

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Secretary of State TITLE NUMBER: 153

CITE AUTHORITY W.V. Code §3-1A-6

AMENDMENT TO AN EXISTING RULE: YES___ NO X

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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

William A. Harvato
Chief of Staff

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TITLE 153
Legislative Rules
Secretary of State

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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. --
- 1.4. Effective Date. --

§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 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 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 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 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.



WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

*Senator Joe Manchin III, Co-Chair
Delegate Brian A. Gallagher, Co-Chair*

September 17, 1993

*Debra A. Graham, Counsel
Marie Nickerson, Admr. Assistant*

The Honorable Ken Hechler
Secretary of State
State Capitol
Charleston, WV 25305

Dear Mr. Hechler

RE: Official Election Forms and Vendor Authorization

The Legislative Rule-Making Review Committee will meet on Tuesday, September 28, 1993, at 12:30 p.m., in the Senate Finance Committee Room, Room M-451, and will consider the above-captioned rule.

Sincerely,

Marie Nickerson
Administrative Assistant

cc: Mary P. Ratliff, Deputy
William Harrington, Chief of Staff

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
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OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

Senator Joe Manchin III, Co-Chair
 Delegate Brian A. Gallagher, Co-Chair

Debra A. Graham, Counsel
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

September 28, 1993

TO: Ken Hechler, Secretary of State, State Register

TO: The Honorable Ken Hechler
 Secretary of State
 State Capitol
 Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Official Election Forms and Vendor Authorization

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Mary P. Ratliff, Deputy
 William Harrington, Chief of Staff

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