

1 **H. B. 4487**

2
3 (By Delegates Miley, Manchin, Fleischauer
4 and Lawrence)

5 [By request of the Secretary of State]

6 [Introduced February 9, 2012; referred to the
7 Committee on the Judiciary.]

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10 A BILL to amend and reenact §3-1-3a of the Code of West Virginia,
11 1931, as amended, relating to the provision of a ballot for
12 the office of President/Vice-President for registered voters
13 moving from the state during the thirty days immediately
14 preceding the election for that office.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §3-1-3a of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

19 **§3-1-3a. Persons entitled to vote under federal Voting Rights Act**
20 **Amendments of 1970; authority of Secretary of State.**

21 (1) Any citizen of the United States who is a resident of the
22 state and who applies, not later than thirty days immediately prior
23 to any presidential election for registration or qualification to
24 vote for the choice of electors for president and vice-president,

1 or for president and vice-president, in such election, and who is
2 otherwise qualified to vote, may register to vote, and vote, for
3 the choice of electors for president and vice-president, or for
4 president and vice-president, in such election, as provided by the
5 federal Voting Rights Act Amendments of 1970.

6 (2) Any citizen of the United States who has moved his or her
7 residence from this state within thirty days next preceding any
8 election for president and vice-president, and who was otherwise
9 qualified to vote in this state as of the date of his or her change
10 of residence and who has not satisfied the registration
11 requirements of the state to which he or she has moved, may ~~vote~~
12 ~~for the choice of electors for president and vice-president, or for~~
13 ~~president and vice-president, in such election, as provided by the~~
14 ~~federal Voting Rights Act Amendments of 1970.~~ cast a vote for the
15 offices of president and vice-president: (i) In person in the
16 precinct where he or she was registered immediately prior to
17 moving; (ii) in person at any designated early voting location
18 servicing the precinct from which the voter has moved; or (iii) by
19 absentee ballot. The voter's request for a ballot due to a move
20 out-of-state after the thirtieth day preceding the election shall
21 serve as authorization for removal from the West Virginia voter
22 rolls as provided in the National Voter Registration Act of 1993,
23 42 USC Chapter 20 1973gg-6(a) (3) (A). The request for such ballot
24 shall be on a form prescribed by the Secretary of State and, in the

1 case of an absentee ballot, shall be received by the clerk of the
2 county commission of the last county of residence no later than the
3 sixth day prior to the general election.

4 (3) Any citizen of the United States who is otherwise
5 qualified to vote in any election for president and vice-president
6 shall not be denied the right to vote for such offices due to the
7 failure to comply with any durational residency requirement of the
8 state or political subdivision.

9 (4) No citizen of the United States may be denied the right to
10 vote for electors for president and vice-president, or for
11 president and vice-president, in any election because of failure of
12 the citizen to be physically present in the state or political
13 subdivision at the time of the election if the citizen has complied
14 with the requirements prescribed by the laws of this state for the
15 casting of an absentee ballot in the election.

16 ~~(3)~~ (5) Any citizen of the United States who has attained the
17 age of eighteen years but who has not attained the age of twenty-
18 one years by the time of the next ensuing primary or election in
19 which he may vote under section 302 of the federal Voting Rights
20 Act Amendments of 1970, as interpreted and limited by the United
21 States supreme court, and who is otherwise qualified to vote, may
22 vote in any primary or election for those candidates for whom he or
23 she is entitled to vote under said section 302 of the federal
24 Voting Rights Act Amendments of 1970, as interpreted and limited by

1 the United States supreme court.

2 ~~(4)~~ (6) The Secretary of State shall have authority to make,
3 amend and rescind such rules, regulations, orders and instructions,
4 and prescribe such registration and voting procedures, forms
5 (including registration, ballot and ballot label forms), lists and
6 records, as may be necessary in order for this state to fully
7 implement, and comply with, ~~the~~ federal voting laws ~~Voting Rights~~
8 ~~Act Amendments of 1970~~, as interpreted and limited by the United
9 States supreme court, and it shall be the duty of all public
10 officers, election officers, boards and commissioners having any
11 authority or responsibility in connection with any election, to
12 comply with all such rules, regulations, orders and instructions,
13 and use, make, follow or comply with all such registration and
14 voting procedures, forms (including registration, ballot and ballot
15 label forms), lists and records as have been prescribed by the
16 Secretary of State under the foregoing authority vested in that
17 office.

NOTE: The purpose of this bill is to conform West Virginia code to federal requirements for the provision of Presidential office ballots to registered voters moving from the state.

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