Enrolled

Committee Substitute

for

Senate Bill 591

By Senators Trump, Gaunch, Walters, Ashley,
Snyder, Beach, Takubo, Maynard, Kessler,
Palumbo, Blair, Miller, Williams, Kirkendoll,
Woelfel, Romano, Mullins, Unger, Laird, Sypolt,
Stollings and Plymale, original sponsors

[Passed March 11, 2016; in effect from passage]
Enr. CS for SB 591

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

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for

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BY SENATORS TRUMP, GAUNCH, WALTERS, ASHLEY,
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AN ACT to amend and reenact §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated as §3-2-23a all relating to creation and maintenance of voter registration lists; creating additional duties for Secretary of State relating to voter registration; authorizing Secretary of State to undertake voter registration list maintenance in a county under certain circumstances; requiring Secretary of State to provide written notice to clerk of county commission of need for voter registration record maintenance and allow ninety days before undertaking voter registration list maintenance in a county; delineating notice requirements; clarifying duty of Secretary of State to perform certain ongoing voter registration database maintenance; directing Secretary of State to enter into agreement with Division of Motor Vehicles for Division of Motor Vehicles to provide certain information regarding persons eligible to vote; setting forth information to be provided by Division of Motor Vehicles; permitting Secretary of State to use information for voter registration list maintenance comparison through interstate data-sharing agreement as designated by Secretary of State; identifying additional permissible uses of funds in Combined Voter Registration and Driver Licensing Fund; providing for periodic transfer of funds from that fund to General Revenue Fund under certain circumstances; authorizing cancellation of registration of deceased or ineligible voters; and granting certain rule-making authority to Secretary of State.

Be it enacted by the Legislature of West Virginia:

That §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said Code be amended by adding thereto a new section, designated as §3-2-23a, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-3. State authority relating to voter registration; chief election official.
(a) The Secretary of State, as chief election official of the state as provided in section six, article one-a of this chapter, shall have general supervision of the voter registration procedures and practices and the maintenance of voter registration records in the state and shall have authority to require reports and investigate violations to ensure the proper conduct of voter registration throughout the state and all of its subdivisions. Upon written notice to the clerk of the county commission of a county of the need for voter registration record maintenance and the failure of that clerk to complete such maintenance within ninety days of the notice, the Secretary of State may make changes in the voter registration data necessary to comply with list maintenance requirements of sections four-a, twenty-three, twenty-five, twenty-six and twenty-seven of this article: Provided, that the secretary shall send the notice by certified mail, return receipt requested.

(b) The Secretary of State, as chief election official of the state, is responsible for implementing, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.

(c) The Secretary of State is hereby designated as the chief election official responsible for the coordination of this state’s responsibilities under 42 U.S.C. §1973gg, et seq., the “National Voter Registration Act of 1993”. The Secretary of State shall have general supervision of voter registration procedures and practices at agencies and locations providing services as required by the provisions of this article and shall have the authority to propose procedural, interpretive and legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code for application for registration, transmission of applications, reporting and maintenance of records required by the provisions of this article and for the development, implementation and application of other provisions of this article.
§3-2-4a. Statewide voter registration database.

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

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

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

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

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

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

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

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

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

(b) The provisions of subdivision (6), subsection (a) of this section notwithstanding, the Secretary of State or any clerk of a county commission shall perform maintenance with respect to the statewide voter registration database on a regular basis as follows:
(1) If an individual is to be removed from the statewide voter registration database he or she shall be removed in accordance with the provisions of 42 U. S. C. §1973gg, et seq., the National Voter Registration Act of 1993.

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

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

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

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

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

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

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

(e) The Secretary of State shall ensure, and may perform such maintenance necessary to ensure, that voter registration records in the state are accurate and updated regularly, including the following:

(1) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42 U. S. C. §1973gg, et seq., registrants who have not responded to a notice sent pursuant to section
twenty six, article two of this chapter, who have not otherwise updated their voter registration
address, and who have not voted in two consecutive general elections for federal office shall be
removed from the official list of eligible voters, except that no registrant may be removed solely
by reason of a failure to vote;
(2) By participation in programs across state lines to share data specifically for voter
registration to ensure that voters who have moved across state lines or become deceased in
another state are removed in accordance with state law and 42 U. S. C. §1973gg, et seq.; and
(3) Through safeguards to ensure that eligible voters are not removed in error from the
official list of eligible voters.
(f) Applications for voter registration may be accepted only when the following information
is provided:
(1) Except as provided in subdivision (2) of this subsection and notwithstanding any other
provision of law to the contrary, an application for voter registration may not be accepted or
processed unless the application includes:
(A) In the case of an applicant who has been issued a current and valid driver's license,
the applicant's driver's license number;
(B) In the case of an applicant who has been issued an identification card by the Division
of Motor Vehicles, the applicant's identification number; or
(C) In the case of any other applicant, the last four digits of the applicant's Social Security
number; and
(2) If an applicant for voter registration has not been issued a current and valid driver's
license, Division of Motor Vehicles identification card, or a Social Security number, the Secretary
of State shall assign the applicant a number which will serve to identify the applicant for voter
registration purposes. The number assigned under this subdivision shall be the unique identifying
number assigned under the statewide voter registration database.
(g)(1) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall enter into an agreement to match and transfer applicable information in the statewide voter registration database with information in the database of the Division of Motor Vehicles to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration.

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

(h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under 42 U. S. C. §401, et seq., the Social Security Act. All fees associated with this agreement shall be paid for from moneys in the fund created under section twelve of this article.

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

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

(1) Printing and distribution of combined driver licensing or other agency applications and voter registration forms, or for the printing of voter registration forms to be used in conjunction with driver licensing or other agency applications;
(2) Printing and distribution of mail voter registration forms for purposes of this article;
(3) Supplies, postage and mailing costs for correspondence relating to voter registration for agency registration sites and for the return of completed voter registration forms to the appropriate state or county election official;
(4) Reimbursement of postage and mailing costs incurred by clerks of the county commissions for sending a verification mailing, confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a driver licensing or other agency;
(5) Reimbursement to state funded agencies designated to provide voter registration services under this chapter for personnel costs associated with the time apportioned to voter registration services and assistance;
(6) The purchase, printing and distribution of public information and other necessary materials or equipment to be used in conjunction with voter registration services provided by state funded agencies designated pursuant to the provisions of this article;
(7) The development of a statewide program of uniform voter registration computerization for use by each county registration office and the Secretary of State, purchase of uniform voter registration software, payment of software installation costs and reimbursement to the county commissions of not more than fifty percent of the cost per voter for data entry or data conversion from a previous voter registration software program;
(8) Payment of up to fifty percent of the costs of conducting a joint program with participating counties to identify ineligible voters by using the United States postal service information as provided in section twenty-five of this article: Provided, That such assistance shall be available only to counties which maintain voter registration lists on the statewide uniform voter data system;
(9) Payment of any dues or fees associated with a program to match and transfer data to and from other states;
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(10) Resources related to voter registration and list maintenance; and
(11) Payment or reimbursement of other costs associated with implementation of the
revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in
subdivisions (1) through (10), inclusive, of this subsection.
(b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter
twenty-nine-a of this code to provide for the administration of the fund established in subsection
(a) of this section.
(c) Any balance in the fund created by subsection (a) of this section which exceeds
$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the
General Revenue Fund.

§3-2-23a. Cancellation of registration of deceased or ineligible voter.
The Secretary may propose legislative rules regarding the maintenance of the security
and privacy of the voter registration records and the procedures to be followed by clerks of the
county commission and the Secretary to make changes in voter registration records, including
cancellations.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman, Senate Committee
Chairman, House Committee

Originated in the Senate.
In effect from passage.

[Signatures]

Clerk of the Senate
Clerk of the House of Delegates

[Signatures]

President of the Senate
Speaker of the House of Delegates

The within bill was approved this the 21st Day of March, 2016.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAR 21 2016

Time: 10:35 AM