

H. B. 3001

(By Delegates Doyle, Guthrie, Brown, Poore and Manypenny)
[Introduced February 3, 2011; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §3-2-6 and §3-2-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-5-17 of said code, all relating to lengthening the period for voter registration; lengthening the period during which voters may register to the third day before an election; changing the verification procedures to provide for the extended period of registration; permitting registration during early elections to occur only at locations designated by the county clerk; permitting persons to register and vote on the same day during the early-voting period; prohibiting persons from changing party affiliation during the early-voting period preceding a primary election; and changing the canvassing start day in primary elections to Monday so clerks can comply with ten-day post card verification requirement.

Be it enacted by the Legislature of West Virginia:

That §3-2-6 and §3-2-16 of the Code of West Virginia, 1931, as

1 amended, be amended and reenacted; and that §3-5-17 of said code be
2 amended and reenacted all to read as follows:

3 **ARTICLE 2. REGISTRATION OF VOTERS.**

4 **§3-2-6. Time of registration application before an election.**

5 (a) (1) Voter registration before an election shall close on
6 the twenty-first day before the election, or on the first day
7 thereafter which is not a Saturday, Sunday or legal holiday.

8 (2) (A) Beginning January 1, 2012, and for each election held
9 thereafter, voter registration before an election shall close at
10 the end of business hours on the third day before the election.

11 For any election held on a Tuesday, voter registration pursuant to
12 this subdivision must be available from 9:00 a.m. to 5:00 p.m. on
13 the two Saturdays prior to the election.

14 (B) Voter registration conducted during the period beginning
15 on the twentieth day before an election and continuing through the
16 third day before an election shall occur only at a location
17 designated by the clerk of the county commission.

18 (C) During the period of voter registration beginning on the
19 twentieth day before an election and continuing through the third
20 day before an election, a person who is already registered to vote
21 in the county may update the information in the registration record
22 in accordance with section twenty-two, article two of this chapter,
23 and may also update an address if he or she has moved from one
24 county to a new county within the state.

25 (D) A person who registers to vote pursuant to the provisions

1 of this subdivision and who is eligible to vote, may only vote at
2 an early-voting site during the early-voting period as provided in
3 section three, article three of this chapter.

4 (E) During the period of voter registration beginning on the
5 twentieth day before an election and continuing through the third
6 day before the first or second partisan primary, a person who is
7 already registered to vote, may not change his or her party
8 affiliation.

9 (b) An application for voter registration, transfer of
10 registration, change of name or change of political party
11 affiliation submitted by an eligible voter by the close of voter
12 registration shall be effective for any subsequent primary, general
13 or special election if the following conditions are met:

14 (1) The application contains the information required by
15 subsection (c), section five of this article: *Provided*, That
16 incomplete applications for registration containing information
17 which are submitted within the required time may be corrected
18 within four business days after the close of registration if the
19 applicant provides the required information; and

20 (2) The application is received by the appropriate clerk of
21 the county commission no later than the hour of the close of
22 registration or is otherwise submitted by the following deadlines:

23 (A) If mailed, the application shall be addressed to the
24 appropriate clerk of the county commission and is postmarked by the
25 postal service no later than the date of the close of registration:

1 *Provided*, That if the postmark is missing or illegible, the
2 application shall be presumed to have been mailed no later than the
3 close of registration if it is received by the appropriate clerk of
4 the county commission no later than the third day following the
5 close of registration;

6 (B) If accepted by a designated agency or motor vehicle
7 licensing office, the application is received by that agency or
8 office no later than the close of registration;

9 (C) If accepted through a registration outreach program, the
10 application is received by the clerk, deputy clerk or registrar no
11 later than the close of registration; and

12 (3) The verification notice by the provisions of section
13 sixteen of this article mailed to the voter at the residence
14 indicated on the application is not returned as undeliverable.

15 **§3-2-16. Procedures upon receipt of application for registration**
16 **by the clerk of the county commission; verification**
17 **procedure and notice of disposition of application for**
18 **registration.**

19 (a) Upon receipt of an application for voter registration, the
20 clerk of the county commission shall determine whether the
21 application is complete, whether the applicant appears to be
22 eligible to register to vote within the county and whether the
23 applicant is currently registered within the county. If the
24 application is incomplete or the applicant appears not to be

1 eligible, the clerk shall take the appropriate action as prescribed
2 in section seventeen of this article.

3 (b) If the application received is complete and appears to be
4 from an eligible person who has not previously been registered
5 within the county, or has not been included within the active voter
6 registration files as defined in section eighteen of this article
7 within the preceding calendar year and does not present a driver's
8 license containing the residence address pursuant to the provisions
9 of subdivision (2), subsection (d), section seven of this article,
10 the clerk of the county commission shall conduct the following
11 verification procedure:

12 (1) The clerk shall issue or mail, by first-class
13 nonforwardable return requested, a verification notice addressed to
14 the applicant at the residence and mailing address given on the
15 application, except that the mailing address shall not be included
16 on the notice if it appears to identify a distinctly different
17 location from the residence address, such as a business address,
18 another residence or a different city or town, unless the voter has
19 registered as a uniformed services, overseas or homeless voter and
20 provided a local residence address pursuant to the provisions of
21 subdivision (4), subsection (c), section five of this article.

22 (2) The verification notice shall state the purpose of the
23 procedure, the fact that no further action is required of the
24 applicant, and the fact that a notice of the disposition of the
25 registration application will be mailed after the ten day return

1 period has expired.

2 (3) If the verification notice is not returned as
3 undeliverable within ten days or by the start of canvas, whichever
4 occurs first, the application for registration shall be accepted
5 and entered into the active voter registration files and a
6 registration receipt mailed designating the voter's assigned
7 precinct.

8 (4) If the verification notice is returned undeliverable
9 within ten days, the clerk shall compare the address given on the
10 voter registration application with the address used on the
11 envelope and, if there is any discrepancy, shall send a second
12 verification notice to the correct address. If there is no
13 discrepancy, the application for registration shall be denied and
14 the notice of denial prescribed in section seventeen of this
15 article shall be mailed.

16 (5) If the verification notice is returned undeliverable after
17 the registration has been accepted, the clerk shall initiate the
18 confirmation procedure prescribed in section twenty-six of this
19 article.

20 (c) If the application received is complete and appears to be
21 from an eligible person who is currently registered within the
22 county, or has been included within the active voter registration
23 files as defined in section eighteen of this article within the
24 preceding calendar year, the clerk of the county commission shall
25 send, by first-class nonforwardable return requested mail, a

1 registration receipt or other notice of the disposition of the
2 application; and

3 (1) If the application is for a change of name, change of
4 address, change of political party affiliation, reinstatement or
5 other correction of the previous voter registration, the clerk
6 shall include a new voter registration receipt;

7 (2) If the application does not make any change in the
8 previous voter registration, the clerk shall notify the registrant
9 that the voter is not required to reregister or update the
10 registration as long as he or she lives at the same address and has
11 the same legal name; or

12 (3) If the notice of disposition is returned undeliverable
13 after the registration has been accepted, the clerk shall initiate
14 the confirmation procedure prescribed in section twenty-six of this
15 article.

16 (d) If the application contains information indicating the
17 address at which the applicant was previously registered to vote in
18 another county or state, the clerk of the county commission shall
19 give notice to the clerk or registrar of that jurisdiction for the
20 purpose of canceling the previous registration.

21 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

22 **§3-5-17. Canvassing and certifying returns; recount procedures.**

23 The county ~~court~~ commission sitting as a board of canvassers,
24 shall meet at the courthouse of the county on the ~~Friday~~ Monday
25 next succeeding any primary election and shall proceed to canvass

1 the returns of such election. The procedures prescribed in section
 2 nine of article six of this chapter, relating to canvass of general
 3 election returns, shall, where adaptable, be applied in the canvass
 4 of the primary election returns. The board shall proceed to
 5 ascertain the result of such election in the county and district,
 6 and election precincts thereof, and cause to be prepared and
 7 recorded in the primary election precinct record book, a table or
 8 tables which shall show, as to each candidate of each political
 9 party for each office, the number of votes cast for him or her at
 10 each precinct, and the total number thereof cast in the entire
 11 county. The board shall then make up and enter in said record book
 12 a certificate for each political party, showing, as to each
 13 candidate for each political party for each office, the total
 14 number of votes (in words and also in figures) cast for him or her
 15 in the entire county and the number of votes received by all the
 16 candidates of such party in such district, which shall be in the
 17 following form:

18 The board of canvassers of the county of, State of
 19 West Virginia, having carefully and impartially examined the
 20 returns of the primary election held in said county on the ... day
 21 of ..., ~~19~~ 20..., do hereby certify that in said county or
 22 district, at said election, on the official ballot of the
 23 party for the office of, A. B. received ...
 24 (...) votes; C. D. received ... (...) votes.

25 And so on for each office for each political party according

1 to the truth. When the certificates are all entered, the report
2 shall be signed by the members of the board or a majority thereof.
3 Such members shall also sign separate certificates of the result of
4 said election, within the county, for each of the offices to be
5 filled by each political party, as provided by the following
6 section.

7 The provisions of article six of this chapter, relating to the
8 recount of votes in general elections, shall, to the extent
9 applicable, be operative in primary and other elections conducted
10 under provisions of this article.

NOTE: The purpose of this bill is to lengthen the period for voter registration and lengthens the period during which voters may register to the third day before an election. The bill permits registration during early elections to occur only at locations designated by the county clerk and permits persons to register and vote on the same day during the early-voting period. The bill also prohibits persons from changing party affiliation during the early-voting period preceding a primary election. Additionally, the bill changes the canvassing start day in primary elections to Monday so clerks can comply with ten-day postcard verification requirement.

The bill was reported from the Joint Committee on the Judiciary without recommendation.

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