

H. B. 2542

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[Introduced February 19, 2013; referred to the
Committee on Government Organization then Finance.]

A BILL to amend and reenact §29A-2-7 of the Code of West Virginia, 1931, as amended, relating to publication of the State Register; providing that the State Register and its supplements will be available only in electronic format with limited exceptions; and providing that the fees collected for the sale of certain records will be deposited in equal amounts into the General Revenue Fund and the service fees and collections account.

Be it enacted by the Legislature of West Virginia:

That §29A-2-7 of the Code of West Virginia, 1931, as amended be amended and reenacted to read as follows:

ARTICLE 2. STATE REGISTER.

§29A-2-7. Publication of State Register.

1 (a) The Legislature intends that the Secretary of State offer
2 to the public access to ~~copies of~~ the State Register and Code of
3 State Rules. The State Register, the Code of State Rules and
4 other ~~publications~~ documents produced by the Secretary of
5 State's office shall be available in electronic format on the
6 Secretary of State's website. ~~A person may request a printed~~
7 ~~copy of such from the Secretary of State for a fee.~~

8 (b) All materials filed in the State Register shall be indexed
9 ~~daily~~ as quickly as possible in chronological order of filing with
10 a brief description of the item filed and a columnar cross index
11 to:

12 (1) Agency;

13 (2) Code citation to which it relates and by which it is filed
14 in the State Register; and

15 (3) Other information in the description or cross index as the
16 Secretary of State believes will aid a person in using the index.

17 (c) The Secretary of State shall ~~provide~~ post on the website
18 with each update of the Code of State Rules, a copy of the rule

19 monitor and its cross index which shows the rules that have
20 become effective, ~~but not yet distributed and the rules which~~
21 ~~may be superseded by a rule which is being proposed. The copy~~
22 ~~of the rule monitor distributed with the updates of the Code of~~
23 ~~State Rules shall state plainly that this version of the rule~~
24 ~~monitor only shows the status of the promulgation of rules as of~~
25 ~~the date of distribution of the update of the Code of State Rules,~~
26 ~~and that to obtain the most recent status of the rules, the user~~
27 ~~should consult the rule monitor in the most recent publication~~
28 ~~and instructions to users on how to use the rule monitor deter-~~
29 ~~mining the version of the rule in the Code of State Rules~~
30 ~~currently in effect. This subsection is not to be construed to~~
31 ~~require that subscribers to the updates of the Code of State Rules~~
32 ~~receive a subscription to the State Register, and a table showing~~
33 ~~rules which are out for public comment, and agency-approved,~~
34 ~~modified and emergency rules.~~

35 (d) ~~The Secretary of State shall produce in an electronic~~
36 ~~format the permanent biennial State Register, the chronological~~
37 ~~index and other materials filed in the register, or any part by~~
38 ~~agency or section, article or chapter for subscription at a cost~~
39 ~~including labor, paper and postage, sufficient in the Secretary of~~

40 State's judgment to defray the expense of such publication. The
41 Secretary of State shall also offer, at least at monthly intervals,
42 supplements to the published materials listed above. Any
43 subscription for monthly supplements shall be offered annually
44 and shall include the chronological index and materials related
45 to an agency or code citation as a person may designate. A
46 person may limit the request to notices only, to notices and rules,
47 or to notices and proposed rules, or any combination thereof.

48 (e) Every two years, the Secretary of State shall offer for
49 purchase succeeding biennial permanent state registers which
50 shall consist of all rules effective on the date of publication
51 selected by the Secretary of State, which date shall be at least
52 two years from the last publication date, and materials filed in
53 the State Register relating to the rule. The cost of the succeeding
54 biennial permanent State Register and for the portion relating to
55 any agency or any code citation which may be designated by a
56 person shall be fixed in the same manner specified in subsection
57 (d) of this section.

58 (f) The Secretary of State may omit from any duplication
59 made pursuant to subsection (e) of this section any rules the
60 publication of which would be unduly cumbersome, expensive

61 ~~or otherwise inexpedient, if a copy of such rules is made~~
62 ~~available from the original filing of such rule, at a price not~~
63 ~~exceeding the cost of publication, and if the volume from which~~
64 ~~such rule is omitted includes a notice in that portion of the~~
65 ~~publication in which the rule would have been located, stating:~~

- 66 (1) ~~The general subject matter of the omitted rule;~~
67 (2) ~~Each code citation to which the omitted rule relates; and~~
68 (3) ~~The means by which a copy of the omitted rule may be~~
69 ~~obtained.~~

70 (2) ~~(g)~~ (d) The Secretary of State may ~~only~~ propose changes to
71 the procedures outlined in ~~the above subsection~~ this section by
72 proposing a legislative rule under the provisions of section nine,
73 article three of this chapter.

74 (3) ~~(h)~~ The Secretary of State shall promulgate for legislative
75 approval in accordance with the provisions of article three, of
76 this chapter a fees schedule for publications described in this
77 section.

78 (4) ~~(i)~~ (e) One half of all the fees and amounts collected for the
79 sale of the State Register, the Code of State Rules and other
80 copies or data provided by the Secretary of State shall be

81 deposited in the State General Revenue Fund and one half of the
82 fees in the service fees and collections account established in
83 accordance with subsection (f), section two, article one, chapter
84 fifty-nine of this code for the operations of the office of the
85 Secretary of State. The Secretary of State shall dedicate suffi-
86 cient resources from that fund or other funds to provide the
87 services required in this article.

88 (f) A person who is unable to access electronic versions of
89 documents may review the documents at the office of the
90 Secretary of State, or may request a printed copy at a cost which
91 is sufficient, in the judgment of the Secretary of State, to defray
92 the expenses of publication, including labor, paper and postage:
93 Provided, That the Secretary of State may waive the fee.

NOTE: The purpose of this bill is to correct an inconsistency in the code relating to the deposit of funds from the State Register and to ensure the use of electronic versions of the Register, rule monitor and index.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

