

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

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2013 JAN 18 PM 2:59

SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Secretary of State TITLE NUMBER: 153

CITE AUTHORITY: 3-2-6a

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 RULE BEING PROPOSED: 44

TITLE OF RULE BEING PROPOSED: Regulation of Late Voter Registration

THE ABOVE PROPOSED LEGISLATIVE RULES, 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.



Authorized Signature

**TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE**

**SERIES 44
REGULATION OF LATE VOTER REGISTRATION**

§153-44-1. General.

1.1. Scope. -- This rule provides for late voter registration of any member of a uniformed service of the United States who is active or was discharged 60 days preceding an election, any member of the Merchant Marine, any person residing overseas by virtue of his or her employment in support of national security functions or purposes, and the spouse or dependent(s) residing with one of the above, within the 20 days immediately preceding an election.

1.2. Authority. -- W. Va. Code §3-2-6a.

1.3. Filing Date. -- _____.

1.4. Effective Date. -- _____.

§153-44-2. Definitions.

2.1. "HAVA Approved Identification" means documentation approved in the Help America Vote Act of 2002 as appropriate identification to register to vote. This includes current and valid photo identification, utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

2.2. "Voter Affidavit" means the document to be signed by the voter which verifies their eligibility to participate in late voter registration.

2.3. "Employer Affidavit" means the document provided by the employer of a person returning from overseas which verifies their eligibility to participate in late registration.

§153-44-3. Uniformed service member on active duty, uniformed service member who has been discharged and a member of the Merchant Marine.

3.1. Process for a member of a uniformed service of the United States on active duty, a member of a uniformed service of the United States who has been discharged from active duty during the 60 days preceding the election and a member of the Merchant Marine of the United States is as follows.

3.2. The applicant shall file a voter registration form in person at the clerk of the county commission office.

3.3. The applicant shall file a voter affidavit prescribed by the Secretary of State.

3.4. The applicant shall present to the clerk of the county commission HAVA approved identification at the time of registration.

3.5. The applicant shall present to the clerk of the county commission an official discharge notice or military orders.

3.6. The applicant will vote a provisional absentee ballot by mail which will be counted by the board of canvassers unless the clerk of the county commission determines that the voter failed to meet the eligibility requirements.

3.7. The clerk of the county commission shall confirm the address of the applicant upon receipt of the absentee ballot.

§153-44-4. Overseas because of employment.

4.1. Process for a person who was residing overseas because of employment in support of national security is as follows

4.2. The applicant shall file a voter registration form in person at the clerk of the county commission office.

4.3. The applicant shall file a voter affidavit prescribed by the Secretary of State.

4.4. The applicant shall present to the clerk of the county commission HAVA approved identification at the time of registration.

4.5. The applicant shall present to the clerk of the county commission, at the time of registration, a notarized employer affidavit completed by their employer that certifies the applicant's job was in support of national security. A copy of the original employer affidavit is acceptable.

4.6. The applicant will vote a provisional absentee ballot by mail which will be counted by the board of canvassers unless the clerk of the county commission determines that the voter failed to meet the eligibility requirements.

4.7. The clerk of the county commission shall confirm the address of the applicant upon receipt of the absentee ballot

§153-44-5. A spouse or dependent of a member of a uniformed service, a member of the Merchant Marine, and residing overseas because of employment

5.1. Process of a spouse or dependent of a member of a uniformed service of the United States on active duty, a member of a uniformed service of the United States who has been discharged from active duty during the 60 days preceding the election, a member of the Merchant Marine of the United States, and a person who was residing overseas because of employment which was in support of national security is as follows.

5.2. The applicant shall file a voter registration form in person at the clerk of the county commission office.

5.3. The applicant shall file a voter affidavit prescribed by the Secretary of State.

5.4. The applicant shall present to the clerk of the county commission HAVA approved identification at the time of registration.

5.5. The applicant shall present to the clerk of the county commission, at the time of registration, one of the following documents, a copy of an official discharge notice or military orders for the uniformed service member or a notarized affidavit from the spouse's/parent's employer.

5.6. The applicant will vote a provisional absentee ballot by mail which will be counted by the board of canvassers unless the clerk of the county commission determines that the voter failed to meet the eligibility requirements.

5.7. The clerk of the county commission shall confirm the address of the applicant upon receipt of the absentee ballot.