WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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JUL 26 2 21 PM '95

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: SECRETARY OF STATE TITLE NUMBER: 153

CITE AUTHORITY §3-1A-6, 3-1-17

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 24

TITLE OF RULE BEING AMENDED: NUMBERED DIVISIONS FOR THE ELECTION OF CIRCUIT JUDGES

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Ken Hechler

4.00

STATEMENT OF CIRCUMSTANCES

TITLE 153, SERIES 24

This rule was promulgated as a procedural rule in 1991, and was used in the Primary and General Elections of 1992. It is being refiled according to the requirements of S. B. 573 (1995).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Numbered Divisions for the Election of Circuit Judges

Type of Rule: X Legislative ____Interpretive ____Procedural

Agency Secretary of State

Address Building 1, Rm. 157-K

1900 Kanawha Blvd., E.

Charleston, WV 25305-0770

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$0	$0	$0	$0	$0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

N/A

Rule Title: Numbered Divisions for the Election of Circuit Judges

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: June 22, 1995

Signature of Agency Head or Authorized Representative

Ken Hubbell

DATE: JULY 26, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: MARY RATLIFF, DEPUTY SECRETARY OF STATE

LEGISLATIVE RULE TITLE: NUMBERED DIVISIONS FOR THE ELECTION OF CIRCUIT JUDGES

1. Authorizing statute(s) citation §3-1A-6, 3-1-17

2. a. Date filed in State Register with Notice of Hearing

JUNE 23, 1995

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

N/A

c. Date of Hearing(s) JULY 24, 1995

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)

JULY 26, 1995

f. Name and phone number(s) of agency person(s) to contact for additional information:

MARY RATLIFF

558- 6000

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: 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

TITLE 153, SERIES 24

This proposed legislative rule set out requirements relating to the election of circuit judges, including requirements for the certificate of candidacy, ballot arrangement, nomination, election and certification to make uniform the implementation of H. B. 2305 (1990) and West Virginia Code §3-1-17.

TITLE 153
PROCEDURAL RULES
SECRETARY OF STATE

SERIES 24
NUMBERED DIVISIONS FOR THE ELECTION OF CIRCUIT JUDGES

§153-24-1. General.

1.1. Scope. – To make uniform the implementation of H.B. 2305 requiring that judges in multi-judge circuits be elected within numbered divisions each including only one judge.

1.2. Authority. – W. Va. Code §§3-1A-6, 3-1-17

1.3. Filing Date. –July 29, 1991

1.4. Effective Date. -- August 28, 1991

§153-24-2. Designation of numbered divisions.

2.1. Each judicial circuit shall contain as many divisions as there are judges within the circuit as established by W. Va. Code §51-2-1.

2.2. Within each circuit having more than one judge, the divisions shall be designated as in the following examples:

2.2.1. Full designation: 1st Judicial Circuit, 2nd Division

2.2.2. Short form: 1st Circ., 2nd Div.

2.2.3. Abbreviation: Circ. 1/2

2.3. When the number of judges in a circuit is increased or decreased by the Legislature, the number of divisions shall automatically be adjusted and any added position shall be assigned the next number in the sequence.

2.4. The secretary of state shall post a list of numbered divisions up for election and shall distribute that list to each circuit court clerk by the first Monday in January of each election year.

§153-24-3. Nomination of circuit judges in numbered divisions.

3.1. Certificate of candidacy.

3.1.1. Each person seeking nomination to the office of judge of the circuit court shall file a certificate of candidacy in the time, manner and place required by W. Va. Code §3-5-7, and shall pay the filing fee or file the petition in lieu of filing fee as required by W. Va. Code §3-5-8 and §3-5-8a.

3.1.2. On the certificate of candidacy, the candidate shall state the numbered division of the judicial circuit which he or she is seeking, except in circuits having only one judge.

3.1.3. Any certificate of announcement for judge in a multi-judge circuit shall not be deemed to have been properly filed unless a circuit and a single numbered division within the circuit is clearly designated as the division sought. The secretary of state or the board of ballot commissioners, as the case may be, shall not certify the candidacy of any person who fails to designate a circuit and a single division.

3.1.4. No candidate for circuit judge shall be permitted to be a candidate for office in more than one division, as required by §3-5-7(f).

a. A candidate who files two (2) or more certificates of announcement designating different divisions and pays the required filing fee for each different division shall not be eligible to be certified as a candidate for any division unless a signed notarized statement of withdrawal from all but one designated division is filed no later than the close of candidate filing. All filing fees are non-refundable.

b. The secretary of state, or circuit clerk, as the case may be, shall immediately reject and return the filings of a candidate who simultaneously files two (2) or more certificates of announcement designating different divisions accompanied by a single filing fee.

3.2. Ballot arrangement of candidates for circuit judge.

3.2.1. Divisions shall be placed on primary and general election ballots in numerical order.

3.2.2. The heading for each division on the primary election ballot shall be as nearly as possible as follows:

For Circuit Court Judge
(No) Judicial Circuit, (No.) Division
(Vote for One)

3.2.3. Only those candidates certified for placement on the ballot within a specific numbered division shall appear under that division heading.

3.3. Nomination of candidates in numbered divisions.

3.3.1. Each political party may nominate only one candidate for circuit judge for each numbered division of a judicial circuit for multi-judge circuits.

3.3.2. The board of canvassers, in issuing the certification of results for candidates for circuit judge, shall designate the circuit, the numbered division, the candidates for judge within that division and the votes received in words and numbers.

3.3.3. The secretary of state for multi-county circuits, and the board of ballot commissioners for single county circuits, shall certify the nomination of the candidate of each party receiving the highest number of votes within each division.

§153-24-4. Election of circuit judges in numbered divisions.

4.1. Only candidates who have filed a proper certificate of announcement within the time required and who have been nominated in the primary election or by petition shall be certified for placement on the general election ballot.

4.2. The board of canvassers shall, in issuing the certificate of results of the general election, designate the judicial circuit, the numbered division, the candidates for judge within that division and the votes received in words and numbers.

4.3. The governor shall, upon ascertaining the results within each numbered division, proclaim the results of the election and thereafter proclaim those judges duly elected.

§153-24-5. Continuity of numbered divisions.

5.1. The numbered divisions as designated shall continue to be so designated for election purposes.

5.2. Provisions relating to the designation of chief judge or the assignment of terms of court within various counties within a circuit are not affected by the designation of divisions.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

(Plus all the volunteer
help we can get)

JULY 26, 1995

NO COMMENTS WERE RECEIVED, THEREFORE NO CHANGES WERE MADE