



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Secretary Of State TITLE-SERIES: 153-17

RULE TYPE: Interpretive Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: SUBMISSION OF DOCUMENTS FOR
QUALIFIED NEWSPAPERS

CITE STATUTORY AUTHORITY: 29-19-3(c); 29-19-5(a); 29-19-5(c); 29-19-8; 29-19-9; 29-19-15(d)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 11/09/2018 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Michael Queen

ADDRESS: Office of the Secretary of State
State Capitol Bldg, Chas., WV 25305

EMAIL: mqueen@wvsos.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

To standardize the process for filing documents by qualified newspapers.

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

Although WV Code 59-3-1 et seq sets for the minimum requirements for qualified newspapers to print legal advertisements, there has been no uniform process for filing these documents with the WVSOS. This interpretive rule seeks to standardize the process.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2018 Increase/Decrease (use "-")	2019 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. 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
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No fiscal impact

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Stephen Robert Connolly -- 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
INTERPRETIVE RULE
SECRETARY OF STATE**

**SERIES 17
SUBMISSION OF DOCUMENTS FOR QUALIFIED NEWSPAPERS**

§153-17-1. General.

1.1. Scope. -- This interpretive rule establishes the conditions for approval of documents filed by a newspaper with the Secretary of State seeking to publish legal advertisements under the provisions of Article 3, Chapter 59 of the Code of West Virginia.

1.2. Authority. -- W. Va. Code §§ 29-19-3(c); 29-19-5(a); 29-19-5(c); 29-19-8; 29-19-9; 29-19-15(d).

1.3. Filing Date. --

1.4. Effective Date. --

§153-17-2. Other Documents Prescribed by the Secretary of State.

2.1. Each newspaper shall submit to the Secretary of State:

2.1.1. An original Affidavit of Circulation and Qualification (Form NW-1);

2.1.2. A copy of the newspaper's "Statement of Ownership, Management and Circulation" filed with the United States Postal Service (U.S.P.S.);

2.1.3. A copy of the mailing permit issued by the U.S.P.S.; and

2.1.4. Any other documents that are required by the Secretary of State to approve the filing of the document.

§153-17-3. Examination of Affidavit and Records.

3.1. The Secretary of State shall examine each affidavit to insure conformity with the Newspapers and Legal Advertisements Article of the Code. Such examination shall include the following areas:

3.1.1. The affiant shall swear or affirm in the affidavit how the newspaper satisfies the statutory requirements:

3.1.1.1. The date the Board of Directors of the newspaper authorized the filing of the affidavit;

3.1.1.2. The average paid circulation in the preceding calendar year;

3.1.1.3. The number of years and months the newspaper has been continuously published;

3.1.1.4. An attestation that the newspaper has been published at least weekly for fifty (50) weeks or more in the subject calendar year;

3.1.1.5. An affirmation that the newspaper is published by having been first placed in circulation in a specified municipality and county of this State.

3.1.1.5.a. For the purpose of this rule, the phrase "first placed in circulation" shall mean the city and county in which the newspaper has a physical office location, and which is designated on the postal permit issued by the U.S.P.S.;

3.1.1.6. An affirmation that the newspaper is of general circulation and interest;

3.1.1.7. An affirmation that the newspaper has actual circulation throughout the publication area large enough to give a reasonable belief that a legal advertisement will give effective notice to the residents of the publication area;

3.1.1.8. That the newspaper averages four (4) or more pages in length per issue, exclusive of any cover;

3.1.1.9. The definite price of the newspaper circulated to the general public;

3.1.1.10. An affirmation that the newspaper is relied upon by the general public for events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

3.1.2. The Secretary of State shall also examine the Statement of Ownership, Management and Circulation filed with the U.S.P.S. Such examination shall include the following areas:

3.1.2.1. Verification that the information provided in the Statement is consistent with that provided in the Affidavit.

3.1.3. The Secretary of State shall also examine the mailing permit with the U.S.P.S. Such examination shall include the following areas:

3.1.3.1. Verification that the information provided in the mailing permit is consistent with that provided in the Affidavit.

§153-17-4. Copies to be Filed.

4.1. At the time a publisher or proprietor of a qualified newspaper files an affidavit with the Secretary of State, as required by this subsection, the publisher or proprietor shall:

4.1.1. Notify the clerk of the county commission and the board of Education of the county in which the qualified newspaper is published of the circulation classification of the qualified newspaper and of the applicable rate for publishing legal advertisements in the qualified newspaper during the ensuing twelve-month period commencing July 1st.

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4.1.2. If the qualified newspaper is published in a municipality, the publisher or proprietor shall at the same time also furnish the same notification to the clerk or recorder of the municipality.

§153-17-5. Duties of the Secretary of State.

5.1. No later than December 31st of each year, the Secretary of State shall:

5.1.1. Publish and maintain a publically accessible database available on the Secretary of State's website to allow the local government and general public verify the filing of the qualified newspapers.

5.1.2. Issue a Certificate to each approved qualified newspaper