secretary of state.

23 (a) The legislative rules filed in the state register on the
24 fifteenth day of April, one thousand nine hundred eighty-five,

4241

1 modified by the secretary of state to meet the objections of the
2 legislative rule-making review committee and refiled in the state
3 register on the eighth day of October, one thousand nine hundred
4 eighty-five, relating to the secretary of state (standard size
5 and format for rules and related documents filed in the secretary
6 of state's office), are authorized.

7 (b) The legislative rules filed in the state register on the
8 seventeenth day of August, one thousand nine hundred
9 eighty-seven, modified by the secretary of state to meet the
10 objections of the legislative rule-making review committee and
11 refiled in the state register on the twenty-third day of
12 September, one thousand nine hundred eighty-seven, relating to
13 the secretary of state (standard size and format for rules and
14 procedures for publication of the state register or parts of the
15 state register), are authorized.

16 (c) The legislative rules filed in the state register on the
17 first day of September, one thousand nine hundred eighty-nine,
18 modified by the secretary of state to meet the objections of the
19 legislative rule-making review committee and refiled in the state
20 register on the twentieth day of November, one thousand nine
21 hundred eighty-nine, relating to the secretary of state (West
22 Virginia farm product lien central filing system), are
23 authorized.

24 (d) The legislative rules filed in the state register on the
25 thirteenth day of August, one thousand nine hundred ninety,

1 relating to the secretary of state (guidelines for the use of
2 nicknames and other designations on the ballot), are authorized.

3 (e) The legislative rules filed in the state register on the
4 fourteenth day of November, one thousand nine hundred ninety,
5 relating to the secretary of state (absentee voting by military
6 voters who are members of reserve units called to active duty)
7 are authorized.

8 NOTE: The purpose of this bill is to authorize the Secretary
9 of State to promulgate legislative rules relating to absentee
10 voting by military voters who are members of reserve units called
11 to active duty.

12
13 Strike-throughs indicate language that would be stricken from
14 the present law, and underscoring indicates new language that
15 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

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SECRETARY OF STATE

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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

TO: Mary Ratliff

AGENCY: Secretary of State

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: December 21, 1992

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 23 TITLE: 153 Secretary of State

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Dec 21 10 40 AM '92

FILED