

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**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: 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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 162

SECTION §64-9-2, PASSED ON MARCH 25, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: JUNE 7, 1996

Ken Hechler



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

Mary Ratliff
Secretary of State
Suite 157-K Bldg 1
1900 Kanawha Blvd East
Charleston, WV 25305-0770

SB 162 authorizing, **Title 153, Series 24, Numbered Divisions for the Election of Circuit Judges** passed the Legislature on **March 9, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 162** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 162 Section 64-9-2(e)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

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 W. Va. Code §3-1-17 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. --

1.4. Effective Date. --

§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~~ announcement, 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.

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SENATE BILL NO. 220

(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on
the Judiciary

153-24

A BILL to amend and reenact section two, article nine,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the secretary of state to promulgate
legislative rules relating to numbered divisions for
the election of circuit judges.

Be it enacted by the Legislature of West Virginia:

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

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

§64-9-2. Secretary of state.

(a) The legislative rules filed in the state register

1 on the fifteenth day of August, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 three, article two, chapter three, of this code, modified
4 by the secretary of state to meet the objections of the
5 legislative rule-making review committee and refiled in the
6 state register on the fourteenth day of November, one
7 thousand nine hundred ninety-four, relating to the
8 secretary of state (combined voter registration and driver
9 licensing fund, 153 CSR 28), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twenty-sixth day of July, one thousand nine hundred
12 ninety-five, authorized under the authority of section six,
13 article one-a, chapter three, of this code, modified by the
14 secretary of state to meet the objections of the
15 legislative rule-making review committee and refiled in the
16 state register on the twenty-fourth day of January, one
17 thousand nine hundred ninety-six, relating to the secretary
18 of state (numbered divisions for the election of circuit
19 judges, 153 CSR 24), are authorized.

20

21 NOTE: The purpose of this bill is to authorize the
22 Secretary of State to promulgate legislative rules relating
23 to numbered divisions for the election of circuit judges.

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25 Strike-throughs indicate language that would be
26 stricken from the present law, and underscoring indicates
27 new language that would be added.

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H. B. 4289

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996; referred to the
Committee on the Judiciary)

153-24

10 A BILL to amend and reenact section two, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the secretary of state to promulgate
14 legislative rules relating to numbered divisions for
15 the election of circuit judges.

16 Be it enacted by the Legislature of West Virginia:

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

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

23 **§64-9-2. Secretary of state.**

24 (a) The legislative rules filed in the state register

4289

1 on the fifteenth day of August, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 three, article two, chapter three, of this code, modified
4 by the secretary of state to meet the objections of the
5 legislative rule-making review committee and refiled in the
6 state register on the fourteenth day of November, one
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(Plus all the volunteer help we can get)

TO: BILL HARRINGTON

AGENCY: SECRETARY OF STATE

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: August 27, 1996

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: 24 TITLE: 153 SECRETARY OF STATE

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Jeri Coste

TITLE OF PERSON SIGNING: _____

DATE: 17 Oct 96

OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE
 Oct 17 2 38 PM '96
FILED

* 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.