



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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6/30/2015 1:31:19 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 153-

RULE NAME Freedom of Information Act Database 52

CITE AUTHORITY 29B-1-3a(b)

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.

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: 153-52



Rule Id: 9776



Document: 26853



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 153-

RULE NAME Freedom of Information Act Database 52

CITE AUTHORITY 29B-1-3a(b)

PRIMARY CONTACT

Dave Nichols

ADDRESS LINE 1

ADDRESS LINE 2

CITY, STATE ZIP

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY Secretary Of State

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CITE AUTHORITY 29B-1-3a(b)

AUTHORIZING STATUTE(S) CITATION

§ 29B-1-3a(b)

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD

Monday, May 18, 2015

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Emails to interested parties notifying them of the rule filing and providing a link to the rule;

Placed a dedicated link to the proposed rule on a webpage dedicated to the new database.

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED

Monday, June 22, 2015

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 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

AGENCY	Secretary Of State		
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RULE NAME	Freedom of Information Act Database		52

CITE AUTHORITY 29B-1-3a(b)

ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED, AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE FOLLOWING PUBLIC HEARING: (BE EXACT)

Wednesday, July 01, 2015

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CITE AUTHORITY 29B-1-3a(b)

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. 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.

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 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

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RULE NAME Freedom of Information Act Database 52

CITE AUTHORITY 29B-1-3a(b)

DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS

None

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.



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

AGENCY	Secretary Of State				
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PRIMARY CONTACT

Dave Nichols
ADDRESS LINE 1
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CITY, STATE ZIP

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CITE AUTHORITY 29B-1-3a(b)

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

This rule and the authorizing legislation will have a de minimis cost of less than \$100 per year.

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)

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CITE AUTHORITY 29B-1-3a(b)

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

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

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CITE AUTHORITY 29B-1-3a(b)

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The Secretary of State will use current staff for development and maintenance of the database. Digital storage of the information will be less than \$100 per year.

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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CITE AUTHORITY 29B-1-3a(b)

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.

n/a

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)

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CITE AUTHORITY 29B-1-3a(b)

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

HB 2636 passed during the 2015 Legislative Session and was signed into law by the Governor. The bill requires the Secretary of State, in §29B-1-3a(b), to "propose rules and emergency rules for legislative approval relating to the creation and maintenance of a publically accessible database available on the Secretary of State's website; the establishment of forms and procedures for submission of information to the Secretary of State by the public body; and for other procedures and policies consistent with this section."

The agency approved rule is in response to that requirement.

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.



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TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE

SERIES 52
FREEDOM OF INFORMATION ACT DATABASE

§153-52-1. General.

1.1. Scope. -- This rule governs the creation and maintenance of a publically accessible database for the reporting by public bodies of Freedom of Information Act request information, and the forms and procedures for submission of the information.

1.2. Authority. -- W. Va. Code § 29B-1-3a(b).

1.3. Filing Date. --

1.4. Effective Date. --

§153-52-2. Creation and Maintenance of Database.

2.1. The Secretary of State shall maintain a database, accessible via the internet for the purposes of reporting and displaying information about requests made to public bodies under the provisions of W.Va. State Code §29B-1-1, *et seq.*

2.2. A public body must enter the required information into the database by the tenth day of the month following completion of the request. For example, any request completed in April must be entered into the database by the following May 10.

2.3. Data relating to a request will be accessible on the website to the public for a period of five (5) years.

§153-52-3. Procedures for Submission of Information.

3.1. Information must be entered into the database through a web-based portal.

3.2. The Secretary of State may not accept information to be entered into the database in any other manner; *Provided*, that tangible copies of data may be accepted if the database is inaccessible and the inaccessibility will cause the public body to violate the deadline for submission in subsection 2.2 of this rule.

3.3. Prior to entering any information into the database, a public body must designate, on a form provided by the Secretary of State, the name(s) of any individual(s) authorized to enter information on behalf of the public body.

3.3.a. If an individual authorized to enter information into the database on behalf of a public body is no longer authorized to do so, the public body shall notify the Secretary of State within five (5) business days.

3.4. The Secretary of State shall require each individual authorized to enter information on behalf of a public body to have a unique username and password to access the database.

3.5. Information required to be entered into the database includes, but is not limited to, the following:

- 3.5.a. The date the public body received the request;
- 3.5.b. The name of the person or entity making the request;
- 3.5.c. The subject of the request;
- 3.5.d. Whether the request was granted or denied and the reason for any denial;
- 3.5.e. The date of final completion of the request; and
- 3.5.f. The amount of any charges to the person or entity making the request.

3.6. The database shall capture and store the following information in addition to the fields listed in subsection five of this section:

- 3.6.a. The date the information was entered;
 - 3.6.b. The username and associated use information of the individual entering the information;
- and
- 3.6.c. The name of the public body for whom the individual is entering the information.