



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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5/27/2015 8:50:57 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

AGENCY Secretary Of State
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 153-
RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Activ²³
Duty
CITE AUTHORITY 3-1A-6

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Tuesday, June 30, 2015 12:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
Dave Nichols
1900 Kanawha Blvd E
Bldg 1 Ste 157-K
Charleston, WV 25305

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 153-23



Rule Id: 9803



Document: 26711



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 2)**

AGENCY Secretary Of State
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 153-
RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Activ²³
Duty
CITE AUTHORITY 3-1A-6

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

The provisions of the rule have been superseded by changes to federal and state law. The rule is proposed for repeal.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 153-

RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Active Duty

CITE AUTHORITY 3-1A-6

PRIMARY CONTACT

Dave Nichols

ADDRESS LINE 1

ADDRESS LINE 2

CITY, STATE ZIP

Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Active Duty

CITE AUTHORITY 3-1A-6

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

Repeal of the rule will have no impact on the costs or revenues of state government.

Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY Secretary Of State
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Duty
CITE AUTHORITY 3-1A-6

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY Secretary Of State
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 153-
RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Activ²³
Duty
CITE AUTHORITY 3-1A-6

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.
Because the provisions of the rule are already obsolete, repeal of the rule will have no impact on state revenue.

Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY Secretary Of State
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RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Activ²³
Duty
CITE AUTHORITY 3-1A-6

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

Because the provisions of the rule are already obsolete, repeal of the rule will have no impact on state revenue.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY Secretary Of State
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 153-
RULE NAME Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Active
Duty 23
CITE AUTHORITY 3-1A-6

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

The provisions of the rule have been superseded by changes in federal and state law. The rule is proposed for repeal.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Natalie E Tennant -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 153-23



Rule Id: 9803



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TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE

SERIES 23
ABSENTEE VOTING BY MILITARY VOTERS
WHO ARE MEMBERS OF RESERVE
UNITS CALLED TO ACTIVE DUTY

~~§153 23 1. General.~~

~~1.1. Scope. — This rule provides for absentee voting procedures to be used when a member of the reserves, who has been called to active duty, applies for an absentee ballot and is unable to receive and return that ballot within the time required using normal procedures.~~

~~1.2. Authority. — W. Va. Code §3-1A-6; also see 42 U.S.C. §1973ff-1.~~

~~1.3. Filing Date. — May 7, 2007.~~

~~1.4. Effective Date. — May 7, 2007.~~

~~§153 23 2. Absentee Voting for Activated Reservists.~~

~~2.1. Any registered voter who is a member of a reserve unit that is called into active duty as a result of an order of the President of the United States and who, as a result of that order, will not be able to vote in any primary, general, or special election held in this state because they will be unable to vote in person or by normal procedures for absentee voting, shall be allowed to cast an absentee ballot by mail or by voting in person at the office of the county clerk, in the county in which he or she is registered, as provided for in this rule.~~

~~2.2. For the purposes of this rule, a reserve unit includes all units that can be called into active duty as part of the United States Army, Navy, Air Force, Marine Corps or Coast Guard.~~

~~§153 23 3. Procedures.~~

~~3.1. Any person who has been ordered to active duty, pursuant to the terms of section two of this rule, may apply to the county clerk, in the county where registered, to cast an absentee ballot by completing a federal postcard application (FPCA) or a state Application for Voting an Absent Voters Ballot and Form A-8, entitled "Affidavit of Military Voter Called to Active Service Requesting to Vote Absentee."~~

~~3.2. The county clerk shall examine the application and the affidavit and if the voter requests that an absentee ballot be sent to the voter's home address, then a ballot shall be sent to the address provided by the voter in the affidavit and shall not be challenged for the reason of being returned from within the county. The request shall, in all other respects, be handled as provided for in W. Va. Code §3-3-5.~~

~~3.3. If the voter requests permission to cast an absentee ballot in person, and the application is made at the time within forty two (42) days of the election, then the voter shall be allowed to vote at the county clerk's office pursuant to the provisions of W. Va. Code §3-3-3.~~

**~~AFFIDAVIT OF MILITARY VOTER CALLED TO ACTIVE SERVICE
REQUESTING TO VOTE ABSENTEE~~**

~~I, _____, a registered voter in Precinct _____~~

~~in the County of _____, do solemnly swear or affirm under penalty of perjury, that I am
required to be absent from the county in which I am registered during the entire period of absentee voting
in the office of the County Clerk, _____,
_____ dates~~

~~and during the hours which polls are open on election day on _____.
_____ date~~

~~I further swear or affirm that, because I have been called to active service in the

_____ (branch of service) on _____, I~~

~~will be unable to vote by mail at my service date address, therefore, I request: (Check one)~~

~~____ (1) The official absentee ballot be mailed to my home address within the county at~~

~~_____
_____ (address/city)~~

~~before my departure, and that I will return the ballot from within the county before my departure to active
service.~~

~~_____ OR~~

~~____ (2) To vote an absentee ballot in person at the clerk's office before my departure because I will be
unable to receive and return a ballot by mail within the time allowed.~~

~~_____~~

~~____ Signature of Voter~~

~~Subscribed and sworn before me this _____ day of _____, 19____.~~

~~_____~~

~~____ Notary Public or County Clerk~~

~~My commission expires _____.~~

~~(seal)~~