



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

5/10/2021 4:54:50 PM

Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Secretary Of State TITLE-SERIES: 153-05
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 153-05 Voter Registration List Maintenance by the Secretary of State

PRIMARY CONTACT

NAME: Donald Kersey
ADDRESS: State Capitol Bldg 1 Ste 157 K
Charleston, WV 25305
EMAIL: dkersey@wvsos.gov
PHONE NUMBER: 304-558-6000

CITE STATUTORY AUTHORITY: W. Va. Code 3-2-23a

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

This Rule pertains to the voter registration list maintenance program in WV, which is not being amended beyond extending the sunset period.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS:

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

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

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

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

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

Yes

Donald Kersey -- 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

§153-5-1. 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. -- ~~May 23, 2017~~

1.4. Effective Date. -- ~~May 23, 2017~~

1.5. Sunset Date. -- This rule shall terminate and have no further force of effect on August 1, 2027.

§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).