

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

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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.]

SB 477

WEST VIRGINIA
SENATE OF STATE

2013 MAY -2 PM 12: 17

FILED

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E N R O L L E D
COMMITTEE SUBSTITUTE

OFFICE OF THE CLERK
WEST VIRGINIA
STATE

FOR

Senate Bill No. 477

(Senator Palumbo, *original sponsor*)

[Passed April 12, 2013; in effect ninety days from passage.]

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reenact §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said code, all relating to electronic registration of voters; repealing outdated code regarding manual voter registration systems; authorizing Secretary of State to promulgate procedures to permit persons to register to vote through a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That §3-2-24 of the Code of West Virginia, 1931, as amended, be repealed; and that §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said code be amended and reenacted, all to read as follows: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.

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

16 (2) Notwithstanding any provisions of subdivision (1) of
17 this subsection to the contrary, the federal postcard
18 application for voter registration issued pursuant to 42 U. S.
19 C. §1973, *et seq.*, the Uniformed and Overseas Citizens
20 Absentee Voting Act of 1986 and the mail voter registration
21 application form prescribed by the Federal Election
22 Commission pursuant to 42 U. S. C. §1973gg, *et seq.*, the
23 National Voter Registration Act of 1993, are accepted as
24 valid forms of application for registration pursuant to the
25 provisions of this article.

26 (3) The Secretary of State is authorized to promulgate
27 procedures to permit persons to register to vote through a
28 secure electronic voter registration system.

29 (b) Each application form for registration shall include:

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

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

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

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

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

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

52 (1) The applicant's legal name, including the first name,
53 middle or premarital name, if any, and last name;

54 (2) The month, day and year of the applicant's birth;

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

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

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

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

78 (4) The applicant's signature, under penalty of perjury as
79 provided in section thirty-six of this article, to the attestation
80 of eligibility to register to vote and to the truth of the
81 information given. The clerk may accept the electronically
82 transmitted signature kept on file with another approved state
83 database for an applicant who applies to register to vote using
84 an approved electronic voter registration system in

85 accordance with procedures promulgated by the Secretary of
86 State.

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

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

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

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

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

101 (5) The applicant's telephone number;

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

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

106 (8) The applicant's gender.

107 (e) The Secretary of State shall prescribe the printing
108 specifications of each type of voter registration application
109 and the voter registration application portion of any form
110 which is part of a combined agency form.

111 (f) Application forms prescribed in this section may refer
112 to various public officials by title or official position but in no
113 case may the actual name of an officeholder be printed on the
114 voter registration application or on any portion of a combined
115 application form.

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

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

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

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

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

15 (2) The application is received by the appropriate clerk of
16 the county commission no later than the hour of the close of

17 registration or is otherwise submitted by the following
18 deadlines:

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

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

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

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

38 (3) The verification notice by the provisions of section
39 sixteen of this article mailed to the voter at the residence
40 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.**

1 (a) The clerk of the county commission shall provide
2 voter registration services at all times when the office of the
3 clerk is open for regular business.

4 (b) An eligible voter who desires to apply for voter
5 registration in person at the office of the clerk of the county
6 commission shall complete a voter registration application on
7 the prescribed form and shall sign the oath required on that
8 application in the presence of the clerk of the county
9 commission or his or her deputy: *Provided*, That an
10 individual may apply for voter registration using an approved
11 electronic voter registration system if available at the office
12 of the clerk. Such system may electronically transfer the
13 voter's signature stored in the database of another state
14 agency in accordance with procedures promulgated by the
15 Secretary of State. The applicant shall present valid
16 identification and proof of age. The clerk may waive the
17 proof of age requirement if the applicant is clearly over the
18 age of eighteen.

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

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

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

30 (2) Upon presentation of a current driver's license or
31 state-issued identification card containing the residence
32 address as it appears on the voter registration application,
33 issue the receipt of registration.

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

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

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

30 (c) A person who fails to sign the voter registration
31 application or who fails to return the voter registration
32 application to a driver licensing facility or to an appropriate

33 voter registration office is considered to have declined to
34 register. Information regarding a person's failure to sign the
35 voter registration application is confidential and may not be
36 used for any purpose other than to determine voter
37 registration.

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

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

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

62 (g) A change of address from one residence to another
63 within the same county which is submitted for driver
64 licensing or nonoperator's identification purposes in

65 accordance with applicable law serves as a notice of change
66 of address for voter registration purposes if requested by the
67 applicant after notice and written consent of the applicant.

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

77 (i) Voter registration application forms containing voter
78 information which are returned to a driver licensing office
79 unsigned shall be collected by the Division of Motor
80 Vehicles, submitted to the Secretary of State and maintained
81 by the Secretary of State's office according to the retention
82 policy adopted by the Secretary of State.

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

Robert Ferguson
.....
Member ~~Chairman~~ Senate Committee

Danny Wells
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Joseph M. Minard
.....
Clerk of the Senate

Gregory A. Sney
.....
Clerk of the House of Delegates

Jeffrey J. ...
.....
President of the Senate

...
.....
Speaker of the House of Delegates

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

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 1:50 pm