

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

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2010 NOV 12 AM 10:02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Secretary of State TITLE NUMBER: 153-25

CITE AUTHORITY: West Virginia Code 3-1a-6 and 3-2-12

AMENDMENT TO AN EXISTING RULE: YES NO

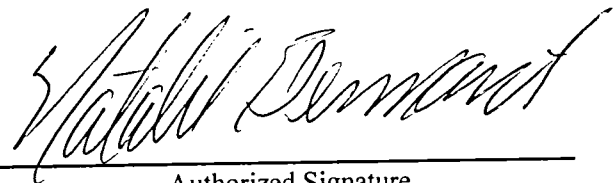
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 153-25

TITLE OF RULE BEING AMENDED: Combined Voter Registration and Driver Licensing Fund

IF NO, SERIES NUMBER OF 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.



Authorized Signature



Natalie E. Tennant
Secretary of State
State of West Virginia

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Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

MEMO

November 10, 2010

No comments were received during the public comment period for the amendment filed to 153 Code of State Rules 25.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: November 10, 2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Secretary of State
Capitol Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

LEGISLATIVE RULE TITLE: _____
Combined Voter Registration and Driver Licensing Fund

1. Authorizing statute(s) citation West Virginia Code 3-1a-6 and 3-2-12

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
October 8, 2010

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

c. Date of Public Hearing(s) *or* Public Comment Period ended:
November 8, 2010

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)

November 12, 2010

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

West Virginia Secretary of State

Ashley Summitt, Counsel
Capitol Building 1, Suite 157-K

1900 Kanawha Blvd., East
Charleston, WV 25305
304-558-0900
easummitt@wvsos.com

- g. **IF DIFFERENT FROM ITEM 'F'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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.

NA

b. Date of hearing or comment period:

NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

FILED

TITLE 153
PROPOSED LEGISLATIVE RULE
SECRETARY OF STATE

NOV 12 AM 10:02

SERIES 25
COMBINED VOTER REGISTRATION AND
DRIVER LICENSING FUND

OFFICE OF THE CLERK
SECRETARY OF STATE

§153-25-1. General.

1.1. Scope. -- To establish guidelines for the administration of the Combined Voter Registration and Driver Licensing Fund established by S. B. 443 (1991) and revised by S. B. 520 (1994).

1.2. Authority. -- W. Va. Code §§3-1a-6 and 3-2-12.

1.3. Filing Date -- ~~April 22, 1996.~~

1.4. Effective Date. -- ~~June 7, 1996.~~

~~1.5. Repeal and Replace. — This rule repeals and replaces "Combined Voter Registration and Driver Licensing Fund," 153 CSR 25, filed June 9, 1993 and effective June 9, 1993.~~

§153-25-2. Definitions.

For the purposes of this rule:

2.1. "Advisory Committee" means the State Uniform Voter Data System Advisory Committee established by W. Va. Code §3-2-20 and appointed by the State Election Commission.

2.2. "Agency registration form" means any form designed for use in conjunction with direct voter registration of applicants at any designated agency.

2.3. "Applicant" means:

2.3.1. a person who submits an application for the issuance, renewal or change of address of any motor vehicle driver's license or official identification card, as provided by W. Va. Code §3-2-11(a); or

2.3.2. a person who applies in person at a designated agency, whether at an agency office or other site of direct contact with an agency employee responsible for accepting applications, seeking services or assistance for himself or herself or for a member of his or her immediate family, as defined by W. Va. Code §3-2-14(a), and who submits an application, renewal, recertification or change of address relating to those services or assistance.

2.4. "Combined form" means any form which includes a voter registration application or declination form as part of a form used in the driver licensing or agency application process.

2.5. "Designated agency" means an agency, department, division or office of state or local government, or a program supported by state funds, which is designated to provide voter registration services by the provisions

of W. Va. Code §3-2-13 or by rules promulgated under that section.

2.6. "Driver licensing facility" means a location at which motor vehicle driver licenses are issued or at which applications for such licenses are received.

2.7. "The Fund" means the Combined Voter Registration and Driver Licensing Fund.

2.8. "Licensing registration form" means any form designed for use in conjunction with direct voter registration of applicants at any driver licensing facility.

2.9. "Mail registration form" means a form to be used by an individual for application for voter registration according to the procedures and requirements of W. Va. Code §3-2-10.

2.10. "NCOA" means the "National Change of Address" program by which state or local election offices may contract with authorized vendors for comparison of the addresses of registered voters with change of address records filed with the U. S. Postal Service.

2.11. "Registration official" means the secretary of state or clerk of the county commission responsible for particular functions related to voter registration.

2.12. "Registration site" means a driver licensing facility, or an office or program location of a designated agency where registration services are delivered to clients and the completed registration or declination cards are received for forwarding.

§153-25-3. Revenue.

3.1. The Combined Voter Registration and Driver Licensing Fund established by W. Va. Code §3-2-12 as a special revenue fund shall be administered by the secretary of state.

3.2. The Division of Motor Vehicles shall deposit fifty cents of each fee collected under the provisions of W. Va. Code §17-3-1 into the special revenue fund.

§153-25-4. Expenditures.

4.1. The full cost of the following items may be paid by the secretary of state from the Fund as needed for implementation of voter registration at driver licensing facilities and designated agencies:

4.1.1. the printing and distribution of separate licensing and agency voter registration forms and for the proportional cost of the voter registration portion of any combined form;

4.1.2. the printing and distribution of mail registration forms to the public or to driver licensing facilities and designated agencies for distribution to individuals upon request according to procedures prescribed by the secretary of state;

4.1.3. the supplies and postage for correspondence relating to voter registration for licensing and agency registration sites;

4.1.4. the printing and distribution of the necessary envelopes for transmitting completed voter registration applications or other forms, and for postal permits and postage for returning completed voter

registration forms to the appropriate registration official;

4.1.5. the purchase and distribution of public information materials, posters, training material, employee manuals, and other information essential to insure broad understanding of the availability of registration opportunities and the proper implementation of the program; and

4.1.6. the printing and distribution of supplies and equipment required by driver licensing facilities and designated agencies to collect, stamp and retain securely the registration forms until forwarded to the appropriate registration official.

4.2. The secretary of state shall reimburse the appropriate county at a rate of \$.50 for each completed registration application received at a registration site and forwarded to the appropriate registration official, for the purpose of offsetting a portion of the postage and mailing costs incurred by the county for sending a verification mailing, receipt or confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a licensing facility or designated agency.

4.2.1. The secretary of state shall make the reimbursement under this subsection for each completed registration application received at a registration site and forwarded to a county by the secretary of state, and for any registration applications delivered directly to a clerk of the county commission from a designated agency or driver licensing facility for which a receipt containing the number of applications is signed by the clerk or his or her designee and forwarded to the secretary of state.

4.2.2. The secretary of state shall make the reimbursement under this subsection on a quarterly basis.

4.3. The secretary of state shall reimburse the Division of Motor Vehicles, the Division of Public Safety, and the designated agencies at a rate of one dollar (\$1.00) per completed registration application for the appropriate allocation of cost for personnel time apportioned to and incurred for delivery of voter registration services, collection and transmission of the completed forms: Provided, That the total reimbursement for any quarter shall not exceed sixty (60) percent of the total quarterly revenue of the Fund for that quarter. In any quarter in which the revenue is insufficient to pay the reimbursement rate of \$1.00 per completed registration as provided in this subsection, the amount per registration application shall be reduced proportionally.

4.3.1. The secretary of state shall compute the total reimbursement for the Division of Motor Vehicles, the Division of Public Safety and the designated agencies based on the number of complete registration application forms or change of address forms which are completed and forwarded to the secretary of state from the registration sites, plus the number of applications for registration or change of registration which are documented as having been delivered directly from the registration sites to the county clerk as provided in subdivision 4.2.1 of this rule.

4.3.2. Within 30 days following the beginning of each fiscal year, each Division or designated agency shall provide to the secretary of state a listing of the appropriate account number(s) into which the reimbursements shall be deposited, and if the funds are to be allocated to more than one account, the proportion of funds assigned to each.

4.3.3. The secretary of state shall make the reimbursements under this subsection on a quarterly annual basis.

4.3.4. Prior to receiving reimbursement, the Division of Motor Vehicles, the Department of Public Safety, and each designated agency shall report to the secretary of state the total number of applicants for

which they were required to provide voter registration opportunities during the quarter.

4.4. The secretary of state may pay, from the revenues of the Fund received in any previous fiscal year and not expended, those costs incurred in connection with a statewide program of uniform voter registration computerization for use by each county registration office as follows:

4.4.1. for the expenses of the Advisory Committee, as defined in subsection 2.1 incurred in conjunction with meetings to develop a comprehensive plan for the selection and/or development of appropriate voter registration software and for the development and implementation of pilot programs;

4.4.2. for professional assistance required by the Advisory Committee in the preparation of the comprehensive plan;

4.4.3. for the purchase, development, installation and maintenance of software selected by the Advisory Committee for statewide use in creating and maintaining all required voter registration files in all counties of the state; and

4.4.4. for reimbursement to counties participating in the state uniform voter data system of not more than fifty percent of the cost per voter for data entry or data conversion from a previous voter registration software program: Provided, That,

a. in the case of data entry of records, the county shall supply any and all documentation of actual time, employee pay rates and other information requested by the secretary of state prior to reimbursement. The secretary of state may determine a reasonable limit for the cost per voter record which is subject to reimbursement;

b. in the case of the necessary conversion of existing voter registration records the secretary of state may require the conversion be performed under state contract for multi-county conversion in order to achieve cost savings; and

c. funds available for reimbursement of conversion costs for each fiscal year shall be used to determine the percentage of the cost per voter, up to a maximum of fifty percent, which will be reimbursed.

4.5. According to the provisions of W. Va. Code §3-2-25, the secretary of state shall contract with an authorized vendor of the United States postal service for a comparison of the voter registration records of counties participating in the state uniform voter data system with postal service records through the "NCOA" program.

4.5.1. The secretary of state shall pay for the NCOA service from the Fund, but the Fund shall be responsible for not less than thirty nor more than fifty percent of the total cost of conducting the comparison, and each county participating in the joint program shall reimburse the Fund for the balance of the cost prorated on a per voter basis.

4.5.2. The secretary of state shall pay for the NCOA service from revenues of the current fiscal year. Upon the receipt of bids from the authorized vendors for the service, the secretary of state shall determine the percentage of the costs which can be made from the Fund and shall notify all participating counties of the cost per voter for which they will be required to reimburse the Fund.

4.6. The secretary of state may pay or reimburse other costs associated with implementation of the

requirements of the "National Voter Registration Act of 1993" (42 U.S.C. 1973gg) from the Fund: Provided, That revenue received by the Fund during any fiscal year shall first be allocated to the purposes set forth in section 4.1, 4.2, 4.3 and 4.5 of this rule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Combined Voter Registration and Driver Licensing Fund

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Secretary of State

Address: Building 1, Suite 157-K, Capitol Building
1900 Kanawha Blvd, East
Charleston, WV 25305

Phone Number: 304-558-6000 Email: easummitt@wvsos.com

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

153 CSR 25-4.3.3 requires the "secretary of state shall make the reimbursements under this subsection on a quarterly basis."

The West Virginia Secretary of State's Office currently processes reimbursements to all 55 counties for Motor Voter payments on a quarterly basis at an annual cost to the state of at least \$660 per year.** Other estimates of the costs associated with producing a paper check are much higher.

** Note- Based upon a Legislative Audit from August 2001.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	660.00	495.00	165.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Combined Voter Registration and Driver Licensing Fund

Rule Title: _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The cost of producing a paper check was estimated in August 2001 by the Legislative Auditor at \$3.00. This estimate was used in preparation of this Fiscal Note.

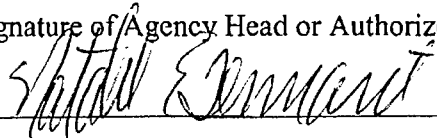
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The West Virginia Secretary of State's Office is working with each county budget/financial office to encourage all counties to receive this payment by means of electronic transfer instead of by paper check; however, amending the rule to allow for one annual payment instead of quarterly payments will be further cost savings to the state.

Date: October 7, 2010

Signature of Agency Head or Authorized Representative





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Building 1, Suite 157-K
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Natalie E. Tennant

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State of West Virginia

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SUMMARY

Title 153

Legislative Rule

West Virginia Secretary of State

Series 25

Combined Voter Registration and Driver Licensing Fund

This amendment allows the West Virginia Secretary of State to make payments to each county annually instead of quarterly, as currently contained in the rule, resulting in a savings to the Office of at least \$495 annually.