



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 7 -- NOTICE OF AN EMERGENCY RULE (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)

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

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." This emergency 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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 9 -- EMERGENCY RULE 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
1900 Kanawha Blvd E
Bldg 1 Ste 157-K
Charleston, 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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 2)

AGENCY	Secretary Of State		
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	No
RULE NAME	Freedom of Information Act Database	TITLE-SERIES	153-52

CITE AUTHORITY § 29B-1-3a(b)

DATE OF FILING
Friday, June 26, 2015

STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE
§ 29B-1-3a(b)

DATE OF FILING OF PROPOSED LEGISLATIVE RULE
Wednesday, July 01, 2015

DOES THE EMERGENCY RULE ADOPT NEW LANGUAGE OR DOES IT AMEND OR APPEAL A
CURRENT LEGISLATIVE RULE?

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND EXPIRED?
No

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE
EMERGENCY RULE NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC PEACE,
HEALTH, SAFETY OR WELFARE.

HB 2636 states in §29B-1-3a(b)that "the Secretary of State shall propose rules and emergency rules...."

**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: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 3)

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)

IF THE EMERGENCY RULE WAS PROMULGATED IN ORDER TO COMPLY WITH A TIME LIMIT ESTABLISHED BY THE CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN.

N/A

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE EMERGENCY RULE NECESSARY TO PREVENT SUBSTANTIAL HARM TO THE PUBLIC INTEREST.

HB 2636 states in §29B-1-3a(b)that "the Secretary of State shall propose rules and emergency rules...."

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: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (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
1900 Kanawha Blvd E
Bldg 1 Ste 157-K
Charleston, 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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (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)

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

This rule 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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

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)

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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

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)

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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

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)

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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2015 11:30:38 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

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." This emergency 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.



Title-Series: 153-52



Rule Id: 9776



Document: 26859

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.