



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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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 List Maintenance by the Secretary of State 05

CITE AUTHORITY 3-2-23a

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
West Virginia Secretary of State
ATTN: 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: 153-05



Rule Id: 10241



Document: 27765



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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 No TITLE-SERIES 153-

RULE NAME Voter Registration List Maintenance by the Secretary of State 05

CITE AUTHORITY 3-2-23a

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

With the passage of SB 591 (2016), the WV Legislature specifically authorized the Secretary of State to conduct voter registration list maintenance under certain circumstances. This proposed rule sets the parameters for the Secretary of State's Office's involvement in that process.

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

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

RULE NAME Voter Registration List Maintenance by the Secretary of State 05

CITE AUTHORITY 3-2-23a

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.



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

AGENCY Secretary Of State

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CITE AUTHORITY 3-2-23a

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

Because there may never be a time when this rule would come into play, it is difficult to ascertain what costs (if any) would be incurred by the State. However, every effort would be made by the Secretary of State to use current staffing to effect the changes in the voter registration lists if intervention became necessary.

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

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

RULE NAME Voter Registration List Maintenance by the Secretary of State 05

CITE AUTHORITY 3-2-23a

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	No TITLE-SERIES 153-
RULE NAME	Voter Registration List Maintenance by the Secretary of State		05

CITE AUTHORITY 3-2-23a

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

Because there may never be a time when this rule would come into play, it is difficult to ascertain what costs (if any) would be incurred by the State. However, every effort would be made by the Secretary of State to use current staffing to effect the changes in the voter registration lists if intervention became necessary.

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		
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	No TITLE-SERIES 153-
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CITE AUTHORITY 3-2-23a

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 there may never be a time when this rule would come into play, it is difficult to ascertain what costs (if any) would be incurred by the State. However, every effort would be made by the Secretary of State to use current staffing to effect the changes in the voter registration lists if intervention became necessary.

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	No TITLE-SERIES 153-
RULE NAME	Voter Registration List Maintenance by the Secretary of State		05

CITE AUTHORITY 3-2-23a

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

With the passage of SB 591 (2016), the WV Legislature specifically authorized the Secretary of State to conduct voter registration list maintenance under certain circumstances. This proposed rule sets the parameters for the Secretary of State's Office's involvement in that process. The rule sets limits on when and how the Secretary of State may conduct list maintenance; a task normally performed by the County Clerk's office.

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 153
LEGISLATIVE RULE
SECRETARY OF STATE**

**SERIES 5
VOTER REGISTRATION LIST MAINTENANCE
BY THE SECRETARY OF STATE**

§153-52-1. General.

1.1. Scope. -- This rule governs the procedures necessary for the Secretary of State to conduct voter registration list maintenance.

1.2. Authority. -- W. Va. Code § 3-2-23a.

1.3. Filing Date. --

1.4. Effective Date. --

§153-52-2. Definitions.

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

2.2. "WVSOS" means the West Virginia Secretary of State or his or her designee.

§153-52-3. Notice Requirement.

3.1. Before the WVSOS can conduct voter registration list maintenance on the voter registration records of any county, the WVSOS shall send a notice by certified mail, return receipt requested, to the County Clerk of the affected county.

3.1.a. Nothing in this subsection shall prevent the WVSOS and a County Clerk from communicating by other means in an effort to effect the desired outcome;

3.2. The notice required by subsection 3.1 of this rule and W.Va. State Code §3-2-3(a) shall be mailed at least 90 days prior to the WVSOS conducting voter registration list maintenance on a county's records.

3.3. The notice required by subsection 3.1 of this rule and W.Va. State Code §3-2-3(a) shall include:

3.3.a. The record(s) the WVSOS has identified as potentially requiring list maintenance; and

3.3.b. That the county has 90 days to explain why list maintenance has not been performed, perform the required list maintenance, or design a plan in cooperation with the WVSOS for the County Clerk to perform the required list maintenance which may take longer than 90 days.

3.4. If the County Clerk fails in 90 days to commence to perform the required voter registration list maintenance or reach an agreement with the WVSOS to conduct such maintenance past the 90 days, the WVSOS may perform the list maintenance on the records identified in the notice.

§153-52-4. Required Voter Registration List Maintenance.

4.1. If the WVSOS finds that a County Clerk has failed within 45 days to update a voter registration record based on a notification received pursuant to W.Va. State Code §3-2-23, the WVSOS may initiate the process of sending notice to the County Clerk as set forth in section three of this rule.

4.2. If the WVSOS finds that a County Clerk has failed within 45 days to take any required step of the systematic program for removal of ineligible voters from the active registration files as required by 52 U.S.C. §20507 and W.Va. State Code §§3-2-25, 3-2-26, and 3-2-27, the WVSOS may initiate the process of sending notice to the County Clerk as set forth in section three of this rule.

4.2.a. If the WVSOS sends confirmation notices as part of list maintenance, the county shall be responsible for the cost of the confirmation notices, labels, and postage as required by W.Va. State Code §3-2-25(d).