



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: 153-03

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

RULE NAME: 153-03 Voter Registration at the Division of Motor Vehicles

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 3-2-11(n)

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 voter registration services at the WV DMV. Filing is solely for the purpose of sunset extension.

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 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. -- ~~May 23, 2017~~

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

1.5. Sunset Provision. -- This rule shall terminate and have no further force and effect on ~~May 23,~~
August 1, 2027.

§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 that 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. 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 in order to make the program efficient for voters, the DMV, County Clerks, and the WVSOS.