

No: 1882

APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED
MAR 21 3 14 PM '83
OFFICE OF THE GOVERNOR

Date 3-26-83

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

HOUSE BILL No. 1882

(By Mr. Wootton & Mr. Feinberg)



Passed March 10, 1983

In Effect Ninety Days From Passage



ENROLLED

H. B. 1882

(By MR. WOOTON and MR. FEINBERG)

[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.

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

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

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

9 Within one hundred and twenty days following any election,
10 the clerk of the county commission shall, as evidenced by the
11 presence or absence of signatures on the pollbooks for such
12 election, correct any errors or omissions on the voter registra-
13 tion records appertaining to such election resulting from the
14 poll clerks erroneously checking or failing to check the regis-
15 tration records as required by the provisions of section thirty-
16 four article one of this chapter; and, within the same time per-
17 iod following each statewide primary and general election and
18 at the same time that such checkup is made as is by this para-
19 graph required, the clerk shall cancel the registration of each
20 person who has failed to vote at least once during a period
21 covering two statewide primary and two general elections as

22 indicated by his registration record. Any person who has had
23 his registration for that reason canceled shall, by letter, be given
24 proper notice thereof by the clerk of the county commission,
25 to the effect that in order to vote he must register again or
26 execute and file, not later than thirty days before the next
27 primary or general election, with the clerk, a uniform state-
28 wide application as described in section forty-one of this
29 article, stating that he desires to be reinstated as a qualified
30 voter at the same address and the clerk shall replace the regis-
31 tration card of the voter in the registration records. A blank
32 copy of such form shall be included with and accompany the
33 aforesaid notice to the voter.

§3-2-23. Absentee registration.

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

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

1 Whenever a voter, previously registered, shall change his
2 name, such person shall be required to register again. For
3 this purpose such person may register by mail in the same
4 manner prescribed in section forty-one of this article. Upon
5 such registration, the clerk of the county commission shall
6 cancel the registration record bearing the voter's former
7 name. When such a change of name is made during the thirty
8 days immediately preceding any election, such voter, if duly
9 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.

1 (a) In addition to any procedures which may be used in

2 effecting the biennial checkup as provided under section
3 twenty-one of this article, central registration and transfer
4 as provided under sections twenty-two and twenty-seven of this
5 article, and the provisions with respect to registration of
6 absentee voters under section twenty-three of this article, any
7 qualified person may register or transfer his registration by
8 mail.

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

20 (c) Applications for use pursuant to this section shall be
21 made available by the county clerk to every adult person of
22 the county, not registered, and to any registered voter of the
23 county upon request. The application for use pursuant to this
24 section shall be a uniform statewide application in a form to
25 be prescribed by the secretary of state and shall include the
26 information required under the form provisions of section nine-
27 teen of this article. The form, which shall be self-addressed, is
28 to be as widely and freely distributed as possible and shall be
29 a bifold self-mailer which shall be compatible with local sys-
30 tems of voter registration data collection and storage.

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

36 (1) Notice that those currently registered do not need to
37 reregister unless they have moved or failed to vote at least once
38 during a period covering two statewide primary and two gen-
39 eral elections as indicated by their registration records;

40 (2) Instructions on how to fill out and submit the form and
41 that the form must be received by the appropriate county clerk
42 at least thirty days prior to the election at which the appli-
43 cant may vote;

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

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

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

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

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

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

59 (9) The telephone number of the county clerk;

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

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

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

72 "I do solemnly swear or affirm that the information pro-
73 vided in the preceding uniform statewide application is true

74 to the best of my knowledge, information and belief, and I
75 understand that if I willingly provide false information con-
76 cerning a material matter or thing therein, I shall be deemed
77 guilty of the felony offense of perjury and shall be subject
78 to the penalties for perjury.

79 _____
80 Signature of applicant

81 Subscribed and sworn (or affirmed) to before me, this
82 day of, 19.....
83 _____”

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

91 (13) Any person who has registered, reregistered or trans-
92 ferred registration pursuant to this section shall, in order that
93 such registration be valid, be required to vote in person at the
94 poll or appear in person at the office of the clerk of the cir-
95 cuit court to vote an absentee ballot in the first election next
96 succeeding the filing of the application.

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

107 (f) It shall be the duty of the secretary of state to create and
108 commence distribution of the forms for the uniform statewide
109 application within six months following the effective date of
110 this section.

§3-2-42. Crimes and offenses relating to applications for registration, reregistration, or change of registration; penalties.

1 (a) A person who willfully provides false information con-
 2 cerning a material matter or thing in a uniform statewide ap-
 3 plication for registration, reregistration, or change of regis-
 4 tration, under oath or affirmation lawfully administered, shall
 5 be deemed guilty of perjury; one who induces or procures
 6 another person to do so shall be deemed guilty of subordina-
 7 tion of perjury.

8 (b) A person who knowingly offers ~~or intends to offer~~ any
 9 application for registration, reregistration or transfer of regis-
 10 tration when the applicant therein is not qualified to register
 11 or transfer his registration, or any person who knowingly ad-
 12 ministers an oath or affirmation to an applicant for registra-
 13 tion, reregistration or change of registration when the appli-
 14 cation contains false information concerning a material matter
 15 or thing, or any person who falsely represents that an oath or
 16 affirmation was executed by an applicant for registration,
 17 reregistration or change of registration, shall be guilty of
 18 a felony, and, upon conviction thereof, shall be imprisoned in
 19 the penitentiary not less than one year nor more than three
 20 years, or fined not less than five hundred dollars nor more
 21 than five thousand dollars, or both fined and imprisoned, or,
 22 in the discretion of the court, be confined in the county jail
 23 for not more than one year, or fined not less than five
 24 hundred dollars nor more than five thousand dollars, or both
 25 fined and imprisoned.

OK
 OK
 EX

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

1 (a) If the application contains substantially all the required
 2 information indicating that the applicant is legally qualified
 3 to register or transfer registration as stated in his application,
 4 the county clerk shall transfer all information on such applica-
 5 tion to the appropriate registration records. Perforated por-
 6 tions of the application containing the applicant's signature,
 7 or in lieu thereof, a photostatic copy of the applicant's signa-
 8 ture, shall be pasted in each space provided on the registration
 9 records for the insertion of the registrant's signature.

10 (b) If the application is one for transfer of registration
11 and contains substantially all of the required information and
12 the applicant is legally qualified to transfer his registration
13 as stated in his application, the county clerk shall do so as
14 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.**

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

9 (b) The county clerk, whenever not satisfied from an
10 examination of an application for registration or transfer that
11 the applicant is entitled to such registration or transfer, may
12 order an investigation through any authorized officer or em-
13 ployee of the state or county commission, police officer, sheriff
14 or deputy sheriff.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

[Handwritten Signature]

Chairman Senate Committee

[Handwritten Signature]

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Handwritten Signature]

Clerk of the Senate

[Handwritten Signature]

Clerk of the House of Delegates

[Handwritten Signature]

President of the Senate

[Handwritten Signature]

Speaker House of Delegates

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

[Handwritten Signature]

Governor

RECEIVED

83 MAR 28 P 4: 19

OFFICE
SECY. OF STATE