

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In this Box

**FILED**

JUN 23 10 10 AM '95

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Secretary of State TITLE NUMBER: 153

RULE TYPE: Legislative; CITE AUTHORITY §3-1A-6

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: Official Election Forms and Vendor  
Authorization

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 24 AT 9:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Election Division  
Secretary of State  
Building 1, Rm. 157-K  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0770

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

*Ken Hechler*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

## STATEMENT OF CIRCUMSTANCES

TITLE 153, SERIES 26

This rule is the same as that authorized by the Legislature in S. B. 145 (1994) and now in effect, but is being refiled according to the requirements of S. B. 573 (1995).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Official Election Forms and Vendor Authorization

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
<u>ESTIMATED TOTAL COST</u>	\$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: Official Election Forms and Vendor Authorization

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



## SUMMARY

TITLE 153, SERIES 26

This legislative rule requires that official election forms be prescribed or approved by the Secretary of State and provides for the approval of official forms offered for sale by vendors and for use by local officials.

FILED

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TITLE 153  
LEGISLATIVE RULE  
SECRETARY OF STATE

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 26  
OFFICIAL ELECTION FORMS AND VENDOR AUTHORIZATION

§153-26-1. General.

1.1. Scope. -- This legislative rule relates to the forms prescribed for use in all elections conducted in the State of West Virginia pursuant to W. Va. Code §3-1-1, et seq.

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

1.3. Filing Date. -- March 30, 1994

1.4. Effective Date. -- April 1, 1994

§153-26-2. Definitions.

2.1. "Election official" means any office holder, government employee or individual who has been delegated responsibilities or duties in the conduct or administration of elections by the provisions of Chapter 3 or any other provision of the West Virginia Code.

2.2. The term "official" in reference to a specific type of election form shall have the same meaning as it does in the definition below for official election form.

2.3. "Official election form" means any form that is required for use in the election process by the provisions of Chapter 3 or any other provision of West Virginia Code and that has been formally prescribed or approved by the Secretary of State. Official election forms include, but are not limited to, voter registration forms and receipts, certificates of announcements, financial statements, oaths, certificates of results, certificates of returns and all forms and printed instructions used in the conduct of elections at the polls.

§153-26-3. Official Election Forms Prescribed; Issuance of Forms Prohibited, Acceptance of Forms.

3.1. Election officials shall purchase, use or issue only the official election forms which have been prescribed or approved by the Secretary of State, except for internal procedures or local use, and shall not purchase, use or issue unauthorized forms.

3.2. Beginning on the effective date of this rule, election officials shall not purchase, use or issue any official form which:

3.2.1. Does not meet the requirements of the law or this rule; or

3.2.2. Is a previously prescribed form for which a more recently amended form has been issued.

3.3. Election officials seeking to contract for the purchase of official election forms from private vendors shall specify in the request for quotation that all forms be authorized and approved by the Secretary of State.

3.4. For municipalities having charter or ordinance provisions with requirements different than those of state law, the municipal recorder or clerk responsible for conducting municipal elections shall:

3.4.1. Prepare the forms necessary for the implementation of those requirements;

3.4.2. Submit the proposed forms along with a copy of the relevant charter or ordinance provisions to the Secretary of State at least sixty (60) days prior to the time of use; and

3.4.3. Obtain the approval of the Secretary of State prior to issuance or use of the forms.

3.5. Beginning on the effective date of this rule, each election official shall review stocks of previously issued forms and shall withdraw and destroy those forms which do not meet the requirements of law or for which an amended form has been issued.

3.6. Election officials shall accept alternative forms, such as handwritten or individually typed forms, providing the requirements of law for the filing of the forms are satisfied, and unless the law or this rule specifically requires official forms or prohibits alternative forms.

**§153-26-4. Approval of Official Forms Offered for Sale by Vendors.**

4.1. Any vendor which offers for sale to election officials any official form other than a form issued by the Secretary of State may apply for approval of those forms.

4.1.1. To obtain approval, the vendor shall submit two copies of each form to the Secretary of State with a request for approval.

4.1.2. The Secretary of State shall approve, disapprove or specify corrections needed for the form within days (30) days after receipt of the request for approval.

4.1.3. For those official election forms not required by law to be prescribed by the Secretary of State, the Secretary of State shall approve the form submitted if it is in compliance with the requirements of the law and this rule, reasonably easy to use and in a format which is readable and contains sufficient space to allow information requested on the form to be entered.

4.2. Upon approval, vendors of official election forms may print on the form, "Approved by the Secretary of State" and the date of approval.

4.3. When changes in the provisions of election law require the modification of forms which have previously been approved, the Secretary of State shall notify the vendor of any form for which approval has been previously

granted at least sixty (60) days prior to the date on which the previous approval will be withdrawn. No vendor may supply a form marked "Approved by the Secretary of State" after the approval is withdrawn.

**§153-26-5. Duties of the Secretary of State.**

5.1. The Secretary of State shall authorize official election forms for use by all election officials and shall maintain a list of and sample copies of all authorized forms.

5.2. Only forms which satisfy the prescribed statutory requirements shall be authorized by the Secretary of State as the official election forms. The Secretary of State may also require that the official election forms contain requests for any additional information that the Secretary of State considers necessary to standardize and make effective the administration of the provisions of Chapter 3 or any other provision of the West Virginia Code, so long as the additional requirements do not conflict with the provisions of Chapter 3 or any other provision of the West Virginia Code.

5.3. Upon request, the Secretary of State shall furnish one sample copy of any currently authorized form along with the date of the forms issuance.

5.4. The Secretary of State shall amend any official election form when it is necessary to conform the form with statutory requirements or when necessary to standardize or make effective the administration of the provisions of Chapter 3 or any other provisions of the West Virginia Code.