



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: 153-14

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

RULE NAME: GUIDELINES FOR THE USE OF NICKNAMES
AND OTHER DESIGNATIONS ON THE BALLOT

CITE STATUTORY AUTHORITY: W. Va. Code § 3-1A-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/28/2023 11:00 AM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Donald Kersey

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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:

This rule provides guidelines for candidate names and nicknames to be placed on election ballots.

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

The changes to this rule are minimal. Summarily, the rule has not been amended since 1996. The changes modernize the requirements for nicknames to be placed on a ballot given that technology permits more variability, absolve potential litigation challenging the constitutionality of limiting a nickname that is not a proper name to a single word now that technology permits more than one word in a nickname and there is no government interest in limiting a nickname to a single word so long as a nickname complies with the other restrictions remaining in the rule to ensure fairness.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/a

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

N/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 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):

N/a

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 14
GUIDELINES FOR THE USE OF NICKNAMES AND OTHER
DESIGNATIONS ON THE BALLOT

§153-14-1. General.

1.1. Scope. -- This rule clarifies the guidelines to be used by the secretary of state and the county board of ballot commissioners in determining how a name is to be printed on the ballot. See W. Va. Code § 3-1-21.

1.2. Authority. -- W. Va. Code § 3-1A-6.

1.3. Filing Date. -- ~~April 22, 1996.~~

1.4. Effective Date. -- ~~June 7, 1996.~~

1.5. Sunset Provision. -- This Rules shall terminate and have no further force of effect on August 1, 2028.

§153-14-2. Allowable Additions or Alterations to Legal Names.

2.1. A nickname by which a person is commonly known, provided it does not violate the restrictions described herein, may be used on the ballot in lieu of the candidate's first name or may be placed within the name, either in quotation marks or parentheses.

Examples: Bill Trees, William "Bill" Trees, Elizabeth (Betsy) Bond, Liz Bond, Carl "Junior" Rivers, Ester "Lilly" Smith.

~~2.2. A woman may use the term Miss, Ms. or Mrs. with her own given name, or Mrs. with her husband's first name.~~

~~Examples: Mrs. Carol Redman, Mrs. Ida (Carol) Redman, Mrs. Ira Redman, Carol (Mrs. Ira) Redman.~~

~~2.3. A man may use the term Mr. with his own given name. A man may use Sr., Jr. or other similar designations at the end of his name which distinguish him from other generations of his family members. A candidate may use a gender honorific or contraction as a prefix to their name, or a generational suffix that is included in the candidate's legal name.~~

Examples: Ms. Taylor Brown, Mr. Lamont Smith, Miss Devon Williams, Mister John "Swift" Walters, or Missus Sophia Powell.

Examples: Ed Roe, Jr.; Thomas Orr, Sr.; Lloyd Wilson, III; ~~Mr. Carroll Thomas.~~

§153-14-3. Unallowable Additions or Alterations to Legal Names.

3.1. No title, position name or other designation which is not a part of an individual's legal name shall be placed before the name on the ballot.

Examples: Dr., Rev., Capt., Col., Maj., Supt., Pres., Coach, Brother, Father, Rabbi, Chief, Auctioneer, Sen., Cong., Del., Sheriff.

3.2. No degree, rank or other designation which is not a part of an individual's legal name shall be placed before or after a name on the ballot.

Examples: Ph.D., M.D., D.V.M., CPA, R.N., Lt., Sgt. 1st Class.

3.3. No nickname which carries a common meaning which denotes status or membership in a class of persons, or which is commonly used as or suggests a title, position designation, or other similar designation shall be placed before, after, or within a name on the ballot, whether or not the candidate has or has not held the position represented by the title.

Examples: Howard "Sarge" Jones, Earl "Chief" Weber, Lydia (Doc) Miller, "General" Lee Upton, Lou (Coach) Jones, John "Congressman" Adkins.

3.4. No nickname which suggests specific action by the voter shall be placed on the ballot.

Examples: Sam "Single Shot" Roberts, Joe "Vote Straight" Jones.

3.5. No variation in the typography of a name which calls attention to that name on the ballot shall be allowed. The standard for whether the name will be used is one based on the personal common use of the name by the candidate over a period of time. The candidate's signature, legal name status pursuant to W. Va. Code §48-5-1, driver's license, phone book spelling, etc., can be used. If a clear preponderance of such evidence reflects the requested spelling, then it should be printed.

Examples: OTIS Slevptvacowicz, SteVen WilSon, mmm GOODman.

3.6. No slogan may be used under the guise of a nickname.

Examples: Franklin "New Deal" Roosevelt, Jimmy "Why Not The Best" Carter.

3.7. No addition to a legal name may be used to indicate associations with particular individuals or causes.

Examples: Joseph "Reagan" Johnson, Charles "Chuck Yeager" Browning, Mamie "ERA" Monroe, Alice "Gun Control" Anderson.

§153-14-4. Maximum Length of Name.

4.1. Because space and typographical limitations affect ballot printing, the length of names on the ballot are hereby limited.

4.2. When a candidate specifies a name for the ballot which incorporates names other than his or her legal name, and which includes more than twenty-five (25) letters, the secretary of state or ~~elect~~ county clerk may require the candidate to designate a name for the ballot including no more than twenty-five (25) letters. If the candidate fails to comply, the secretary of state or ~~elect~~ county clerk shall use only the candidate's legal name.

~~4.3. Nicknames other than shortened forms of legal names shall be limited to one word.~~