

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

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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: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 26

TITLE OF RULE BEING PROPOSED: Official Election Forms & Vendor

Authorization

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 145

SECTION 64-9-24(h), PASSED ON March 10, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: April 1, 1994


Authorized Signature

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
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
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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

March 15, 1994

William H. Harrington
Secretary of State
Bldg. 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305

SB 145 authorizing, **Title 153, Series 26, Official Election Forms & Vendor Authorization**, passed the Legislature on **March 10, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 145, 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 145** section **64-9-24(h)**. 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" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, 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 call 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

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.

SENATE BILL NO. 210

(By Senators Manchin, Anderson, Grubb, Macnaughtan
and Minard)

[Introduced January 31, 1994; referred to the
Committee on

THE JUDICIARY

A BILL to amend and reenact section twenty-four, 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 twenty-four, 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.

§64-9-24. Secretary of state.

(a) The legislative rules filed in the state register on the
fifteenth day of April, one thousand nine hundred eighty-five,
modified by the secretary of state to meet the objections of the

1 legislative rule-making review committee and refiled in the state
2 register on the eighth day of October, one thousand nine hundred
3 eighty-five, relating to the secretary of state (standard size
4 and format for rules and related documents filed in the secretary
5 of state's office), are authorized.

6 (b) The legislative rules filed in the state register on the
7 seventeenth day of August, one thousand nine hundred
8 eighty-seven, modified by the secretary of state to meet the
9 objections of the legislative rule-making review committee and
10 refiled in the state register on the twenty-third day of
11 September, one thousand nine hundred eighty-seven, relating to
12 the secretary of state (standard size and format for rules and
13 procedures for publication of the state register or parts of the
14 state register), are authorized.

15 (c) The legislative rules filed in the state register on the
16 first day of September, one thousand nine hundred eighty-nine,
17 modified by the secretary of state to meet the objections of the
18 legislative rule-making review committee and refiled in the state
19 register on the twentieth day of November, one thousand nine
20 hundred eighty-nine, relating to the secretary of state (West
21 Virginia farm product lien central filing system), are
22 authorized.

23 (d) The legislative rules filed in the state register on the
24 thirteenth day of August, one thousand nine hundred ninety,

1 relating to the secretary of state (guidelines for the use of
2 nicknames and other designations on the ballot), are authorized.

3 (e) The legislative rules filed in the state register on the
4 fourteenth day of November, one thousand nine hundred ninety,
5 relating to the secretary of state (absentee voting by military
6 voters who are members of reserve units called to active duty),
7 are authorized.

8 (f) The legislative rules filed in the state register on the
9 seventh day of October, one thousand nine hundred ninety-one,
10 modified by the secretary of state to meet the objections of the
11 legislative rule-making review committee and refiled in the state
12 register on the twenty-eighth day of May, one thousand nine
13 hundred ninety-two, relating to the secretary of state (filing
14 fee for credit service organizations), are authorized.

15 (g) The legislative rules filed in the state register on the
16 seventh day of October, one thousand nine hundred ninety-one,
17 modified by the secretary of state to meet the objections of the
18 legislative rule-making review committee and refiled in the state
19 register on the twenty-eighth day of May, one thousand nine
20 hundred ninety-two, relating to the secretary of state (combined
21 voter registration and driver licensing programs), are
22 authorized.

23 (h) The legislative rules filed in the state register on the
24 sixteenth day of August, one thousand nine hundred ninety-three,
25 modified by the secretary of state to meet the objections of the

1 legislative rule-making review committee and refiled in the state
2 register on the twenty-third day of November, one thousand nine
3 hundred ninety-three, relating to the secretary of state
4 (official election forms and vendor authorization), are
5 authorized.

6

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

10

11 Strike-throughs indicate language that would be stricken from
12 the present law, and underscoring indicates new language that
13 would be added.

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H. B. 4288

(By Delegates Gallagher, Douglas, Compton,
Muntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on the Judiciary)

A BILL to amend and reenact section twenty-four, 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:

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ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
TO PROMULGATE LEGISLATIVE RULES.

§64-9-24. Secretary of state.

(a) The legislative rules filed in the state register on the fifteenth day of April, one thousand nine hundred eighty-five, modified by the secretary of state to meet the objections of the

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3 eighty-five, relating to the secretary of state (standard size
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6 (b) The legislative rules filed in the state register on the
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8 eighty-seven, modified by the secretary of state to meet the
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12 the present law, and underscoring indicates new language that
13 would be added.

To: Mary Rattliff
From: Pam Recce

Please proof read & sign appropriate
d:ne

Attached Rule has been reviewed & is
correct.

Mary Rattliff

Attached Rule has been reviewed
& ~~is~~ needs correcting.
