

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2624

FISCAL
NOTE

2015 Carryover

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IHLE AND WALTERS)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary.]

1 A BILL to amend and reenact §3-2-4, §3-2-11, §3-2-16 and §3-2-17 of the Code of West Virginia,
 2 1931, as amended; and to amend said code by adding thereto a new section, designated
 3 §3-1-51, all relating to voter registration photo cards; requiring that voter registration cards
 4 contain a photograph of the person registered to vote and establishing procedures for
 5 creating and distributing voter registration photo cards.

Be it enacted by the Legislature of West Virginia:

1 That §3-2-4, §3-2-11, §3-2-16 and §3-2-17 of the Code of West Virginia, 1931, as
 2 amended, be amended and reenacted, and that said code be amended by adding thereto a new
 3 section, designated §3-1-51, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-51. Voter registration photo cards.

1 (a) On or before July 1, 2015, all voter registration cards issued to registered voters by the
 2 Secretary of State shall contain a photograph of the person registered to vote.

3 (b) The Secretary of State shall establish a uniform template for voter registration photo
 4 cards. The Secretary of State shall ensure that the template for voter registration photo cards
 5 can be produced by any photo card equipment currently owned by the Division of Motor Vehicles
 6 and county commissions.

7 (c) The Secretary of State shall provide equipment to create voter registration photo cards
 8 to the clerk of the county commission of any county which does not currently own the equipment
 9 necessary to produce the photo cards and in which there is no Division of Motor Vehicles office
 10 capable of producing the photo cards.

11 (d) The Secretary of State shall provide all consumable materials necessary for the
 12 creation of voter registration photo cards to the Division of Motor Vehicles office or county clerk's
 13 office charged with creating the cards.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-4. Authority and responsibility of the clerk of the county commission and of the county commission relating to voter registration.

1 (a) Subject to the authority of the Secretary of State, the clerk of the county commission
2 shall be the chief registration authority in each respective county and all subdivisions therein, and
3 shall supervise their deputies, employees and registrars in the performance of their respective
4 duties.

5 (b) The county commission of each county shall allocate sufficient resources for the proper
6 and efficient performance of duties relating to voter registration as required by law, and shall
7 provide for temporary clerical assistance necessary for systematic purging procedures or other
8 duties of short duration required by the provisions of this article.

9 (c) The county commission shall have authority on its own motion to summon and examine
10 any person concerning the registration of voters, to investigate any irregularities in registration, to
11 summon and examine witnesses, to require the production of any relevant books and papers and
12 to conduct hearings on any matters relating to the registration of voters.

13 (d) The clerk of the county commission shall be responsible for the administration of voter
14 registration within the county and shall establish procedures and practices which ensure the full
15 implementation of the requirements of federal and state laws and rules relating to voter
16 registration, and which ensure nondiscriminatory practices.

17 (e) If there is no Division of Motor Vehicles office with the equipment to produce voter
18 registration photo cards within the county, the clerk of the county commission shall produce voter
19 registration photo cards for registered voters residing in the county, using equipment provided by
20 the Secretary of State pursuant to section fifty-one, article one of this chapter.

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

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

9 (b) Any office of the Division of Motor Vehicles with the necessary equipment shall, upon
10 request, create a voter registration photo card for any person applying for voter registration. The
11 Division of Motor Vehicles will forward the voter registration photo card to the Secretary of State
12 along with a copy of the applicant's voter registration application within five days of creating the
13 card. The division may not, under any circumstances, deliver a voter registration photo card
14 directly to a voter registration applicant.

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

25 ~~(e)~~ (d) A person who fails to sign the voter registration application or who fails to return the
26 voter registration application to a driver licensing facility or to an appropriate voter registration
27 office is considered to have declined to register. Information regarding a person's failure to sign
28 the voter registration application is confidential and may not be used for any purpose other than
29 to determine voter registration.

30 ~~(d)~~ (e) A qualified voter who submits the application for registration pursuant to the
31 provisions of subsection (a) of this section in person at a driver licensing facility at the time of
32 applying for, obtaining, renewing or transferring his or her driver's license or official identification
33 card and who presents identification and proof of age at that time is not required to make his or
34 her first vote in person or to again present identification in order to make that registration valid.

35 ~~(e)~~ (f) A qualified voter who submits by mail or by delivery by a third party an application
36 for registration on the form used in conjunction with driver licensing is required to make his or her
37 first vote in person and present identification as required for other mail registration in accordance
38 with the provisions of subsection (g), section ten of this article. If the applicant has been
39 previously registered in the jurisdiction and the application is for a change of address, change of
40 name, change of political party affiliation or other correction, the presentation of identification and
41 first vote in person is not required.

42 ~~(f)~~ (g) An application for voter registration submitted pursuant to the provisions of this
43 section updates a previous voter registration by the applicant and authorizes the cancellation of
44 registration in any other county or state in which the applicant was previously registered.

45 ~~(g)~~ (h) A change of address from one residence to another within the same county which
46 is submitted for driver licensing or nonoperator's identification purposes in accordance with
47 applicable law serves as a notice of change of address for voter registration purposes if requested
48 by the applicant after notice and written consent of the applicant.

49 ~~(h)~~ (i) Completed applications for voter registration or change of address for voting
50 purposes received by an office providing driver licensing services shall be forwarded to the
51 Secretary of State along with the applicant's printed voter registration photo card within five days
52 of receipt unless other means are available for a more expedited transmission. The Secretary
53 of State shall remove and file any forms which have not been signed by the applicant and shall
54 forward completed, signed applications and the voter registration photo card to the clerk of the
55 appropriate county commission within five days of receipt.

56 ~~(i)~~ (j) Voter registration application forms containing voter information which are returned
57 to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted
58 to the Secretary of State and maintained by the Secretary of State's office according to the
59 retention policy adopted by the Secretary of State.

**§3-2-16. Procedures upon receipt of application for registration by the clerk of the county
commission; verification procedure and notice of disposition of application for
registration.**

1 (a) Upon receipt of an application for voter registration, the clerk of the county commission
2 shall determine whether the application is complete, whether the applicant appears to be eligible
3 to register to vote within the county and whether the applicant is currently registered within the
4 county. If the application is incomplete or the applicant appears not to be eligible, the clerk shall
5 take the appropriate action as prescribed in section seventeen of this article.

6 (b) If the application received is complete and appears to be from an eligible person who
7 has not previously been registered within the county, or has not been included within the active
8 voter registration files as defined in section eighteen of this article within the preceding calendar
9 year and does not present a driver's license containing the residence address pursuant to the
10 provisions of subdivision (2), subsection (d), section seven of this article, the clerk of the county

11 commission shall conduct the following verification procedure:

12 (1) The clerk shall issue or mail, by first-class nonforwardable return requested, a
13 verification notice addressed to the applicant at the residence and mailing address given on the
14 application, except that the mailing address shall not be included on the notice if it appears to
15 identify a distinctly different location from the residence address, such as a business address,
16 another residence or a different city or town, unless the voter has registered as a uniformed
17 services, overseas or homeless voter and provided a local residence address pursuant to the
18 provisions of subdivision (4), subsection (c), section five of this article.

19 (2) The verification notice shall state the purpose of the procedure, the fact that no further
20 action is required of the applicant, and the fact that a notice of the disposition of the registration
21 application will be mailed after the ten day return period has expired.

22 (3) If the verification notice is not returned as undeliverable within ten days, the application
23 for registration shall be accepted and entered into the active voter registration files and a
24 registration receipt mailed designating the voter's assigned precinct.

25 (4) If the verification notice is returned undeliverable within ten days, the clerk shall
26 compare the address given on the voter registration application with the address used on the
27 envelope and, if there is any discrepancy, shall send a second verification notice to the correct
28 address. If there is no discrepancy, the application for registration shall be denied and the notice
29 of denial prescribed in section seventeen of this article shall be mailed.

30 (5) If the verification notice is returned undeliverable after the registration has been
31 accepted, the clerk shall initiate the confirmation procedure prescribed in section twenty-six of this
32 article.

33 (c) If the application received is complete and appears to be from an eligible person who
34 is currently registered within the county, or has been included within the active voter registration

35 files as defined in section eighteen of this article within the preceding calendar year, the clerk of
36 the county commission shall send, by first-class nonforwardable return requested mail, a
37 registration receipt or other notice of the disposition of the application; and

38 (1) If the application is for a change of name, change of address, change of political party
39 affiliation, reinstatement or other correction of the previous voter registration, the clerk shall
40 include a new voter registration receipt;

41 (2) If the application does not make any change in the previous voter registration, the clerk
42 shall notify the registrant that the voter is not required to reregister or update the registration as
43 long as he or she lives at the same address and has the same legal name; or

44 (3) If the notice of disposition is returned undeliverable after the registration has been
45 accepted, the clerk shall initiate the confirmation procedure prescribed in section twenty-six of this
46 article.

47 (d) If the application contains information indicating the address at which the applicant was
48 previously registered to vote in another county or state, the clerk of the county commission shall
49 give notice to the clerk or registrar of that jurisdiction for the purpose of canceling the previous
50 registration.

51 (e) Upon accepting an individuals' registration and entering the registration into the active
52 voter registration files, the county clerk shall mail the registered voter's voter registration photo
53 card along with the receipt designating the voter's assigned precinct: *Provided, That the clerk*
54 may not deliver a voter registration photo card to any person unless that person's voter registration
55 application has been approved and is complete.

**§3-2-17. Denial of registration application; notice; appeal to clerk of the county
commission, decision; appeal to county commission, hearing, decision; appeal to
circuit court.**

1 (a) If the clerk of the county commission finds that any of the following is true, based on
2 the application or official documentation of ineligibility, the clerk shall deny the application for voter
3 registration:

4 (1) The applicant, at the time the application is received, is not eligible to register in the
5 county and state pursuant to the provisions of section two of this article;

6 (2) The applicant has submitted an application which is incomplete, pursuant to the
7 provisions of subsection (c), section five of this article; or

8 (3) The verification notice as required in section sixteen of this article is returned as
9 undeliverable at the address given by the voter.

10 (b) When the clerk of the county commission determines that the application must be
11 denied, the clerk shall send, by first class forwardable return requested mail, a notice that the
12 application for registration was denied and the reasons therefor.

13 (1) If the reason for denial is an incomplete application, the clerk shall inform the voter of
14 the right to reapply and shall enclose a mail voter registration form for the purpose.

15 (2) If the reason for denial is return of the verification notice as undeliverable at the address
16 given, the clerk shall inform the voter of the right to present proof of residence in order to validate
17 the registration.

18 (3) If the reason for denial is ineligibility, the notice shall include a statement of eligibility
19 requirements for voter registration and of the applicant's right to appeal the denial.

20 (c) An applicant whose application for registration is denied by the clerk of the county
21 commission because of ineligibility or for failure to submit proof of residence may make a written
22 request for a reconsideration by the clerk, and may present information relating to his or her
23 eligibility. The clerk shall review the request for consideration and shall issue a decision in
24 writing within fourteen days of the receipt of the request.

25 (d) If the application is denied upon reconsideration pursuant to the provisions of
26 subsection (c) of this section, the applicant may make a written request for a hearing before the
27 county commission. The county commission shall schedule and conduct the hearing within thirty
28 days of receipt of the request and shall issue a decision, in writing, within fifteen days of the
29 hearing.

30 (e) An applicant may appeal the decision of the county commission to the circuit court.
31 The circuit court shall only consider the record before the county commission, as authenticated
32 by the clerk of the county commission. The circuit court may affirm the order of the county
33 commission, whether the order be affirmative or negative; but if it deems such order not to be
34 reasonably justified by the evidence considered, it may reverse such orders of the county
35 commission in whole or in part as it deems just and right; and if it deems the evidence considered
36 by the county commission in reaching its decision insufficient, it may remand the proceedings to
37 the county commission for further hearing. Any such order or orders of the circuit court shall be
38 certified to the county commission.

39 (f) Any party to such appeal may, within thirty days after the date of a final order by the
40 circuit court, apply for an appeal to the Supreme Court of Appeals which may grant or refuse such
41 appeal at its discretion. The Supreme Court of Appeals shall have jurisdiction to hear and
42 determine the appeal upon the record before the circuit court and to enter such order as it may
43 find that the circuit court should have entered.

44 (g) It shall be the duty of the circuit court and the Supreme Court of Appeals, in order to
45 expedite registration and election procedures, to hold such sessions as may be necessary to
46 determine any cases involving the registration of voters. Judges of the circuit court and the
47 Supreme Court of Appeals in vacation shall have the same power as that prescribed in this section
48 for their respective courts.

49 (h) The clerk of the county commission may not deliver a voter registration photo card to
50 any person unless that person's voter registration application has been approved and is complete.
51 If the clerk of the county commission denies an individual's voter registration application, the clerk
52 shall maintain the applicant's printed voter registration photo card for sixty days after providing
53 notice of the denial, or during the pendency of a request for reconsideration or appeal of the
54 denial, whichever is longer. At the end of the period for which the clerk of the county commission
55 is required to maintain a denied applicant's voter registration photo card, the clerk shall destroy
56 the card by burning or shredding.

NOTE: The purpose of this bill is to require that all voter registration cards contain a photograph of the person registered to vote and to establish procedures for creating and distributing voter registration photo cards.

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