

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3032**

4
5 (By Delegates Miley and Ferro)

6 (By Request of the Secretary of State)

7 (Originating in the Committee on the Judiciary)

8 [February 18, 2011]

9
10 A BILL to amend and reenact §3-1A-6 of the Code of West Virginia,
11 1931, as amended, relating to emergency powers of the
12 Secretary of State.

13 Be it enacted by the Legislature of West Virginia:

14 That §3-1A-6 of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

16 **ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.**

17 **§3-1A-6. Powers and duties of Secretary of State; exercise of**
18 **powers by appointees.**

19 (a) The Secretary of State shall be the chief election
20 official of the state. Except for those rules required by the
21 provisions of section five of this article to be promulgated by the
22 commission, the Secretary of State ~~shall have the authority~~ may,
23 after consultation with the State Election Commission, of which he
24 or she is a member, to make, amend and rescind such orders and ~~to~~
25 promulgate legislative rules, in accordance with the provisions of

1 chapter twenty-nine-a of this code, as may be necessary to
2 standardize and make effective the provisions of this chapter. All
3 election officials, county commissions, clerks of county
4 commissions, clerks of circuit courts, boards of ballot
5 commissioners, election commissioners and poll clerks shall abide
6 by any orders that may be issued and any legislative rules that may
7 be promulgated by the Secretary of State and the commission.

8 (b) The Secretary of State also ~~shall have authority to~~ may
9 require collection and report of statistical information and ~~to~~
10 require other reports by county commissions, clerks of county
11 commissions and clerks of circuit courts.

12 (c) The Secretary of State shall also advise with election
13 officials; furnish to the election officials a sufficient number of
14 indexed copies of the current election laws of West Virginia and
15 the administrative orders and rules issued or promulgated
16 thereunder; investigate the administration of election laws, frauds
17 and irregularities in any registration or election; report
18 violations of election laws to the appropriate prosecuting
19 officials; and prepare an annual report.

20 (d) The Secretary of State ~~shall also have the power to~~ may
21 administer oaths and affirmations, issue subpoenas for the
22 attendance of witnesses, issue subpoena duces tecum to compel the
23 production of books, papers, records, registration records and
24 other evidence and fix the time and place for hearing any matters
25 relating to the administration and enforcement of this chapter, or

1 the rules promulgated by the State Election Commission or by the
2 Secretary of State as the chief election official of the state. In
3 case of disobedience to a subpoena or subpoena duces tecum, he or
4 she may invoke the aid of any circuit court in requiring the
5 attendance, evidence and testimony of witnesses and the production
6 of papers, books, records, registration records and other evidence.

7 (e) (1) The Secretary of State ~~shall also have the power~~ may,
8 after consultation with the Secretary of the Department of Military
9 Affairs and Public Safety, ~~to~~ implement emergency procedures and
10 rules to ensure that all eligible voters have the opportunity to
11 cast a valid ballot and to uphold the integrity of an election in
12 the ~~event~~ case of an international, national, state, local ,or
13 general emergency or ~~of~~ natural disaster as declared by the
14 President or his or her designee, the Governor of this state or his
15 or her designee, or a court of competent jurisdiction which renders
16 it impossible or impracticable to follow standard voting procedures
17 in all or part of the state, ~~terrorist attack, war or general~~
18 ~~emergency,~~ if any of which occur during or immediately preceding an
19 election.

20 (2) For purposes of this subsection, a "general emergency"
21 means circumstances preventing the casting of ballots in one or
22 more voting precincts. The chief judge of the circuit court of the
23 county where the casting of ballots is being prevented must declare
24 by order that a general emergency exists.

25 (3) The Secretary of State may designate alternative methods

1 and procedures to handle absentee voting applications and ballots
2 in the event of an emergency as provided for in this subsection.
3 The Secretary of State shall take reasonable steps to provide
4 voters covered under the Uniformed and Overseas Voters Absentee
5 Voting Act (42 U.S.C. Section 1973ff et seq.) timely notice of any
6 special procedure or requirement under this section.

7 (f) All powers and duties vested in the Secretary of State
8 pursuant to this article may be exercised by appointees of the
9 Secretary of State at his or her discretion, but the Secretary of
10 State shall be responsible for their acts.

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