

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 477**

4 (By Senator Palumbo)

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6 [Originating in the Committee on the Judiciary;

7 reported March 15, 2013.]

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11 A BILL to repeal §3-2-24 of the Code of West Virginia, 1931, as
12 amended; and to amend and reenact §3-2-5, §3-2-6, §3-2-7 and
13 §3-2-11 of said code, all relating to electronic registration
14 of voters; repealing outdated code regarding manual voter
15 registration systems; authorizing Secretary of State to
16 promulgate procedures to permit persons to register to vote
17 through a secure electronic voter registration system;
18 providing an exception to address requirements on registration
19 for participants in the address confidentiality program;
20 permitting transmission of electronically stored signatures
21 for registration in certain instances; allowing acceptance of
22 registration with or without an email address; requiring
23 electronic registration be received by close of business on
24 the day of the registration deadline; permitting people to

1 register to vote through approved electronic voter
2 registration systems at certain locations; authorizing the
3 Division of Motor Vehicles to release certain information to
4 the Secretary of State upon notice and consent of the
5 registered voter; and making certain clarifications of current
6 code.

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

8 That §3-2-24 of the Code of West Virginia, 1931, as amended,
9 be repealed; and that §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said
10 code be amended and reenacted, all to read as follows:

11 **ARTICLE 2. REGISTRATION OF VOTERS.**

12 **§3-2-5. Forms for application for registration; information**
13 **required and requested; types of application forms;**
14 **notices.**

15 (a) (1) All state forms for application for voter registration
16 shall be prescribed by the Secretary of State and shall conform
17 with the requirements of 42 U. S. C. §1973gg, *et seq.*, the National
18 Voter Registration Act of 1993 and the requirements of the
19 provisions of this article. Separate application forms may be
20 prescribed for voter registration conducted by the clerk of the
21 county commission, registration by mail, registration in
22 conjunction with an application for motor vehicle driver's license
23 and registration at designated agencies. These forms may consist
24 of one or more parts, may be combined with other forms for use in

1 registration by designated agencies or in conjunction with driver
2 licensing and may be revised and reissued as required by the
3 Secretary of State to provide for the efficient administration of
4 voter registration.

5 (2) Notwithstanding any provisions of subdivision (1) of this
6 subsection to the contrary, the federal postcard application for
7 voter registration issued pursuant to 42 U. S. C. §1973, *et seq.*,
8 the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and
9 the mail voter registration application form prescribed by the
10 Federal Election Commission pursuant to 42 U. S. C. §1973gg, *et*
11 *seq.*, the National Voter Registration Act of 1993, ~~shall be~~ are
12 accepted as ~~a valid form~~ valid forms of application for
13 registration pursuant to the provisions of this article.

14 (3) The Secretary of State is authorized to promulgate
15 procedures to permit persons to register to vote through a secure
16 electronic voter registration system.

17 (b) Each application form for registration shall include:

18 (1) A statement specifying the eligibility requirements for
19 registration and an attestation that the applicant meets each
20 eligibility requirement;

21 (2) Any specific notice or notices required for a specific
22 type or use of application by 42 U. S. C. §1973gg, *et seq.*, the
23 National Voter Registration Act of 1993;

24 (3) A notice that a voter may be permitted to vote the

1 partisan primary election ballot of a political party only if the
2 voter has designated that political party on the application for
3 registration unless the political party has determined otherwise;

4 (4) The applicant's driver's license number or an
5 identification number issued by the Division of Motor Vehicles. If
6 the applicant does not have a driver's license or an identification
7 card issued by the Division of Motor Vehicles, then the last four
8 digits of the applicant's Social Security number; and

9 (5) Any other instructions or information essential to
10 complete the application process.

11 (c) Each application form shall require that the following be
12 provided by the applicant, under oath, and ~~any~~ an application which
13 does not contain each of the following ~~shall be considered~~ is
14 incomplete:

15 (1) The applicant's legal name, including the first name,
16 middle or ~~maiden~~ premarital name, if any, and last name;

17 (2) The month, day and year of the applicant's birth;

18 (3) The applicant's residence address including the number and
19 street or route and city and county of residence except:

20 (A) In the case of a person eligible to register under the
21 provisions of 42 U. S. C. §1973ff, et seq., the Uniformed and
22 Overseas Citizens Absentee Voting Act, the address at which he or
23 she last resided before leaving the United States or entering the
24 uniformed services, or if a dependent child of such a person, the

1 address at which his or her parent last resided; ~~and~~

2 (B) In the case of a homeless person having no fixed residence
3 address who nevertheless resides and remains regularly within the
4 county, the address of a shelter, assistance center or family
5 member with whom he or she has regular contact or other specific
6 location approved by the clerk of the county commission for the
7 purposes of establishing a voting residence; ~~and~~ or

8 (C) In the case of a participant in the Address
9 Confidentiality Program administered by the Secretary of State in
10 accordance with section one hundred three, article twenty-eight
11 (a), chapter forty-eight of this code, the designated address
12 assigned to the participant by the Secretary of State; and

13 (4) The applicant's signature, under penalty of perjury as
14 provided in section thirty-six of this article, to the attestation
15 of eligibility to register to vote and to the truth of the
16 information given. The clerk may accept the electronically
17 transmitted signature kept on file with another approved state
18 database for an applicant who applies to register to vote using an
19 approved electronic voter registration system in accordance with
20 procedures promulgated by the Secretary of State.

21 (d) The applicant shall be requested to provide the following
22 information but no application ~~shall~~ may be rejected for lack of
23 this information:

24 (1) An indication whether the application is for a new

1 registration, change of address, change of name or change of party
2 affiliation;

3 (2) The applicant's choice of political party affiliation, if
4 any, or an indication of no affiliation. ~~Provided, That any~~ An
5 applicant who does not enter ~~any~~ a choice of political party
6 affiliation ~~shall be~~ is listed as having no party affiliation on
7 the voting record;

8 (3) The applicant's residence mailing address if different
9 than the residence street address;

10 (4) The last four digits of the applicant's Social Security
11 number;

12 (5) The applicant's telephone number;

13 (6) The applicant's e-mail address;

14 ~~(6)~~ (7) The address ~~at which~~ where the applicant was last
15 registered to vote, if any, for the purpose of canceling or
16 transferring the previous registration; and

17 ~~(7)~~ (8) The applicant's gender.

18 (e) The Secretary of State shall prescribe the printing
19 specifications of each type of voter registration application and
20 the voter registration application portion of any form which is
21 part of a combined agency form.

22 (f) Application forms prescribed in this section may refer to
23 various public officials by title or official position but in no
24 case may the actual name of ~~any~~ an officeholder be printed on the

1 voter registration application or on any portion of a combined
2 application form.

3 (g) No later than July 1 of each odd-numbered year, the
4 Secretary of State shall submit the specifications of the voter
5 registration application by mail for statewide bidding for a
6 contract period beginning September 1 of each odd-numbered year and
7 continuing for two calendar years. The successful bidder shall
8 produce and supply the required mail voter registration forms at
9 the contract price to all purchasers of the form for the period of
10 the contract.

11 **§3-2-6. Time of registration application before an election.**

12 (a) Voter registration before an election ~~shall close~~ closes
13 on the twenty-first day before the election or on the first day
14 thereafter which is not a Saturday, Sunday or legal holiday.

15 (b) An application for voter registration, transfer of
16 registration, change of name or change of political party
17 affiliation submitted by an eligible voter by the close of voter
18 registration ~~shall be~~ is effective for any subsequent primary,
19 general or special election if the following conditions are met:

20 (1) The application contains the information required by
21 subsection (c), section five of this article. ~~Provided, That~~
22 Incomplete applications for registration containing information
23 which are submitted within the required time may be corrected
24 within four business days after the close of registration if the

1 applicant provides the required information; and

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

5 (A) If mailed, the application shall be addressed to the
6 appropriate clerk of the county commission and is postmarked by the
7 postal service no later than the date of the close of registration.

8 ~~Provided, That~~ If the postmark is missing or illegible, the
9 application ~~shall be~~ is presumed to have been mailed no later than
10 the close of registration if it is received by the appropriate
11 clerk of the county commission no later than the third day
12 following the close of registration;

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

16 (C) If accepted through a registration outreach program, the
17 application is received by the clerk, deputy clerk or registrar no
18 later than the close of registration; ~~and~~

19 (D) If accepted through an approved electronic voter
20 registration system, the application is received by the clerk of
21 the county commission or other entity designated by the Secretary
22 of State no later than the close of business on the final day of
23 registration; and

24 (3) The verification notice by the provisions of section

1 sixteen of this article mailed to the voter at the residence
2 indicated on the application is not returned as undeliverable.

3 **§3-2-7. Hours and days of registration in the office of the clerk**
4 **of the county commission; in-person application for**
5 **voter registration; identification required.**

6 (a) The clerk of the county commission shall provide voter
7 registration services at all times when the office of the clerk is
8 open for regular business.

9 (b) ~~Any~~ An eligible voter who desires to apply for voter
10 registration in person at the office of the clerk of the county
11 commission shall complete a voter registration application on the
12 prescribed form and shall sign the oath required on that
13 application in the presence of the clerk of the county commission
14 or his or her deputy: Provided, That an individual may apply for
15 voter registration using an approved electronic voter registration
16 system if available at the office of the clerk. Such system may
17 electronically transfer the voter's signature stored in the
18 database of another state agency in accordance with procedures
19 promulgated by the Secretary of State. The applicant shall present
20 valid identification and proof of age. ~~except that~~ The clerk may
21 waive the proof of age requirement if the applicant is clearly over
22 the age of eighteen.

23 (c) The clerk shall attempt to establish whether the residence
24 address given is within the boundaries of an incorporated

1 municipality and, if so, make the proper entry required for
2 municipal residents to be properly identified for municipal voter
3 registration purposes.

4 (d) Upon receipt of the completed registration application,
5 the clerk shall either:

6 (1) Provide a notice of procedure for verification and notice
7 of disposition of the application and immediately begin the
8 verification process prescribed by the provisions of section
9 sixteen of this article; or

10 (2) Upon presentation of a current driver's license or
11 state-issued identification card containing the residence address
12 as it appears on the voter registration application, issue the
13 receipt of registration.

14 **§3-2-11. Registration in conjunction with driver licensing.**

15 (a) The Division of Motor Vehicles or ~~any~~ other division or
16 department that may be established by law to perform motor vehicle
17 driver licensing services shall provide each qualified registrant,
18 as an integral and simultaneous part of every process of
19 application for the issuance, renewal or change of address of ~~any~~
20 a motor vehicle driver's license or official identification card
21 pursuant to the provisions of article two, chapter seventeen-b of
22 this code, a voter registration application as prescribed in
23 section five of this article when the division's regional offices
24 are open for regular business. An individual may apply for voter

1 registration using an approved electronic voter registration system
2 if available at a Division of Motor Vehicles regional office.

3 (b) Notwithstanding any other provision of this code to the
4 contrary, the Division of Motor Vehicles is required to release the
5 first name, middle name, last name, premarital name, if applicable,
6 complete residence address, complete date of birth of an applicant
7 and the applicant's electronic signature, entered in the division's
8 records for driver license or nonoperator identification purposes
9 upon notice and written consent of the applicant. The notice and
10 consent is a required component of an electronic voter registration
11 application made available to the general public by the Secretary
12 of State. The release of an applicant's signature by the Division
13 of Motor Vehicles to the Office of the Secretary of State applies
14 to any voter registration application approved through an
15 electronic voter registration system approved by the Secretary of
16 State regardless of the location of the online user and provided
17 the user grants written consent.

18 ~~(b) Any~~ (c) A person who fails to sign the voter registration
19 application or who fails to return the voter registration
20 application to a driver licensing facility or to an appropriate
21 voter registration office ~~shall be~~ is considered to have declined
22 to register. Information regarding ~~any~~ a person's failure to sign
23 the voter registration application is confidential and may not be
24 used for any purpose other than to determine voter registration.

1 ~~(c) Any~~ (d) A qualified voter who submits the application for
2 registration pursuant to the provisions of subsection (a) of this
3 section in person at a driver licensing facility at the time of
4 applying for, obtaining, renewing or transferring his or her
5 driver's license or official identification card and who presents
6 identification and proof of age at that time ~~shall not be~~ is not
7 required to make his or her first vote in person or to again
8 present identification in order to make that registration valid.

9 ~~(d) Any~~ (e) A qualified voter who submits by mail or by
10 delivery by a third party an application for registration on the
11 form used in conjunction with driver licensing ~~shall be~~ is required
12 to make his or her first vote in person and present identification
13 as required for other mail registration in accordance with the
14 provisions of subsection (g), section ten of this article.
15 ~~Provided, That~~ If the applicant has been previously registered in
16 the jurisdiction and the application is for a change of address,
17 change of name, change of political party affiliation or other
18 correction, the presentation of identification and first vote in
19 person is not required.

20 ~~(e) Any~~ (f) An application for voter registration submitted
21 pursuant to the provisions of this section ~~shall be considered as~~
22 ~~updating any~~ updates a previous voter registration by the applicant
23 and ~~shall authorize~~ authorizes the cancellation of registration in
24 any other county or state in which the applicant was previously registered.

25 ~~(f) Any~~ (g) A change of address from one residence to another
26 within the same county which is submitted for driver licensing or

1 nonoperator's identification purposes in accordance with applicable
2 law ~~shall also serve~~ serves as a notice of change of address for
3 voter registration purposes ~~unless the individual indicates on the~~
4 ~~form that the change of address is not for voter registration~~
5 ~~purposes.~~ if requested by the applicant after notice and written
6 consent of the applicant.

7 ~~(g)~~ (h) Completed applications for voter registration or
8 change of address for voting purposes received by ~~any~~ an office
9 providing driver licensing services shall be forwarded to the
10 Secretary of State within five days of receipt unless other means
11 are available for a more expedited transmission. The Secretary of
12 State shall remove and file any forms which have not been signed by
13 the applicant and shall forward completed, signed applications to
14 the clerk of the appropriate county commission within five days of
15 receipt.

16 ~~(h)~~ (i) Voter registration application forms containing voter
17 information which are returned to a driver licensing office
18 unsigned shall be collected ~~and maintained for two years according~~
19 ~~to procedural rules promulgated~~ by the Division of Motor Vehicles,
20 submitted to the Secretary of State and maintained by the Secretary
21 of State's office according to the retention policy adopted by the
22 Secretary of State.

(NOTE: The purpose of this bill is to provide an electronic

voter registration system allowing for greater utilization of the Statewide Voter Registration System (SVRS), to allow for use of a designated address for voter registration purposes for participants in the Address Confidentiality Program, to establish an offense and related penalty for tampering with or copying voter registration information collected by third-party registration drives, to delete obsolete language related to manual voter registration systems, to shorten the period of time during which county clerks may enter voter history data into the statewide voter registration system, to clarify certain record-keeping requirements related to confirmation mailings required by the National Voter Registration Act of 1993 and to restrict the public release of voter e-mail addresses.

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