

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Secretary of State

Rule No. 820-2-2-.23

Rule Title: Temporary Rules for State Election Board

New _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? No

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

.....
Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying office

Beth Chap

Date 4-20-12

(DATE FILED)

Office of the Secretary of State
Elections Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Secretary of State

RULE NO. & TITLE: 820-2-2-.17 Voter Registration Instructions for
Voter Registrars to Assess
Eligibility of Voter Registration
Applicant
820-2-2-.18 Affidavit and Application for
Certification of Free Alabama Birth
Record for Voter Registration Use
820-2-2-.19 Citizenship Document Inconsistency
Affidavit Form
820-2-2-.20 Form for Notification of
Insufficiency of Proof of
Citizenship
820-2-2-.21 Application Form to the State
Election Board for Issuance of a
Certificate of Citizenship for
Voting Purposes
820-2-2-.22 Certificate of Citizenship for
Voting Purposes
820-2-2-.23 Temporary Rules for State Election
Board
820-2-2-.24 Agency-Based Voter Registration
Form
820-2-2-.25 Mail-In Voter Registration Form

INTENDED ACTION: New rules.

SUBSTANCE OF PROPOSED ACTION:

Adopt voter registration rules to comply with the Code of Alabama,
section 31-13-28 (2011).

TIME, PLACE, MANNER OF PRESENTING VIEWS:

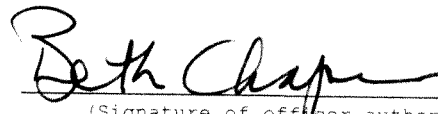
Views may be presented in writing and should be addressed to Jean Brown, Chief Legal Advisor, Office of the Secretary of State, P.O. Box 5616, Montgomery, Alabama 36103.

FINAL DATE FOR COMMENT AND COMPLETION OF THE NOTICE:

June 4, 2012

CONTACT PERSON AT AGENCY:

Adam Thompson, Office of the Secretary of State, State Capitol, 600 Dexter Avenue, Suite S-105, Montgomery, Alabama 36104; 334-353-7818.

A handwritten signature in cursive script that reads "Beth Chapman". The signature is written in black ink and is positioned above a horizontal line.

(Signature of officer authorized to promulgate and adopt rules or his or her deputy)

CERTIFICATE OF CITIZENSHIP FOR VOTING PURPOSES (Form C-5)

TO THE REGISTRARS OF _____ COUNTY, GREETINGS:

The State Election Board hereby certifies that, in accordance with Section 31-13-28(m)(6), it has determined by a preponderance of the evidence presented to it that _____ has presented satisfactory evidence that he or she is a citizen of the United States of America for purposes of voting in the State of Alabama.

DONE, on this the ___ day of _____, 2012.

Lieutenant Governor

Attorney General

Secretary of State

Authors: Jean Brown; Edward Packard.

Statutory Authority: Code of Alabama, section 31-13-28 (2011); Code of Alabama, section 17-3-1 (2011).

History: New Rule: Filed: April 20, 2012; effective May 25, 2012.

820-2-2-.23 Temporary Rules for State Election Board.

The following temporary rules shall govern the State Election Board ("the Board") until such time as the Board shall meet to formally adopt or amend said rules:

(1) There is hereby established the State Election Board (hereinafter "the Board") consisting of the Secretary of State, the Attorney General, and the Lieutenant Governor. The Board shall meet on the call of the Secretary of State. The Board shall do both of the following:

(a) Assess information provided by any applicant for voter registration as evidence of citizenship pursuant to Code of Alabama, section 31-13-28 (m); and

(b) Adopt rules to implement Code of Alabama, section 31-13-28 (m).

(2) If an applicant is a U.S. citizen but does not have any of the documentation listed in Code of Alabama, section 31-13-28 (k), the applicant may submit any evidence that the applicant believes demonstrates his or her U.S. citizenship. Among the documents that may be submitted when the applicant does not have any of the documents listed in Code of Alabama, section 31-13-28(k), are:

(a) Religious record, such as family Bible, certificate of baptism or confirmation, or other similar record showing either the date of birth or the person's age when the record was made;

(b) Marriage certificate showing a U.S. place of birth;

(c) Life, health, or other insurance record showing a U.S. place of birth;

(d) Early school record showing a U.S. place of birth;

(e) Newspaper birth announcement showing a U.S. place of birth;

(f) Affidavits signed under penalty of perjury by three (3) people;

(g) Military dependent's identification card showing U.S. citizenship;

(h) If none of the aforementioned evidence of U.S. citizenship is available, three or more corroborating documents may be accepted if said documents establish U.S. citizenship by a preponderance of the evidence.

(3) Any applicant seeking an assessment of evidence under this section may directly contact the office of the Secretary of State by submitting a state voter registration application or the national voter registration application

and any supporting evidence of U.S. citizenship. Upon receipt of this information, the Secretary of State shall notify the Board that such application is pending. Thereafter, the Secretary of State shall convene a meeting of the Board within 90 days (or at defined periodic times such as monthly, quarterly, etc.) For voter registration application forms and supporting evidence of U.S. citizenship received before the close of registration for the next scheduled primary, second primary, special, or general election, the Secretary of State shall convene a meeting of the Board not later than 5 days before said election. If the Board finds proof of U.S. citizenship by a preponderance of the evidence for an applicant whose voter registration application was received before the close of registration for the next scheduled primary, second primary, special, or general election, the Board shall notify the board of registrars within 24 hours, excluding weekends and Federal and state holidays, and said applicant shall be able to vote in the next scheduled election.

(4) Standard of Proof and Majority Vote. The standard of proof for establishing U.S. citizenship before the Board shall be proof by a preponderance of the evidence. A decision of the Board shall be determined by a majority vote of the Board.

(5) Right to Hearing Before the Board. An applicant may request a hearing before the Board and shall have the opportunity to be represented by counsel at the hearing. However, if the Board determines that the applicant has submitted adequate proof of U.S. citizenship, the Board shall not be required to provide a hearing and shall notify the applicant and the board of registrars that he or she has provided adequate evidence of U.S. citizenship and will be allowed to register to vote.

(6) Right to Appeal Board's Decision. If the Board finds that the evidence presented by an applicant does not constitute satisfactory evidence of U.S. citizenship, the applicant shall have the right to appeal such determination by instituting an action under 8 U.S.C. § 1503, demonstrating that the applicant is a national of the United States. Any negative assessment of an applicant's eligibility by the State Election Board shall be reversed if the applicant obtains a declaratory judgment pursuant to

8 U.S. C. § 1503, demonstrating that the applicant is a national of the United States.

Authors: Jean Brown; Edward Packard.

Statutory Authority: Code of Alabama, section 31-13-28 (2011); Code of Alabama, section 17-3-1.

History: New Rule: Filed April 20, 2012; effective May 25, 2012.