



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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1/17/2017 9:05:33 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 4 -- NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS 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: 34220



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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

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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 be applied, it is difficult to ascertain what costs (if any) would be incurred by the State.

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**

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.



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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 be applied, it is difficult to ascertain what costs (if any) would be incurred by the State.

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 Id: 10241



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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-

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

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 be applied, it is difficult to ascertain what costs (if any) would be incurred by the State.

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: 153-05



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**TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE**

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

§153-5-1. 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. --

1.5. Sunset Date. -- This rule shall terminate and have no further force of effect upon the expiration of five years from its effective date..

§153-5-2. 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.

§153-5-3. 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. 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;

3.3.b. The reason or reasons such list maintenance may be required; and

3.3.c. 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 take any step required 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.

§153-5-4. 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.

4.3. 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).