



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2016 4:40:46 PM

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** No **TITLE-SERIES** 153-

RULE NAME Voter Registration at the Division of Motor Vehicles **03**

CITE AUTHORITY 3-2-11(n)

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, August 22, 2016 12:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
Dave Nichols
WV Secretary of State's Office
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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2016 4:40:46 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**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 **No** **TITLE-SERIES** 153-

RULE NAME Voter Registration at the Division of Motor Vehicles **03**

CITE AUTHORITY 3-2-11(n)

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

This proposed legislative rule details the new voter registration processes at the DMV subsequent to passage of HB 4013 (2016). It includes the data to be collected, transfer of data to the SOS for processing by County Clerks, and provides a baseline for the DMV and SOS to work together to establish the applicant processes at the DMV in accordance with the National Voter Registration Act (1993).

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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2016 4:40:46 PM

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 Voter Registration at the Division of Motor Vehicles **03**

CITE AUTHORITY 3-2-11(n)

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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

cFILED

7/22/2016 4:40:46 PM

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 Voter Registration at the Division of Motor Vehicles 03

CITE AUTHORITY 3-2-11(n)

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

In FY 2015, the DMV upgraded its computer systems to include electronic voter registration. The cost at that time for full implementation was \$33,000. Because compliance with the provisions of HB 4013 and this rule would only take modifications to the current system and not a full system change, it is believed the cost will be less than the initial \$33,000. However, because of a potential change of vendors, the DMV has not yet been able to provide a cost estimate. This Fiscal Note will be updated once the DMV can provide that information.

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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2016 4:40:46 PM

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 Voter Registration at the Division of Motor Vehicles **03**

CITE AUTHORITY 3-2-11(n)

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	-	-	-
PERSONAL SERVICES	-	-	-
CURRENT EXPENSES	-	-	-
REPAIRS AND ALTERATIONS	-	-	-
ASSETS	-	-	-
OTHER	-	-	-
ESTIMATED TOTAL REVENUES	-	-	-

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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

cFILED

7/22/2016 4:40:46 PM

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 Voter Registration at the Division of Motor Vehicles 03

CITE AUTHORITY 3-2-11(n)

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

In FY 2015, the DMV upgraded its computer systems to include electronic voter registration. The cost at that time for full implementation was \$33,000. Because compliance with the provisions of HB 4013 and this rule would only take modifications to the current system and not a full system change, it is believed the cost will be less than the initial \$33,000. However, because of a potential change of vendors, the DMV has not yet been able to provide a cost estimate. This Fiscal Note will be updated once the DMV can provide that information.

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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

cFILED

7/22/2016 4:40:46 PM

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 Voter Registration at the Division of Motor Vehicles 03

CITE AUTHORITY 3-2-11(n)

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.

In FY 2015, the DMV upgraded its computer systems to include electronic voter registration. The cost at that time for full implementation was \$33,000. Because compliance with the provisions of HB 4013 and this rule would only take modifications to the current system and not a full system change, it is believed the cost will be less than the initial \$33,000. However, because of a potential change of vendors, the DMV has not yet been able to provide a cost estimate. This Fiscal Note will be updated once the DMV can provide that information.

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: 153-03



Rule Id: 10240



Document: 27764



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

cFILED

7/22/2016 4:40:46 PM

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 Voter Registration at the Division of Motor Vehicles 03

CITE AUTHORITY 3-2-11(n)

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

This is a new rule, so there are no changes to an existing rule.
During the 2016 Legislative Session, the Legislature passed HB 4013. A portion of the language in that bill requires changes to the voter registration application processes at the WV Division of Motor Vehicles as the state's method of continued compliance with the National Voter Registration Act of 1993 (NVRA). From the legislation, new language in W.Va. State Code §3-2-11(n) requires the Secretary of State to promulgate legislative rules to implement the change.

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: 153-03



Rule Id: 10240



Document: 27764

**TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE**

**SERIES 3
VOTER REGISTRATION AT
THE DIVISION OF MOTOR VEHICLES**

§153-3-1. General.

1.1. Scope. -- This rule governs the procedures necessary for implementation and processing of voter registration applications at and from the West Virginia Division of Motor Vehicles.

1.2. Authority. -- W. Va. Code § 3-2-11(n).

1.3. Filing Date. --

1.4. Effective Date. --

§153-3-2. Definitions.

2.1. "Applicant" means an individual who has presented himself or herself at the DMV for the purpose of applying for the issuance, renewal, or change of address of a motor vehicle driver's license or official identification card pursuant to W.Va. State Code §17B-2-1, *et seq.*

2.2. "County Clerk" means the Clerk of the County Commission.

2.3. "DMV" means the West Virginia Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services.

2.4. "SVRS" means the statewide voter registration database as described in W.Va. State Code §3-2-4a.

2.5. "WVSOS" means the West Virginia Secretary of State.

§153-3-3. Information to be Obtained by the DMV for the Purposes of Voter Registration.

3.1. If the applicant does not decline to register to vote or update their current voter registration record, the DMV shall obtain the following information and release the information electronically to the Secretary of State:

3.1.a. Type of voter registration transaction (New or Update)

3.1.b. Full name, including first, middle, last and any former names;

3.1.c. Date of birth;

3.1.d. Residence address;

3.1.e. Mailing address;

3.1.f. County of residence;

3.1.g. The applicant's electronic signature;

3.1.h. Telephone number(s);

3.1.i. Email address;

3.1.j. Driver's license number;

3.1.k. Last four digits of the Social Security number;

3.1.l. Political party membership, if any;

3.1.m. A data field indicating whether the applicant has attested that he or she meets all voter eligibility requirements as set forth in W.Va. State Code §§3-2-2(a) and 3-2-2(b);

3.1.n. Date of application; and

3.1.o. If the license transaction is to change from another state to West Virginia, whether the applicant is registered to vote in another state and the state.

3.2. If the applicant affirmatively declines to become registered to vote or update their voter registration record during the transaction at the DMV, the DMV shall release the following information electronically to the Secretary of State:

3.2.a. Full name, including first, middle, last and any former names;

3.2.b. Residence address;

3.2.c. Date of birth;

3.2.d. The applicant's electronic signature; and

3.2.e. A data field indicating that the applicant affirmatively declined to register to vote or update their voter registration record during the transaction with the DMV.

3.3. If an applicant affirmatively declines to register to vote or update his or her registration, the declination cannot be used as an indication to cancel the applicant's voter registration if he or she is registered.

§153-3-4. Transfer of Data from DMV to the SOS.

4.1. The DMV shall electronically transfer data required to be collected in subsections 3.1 and 3.2 of this rule to the WVSOS at least once per day as agreed upon in a Memorandum of Understanding between the DMV and the WVSOS.

4.2. The WVSOS shall maintain all records collected in conjunction with subsection 3.2 of this rule as the declination required by the National Voter Registration Act of 1993 (NVRA).

4.2.a. Records shall be maintained only for the purposes of facilitating future attempts to register to vote.

4.2.b. The WVSOS may utilize the information obtained pursuant to subsection 3.2 of this rule to contact those individuals who have affirmatively declined to register to vote to provide those individuals with information and options on how to register to vote if they choose to do so in the future.

4.2.c. Records will be kept for a period of two (2) years in accordance with the provisions of NVRA, then deleted.

§153-3-5. Processing of Applications in SVRS.

5.1. The WVSOS shall ensure that all information collected pursuant to subsection 3.1 of this rule will be entered into the SVRS and presented to the County Clerk of the county in which the applicant applies to register to vote.

5.2. The County Clerk will review and process the application according to the requirements of state and federal law.

5.3. If the County Clerk receives information in SVRS regarding a new application from a previously cancelled voter, the County Clerk shall process the application as a positive action by the applicant to register to vote.

5.4. If a voter's status in SVRS is "inactive," and the County Clerk receives an application to register to vote or otherwise update said voter's registration information, the County Clerk shall change that voter's status to "active."

5.5. The effective date of the registration is the date the applicant applied at the DMV. However, applicants are still subject to the voter registration deadline in W.Va. State Code §3-2-6 in order to be eligible to vote or have changes to their record effective for an election.

5.6. If the information provided by the DMV pursuant to subsection 3.1 of this rule does not include a mailing address, the applicant's residence address shall be used as the mailing address.

5.7. If the applicant is approved for registration and if information is available from paragraph 3.1.o of this rule, the County Clerk will send a notice to the appropriate election official for the applicant's former residence indicating that the applicant is now registered to vote in West Virginia.

§153-3-6. Automatic Voter Registration Procedures at the DMV.

6.1. The DMV and the WVSOS will coordinate to determine the process for voter registration at DMV locations to make the program efficient for voters, the DMV, County Clerks, and the WVSOS.