

**Senate Bill No. 632**

(By Senators Prezioso, McCabe, Klempa and Plymale)

[Introduced February 17, 2012; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §29A-2-7 of the Code of West Virginia,  
1931, as amended, relating to requiring filings in the State  
Register and the Code of State Rules be available in an  
electronic format; providing that printed copies of filings  
and documents are to be available under certain circumstances;  
providing a fee may be charged for printed copies; providing  
that the fee may be waived; and clarifying that fifty percent  
of the fees and amounts collected for the sale of the State  
Register, the Code of State Rules and other copies or data  
provided by the Secretary of State shall be deposited in the  
General Revenue Fund.

*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.**

1 **§29A-2-7. Publication of State Register.**

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

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

11 (1) Agency;

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

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

16 (c) The Secretary of State shall provide with each update of  
17 the Code of State Rules, ~~a copy of~~ the rule monitor and its cross  
18 index which shows the rules that have become effective but not yet  
19 distributed and the rules which may be superseded by a rule which  
20 is being proposed. ~~The copy of the~~ rule monitor distributed with  
21 the updates of the Code of State Rules shall state plainly that  
22 this version of the rule monitor only shows the status of the  
23 promulgation of rules as of the date of distribution of the update  
24 of the Code of State Rules, and that to obtain the most recent

1 status of the rules, the user should consult the rule monitor in  
2 the most recent publication and instructions to users on how to use  
3 the rule monitor determining the version of the rule in the Code of  
4 State Rules currently in effect. This subsection is not to be  
5 construed to require that subscribers to the updates of the Code of  
6 State Rules receive a subscription to the State Register.

7 (d) The Secretary of State shall produce in an electronic  
8 format the permanent biennial State Register, the chronological  
9 index and other materials filed in the register, or any part by  
10 agency or section, article or chapter for subscription. ~~at a cost~~  
11 ~~including labor, paper and postage, sufficient in the Secretary of~~  
12 ~~State's judgment to defray the expense of such publication.~~ The  
13 Secretary of State shall also offer, at least at monthly intervals,  
14 supplements to the published materials listed above. Any  
15 subscription for monthly electronic supplements shall be offered  
16 annually and shall include the chronological index and materials  
17 related to an agency or code citation as a person may designate.  
18 A person may limit the request to notices only, to notices and  
19 rules, or to notices and proposed rules, or any combination  
20 thereof.

21 (e) ~~Every two years, the~~ The Secretary of State shall offer  
22 for purchase ~~succeeding biennial~~ permanent state registers which  
23 shall consist of all rules effective on the date of publication  
24 ~~selected by the Secretary of State, which date shall be at least~~

1 ~~two years from the last publication date,~~ and materials filed in  
2 the State Register relating to the rule. The cost of the  
3 ~~succeeding biennial~~ permanent State Register and for the portion  
4 relating to any agency or any code citation which may be designated  
5 by a person shall be fixed in the same manner specified in  
6 subsection (d) of this section.

7 (f) The Secretary of State may omit from any duplication made  
8 pursuant to subsection (e) of this section any rules the  
9 publication of which would be unduly cumbersome, expensive or  
10 otherwise inexpedient, if a copy of such rules is made available  
11 from the original filing of such rule, at a price not exceeding the  
12 cost of publication, and if the volume from which such rule is  
13 omitted includes a notice in that portion of the publication in  
14 which the rule would have been located, stating:

- 15 (1) The general subject matter of the omitted rule;  
16 (2) Each code citation to which the omitted rule relates; and  
17 (3) The means by which a copy of the omitted rule may be  
18 obtained.

19 (g) The Secretary of State may only propose changes to the  
20 procedures outlined in the above subsection by proposing a  
21 legislative rule under the provisions of section nine, article  
22 three of this chapter.

23 (h) The Secretary of State shall promulgate for legislative  
24 approval in accordance with the provisions of article three of this

1 chapter a fees schedule for publications described in this section.

2 (i) ~~The~~ One half of all fees and amounts collected for the  
3 sale of the State Register, the Code of State Rules and other  
4 copies or data provided by the Secretary of State shall be  
5 deposited in the state General Revenue Fund and one half of the  
6 fees in the service fees and collections account established in  
7 accordance with section two, article one, chapter fifty-nine of  
8 this code for the operations of the office of the Secretary of  
9 State. The Secretary of State shall dedicate sufficient resources  
10 from that fund or other funds to provide the services required in  
11 this article.

12 (j) A person suffering hardship and unable to access  
13 electronic versions of the documents identified in this section may  
14 request a printed copy of that document from the Secretary of State  
15 for a fee at a cost including labor, paper and postage, sufficient  
16 in the Secretary of State's judgment to defray the expense of the  
17 printed copy: *Provided, That the electronic version is the first*  
18 source of information: *Provided, however, That the fee may be*  
19 waived if deemed necessary by the Secretary of State.

NOTE: The purpose of this bill is to require filings in the State Register and the Code of State Rules be available in an electronic format. The bill provides that printed copies of filings and documents are available under certain circumstances and that a fee may be charged. The bill provides that the fee may be waived. The bill clarifies that fifty percent of the fees and

amounts collected for the sale of the State Register, the Code of State Rules and other copies or data provided by the Secretary of State shall be deposited in the General Revenue Fund.

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

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Secretary of State.