

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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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 and 3-2-22a

AMENDMENT TO AN EXISTING RULE: YES NO

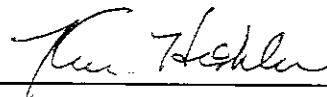
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: Combined Voter Registration and
Driver Licensing Programs

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.



RECEIVED

OCT 03 1991

Legislative Rule Making

DATE: October 7, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Secretary of State's Office

LEGISLATIVE RULE TITLE: Combined Voter Registration and Driver Licensing Program

1. Authorizing statute(s) citation § 3-1A-6 and 3-2-22a

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

June 19, 1991

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

None

c. Date of hearing(s): Not applicable

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

October 7, 1991

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

Bob Wilkinson

Secretary of State's Office

State Capitol Bldg.

Charleston, WV 25305

345-4000

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.

b. Date of hearing: _____

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

d. Attach findings and determinations and reasons:

Attached _____

TITLE 153
SECRETARY OF STATE
LEGISLATIVE RULE

SERIES 25
COMBINED VOTER REGISTRATION AND DRIVER LICENSING PROGRAMS

§153-25-1. General.

1.1. Scope -- To establish procedures for the implementation of SB 443 (1991) establishing a combined program of voter registration and driver licensing in facilities operated by the Division of Motor Vehicles (hereafter "DMV" and the Department of Public Safety (hereafter "DPS")

1.2. Authority -- W.Va. Code §§3-1a-6, 3-2-22a, 17-3-1 and 17B-2-8

1.3. Filing Date --

1.4. Effective Date --

§153-25-2. Voter Registration Forms, Distribution, Availability, Authority to Use.

2.1. The form used for the implementation of voter registration conducted at driver licensing facilities operated by the DMV and DPS shall be as prescribed herein in Attachment A.

2.2. A supply of blank forms shall be distributed to each licensing facility prior to July 1, 1991, and thereafter as required.

2.3. The form prescribed in §2.1 may be used only in connection with voter registration activities conducted at driver licensing facilities by authorized personnel of the DMV or the DPS.

2.3.1. No licensing facility may distribute any of the blank forms prescribed in §2.1 for use outside the facility.

2.3.2. Upon request, and providing the appropriate forms are available at the facility, licensing personnel may distribute in person to any individual a maximum of three (3) copies of

the "Uniform Statewide Application For Registration By Mail." commonly called the "postcard registration" (hereafter "PCR"), as prescribed by West Virginia Code §3.2.41. The PCR forms may be used outside the licensing facility by any eligible applicant.

§153-25-3. Persons Authorized to Conduct Voter Registration at Driver Licensing Facilities.

3.1. The officer or administrator in charge of each headquarters or other driver licensing facility shall appoint one or more employees as "agency registrars" to conduct voter registration and attest to the oaths of the registrants, and shall assure that one or more of those designees are available to provide voter registration services at all hours specified for preparing photo cards for driver licenses.

3.2. Upon appointment, the agency registrar shall take and sign the oath prescribed for an officer of the state, unless that employee is an officer already serving under oath. Such oaths shall be filed with the secretary of state.

3.3. The officer or administrator in charge shall make a record of the date of the appointment, the name, address and title of each person appointed as agency registrar on a form provided by the secretary of state.

§153-25-4. Voter Registration Procedures at Driver Licensing Facilities.

4.1. The following notices shall be given to license applicants of the availability of voter registration at the licensing site:

4.1.1. The camera card mailed to each applicant for a West Virginia driver's license or commercial operator's license, or for renewal, correction or duplication of such license, shall

contain the following notice: "[] Check if you wish to register to vote or change your registration," or "[] Check here if you want voter registration services."

4.1.2. Signs shall be posted prominently in each driver licensing facility notifying patrons of the availability of voter registration at the site.

4.1.3. Licensing personnel are encouraged to offer each patron of driver's licensing services the opportunity to register to vote by asking: "If you are not registered to vote where you now live, would you like to register today?"

4.2. Licensing personnel shall provide a blank voter registration application prescribed in §2.1 as follows:

4.2.1. When any applicant presents a camera card with the notice described in §4.1.1 checked;

4.2.2. When any person inquires about voter registration, responds positively when asked if they wish to register, or requests the application in order to register in person at the site.

4.3. Upon receipt of the blank form, the applicant shall complete the shaded portions of the form, and the applicant shall sign the form in the presence of the employee authorized to issue the oath. By signing the written oath the applicant shall be swearing to or affirming the truth of the contents of the form.

4.4. After witnessing the signing of the oath, the agency registrar authorized to issue the oath shall likewise sign the affidavit, and shall enter the date issued, the facility designation (in numbers or letters) assigned to the site, and the applicant's West Virginia driver license number or non-driver identification number, and shall stamp the card with the stamp prescribed by the secretary of state.

4.5. The date entered by the person giving the oath shall be the effective date of registration for the applicant, provided the information given by the applicant is substantially complete and the county clerk is able to process the application.

4.5.1. A voter registration shall be considered substantially complete if the following information is provided and is legible:

4.5.1.1. The registrant's legal name, including at a minimum one given name and the surname;

4.5.1.2. The registrant's residence address at a geographically identifiable address (street address, rural route or road number or description, city & county);

4.5.1.3. The applicant's birth date and place of birth (state or country);

4.5.1.4. If the applicant's place of birth is outside the United States, a mark of "yes" or "no" to the question "Are you a naturalized citizen?". Also, if "yes" is checked for this question and the additional naturalization information is provided, the application shall be considered substantially complete only if the applicant presents verification of naturalization to the county clerk within thirty days of the date of registration;

4.5.1.5. The signature of the applicant for registration, and the affidavit of the agency registrar, including date of registration.

4.5.2. If the voter fails to mark any block in the section for choice of party affiliation, the county clerk shall mark "No Party (Independent)" and shall note on a permanent record the fact that the voter made no mark in this section and that the mark for no party affiliation was entered by the clerk.

4.6. The completed card shall be retained at the licensing site, and forwarded to the proper official as prescribed in section 5 of this rule.

§153-25-5. Transmission of Completed Voter Registration Forms.

5.1. As voter registration applications are completed and filed at each licensing facility, the person assigned to handle those applications at each facility shall place them together in an envelope provided by the secretary of state.

5.2. At the end of the last day a licensing facility is open during each week, or no later than the following business day, the envelope containing completed voter registration applications and any receipts signed by the county clerk for pickup of registrations made according to the provisions of subsection 5.2.4 shall be mailed to the secretary of state, except as otherwise provided herein.

5.2.1. If no voter registration applications have been completed and filed, or if all registrations filed have been picked up by the county clerk as provided by subsection 5.2.4, a preprinted card stating that fact shall be mailed to the secretary of state in lieu of the registration applications.

5.2.2. Facilities which are open only one day per week or one day per alternate week shall mail the completed forms at the conclusion of each day of operation, or no later than the following business day.

5.2.3. Personnel of the secretary of state shall pick up all completed voter registration forms from the division of motor vehicles at the State Capitol at least once per week.

5.2.4. The county clerk or the clerk's designee may pick up completed voter registration forms for applicants of the same county from a licensing facility located within that county, providing:

5.2.4.1. The clerk or the designee signs a receipt for the forms indicating the number of forms and the date and time picked up, which receipt will be forwarded to the secretary of state with the next mailing of registration cards; and

5.2.4.2. Any completed forms remaining at the conclusion of the last day of operation of the licensing facility for the week shall be immediately mailed to the secretary of state.

5.2.5. The secretary of state shall mail all completed voter registration forms received during the week to the appropriate county clerks on the last business day of each week.

5.2.6. The secretary of state may require additional mailings by the licensing facilities on the last business day prior to the close of voter registration before a statewide primary, general or special election.

§153-25-6. Combined Voter Registration and Driver Licensing Fund.

6.1. The combined voter registration and licensing fund established by West Virginia Code §3-2-22a as a special revenue fund shall be administered by the secretary of state.

6.2. Fifty cents of each fee collected under the provisions of West Virginia Code §17-3-1 shall be deposited into the special revenue fund.

6.3. Expenditures from the fund shall be allocated as follows:

6.3.1. For the full cost of printing and packaging the required voter registration forms, instructions, posters, employee instruction manuals and other information for use in conducting voter registration at driver licensing facilities.

6.3.2. For the full cost of printing the necessary envelope for transmitting voter registration forms from the licensing facilities to the secretary of state and from the secretary of state to the various county clerks.

6.3.3. For the full cost of distributing the necessary registration forms, envelopes and other materials to the various licensing facilities.

6.3.4. For the full cost of any postal permit and postage incurred in mailing the completed voter registration forms as specified by this rule.

6.3.5. For the reimbursement of actual costs incurred and billed by the DMV in making the required alterations of the computer programming involved in the increase of licensing fees.

6.3.6. For the reimbursement of county clerks receiving voter registrations made under the provisions of West Virginia Code §3-2-22a for the purpose of offsetting the postage and mailing costs of the voter's receipt of registration, at a rate of thirty-five cents (\$.35) per completed registration application. Reimbursement will be made for each registration application forwarded to a county clerk by the secretary of state, and for any applications picked up by a county clerk at a local licensing facility for which a receipt is signed and the receipt containing the number of applications is forwarded to the secretary of state.

6.3.7. To the extent possible according to the resources available in the combined fund, for the appropriate allocation of personnel costs incurred by the DMV and the DPS for personnel employed solely for the purpose of issuing driver's licenses and offering voter registration services, or the payment of the portion of such personnel costs apportioned to such duties.

6.4. Following the payment of the start-up costs associated with the program and the budgeting of those costs itemized in subdivisions 6.3.1 through 6.3.6, the secretary of state, the DPS and the DMV shall develop a joint plan for the appropriate allocation and payment of personnel costs under subdivision 6.3.7. Such plan shall be reviewed every six months and may be adjusted as necessary to accommodate the limitations of the fund.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Combined Voter Registration and Driver Licensing Program

Type of Rule: X Legislative Interpretive Procedural

Agency Secretary of State Address Rm. 157, Capitol Bldg.;
 Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 150,000	\$	\$ 150,000	\$ 150,000	\$ 150,000
Personal Services					
Current Expense	20,000		20,000	20,000	20,000
Repairs and Alterations					
Equipment					
Other Transfer: Co. s	40,000		40,000	40,000	40,000
To DMV and DPS	90,000		90,000	90,000	90,000

2. Explanation of above estimates:

Section six of this series deals with the distribution of a fund established by the new law in § 17-3-1 of the code. This code section calls on a 50¢ charge on every driver license transaction to fund the program. We estimate that \$150,000 will be raised for this special revenue fund and that \$20,000 will be needed by this office to carry out its responsibilities under the act.

3. Objectives of these rules:

To provide the framework for the motor voter registration program before the law goes into effect on July 1, 1991.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

\$150,000 will be raised by a charge to be assessed to all driver license transactions. \$20,000 will go to the Secretary of State while the Division of Motor Vehicles and the Division of Public Safety will receive \$90,000 to offset their costs.

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

The counties will receive around \$40,000 to offset the cost of implementing this program.

C. Economic Impact on Citizens/Public at Large.

Every person who receives a new driver's license after July 1, 1991 will pay 50¢ to pay for this program.

Date: June 19, 1991

Signature of Agency Head or Authorized Representative

Robert E. Wilkinson

RULE SUMMARY
COMBINED VOTER REGISTRATION AND DRIVER LICENSING PROGRAMS
153 CSR 25

This rule provides the guidelines for implementing the motor voter registration program that was passed by the legislature in its 1991 session. This program can be found in section 3-2-22a of the code. Permanent rules will be necessary to carry out the day to day operations of the program.