WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

ENROLLED

HOUSE BILL No. 1882

(By Mr. Hooton & Mr. Freindberg)

Passed March 10, 1983

In Effect Ninety Days From Passage
AN ACT to amend and reenact sections two, three, twenty-three and twenty-eight, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article two by adding thereto four new sections designated sections forty-one, forty-two, forty-three and forty-four, relating to the registration of voters generally; setting forth voter registration requirements; establishing a permanent registration system and making provisions for the cancellation and reinstatement of voter registration; authorizing absentee registration by mail under certain circumstances; providing a procedure for changing a registered voter's name; creating an additional procedure for registration and transfer of registration by mail; providing for the processing of applications by the county clerk; requiring the use and distribution of a uniform statewide application for voter registration; requiring certain notice and instructions to be provided on application to persons seeking to register, reregister or transfer registration; requirement of acknowledgement on application; requirements as to voting in person at next election succeeding filing of application; defining certain felony offenses relating to applications for registration, re-registration or change of registration and prescribing penalties therefor; setting forth a procedure to be followed for recording information on a registration application and authorizing county clerk to reject suspicious applications and to make inquiry in reference thereto.

Be it enacted by the Legislature of West Virginia:

That sections two, three, twenty-three and twenty-eight, article
two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article two be further amended by adding thereto four new sections, designated sections forty-one forty-two, forty-three and forty-four, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-2. Voter registration requirements.

No voter otherwise qualified shall be permitted to vote at any election unless he shall have been duly registered or shall have placed himself within the "challenged voters" provision of this chapter, and only those persons who possess the constitutional and statutory qualifications for voting shall be permitted to register, except that minors, otherwise qualified, who shall have attained the age of eighteen years by the time of the next ensuing election, may be permitted to register.

§3-2-3. Registration, cancellation and reinstatement.

A permanent registration system shall hereby be established which shall be uniform throughout the state and all of its subdivisions. No voter so registered shall be required to register again for any election while he continues to reside at the same address, or, having moved from such address, is properly transferred according to the provisions of section twenty-seven or forty-one of this article, unless his registration is canceled as provided in this article.

Within one hundred and twenty days following any election, the clerk of the county commission shall, as evidenced by the presence or absence of signatures on the pollbooks for such election, correct any errors or omissions on the voter registration records appertaining to such election resulting from the poll clerks erroneously checking or failing to check the registration records as required by the provisions of section thirty-four article one of this chapter; and, within the same time period following each statewide primary and general election and at the same time that such checkup is made as is by this paragraph required, the clerk shall cancel the registration of each person who has failed to vote at least once during a period covering two statewide primary and two general elections as
indicated by his registration record. Any person who has had his registration for that reason canceled shall, by letter, be given proper notice thereof by the clerk of the county commission, to the effect that in order to vote he must register again or execute and file, not later than thirty days before the next primary or general election, with the clerk, a uniform statewide application as described in section forty-one of this article, stating that he desires to be reinstated as a qualified voter at the same address and the clerk shall replace the registration card of the voter in the registration records. A blank copy of such form shall be included with and accompany the aforesaid notice to the voter.

§3-2-23. Absentee registration.

Any person who possesses the qualifications for registration but who is absent from the state or county on account of occupation, or for any other necessary cause, including service in the armed forces of the United States, may at any time register by mail according to the procedure prescribed by section forty-one of this article.

§3-2-28. Procedure on change of registered voter's name.

Whenever a voter, previously registered, shall change his name, such person shall be required to register again. For this purpose such person may register by mail in the same manner prescribed in section forty-one of this article. Upon such registration, the clerk of the county commission shall cancel the registration record bearing the voter's former name. When such a change of name is made during the thirty days immediately preceding any election, such voter, if duly registered, may vote at the election under his former name.

§3-2-41. Registration and transfer of registration by mail; form to be required and distribution thereof; must be received by county clerk thirty days prior to election before applicant entitled to vote therein; clerk to forward application if applicant outside jurisdiction, but resident of state; application forms to be made widely available by county clerk; form of application and information required.

(a) In addition to any procedures which may be used in
effecting the biennial checkup as provided under section twenty-one of this article, central registration and transfer as provided under sections twenty-two and twenty-seven of this article, and the provisions with respect to registration of absentee voters under section twenty-three of this article, any qualified person may register or transfer his registration by mail.

(b) Completed applications, when received by any county clerk not later than the fortieth day before the following primary, general or special election, entitle the applicant to vote in such election if he is otherwise qualified. Any county clerk receiving an application from a person who does not reside in his county but who does reside elsewhere in the state shall forthwith forward such application to the proper county clerk. Each county clerk shall make an entry on such application of the date it is received by such clerk, and the application shall remain on file in the office of the clerk for at least two years from the date it was received.

(c) Applications for use pursuant to this section shall be made available by the county clerk to every adult person of the county, not registered, and to any registered voter of the county upon request. The application for use pursuant to this section shall be a uniform statewide application in a form to be prescribed by the secretary of state and shall include the information required under the form provisions of section nineteen of this article. The form, which shall be self-addressed, is to be as widely and freely distributed as possible and shall be a bifold self-mailer which shall be compatible with local systems of voter registration data collection and storage.

(d) In addition to the information required under the form provisions of section nineteen of this article the form shall contain such other information as the secretary of state may reasonably require and shall also include the following information:

(1) Notice that those currently registered do not need to reregister unless they have moved or failed to vote at least once during a period covering two statewide primary and two general elections as indicated by their registration records;
(2) Instructions on how to fill out and submit the form and that the form must be received by the appropriate county clerk at least thirty days prior to the election at which the applicant may vote;

(3) Notice that registration or transfer is not complete until the form is received by the appropriate county clerk;

(4) Notice of a voter's right to register centrally;

(5) A warning to the voter that it is a crime to procure a false registration and notice of the felony offenses provided for in section forty-two of this article.

(6) Notice that political party enrollment is optional but, in order to vote in a primary election of a political party, a voter must enroll in that political party;

(7) Notice that the applicant must be a citizen of the United States, at least seventeen years old and will be eighteen years old on or before the next general election, and a resident of the county to which application is made;

(8) Notice that a voter notification form will be mailed to those applicants whose complete form is received;

(9) The telephone number of the county clerk;

(10) A space for the applicant to indicate whether or not he has ever been registered before and if so his name and address at the time of prior registration;

(11) A space for the applicant to indicate his choice of party, if any, in which space the names of all parties are provided so that the applicant can check one with a clear alternative provided for an applicant to decline to affiliate with any party; and

(12) A place for the applicant to execute the application on a line which is clearly labeled “signature of applicant” and contained in the following specific form of oath or affirmation:

“I do solemnly swear or affirm that the information provided in the preceding uniform statewide application is true
to the best of my knowledge, information and belief, and I understand that if I willingly provide false information concerning a material matter or thing therein, I shall be deemed guilty of the felony offense of perjury and shall be subject to the penalties for perjury.

______________________________________________
Signature of applicant

Subscribed and sworn (or affirmed) to before me, this ____ day of ___________, 19______.

which oath or affirmation shall be administered by a person authorized to perform notarial acts under the provisions of article one or one-a, chapter thirty-nine of this code. The person administering the oath or affirmation shall not charge a fee for such act, and the uniform statewide application shall inform the person administering such oath or affirmation that no fee is to be charged.

(13) Any person who has registered, reregistered or transferred registration pursuant to this section shall, in order that such registration be valid, be required to vote in person at the poll or appear in person at the office of the clerk of the circuit court to vote an absentee ballot in the first election next succeeding the filing of the application.

(e) The uniform statewide application prescribed by this section may refer to various public officials by title or official position (e.g., clerk of the county commission, secretary of state), but in no case shall the actual name of the officeholder be printed or otherwise appear on such form: Provided, That nothing contained in this subdivision shall prohibit a public official, otherwise qualified, from administering the oath or affirmation in accordance with the provisions of subdivision (12), subsection (d) of this section, and affixing his signature thereto.

(f) It shall be the duty of the secretary of state to create and commence distribution of the forms for the uniform statewide application within six months following the effective date of this section.
§3-2-42. Crimes and offenses relating to applications for registration, reregistration, or change of registration; penalties.

(a) A person who willfully provides false information concerning a material matter or thing in a uniform statewide application for registration, reregistration, or change of registration, under oath or affirmation lawfully administered, shall be deemed guilty of perjury; one who induces or procures another person to do so shall be deemed guilty of subordination of perjury.

(b) A person who knowingly offers or intends to offer any application for registration, reregistration or transfer of registration when the applicant therein is not qualified to register or transfer his registration, or any person who knowingly administers an oath or affirmation to an applicant for registration, reregistration or change of registration when the application contains false information concerning a material matter or thing, or any person who falsely represents that an oath or affirmation was executed by an applicant for registration, reregistration or change of registration, shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one year nor more than three years, or fined not less than five hundred dollars nor more than five thousand dollars, or both fined and imprisoned, or, in the discretion of the court, be confined in the county jail for not more than one year, or fined not less than five hundred dollars nor more than five thousand dollars, or both fined and imprisoned.

§3-2-43. Recording of registration or transfer by the county clerk; transfer of registration by mail.

(a) If the application contains substantially all the required information indicating that the applicant is legally qualified to register or transfer registration as stated in his application, the county clerk shall transfer all information on such application to the appropriate registration records. Perforated portions of the application containing the applicant's signature, or in lieu thereof, a photostatic copy of the applicant's signature, shall be pasted in each space provided on the registration records for the insertion of the registrant's signature.
(b) If the application is one for transfer of registration and contains substantially all of the required information and the applicant is legally qualified to transfer his registration as stated in his application, the county clerk shall do so as provided in section twenty-seven of this article.

§3-2-44. Rejection and investigation authorized by county clerk when applicant not entitled to registration or transfer.

(a) If the county clerk suspects or believes that for any reason the applicant is not entitled to registration or to transfer his registration, he shall make inquiry in reference thereto. If the county clerk finds that the applicant is not qualified to register or transfer his registration, the application shall be rejected and the applicant notified of such rejection with the reason therefor, no later than ten days before the first election day next succeeding the filing of the application.

(b) The county clerk, whenever not satisfied from an examination of an application for registration or transfer that the applicant is entitled to such registration or transfer, may order an investigation through any authorized officer or employee of the state or county commission, police officer, sheriff or deputy sheriff.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 26 day of March, 1983.

Governor