

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 477**

5 (Senator Palumbo, *original sponsor*)

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7 [Passed April 12, 2013; in effect ninety days from passage.]  
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10  
11 AN ACT to repeal §3-2-24 of the Code of West Virginia, 1931, as  
12 amended; and to amend and reenact §3-2-5, §3-2-6, §3-2-7 and  
13 §3-2-11 of said code, all relating to electronic registration  
14 of voters; repealing outdated code regarding manual voter  
15 registration systems; authorizing Secretary of State to  
16 promulgate procedures to permit persons to register to vote  
17 through a secure electronic voter registration system;  
18 providing an exception to address requirements on registration  
19 for participants in the address confidentiality program;  
20 permitting transmission of electronically stored signatures  
21 for registration in certain instances; allowing acceptance of  
22 registration with or without an email address; requiring  
23 electronic registration be received by close of business on  
24 the day of the registration deadline; permitting people to

1 register to vote through approved electronic voter  
2 registration systems at certain locations; authorizing the  
3 Division of Motor Vehicles to release certain information to  
4 the Secretary of State upon notice and consent of the  
5 registered voter; and making certain clarifications of current  
6 code.

7 *Be it enacted by the Legislature of West Virginia:*

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9 be repealed; and that §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said  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

11 **ARTICLE 2. REGISTRATION OF VOTERS.**

12 **§3-2-5. Forms for application for registration; information**  
13 **required and requested; types of application forms;**  
14 **notices.**

15 (a) (1) All state forms for application for voter registration  
16 shall be prescribed by the Secretary of State and shall conform  
17 with the requirements of 42 U. S. C. §1973gg, *et seq.*, the National  
18 Voter Registration Act of 1993 and the requirements of the  
19 provisions of this article. Separate application forms may be  
20 prescribed for voter registration conducted by the clerk of the  
21 county commission, registration by mail, registration in  
22 conjunction with an application for motor vehicle driver's license  
23 and registration at designated agencies. These forms may consist  
24 of one or more parts, may be combined with other forms for use in

1 registration by designated agencies or in conjunction with driver  
2 licensing and may be revised and reissued as required by the  
3 Secretary of State to provide for the efficient administration of  
4 voter registration.

5       (2) Notwithstanding any provisions of subdivision (1) of this  
6 subsection to the contrary, the federal postcard application for  
7 voter registration issued pursuant to 42 U. S. C.§1973, *et seq.*,  
8 the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and  
9 the mail voter registration application form prescribed by the  
10 Federal Election Commission pursuant to 42 U. S. C.§1973gg, *et*  
11 *seq.*, the National Voter Registration Act of 1993, are accepted as  
12 valid forms of application for registration pursuant to the  
13 provisions of this article.

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

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

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

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

24       (3) A notice that a voter may be permitted to vote the

1 partisan primary election ballot of a political party only if the  
2 voter has designated that political party on the application for  
3 registration unless the political party has determined otherwise;

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

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

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

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

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

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

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

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

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

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

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

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

1 affiliation;

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

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

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

10       (5) The applicant's telephone number;

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

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

15       (8) The applicant's gender.

16       (e) The Secretary of State shall prescribe the printing  
17 specifications of each type of voter registration application and  
18 the voter registration application portion of any form which is  
19 part of a combined agency form.

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

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

9 **§3-2-6. Time of registration application before an election.**

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

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

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

24 (2) The application is received by the appropriate clerk of

1 the county commission no later than the hour of the close of  
2 registration or is otherwise submitted by the following deadlines:

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

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

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

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

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



1 **§3-2-7. Hours and days of registration in the office of the clerk**  
2 **of the county commission; in-person application for**  
3 **voter registration; identification required.**

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

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

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

1 registration purposes.

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

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

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

12 **§3-2-11. Registration in conjunction with driver licensing.**

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

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

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

23 (d) A qualified voter who submits the application for  
24 registration pursuant to the provisions of subsection (a) of this

1 section in person at a driver licensing facility at the time of  
2 applying for, obtaining, renewing or transferring his or her  
3 driver's license or official identification card and who presents  
4 identification and proof of age at that time is not required to  
5 make his or her first vote in person or to again present  
6 identification in order to make that registration valid.

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

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

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

1 consent of the applicant.

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

10       (i) Voter registration application forms containing voter  
11 information which are returned to a driver licensing office  
12 unsigned shall be collected by the Division of Motor Vehicles,  
13 submitted to the Secretary of State and maintained by the Secretary  
14 of State's office according to the retention policy adopted by the  
15 Secretary of State.