

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 591**

BY SENATORS TRUMP, GAUNCH, WALTERS, ASHLEY,  
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STOLLINGS AND PLYMALE

[Originating in the Committee on the Judiciary;  
reported on February 19, 2016.]



1 A BILL to amend and reenact §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as  
2 amended, all relating to voter registration list maintenance and Combined Voter  
3 Registration and Driver Licensing Fund; authorizing Secretary of State to enter into  
4 agreement with Division of Motor Vehicles for Division of Motor Vehicles to provide certain  
5 information; setting forth information to be provided by Division of Motor Vehicles;  
6 permitting Secretary of State to use information for voter registration list maintenance  
7 comparison through interstate data-sharing agreement as designated by Secretary of  
8 State; identifying additional permissible uses of funds in Combined Voter Registration and  
9 Driver Licensing Fund; and providing for periodic transfer of funds from that fund to  
10 Supreme Court of Appeals Public Campaign Financing Fund under certain circumstances.

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

1 That §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, be amended  
2 and reenacted, all to read as follows:

**ARTICLE 2. REGISTRATION OF VOTERS.**

**§3-2-4a. Statewide voter registration database.**

1 (a) The Secretary of State shall implement and maintain a single, official, statewide,  
2 centralized, interactive computerized voter registration database of every legally registered voter  
3 in the state, as follows:

4 (1) The statewide voter registration database shall serve as the single system for storing  
5 and managing the official list of registered voters throughout the state.

6 (2) The statewide voter registration database shall contain the name, registration  
7 information and voter history of every legally registered voter in the state.

8 (3) In the statewide voter registration database, the Secretary of State shall assign a  
9 unique identifier to each legally registered voter in the state.

10 (4) The statewide voter registration database shall be coordinated with other agency  
11 databases within the state and elsewhere, as appropriate.

12           (5) The Secretary of State, any clerk of the county commission, or any authorized designee  
13 of the Secretary of State or clerk of the county commission, may obtain immediate electronic  
14 access to the information contained in the statewide voter registration database.

15           (6) The clerk of the county commission shall electronically enter voter registration  
16 information into the statewide voter registration database on an expedited basis at the time the  
17 information is provided to the clerk.

18           (7) The Secretary of State shall provide necessary support to enable every clerk of the  
19 county commission in the state to enter information as described in subdivision (6) of this  
20 subsection.

21           (8) The statewide voter registration database shall serve as the official voter registration  
22 list for conducting all elections in the state.

23           (b) The Secretary of State or any clerk of a county commission shall perform maintenance  
24 with respect to the statewide voter registration database on a regular basis as follows:

25           (1) If an individual is to be removed from the statewide voter registration database he or  
26 she shall be removed in accordance with the provisions of 42 U. S. C. §1973gg, *et seq.*, the  
27 National Voter Registration Act of 1993.

28           (2) The Secretary of State shall coordinate the statewide voter registration database with  
29 state agency records and shall establish procedures for the removal of names of individuals who  
30 are not qualified to vote due to felony status or death. No state agency may withhold information  
31 regarding a voter's status as deceased or as a felon unless ordered by a court of law.

32           (c) The list maintenance performed under subsection (b) of this section shall be conducted  
33 in a manner that ensures that:

34           (1) The name of each registered voter appears in the statewide voter registration  
35 database;

36           (2) Only voters who are not registered, who have requested in writing that their voter  
37 registration be canceled, or who are not eligible to vote are removed from the statewide voter  
38 registration database;

39 (3) Duplicate names are eliminated from the statewide voter registration database; and

40 (4) Deceased individuals' names are eliminated from the statewide voter registration  
41 database.

42 (d) The Secretary of State and the clerks of all county commissions shall provide adequate  
43 technological security measures to prevent the unauthorized access to the statewide voter  
44 registration database established under this section.

45 (e) The Secretary of State shall ensure that voter registration records in the state are  
46 accurate and updated regularly, including the following:

47 (1) A system of file maintenance that makes a reasonable effort to remove registrants who  
48 are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42  
49 U. S. C. §1973gg, *et seq.*, registrants who have not responded to a notice sent pursuant to section  
50 twenty six, article two of this chapter, who have not otherwise updated their voter registration  
51 address, and who have not voted in two consecutive general elections for federal office shall be  
52 removed from the official list of eligible voters, except that no registrant may be removed solely  
53 by reason of a failure to vote;

54 (2) By participation in programs across state lines to share data specifically for voter  
55 registration to ensure that voters who have moved across state lines or become deceased in  
56 another state are removed in accordance with state law and 42 U. S. C. §1973gg, *et seq.*; and

57 (3) Through safeguards to ensure that eligible voters are not removed in error from the  
58 official list of eligible voters.

59 (f) Applications for voter registration may be accepted only when the following information  
60 is provided:

61 (1) Except as provided in subdivision (2) of this subsection and notwithstanding any other  
62 provision of law to the contrary, an application for voter registration may not be accepted or  
63 processed unless the application includes:

64 (A) In the case of an applicant who has been issued a current and valid driver's license,  
65 the applicant's driver's license number;

66 (B) In the case of an applicant who has been issued an identification card by the Division  
67 of Motor Vehicles, the applicant's identification number; or

68 (C) In the case of any other applicant, the last four digits of the applicant's Social Security  
69 number; and

70 (2) If an applicant for voter registration has not been issued a current and valid driver's  
71 license, Division of Motor Vehicles identification card, or a Social Security number, the Secretary  
72 of State shall assign the applicant a number which will serve to identify the applicant for voter  
73 registration purposes. The number assigned under this subdivision shall be the unique identifying  
74 number assigned under the statewide voter registration database.

75 (g)(1) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall  
76 enter into an agreement to match and transfer applicable information in the statewide voter  
77 registration database with information in the database of the Division of Motor Vehicles to the  
78 extent required to enable each official to verify the accuracy of the information provided on  
79 applications for voter registration.

80 (2) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall  
81 enter into an agreement for the Division of Motor Vehicles to provide all name fields, residence  
82 and mailing address fields, driver's license or state identification number, last four digits of the  
83 Social Security number, date of birth, license or identification issuance and expiration dates, and  
84 current record status of individuals eligible to register to vote to the Secretary of State for the  
85 purpose of voter registration list maintenance comparison through an interstate data-sharing  
86 agreement designated by the Secretary of State as permitted by subdivision (2), subsection (e)  
87 of this section.

88 (h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with  
89 the Commissioner of Social Security under 42 U. S. C. §401, *et seq.*, the Social Security Act. All

90 fees associated with this agreement shall be paid for from moneys in the fund created under  
91 section twelve of this article.

**§3-2-12. Combined voter registration and driver licensing fund; transfer of funds.**

1 (a) Fifty cents of each license fee collected pursuant to the provisions of section one,  
2 article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of  
3 a special revenue fund to be known as the Combined Voter Registration and Driver Licensing  
4 Fund. The moneys so credited to such fund may be used by the Secretary of State for the  
5 following purposes:

6 (1) Printing and distribution of combined driver licensing or other agency applications and  
7 voter registration forms, or for the printing of voter registration forms to be used in conjunction  
8 with driver licensing or other agency applications;

9 (2) Printing and distribution of mail voter registration forms for purposes of this article;

10 (3) Supplies, postage and mailing costs for correspondence relating to voter registration  
11 for agency registration sites and for the return of completed voter registration forms to the  
12 appropriate state or county election official;

13 (4) Reimbursement of postage and mailing costs incurred by clerks of the county  
14 commissions for sending a verification mailing, confirmation of registration or other mailings  
15 directly resulting from an application to register, change or update a voter's registration through a  
16 driver licensing or other agency;

17 (5) Reimbursement to state funded agencies designated to provide voter registration  
18 services under this chapter for personnel costs associated with the time apportioned to voter  
19 registration services and assistance;

20 (6) The purchase, printing and distribution of public information and other necessary  
21 materials or equipment to be used in conjunction with voter registration services provided by state  
22 funded agencies designated pursuant to the provisions of this article;

23 (7) The development of a statewide program of uniform voter registration computerization  
24 for use by each county registration office and the Secretary of State, purchase of uniform voter  
25 registration software, payment of software installation costs and reimbursement to the county  
26 commissions of not more than fifty percent of the cost per voter for data entry or data conversion  
27 from a previous voter registration software program;

28 (8) Payment of up to fifty percent of the costs of conducting a joint program with  
29 participating counties to identify ineligible voters by using the United States postal service  
30 information as provided in section twenty-five of this article: *Provided*, That such assistance shall  
31 be available only to counties which maintain voter registration lists on the statewide uniform voter  
32 data system; ~~and~~

33 (9) Payment of any dues or fees associated with a program to match and transfer data to  
34 and from other states;

35 (10) Resources related to voter registration and list maintenance; and

36 ~~(9)~~ (11) Payment or reimbursement of other costs associated with implementation of the  
37 requirements of the National Voter Registration Act of 1993 (42 U. S. C. 1973gg): *Provided*, That  
38 revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in  
39 subdivisions (1) through ~~(8)~~ (10), inclusive, of this subsection.

40 (b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter  
41 twenty-nine-a of this code to provide for the administration of the fund established in subsection  
42 (a) of this section.

43 (c) Any balance in the fund created by subsection (a) of this section which exceeds  
44 \$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the  
45 Supreme Court of Appeals Public Campaign Financing Fund established by section five, article  
46 twelve of this chapter.

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