WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
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ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 477
(SENATOR PALUMBO, ORIGINAL SPONSOR)

[PASSED APRIL 12, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]
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AN ACT to repeal §3-2-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said code, all relating to electronic registration of voters; repealing outdated code regarding manual voter registration systems; authorizing Secretary of State to promulgate procedures to permit persons to register to vote through a secure electronic voter registration system; providing an exception to address requirements on registration for participants in the address confidentiality program; permitting transmission of electronically stored signatures for registration in certain instances; allowing acceptance of registration with or without an email address; requiring electronic registration be received by close of business on the day of the registration deadline; permitting people to register to vote through approved electronic voter registration systems at certain locations; authorizing the Division of Motor Vehicles to release certain information to the Secretary of State upon notice and consent of the registered voter; and making certain clarifications of current code.

Be it enacted by the Legislature of West Virginia:
That §3-2-24 of the Code of West Virginia, 1931, as amended, be repealed; and that §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-5. Forms for application for registration; information required and requested; types of application forms; notices.

(a) (1) All state forms for application for voter registration shall be prescribed by the Secretary of State and shall conform with the requirements of 42 U. S. C. §1973gg, et seq., the National Voter Registration Act of 1993 and the requirements of the provisions of this article. Separate application forms may be prescribed for voter registration conducted by the clerk of the county commission, registration by mail, registration in conjunction with an application for motor vehicle driver’s license and registration at designated agencies. These forms may consist of one or more parts, may be combined with other forms for use in registration by designated agencies or in conjunction with driver licensing and may be revised and reissued as required by the Secretary of State to provide for the efficient administration of voter registration.

(2) Notwithstanding any provisions of subdivision (1) of this subsection to the contrary, the federal postcard application for voter registration issued pursuant to 42 U. S. C. §1973, et seq., the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the mail voter registration application form prescribed by the Federal Election Commission pursuant to 42 U. S. C. §1973gg, et seq., the National Voter Registration Act of 1993, are accepted as valid forms of application for registration pursuant to the provisions of this article.
(3) The Secretary of State is authorized to promulgate procedures to permit persons to register to vote through a secure electronic voter registration system.

(b) Each application form for registration shall include:

(1) A statement specifying the eligibility requirements for registration and an attestation that the applicant meets each eligibility requirement;

(2) Any specific notice or notices required for a specific type or use of application by 42 U. S. C. §1973gg, et seq., the National Voter Registration Act of 1993;

(3) A notice that a voter may be permitted to vote the partisan primary election ballot of a political party only if the voter has designated that political party on the application for registration unless the political party has determined otherwise;

(4) The applicant’s driver’s license number or an identification number issued by the Division of Motor Vehicles. If the applicant does not have a driver’s license or an identification card issued by the Division of Motor Vehicles, then the last four digits of the applicant’s Social Security number; and

(5) Any other instructions or information essential to complete the application process.

(c) Each application form shall require that the following be provided by the applicant, under oath, and an application which does not contain each of the following is incomplete:

(1) The applicant’s legal name, including the first name, middle or premarital name, if any, and last name;
(2) The month, day and year of the applicant’s birth;

(3) The applicant’s residence address including the number and street or route and city and county of residence except:

(A) In the case of a person eligible to register under the provisions of 42 U. S. C. §1973ff, et seq., the Uniformed and Overseas Citizens Absentee Voting Act, the address at which he or she last resided before leaving the United States or entering the uniformed services, or if a dependent child of such a person, the address at which his or her parent last resided;

(B) In the case of a homeless person having no fixed residence address who nevertheless resides and remains regularly within the county, the address of a shelter, assistance center or family member with whom he or she has regular contact or other specific location approved by the clerk of the county commission for the purposes of establishing a voting residence; or

(C) In the case of a participant in the Address Confidentiality Program administered by the Secretary of State in accordance with section one hundred three, article twenty-eight (a), chapter forty-eight of this code, the designated address assigned to the participant by the Secretary of State; and

(4) The applicant’s signature, under penalty of perjury as provided in section thirty-six of this article, to the attestation of eligibility to register to vote and to the truth of the information given. The clerk may accept the electronically transmitted signature kept on file with another approved state database for an applicant who applies to register to vote using an approved electronic voter registration system in
accordance with procedures promulgated by the Secretary of State.

(d) The applicant shall be requested to provide the following information but no application may be rejected for lack of this information:

(1) An indication whether the application is for a new registration, change of address, change of name or change of party affiliation;

(2) The applicant's choice of political party affiliation, if any, or an indication of no affiliation. An applicant who does not enter a choice of political party affiliation is listed as having no party affiliation on the voting record;

(3) The applicant's residence mailing address if different than the residence street address;

(4) The last four digits of the applicant's Social Security number;

(5) The applicant's telephone number;

(6) The applicant's e-mail address;

(7) The address where the applicant was last registered to vote, if any, for the purpose of canceling or transferring the previous registration; and

(8) The applicant's gender.

(e) The Secretary of State shall prescribe the printing specifications of each type of voter registration application and the voter registration application portion of any form which is part of a combined agency form.
(f) Application forms prescribed in this section may refer to various public officials by title or official position but in no case may the actual name of an officeholder be printed on the voter registration application or on any portion of a combined application form.

(g) No later than July 1 of each odd-numbered year, the Secretary of State shall submit the specifications of the voter registration application by mail for statewide bidding for a contract period beginning September 1 of each odd-numbered year and continuing for two calendar years. The successful bidder shall produce and supply the required mail voter registration forms at the contract price to all purchasers of the form for the period of the contract.

§3-2-6. Time of registration application before an election.

(a) Voter registration before an election closes on the twenty-first day before the election or on the first day thereafter which is not a Saturday, Sunday or legal holiday.

(b) An application for voter registration, transfer of registration, change of name or change of political party affiliation submitted by an eligible voter by the close of voter registration is effective for any subsequent primary, general or special election if the following conditions are met:

(1) The application contains the information required by subsection (c), section five of this article. Incomplete applications for registration containing information which are submitted within the required time may be corrected within four business days after the close of registration if the applicant provides the required information; and

(2) The application is received by the appropriate clerk of the county commission no later than the hour of the close of
registration or is otherwise submitted by the following deadlines:

(A) If mailed, the application shall be addressed to the appropriate clerk of the county commission and is postmarked by the postal service no later than the date of the close of registration. If the postmark is missing or illegible, the application is presumed to have been mailed no later than the close of registration if it is received by the appropriate clerk of the county commission no later than the third day following the close of registration;

(B) If accepted by a designated agency or motor vehicle licensing office, the application is received by that agency or office no later than the close of registration;

(C) If accepted through a registration outreach program, the application is received by the clerk, deputy clerk or registrar no later than the close of registration;

(D) If accepted through an approved electronic voter registration system, the application is received by the clerk of the county commission or other entity designated by the Secretary of State no later than the close of business on the final day of registration; and

(3) The verification notice by the provisions of section sixteen of this article mailed to the voter at the residence indicated on the application is not returned as undeliverable.

§3-2-7. Hours and days of registration in the office of the clerk of the county commission; in-person application for voter registration; identification required.

(a) The clerk of the county commission shall provide voter registration services at all times when the office of the clerk is open for regular business.
(b) An eligible voter who desires to apply for voter registration in person at the office of the clerk of the county commission shall complete a voter registration application on the prescribed form and shall sign the oath required on that application in the presence of the clerk of the county commission or his or her deputy: Provided, That an individual may apply for voter registration using an approved electronic voter registration system if available at the office of the clerk. Such system may electronically transfer the voter’s signature stored in the database of another state agency in accordance with procedures promulgated by the Secretary of State. The applicant shall present valid identification and proof of age. The clerk may waive the proof of age requirement if the applicant is clearly over the age of eighteen.

(c) The clerk shall attempt to establish whether the residence address given is within the boundaries of an incorporated municipality and, if so, make the proper entry required for municipal residents to be properly identified for municipal voter registration purposes.

(d) Upon receipt of the completed registration application, the clerk shall either:

(1) Provide a notice of procedure for verification and notice of disposition of the application and immediately begin the verification process prescribed by the provisions of section sixteen of this article; or

(2) Upon presentation of a current driver’s license or state-issued identification card containing the residence address as it appears on the voter registration application, issue the receipt of registration.
§3-2-11. Registration in conjunction with driver licensing.

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

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

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

(d) A qualified voter who submits the application for registration pursuant to the provisions of subsection (a) of this section in person at a driver licensing facility at the time of applying for, obtaining, renewing or transferring his or her driver’s license or official identification card and who presents identification and proof of age at that time is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

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

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

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

(h) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available for a more expedited transmission. The Secretary of State shall remove and file any forms which have not been signed by the applicant and shall forward completed, signed applications to the clerk of the appropriate county commission within five days of receipt.

(i) Voter registration application forms containing voter information which are returned to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted to the Secretary of State and maintained by the Secretary of State’s office according to the retention policy adopted by the Secretary of State.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Member Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within .. was approved this the 2nd Day of May, 2013.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 1:50 pm