

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

Form #6

Do Not Mark In this Box

**FILED**

APR 22 8 32 AM '96

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: 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: \_\_\_\_\_

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

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

## 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 26, Official Election Forms & Vendor Authorization 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(g)**. 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  
LEGISLATIVE RULE  
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~~  
April 22, 1996

1.4. Effective Date. -- ~~April 1, 1994~~  
June 7, 1996

§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.

SENATE BILL NO. 243

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

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

THE JUDICIARY

153-26

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 official election forms  
and vendor authorization.

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, relating to the  
14 secretary of state (Official election forms and vendor  
15 authorization, 153 CSR 26), are authorized.

16

17 NOTE: The purpose of this bill is to authorize the  
18 Secretary of State to promulgate legislative rules relating  
19 to official election forms and vendor authorization.

20

21 Strike-throughs indicate language that would be  
22 stricken from the present law, and underscoring indicates  
23 new language that would be added.

8228

H. B. 4228

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

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

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 official election forms  
and vendor authorization.

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

4228

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, relating to the  
14 secretary of state (official election forms and vendor  
15 authorization, 153 CSR 26), are authorized.

16

17 NOTE: The purpose of this bill is to authorize the  
18 Secretary of State to promulgate legislative rules relating  
19 to official election forms and vendor authorization.

20

21 Strike-throughs indicate language that would be  
22 stricken from the present law, and underscoring indicates  
23 new language that would be added.