WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 591

BY SENATORS TRUMP, GAUNCH, WALTERS, ASHLEY,

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STOLLINGS AND PLYMALE, *original sponsors*

[Passed March 11, 2016; in effect from passage]

1 AN ACT to amend and reenact §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931,

2   as amended; and to amend said code by adding thereto a new section, designated as §3-

3   2-23a all relating to creation and maintenance of voter registration lists; creating additional

4   duties for Secretary of State relating to voter registration; authorizing Secretary of State to

5   undertake voter registration list maintenance in a county under certain circumstances;

6   requiring Secretary of State to provide written notice to clerk of county commission of need

7   for voter registration record maintenance and allow ninety days before undertaking voter

8   registration list maintenance in a county; delineating notice requirements; clarifying duty

9   of Secretary of State to perform certain ongoing voter registration database maintenance;

10   directing Secretary of State to enter into agreement with Division of Motor Vehicles for

11   Division of Motor Vehicles to provide certain information regarding persons eligible to vote;

12   setting forth information to be provided by Division of Motor Vehicles; permitting Secretary

13   of State to use information for voter registration list maintenance comparison through

14   interstate data-sharing agreement as designated by Secretary of State; identifying

15   additional permissible uses of funds in Combined Voter Registration and Driver Licensing

16   Fund; providing for periodic transfer of funds from that fund to General Revenue Fund

17   under certain circumstances; authorizing cancellation of registration of deceased or

18   ineligible voters; and granting certain rule-making authority to Secretary of State.

Be it enacted by the Legislature of West Virginia:

1   That §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, be

2 amended and reenacted; and that said Code be amended by adding thereto a new section,

3 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.

1   (a) The Secretary of State, as chief election official of the state as provided in section six,

2   article one-a of this chapter, shall have general supervision of the voter registration procedures

3   and practices and the maintenance of voter registration records in the state and shall have

4   authority to require reports and investigate violations to ensure the proper conduct of voter

5   registration throughout the state and all of its subdivisions. Upon written notice to the clerk of the

6   county commission of a county of the need for voter registration record maintenance and the

7   failure of that clerk to complete such maintenance within ninety days of the notice, the Secretary

8   of State may make changes in the voter registration data necessary to comply with list

9   maintenance requirements of sections four-a, twenty-three, twenty-five, twenty-six and twenty-

10   seven of this article: *Provided*, that the secretary shall send the notice by certified mail, return

11   receipt requested.

12   (b) The Secretary of State, as chief election official of the state, is responsible for

13   implementing, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized,

14   interactive computerized statewide voter registration list defined, maintained and administered at

15   the state level that contains the name and registration information of every legally registered voter

16   in the state and assigns a unique identifier to each legally registered voter in the state.

17   (c) The Secretary of State is hereby designated as the chief election official responsible

18   for the coordination of this state's responsibilities under 42 U.S.C. §1973gg, *et seq.*, the "National

19   Voter Registration Act of 1993". The Secretary of State shall have general supervision of voter

20   registration procedures and practices at agencies and locations providing services as required by

21   the provisions of this article and shall have the authority to propose procedural, interpretive and

22   legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-

23   nine-a of this code for application for registration, transmission of applications, reporting and

24   maintenance of records required by the provisions of this article and for the development,

25   implementation and application of other provisions of this article.

§3-2-4a. Statewide voter registration database.

1   (a) The Secretary of State shall implement and maintain a single, official, statewide,

2   centralized, interactive computerized voter registration database of every legally registered voter

3   in the state, as follows:

4   (1) The statewide voter registration database shall serve as the single system for storing

5   and managing the official list of registered voters throughout the state.

6   (2) The statewide voter registration database shall contain the name, registration

7   information and voter history of every legally registered voter in the state.

8   (3) In the statewide voter registration database, the Secretary of State shall assign a

9   unique identifier to each legally registered voter in the state.

10   (4) The statewide voter registration database shall be coordinated with other agency

11   databases within the state and elsewhere, as appropriate.

12   (5) The Secretary of State, any clerk of the county commission, or any authorized designee

13   of the Secretary of State or clerk of the county commission, may obtain immediate electronic

14   access to the information contained in the statewide voter registration database.

15   (6) The clerk of the county commission shall electronically enter voter registration

16   information into the statewide voter registration database on an expedited basis at the time the

17   information is provided to the clerk.

18   (7) The Secretary of State shall provide necessary support to enable every clerk of the

19   county commission in the state to enter information as described in subdivision (6) of this

20   subsection.

21   (8) The statewide voter registration database shall serve as the official voter registration

22   list for conducting all elections in the state.

23   (b) The provisions of subdivision (6), subsection (a) of this section notwithstanding, the

24   Secretary of State or any clerk of a county commission shall perform maintenance with respect

25   to the statewide voter registration database on a regular basis as follows:

26   (1) If an individual is to be removed from the statewide voter registration database he or

27   she shall be removed in accordance with the provisions of 42 U. S. C. §1973gg, *et seq.*, the

28   National Voter Registration Act of 1993.

29   (2) The Secretary of State shall coordinate the statewide voter registration database with

30   state agency records and shall establish procedures for the removal of names of individuals who

31   are not qualified to vote due to felony status or death. No state agency may withhold information

32   regarding a voter's status as deceased or as a felon unless ordered by a court of law.

33   (c) The list maintenance performed under subsection (b) of this section shall be conducted

34   in a manner that ensures that:

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

36   database;

37   (2) Only voters who are not registered, who have requested in writing that their voter

38   registration be canceled, or who are not eligible to vote are removed from the statewide voter

39   registration database;

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

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

42   database.

43   (d) The Secretary of State and the clerks of all county commissions shall provide adequate

44   technological security measures to prevent the unauthorized access to the statewide voter

45   registration database established under this section.

46   (e) The Secretary of State shall ensure, and may perform such maintenance necessary to

47   ensure, that voter registration records in the state are accurate and updated regularly, including

48   the following:

49   (1) A system of file maintenance that makes a reasonable effort to remove registrants who

50   are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42

51   U. S. C. §1973gg, *et seq.*, registrants who have not responded to a notice sent pursuant to section

52 twenty six, article two of this chapter, who have not otherwise updated their voter registration

53 address, and who have not voted in two consecutive general elections for federal office shall be

54 removed from the official list of eligible voters, except that no registrant may be removed solely

55 by reason of a failure to vote;

56 (2) By participation in programs across state lines to share data specifically for voter

57 registration to ensure that voters who have moved across state lines or become deceased in

58 another state are removed in accordance with state law and 42 U. S. C. §1973gg, *et seq.*; and

59 (3) Through safeguards to ensure that eligible voters are not removed in error from the

60 official list of eligible voters.

61 (f) Applications for voter registration may be accepted only when the following information

62 is provided:

63 (1) Except as provided in subdivision (2) of this subsection and notwithstanding any other

64 provision of law to the contrary, an application for voter registration may not be accepted or

65 processed unless the application includes:

66 (A) In the case of an applicant who has been issued a current and valid driver's license,

67 the applicant's driver's license number;

68 (B) In the case of an applicant who has been issued an identification card by the Division

69 of Motor Vehicles, the applicant's identification number; or

70 (C) In the case of any other applicant, the last four digits of the applicant's Social Security

71 number; and

72 (2) If an applicant for voter registration has not been issued a current and valid driver's

73 license, Division of Motor Vehicles identification card, or a Social Security number, the Secretary

74 of State shall assign the applicant a number which will serve to identify the applicant for voter

75 registration purposes. The number assigned under this subdivision shall be the unique identifying

76 number assigned under the statewide voter registration database.

77   (g)(1) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall

78   enter into an agreement to match and transfer applicable information in the statewide voter

79   registration database with information in the database of the Division of Motor Vehicles to the

80   extent required to enable each official to verify the accuracy of the information provided on

81   applications for voter registration.

82   (2) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall

83   enter into an agreement for the Division of Motor Vehicles to provide all name fields, residence

84   and mailing address fields, driver's license or state identification number, last four digits of the

85   Social Security number, date of birth, license or identification issuance and expiration dates, and

86   current record status of individuals eligible to register to vote to the Secretary of State for the

87   purpose of voter registration list maintenance comparison through an interstate data-sharing

88   agreement designated by the Secretary of State as permitted by subdivision (2), subsection (e)

89   of this section.

90   (h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with

91   the Commissioner of Social Security under 42 U. S. C. §401, *et seq.*, the Social Security Act. All

92   fees associated with this agreement shall be paid for from moneys in the fund created under

93   section twelve of this article.

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

1   (a) Fifty cents of each license fee collected pursuant to the provisions of section one,

2   article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of

3   a special revenue fund to be known as the Combined Voter Registration and Driver Licensing

4   Fund. The moneys so credited to such fund may be used by the Secretary of State for the

5   following purposes:

6   (1) Printing and distribution of combined driver licensing or other agency applications and

7   voter registration forms, or for the printing of voter registration forms to be used in conjunction

8   with driver licensing or other agency applications;

9   (2) Printing and distribution of mail voter registration forms for purposes of this article;

10   (3) Supplies, postage and mailing costs for correspondence relating to voter registration

11   for agency registration sites and for the return of completed voter registration forms to the

12   appropriate state or county election official;

13   (4) Reimbursement of postage and mailing costs incurred by clerks of the county

14   commissions for sending a verification mailing, confirmation of registration or other mailings

15   directly resulting from an application to register, change or update a voter's registration through a

16   driver licensing or other agency;

17   (5) Reimbursement to state funded agencies designated to provide voter registration

18   services under this chapter for personnel costs associated with the time apportioned to voter

19   registration services and assistance;

20   (6) The purchase, printing and distribution of public information and other necessary

21   materials or equipment to be used in conjunction with voter registration services provided by state

22   funded agencies designated pursuant to the provisions of this article;

23   (7) The development of a statewide program of uniform voter registration computerization

24   for use by each county registration office and the Secretary of State, purchase of uniform voter

25   registration software, payment of software installation costs and reimbursement to the county

26   commissions of not more than fifty percent of the cost per voter for data entry or data conversion

27   from a previous voter registration software program;

28   (8) Payment of up to fifty percent of the costs of conducting a joint program with

29   participating counties to identify ineligible voters by using the United States postal service

30   information as provided in section twenty-five of this article: *Provided,* That such assistance shall

31   be available only to counties which maintain voter registration lists on the statewide uniform voter

32   data system;

33   (9) Payment of any dues or fees associated with a program to match and transfer data to

34   and from other states;

35   (10) Resources related to voter registration and list maintenance; and

36   (11) Payment or reimbursement of other costs associated with implementation of the

37 requirements of the National Voter Registration Act of 1993 (42 U. S. C. §1973gg): *Provided,* That

38 revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in

39 subdivisions (1) through (10), inclusive, of this subsection.

40   (b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter

41 twenty-nine-a of this code to provide for the administration of the fund established in subsection

42 (a) of this section.

43   (c) Any balance in the fund created by subsection (a) of this section which exceeds

44 $100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the

45 General Revenue Fund.

§3-2-23a. Cancellation of registration of deceased or ineligible voter.

1   The Secretary may propose legislative rules regarding the maintenance of the security

2 and privacy of the voter registration records and the procedures to be followed by clerks of the

3 county commission and the Secretary to make changes in voter registration records, including

4 cancellations.

Enr. CS for SB 591

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of ...., 2016.

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Governor