

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED

AUG 16 4 16 PM '93

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: West Virginia Secretary of State TITLE NUMBER: 153

CITE AUTHORITY West Virginia Code §3-1A-6

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: 26

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

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.

Ken Hechler

4.60

TITLE 153
Legislative Rules
Secretary of State

FILED

AUG 16 4 15 PM '93

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 West Virginia Code, §3-1-1, et seq.

1.2. Authority. --W. Va. Code §3-1A-6

1.3. Filing Date. --July 16, 1993.

1.4. Effective Date. --

§153-26-2. Definitions.

2.1. "Election official" shall mean 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.

2.2. "Official election form" shall mean any form that is required for use in the election process by the provisions of Chapter 3 or any other provision of 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 are authorized to 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 are prohibited from purchasing, using or issuing unauthorized forms.

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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 law or 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 shall 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 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 such forms are satisfied, and unless law or 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 such 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 such form within 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 form submitted for approval shall be approved if it is in compliance with the requirements of law and 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 are authorized to 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 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 and shall maintain authorized forms.

5.2. Only forms which satisfy the prescribed statutory requirements shall be authorized by the secretary of state as official election forms. The secretary of state may also require that such official election forms contain requests for any additional information that the secretary of state deems 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 such 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 issuance.

5.4. The secretary of state shall amend any official election form when it is necessary to conform such 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.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Official Election Forms and Vendor Authorization
 Type of Rule: Legislative Interpretive Procedural
 Agency Secretary of State
 Address Bldg. 1, Room 157-K
1900 Kanawha Blvd., East
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 & ALTERNATIONS | | | | | |
| EQUIPMENT | | | | | |
| OTHER | | | | | |

2. Explanation of above estimates:

Election officials are currently required to use forms which meet the requirements of law, but have no direct way to insure that vendors provide the correct forms. This rule will develop a procedure to prevent the sale of improper forms or use of forms which do not meet the requirements of law.

3. Objectives of these rules:

To assure elections are conducted according to law and that unlawful demands are not placed on voters or candidates by requiring information contrary to law or specifying rules of procedure contrary to law.

Rule Title: Official Election Forms and Vendor Authorization

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None, unless the standardization of approval of forms saves money by eliminating confusion or litigation arising from the use of illegal forms.

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

Same as above. Standardization of requirements for vendors will eliminate unfair competition from vendors who sell at lower rates because they provide outdated forms.

C. Economic Impact on Citizens/Public at Large.

None

Date: July 16, 1993

Signature of Agency Head or Authorized Representative

Mary E. Gathoff, Deputy

Brief Summary

Proposed Rule: 153-26

Title: Official Election Forms and Vendor Authorization

This rule requires that any government employee who is responsible for election administration and printers of election forms, only use forms that have been prescribed or authorized by the secretary of state. This rule does not apply to internal forms for local use.

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.

n/a

b. Date of hearing: n/a

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

n/a

d. Attach findings and determinations and reasons:

Attached n/a

Summary of Comments Received on Proposed Rule 153-26

The recorder from Grant Town, Melanie Thompson, agrees with the proposed regulation, however suggested a current list of all pertinent forms with revision dates to be included in a notice to all election officials.

We are currently working on a comprehensive list of all forms that are used in elections so the administrators will have easy access to the up-to-date forms. This publication will include an index with the revision dates on it.

The city clerk from Spencer, Eleneva Southall, stated that there was a great need for standardized election forms and, by all means, the regulation should be promulgated.

The city clerk from Welch, Debora Romeo, suggested that the forms that are prescribed reference the West Virginia Code or the administrative regulations that require or authorize the form to be used. We intend to do this whenever possible but it is not necessary to include the provision in the regulation.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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



STATE OF WEST VIRGINIA

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

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

July 28, 1993

To: Municipal Recorders

From: Ken Hechler

Ken Hechler

and, your office is one of the few State agencies which prints its mailing address in its letter head. Thanks for doing that!

Proposed Legislative Rule Filed for Comment

We have been worried that some forms in use by local officials or being provided in election kits from one of the vendors may not be up to date. This seems to be a special problem where municipalities have continued using locally made forms for many years and the laws have changed in the meantime.

I'm sure many people think we have too many forms, but some have been developed simply to help make it easier for people to follow the law. In some cases, a filing could be made by letter, but the form assures all the information required is given.

In an effort to get rid of outdated forms which require or provide the wrong information, we have filed the enclosed proposed rule. I hope you will review this -- please notice especially the requirements of Section 3.4! -- and offer any suggestions you have.

The deadline for comments -- in writing please -- is 8:30 a.m., August 16. That is the last day to file the final rule with the Legislative Rule-Making and Review Committee, so the earlier your comments come in, the better job we can do of improving the final version.

Please direct your comments to Bill Harrington. Thanks!

CITY OF SPENCER
Office of the Mayor
207 Court Street
Spencer, WV 25276
Phone: (304) 927-1640

*Bill — Do for it! We need standardized election forms! By all means — Then we poor folks would have no doubt about what to use — Thank
E. J. Smith
City Clerk
7/29/93*

Town of Grant Town

MUNICIPAL BUILDING • MAIN STREET • GRANT TOWN, WEST VIRGINIA 26574

Phone 278-7381
Area Code 304

August 4, 1993

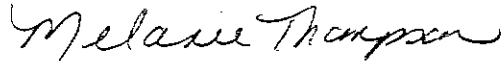
Secretary of State Office
Chief of Staff
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

Dear Mr. Harrington:

I have received the notice about the proposed legislative rule for WV Code 3-1A-6. The new ruling looks good and I agree with the proposals. However, I would suggest that a current list of all pertinent forms with revision dates be included in a notice to all election officials. Many of us do not know of revisions and this would help us weed out the old forms.

Thank you for your help with this. I appreciate all the help that your office has given me with my election questions and look forward to working with you again in 1994.

Cordially,



Melanie Thompson
Recorder
The Town of Grant Town

City of Welch

Welch Municipal Building ● 88 Howard Street ● Welch, West Virginia 24801 ● (304) 436-3113

August 12, 1993

Secretary of State
Building 1, Room 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

Attn: Mary Ratliff, Deputy

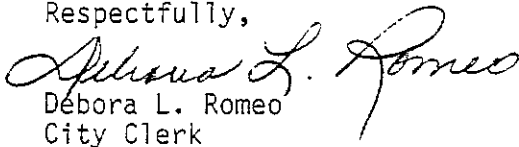
RE: Series 26-Official Election Forms and Vendor Registration-Written Comments

Per the above referenced Legislative Rule, I am writing to ask if it is possible for all forms not required by State Code, but prescribed by the Secretary of State, to reference on the form, the Legislative Rule that resulted in the form being drafted?

Also, would it be possible to have a copy of the respective Legislative Rule supplied to Clerks at the time they are supplied the form?

It appears all forms required by State Code, have the code referenced on them, all others merely denote the form number and adoption/revision date. Many times I have called the Secretary of State's Office to have a form explained to me because I did not fully understand its purpose and how it related to my election procedure.

Respectfully,


Debora L. Romeo
City Clerk

DLR:dr