

H. B. 2624

(By Delegates Howell, Moffatt, Canterbury, A. Evans, Blair, Statler,
Kurcaba, Cadle, Cooper, Ihle and Walters)

[Introduced February 5, 2015; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §3-2-4, §3-2-11, §3-2-16 and §3-2-17 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §3-1-51, all relating to voter registration photo cards; requiring that voter registration cards contain a photograph of the person registered to vote and establishing procedures for creating and distributing voter registration photo cards.

Be it enacted by the Legislature of West Virginia:

That §3-2-4, §3-2-11, §3-2-16 and §3-2-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that said code be amended by adding thereto a new section, designated §3-1-51, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-51. Voter registration photo cards.

(a) On or before July 1, 2015, all voter registration cards issued to registered voters by the Secretary of State shall contain a photograph of the person registered to vote.

(b) The Secretary of State shall establish a uniform template for voter registration photo

1 cards. The Secretary of State shall ensure that the template for voter registration photo cards can be
2 produced by any photo card equipment currently owned by the Division of Motor Vehicles and
3 county commissions.

4 (c) The Secretary of State shall provide equipment to create voter registration photo cards to
5 the clerk of the county commission of any county which does not currently own the equipment
6 necessary to produce the photo cards and in which there is no Division of Motor Vehicles office
7 capable of producing the photo cards.

8 (d) The Secretary of State shall provide all consumable materials necessary for the creation
9 of voter registration photo cards to the Division of Motor Vehicles office or county clerk's office
10 charged with creating the cards.

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

12 **§3-2-4. Authority and responsibility of the clerk of the county commission and of the county**
13 **commission relating to voter registration.**

14 (a) Subject to the authority of the Secretary of State, the clerk of the county commission shall
15 be the chief registration authority in each respective county and all subdivisions therein, and shall
16 supervise their deputies, employees and registrars in the performance of their respective duties.

17 (b) The county commission of each county shall allocate sufficient resources for the proper
18 and efficient performance of duties relating to voter registration as required by law, and shall provide
19 for temporary clerical assistance necessary for systematic purging procedures or other duties of short
20 duration required by the provisions of this article.

21 (c) The county commission shall have authority on its own motion to summon and examine
22 any person concerning the registration of voters, to investigate any irregularities in registration, to

1 summon and examine witnesses, to require the production of any relevant books and papers and to
2 conduct hearings on any matters relating to the registration of voters.

3 (d) The clerk of the county commission shall be responsible for the administration of voter
4 registration within the county and shall establish procedures and practices which ensure the full
5 implementation of the requirements of federal and state laws and rules relating to voter registration,
6 and which ensure nondiscriminatory practices.

7 (e) If there is no Division of Motor Vehicles office with the equipment to produce voter
8 registration photo cards within the county, the clerk of the county commission shall produce voter
9 registration photo cards for registered voters residing in the county, using equipment provided by the
10 Secretary of State pursuant to section fifty-one, article one of this chapter.

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

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

20 (b) Any office of the Division of Motor Vehicles with the necessary equipment shall, upon
21 request, create a voter registration photo card for any person applying for voter registration. The
22 Division of Motor Vehicles will forward the voter registration photo card to the Secretary of State

1 along with a copy of the applicant's voter registration application within five days of creating the
2 card. The division may not, under any circumstances, deliver a voter registration photo card directly
3 to a voter registration applicant.

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

14 ~~(c)~~ (d) A person who fails to sign the voter registration application or who fails to return the
15 voter registration application to a driver licensing facility or to an appropriate voter registration
16 office is considered to have declined to register. Information regarding a person's failure to sign the
17 voter registration application is confidential and may not be used for any purpose other than to
18 determine voter registration.

19 ~~(d)~~ (e) A qualified voter who submits the application for registration pursuant to the
20 provisions of subsection (a) of this section in person at a driver licensing facility at the time of
21 applying for, obtaining, renewing or transferring his or her driver's license or official identification
22 card and who presents identification and proof of age at that time is not required to make his or her

1 first vote in person or to again present identification in order to make that registration valid.

2 ~~(e)~~ (f) A qualified voter who submits by mail or by delivery by a third party an application
3 for registration on the form used in conjunction with driver licensing is required to make his or her
4 first vote in person and present identification as required for other mail registration in accordance
5 with the provisions of subsection (g), section ten of this article. If the applicant has been previously
6 registered in the jurisdiction and the application is for a change of address, change of name, change
7 of political party affiliation or other correction, the presentation of identification and first vote in
8 person is not required.

9 ~~(f)~~ (g) An application for voter registration submitted pursuant to the provisions of this
10 section updates a previous voter registration by the applicant and authorizes the cancellation of
11 registration in any other county or state in which the applicant was previously registered.

12 ~~(g)~~ (h) A change of address from one residence to another within the same county which is
13 submitted for driver licensing or nonoperator's identification purposes in accordance with applicable
14 law serves as a notice of change of address for voter registration purposes if requested by the
15 applicant after notice and written consent of the applicant.

16 ~~(h)~~ (i) Completed applications for voter registration or change of address for voting purposes
17 received by an office providing driver licensing services shall be forwarded to the Secretary of State
18 along with the applicant's printed voter registration photo card within five days of receipt unless
19 other means are available for a more expedited transmission. The Secretary of State shall remove
20 and file any forms which have not been signed by the applicant and shall forward completed, signed
21 applications and the voter registration photo card to the clerk of the appropriate county commission
22 within five days of receipt.

1 (†) (j) Voter registration application forms containing voter information which are returned
2 to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted
3 to the Secretary of State and maintained by the Secretary of State's office according to the retention
4 policy adopted by the Secretary of State.

5 **§3-2-16. Procedures upon receipt of application for registration by the clerk of the county**
6 **commission; verification procedure and notice of disposition of application for**
7 **registration.**

8 (a) Upon receipt of an application for voter registration, the clerk of the county commission
9 shall determine whether the application is complete, whether the applicant appears to be eligible to
10 register to vote within the county and whether the applicant is currently registered within the county.
11 If the application is incomplete or the applicant appears not to be eligible, the clerk shall take the
12 appropriate action as prescribed in section seventeen of this article.

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

19 (1) The clerk shall issue or mail, by first-class nonforwardable return requested, a verification
20 notice addressed to the applicant at the residence and mailing address given on the application,
21 except that the mailing address shall not be included on the notice if it appears to identify a distinctly
22 different location from the residence address, such as a business address, another residence or a

1 different city or town, unless the voter has registered as a uniformed services, overseas or homeless
2 voter and provided a local residence address pursuant to the provisions of subdivision (4), subsection
3 (c), section five of this article.

4 (2) The verification notice shall state the purpose of the procedure, the fact that no further
5 action is required of the applicant, and the fact that a notice of the disposition of the registration
6 application will be mailed after the ten day return period has expired.

7 (3) If the verification notice is not returned as undeliverable within ten days, the application
8 for registration shall be accepted and entered into the active voter registration files and a registration
9 receipt mailed designating the voter's assigned precinct.

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

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

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

22 (1) If the application is for a change of name, change of address, change of political party

1 affiliation, reinstatement or other correction of the previous voter registration, the clerk shall include
2 a new voter registration receipt;

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

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

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

13 (e) Upon accepting an individuals' registration and entering the registration into the active
14 voter registration files, the county clerk shall mail the registered voter's voter registration photo card
15 along with the receipt designating the voter's assigned precinct: *Provided*, That the clerk may not
16 deliver a voter registration photo card to any person unless that person's voter registration application
17 has been approved and is complete.

18 **§3-2-17. Denial of registration application; notice; appeal to clerk of the county commission,**
19 **decision; appeal to county commission, hearing, decision; appeal to circuit court.**

20 (a) If the clerk of the county commission finds that any of the following is true, based on the
21 application or official documentation of ineligibility, the clerk shall deny the application for voter
22 registration:

1 (1) The applicant, at the time the application is received, is not eligible to register in the
2 county and state pursuant to the provisions of section two of this article;

3 (2) The applicant has submitted an application which is incomplete, pursuant to the
4 provisions of subsection (c), section five of this article; or

5 (3) The verification notice as required in section sixteen of this article is returned as
6 undeliverable at the address given by the voter.

7 (b) When the clerk of the county commission determines that the application must be denied,
8 the clerk shall send, by first class forwardable return requested mail, a notice that the application for
9 registration was denied and the reasons therefor.

10 (1) If the reason for denial is an incomplete application, the clerk shall inform the voter of
11 the right to reapply and shall enclose a mail voter registration form for the purpose.

12 (2) If the reason for denial is return of the verification notice as undeliverable at the address
13 given, the clerk shall inform the voter of the right to present proof of residence in order to validate
14 the registration.

15 (3) If the reason for denial is ineligibility, the notice shall include a statement of eligibility
16 requirements for voter registration and of the applicant's right to appeal the denial.

17 (c) An applicant whose application for registration is denied by the clerk of the county
18 commission because of ineligibility or for failure to submit proof of residence may make a written
19 request for a reconsideration by the clerk, and may present information relating to his or her
20 eligibility. The clerk shall review the request for consideration and shall issue a decision in writing
21 within fourteen days of the receipt of the request.

22 (d) If the application is denied upon reconsideration pursuant to the provisions of subsection

1 (c) of this section, the applicant may make a written request for a hearing before the county
2 commission. The county commission shall schedule and conduct the hearing within thirty days of
3 receipt of the request and shall issue a decision, in writing, within fifteen days of the hearing.

4 (e) An applicant may appeal the decision of the county commission to the circuit court. The
5 circuit court shall only consider the record before the county commission, as authenticated by the
6 clerk of the county commission. The circuit court may affirm the order of the county commission,
7 whether the order be affirmative or negative; but if it deems such order not to be reasonably justified
8 by the evidence considered, it may reverse such orders of the county commission in whole or in part
9 as it deems just and right; and if it deems the evidence considered by the county commission in
10 reaching its decision insufficient, it may remand the proceedings to the county commission for
11 further hearing. Any such order or orders of the circuit court shall be certified to the county
12 commission.

13 (f) Any party to such appeal may, within thirty days after the date of a final order by the
14 circuit court, apply for an appeal to the Supreme Court of Appeals which may grant or refuse such
15 appeal at its discretion. The Supreme Court of Appeals shall have jurisdiction to hear and determine
16 the appeal upon the record before the circuit court and to enter such order as it may find that the
17 circuit court should have entered.

18 (g) It shall be the duty of the circuit court and the Supreme Court of Appeals, in order to
19 expedite registration and election procedures, to hold such sessions as may be necessary to determine
20 any cases involving the registration of voters. Judges of the circuit court and the Supreme Court of
21 Appeals in vacation shall have the same power as that prescribed in this section for their respective
22 courts.

1 (h) The clerk of the county commission may not deliver a voter registration photo card to any
2 person unless that person's voter registration application has been approved and is complete. If the
3 clerk of the county commission denies an individual's voter registration application, the clerk shall
4 maintain the applicant's printed voter registration photo card for sixty days after providing notice of
5 the denial, or during the pendency of a request for reconsideration or appeal of the denial, whichever
6 is longer. At the end of the period for which the clerk of the county commission is required to
7 maintain a denied applicant's voter registration photo card, the clerk shall destroy the card by burning
8 or shredding.

NOTE: The purpose of this bill is to require that all voter registration cards contain a photograph of the person registered to vote and to establish procedures for creating and distributing voter registration photo cards.

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