

**H. B. 4553**

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(By Delegates Hamilton, Ellem, Ellington,  
Longsteth, Manypenny, A. Evans, Azinger,  
Storch, Moore, M. Polilng and Skinner)

[Introduced February 14, 2014; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

10 A BILL to amend and reenact §3-1A-6 of the Code of West Virginia,  
11 1931, as amended, relating to authorizing the Secretary of  
12 State to prosecute election violations.

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

14 That §3-1A-6 of the Code of West Virginia, 1931, as amended,  
15 be amended and reenacted to read as follows:

16 **ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.**

17 **§3-1A-6. Powers and duties of Secretary of State; exercise of**  
18 **powers by appointees.**

19 (a) The Secretary of State shall be the chief election  
20 official of the state. Except for those rules required by the  
21 provisions of section five of this article to be promulgated by the  
22 commission, the Secretary of State shall have the authority, after  
23 consultation with the State Election Commission, of which he or she  
24 is a member, to make, amend and rescind such orders and to  
25 promulgate legislative rules, in accordance with the provisions of

1 chapter twenty-nine-a of this code, as may be necessary to  
2 standardize and make effective the provisions of this chapter. All  
3 election officials, county commissions, clerks of county  
4 commissions, clerks of circuit courts, boards of ballot  
5 commissioners, election commissioners and poll clerks shall abide  
6 by any orders that may be issued and any legislative rules that may  
7 be promulgated by the Secretary of State and the commission.

8 (b) The Secretary of State also shall have authority to  
9 require collection and report of statistical information and to  
10 require other reports by county commissions, clerks of county  
11 commissions and clerks of circuit courts.

12 (c) The Secretary of State shall also advise with election  
13 officials; furnish to the election officials a sufficient number of  
14 indexed copies of the current election laws of West Virginia and  
15 the administrative orders and rules issued or promulgated  
16 thereunder; investigate the administration of election laws, frauds  
17 and irregularities in any registration or election; report  
18 violations of election laws to the appropriate prosecuting  
19 officials; and prepare an annual report.

20 (d) The Secretary of State shall also have the power to  
21 administer oaths and affirmations, issue subpoenas for the  
22 attendance of witnesses, issue subpoena duces tecum to compel the  
23 production of books, papers, records, registration records and  
24 other evidence and fix the time and place for hearing any matters

1 relating to the administration and enforcement of this chapter, or  
2 the rules promulgated by the State Election Commission or by the  
3 Secretary of State as the chief election official of the state. In  
4 case of disobedience to a subpoena or subpoena duces tecum, he or  
5 she may invoke the aid of any circuit court in requiring the  
6 attendance, evidence and testimony of witnesses and the production  
7 of papers, books, records, registration records and other evidence.

8       (e) (1) The Secretary of State shall also have the power,  
9 after consultation with the Secretary of the Department of Military  
10 Affairs and Public Safety, to implement emergency procedures and  
11 rules to ensure that all eligible voters have the opportunity to  
12 cast a valid ballot and to uphold the integrity of an election in  
13 the event of natural disaster as declared by the Governor of this  
14 state, terrorist attack, war or general emergency, if any of which  
15 occur during or immediately preceding an election.

16       (2) For purposes of this subsection, a "general emergency"  
17 means circumstances preventing the casting of ballots in one or  
18 more voting precincts. The chief judge of the circuit court of the  
19 county where the casting of ballots is being prevented must declare  
20 by order that a general emergency exists."

21       (f) The Secretary of State is authorized to prosecute  
22 elections violations.

23       ~~(f)~~ (g) All powers and duties vested in the Secretary of State  
24 pursuant to this article may be exercised by appointees of the

1 Secretary of State at his or her discretion, but the Secretary of  
2 State shall be responsible for their acts.

NOTE: The purpose of this bill is to authorize the Secretary of State to prosecute elections violations.

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