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H. B. 4402

(By Delegate Miley)
[By Request of the Secretary of State]
[Introduced February 2, 2012; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §3-1-50 of the Code of West Virginia,
1931, as amended, relating to election complaint procedure.

Be it enacted by the Legislature of West Virginia:

That §3-1-50 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

**§3-1-50. Establishment of state-based administrative complaint
procedures.**

The Secretary of State shall establish and maintain a state-
based administrative complaint procedure for complaints received
concerning election violations which shall meet the following
requirements:

- (1) The procedures shall be uniform and nondiscriminatory.
- (2) Under the procedures, any person who believes that there

1 is a violation of any provision of ~~this chapter~~ Title III of the
2 Help America Vote Act, Pub.L. 107-252, including a violation which
3 has occurred, is occurring or is about to occur, may file a
4 complaint.

5 (3) Any complaint filed under the procedures shall be in
6 writing, notarized and signed and sworn by the person filing the
7 complaint.

8 (4) The Secretary of State may consolidate complaints filed
9 under this section.

10 (5) At the request of the complainant, there shall be a
11 hearing on the record.

12 (6) Violations of any provision of this chapter shall be
13 punishable in accordance with the provisions of article nine of
14 this chapter.

15 (7) If, under the procedures, the Secretary of State
16 determines that there is no violation, the Secretary of State shall
17 dismiss the complaint and publish the results of the procedures.

18 (8) The Secretary of State shall make a final determination
19 with respect to a complaint prior to the expiration of the ninety-
20 day period which begins on the date the complaint is filed unless
21 the complainant consents to a longer period for making a
22 determination.

23 (9) If the Secretary of State fails to meet the deadline
24 applicable under subdivision (8) of this section, the complaint

1 shall be resolved within sixty days under alternative dispute
2 resolution procedures established for purposes of this section. The
3 record and other materials from any proceedings conducted under the
4 complaint procedures established under this section shall be made
5 available for use under the alternative dispute resolution
6 procedures.

NOTE: The purpose of this bill is to correct a reference to applicable statutes in order to conform the language to pertinent federal code.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language to be added.