



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Motor Vehicles

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Thomas J. Smith, P. E.
Cabinet Secretary

February 21, 2019

The Honorable Mitch Carmichael, Chair
Joint Committee on Government and Finance
Room 227M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Roger Hanshaw, Chair
Joint Committee on Government and Finance
Room 228M, Bldg. 1
1900 Kanawha Blvd. E.
Charleston, WV 25305

Re: Division of Motor Vehicles
report pursuant to W. Va.
Code §3-2-11

Dear Sirs:

In 2016, the West Virginia Legislature amended W. Va. Code §3-2-11 to create an automatic voter registration process with an effective date of July 1, 2017. This process involved the Division of Motor Vehicles, the Secretary of State and each County Clerk. Previously, an electronic voter registration process was authorized but not mandated by the relevant code section. As a result of this earlier authorization, the Division began working with the other entities prior to 2016 to implement the submission of electronic information for voter registration purposes. In calendar year 2016, the Division electronically submitted information through a shared vendor with the Secretary of State which substantially complied with the 2016 amendments for 41,563 new voter registration applicants.

In 2017, prior to the effective date of the 2016 amendments, the Legislature again amended W. Va. Code §3-2-11. The 2017 amendment eliminated obligations for DMV to provide information when a person declined to register to vote before those obligations became effective. Additionally, the Legislature extended the effective date of the remaining 2016 changes until July 1, 2019. The Division continued submitting information to the Secretary of State that substantially complied with the 2016 provisions of W. Va. Code §3-2-11 in calendar year 2017 for 48,122 new voter registration applicants. In calendar year 2018, that number increased to 61,901 voter registration applications.

In addition, to help with the voter registration process, on approximately July 7, 2018, the Division began to submit reports to the Secretary of State containing information about existing licensees required by W. Va. Code §3-2-11. The report is submitted by programmers for the Division of Highways who are assigned by the Department of Transportation to maintain DMV's mainframe system. The report provides information on all individuals with a driver's license or identification card.

The electronic voter registration process is accomplished by using signature pads provided through a contract with an existing vendor whose contract expired in 2016. This vendor has continued services under successive emergency contracts while a new contract was sought through the state purchasing process. The new contract was awarded in late 2018 to a different vendor with an implementation date of October 1, 2019.

The Division is currently collecting all the information specifically delineated in W. Va. Code §3-2-11 (a) (1) through (11):

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services shall obtain as an integral and simultaneous part of every process of application for the issuance, renewal or change of address of a motor vehicle driver's license or official identification card pursuant to the provisions of article two, chapter seventeen-b of this code, when the division's regional offices are open for regular business, the following information from each qualified registrant:

- (1) Full name, including first, middle, last and any premarital names;
- (2) Date of birth;
- (3) Residence address and mailing address, if different;
- (4) The applicant's electronic signature;
- (5) Telephone number, if available;
- (6) Email address, if available;
- (7) Political party membership, if any;
- (8) Driver's license number and last four digits of social security number;
- (9) A notation that the applicant has attested that he or she meets all voter eligibility requirements, including United States citizenship;
- (10) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;
- (11) Date of application; and
- (12) Any other information specified in rules adopted to implement this section.

In the Code of State Rules, Title 153 Series 3, the Secretary of State expanded the list of items the Division is required to obtain by three additional elements as the Secretary was authorized to do in

W. Va. Code §3-2-11 (a) (12). The additional information required by the Code of State Rules includes an indicator as to whether the voter registration action by the applicant is new or an update, the county of residence and whether a license applicant transferring from another state was registered to vote in that state. The Division currently collects information to discern the county and the state of prior licensure.

The Division has been in substantial compliance with W. Va. Code §3-2-11 since July 2018. The Division can be in technical compliance by July 1, 2019 by collecting and submitting an indicator as to whether the voter registration action is a new or update transaction, whether the person was registered to vote in the state of prior licensure and by submitting the telephone number and email address to supplement the information already provided in some format. There is no infrastructure needed other than programming changes by the Division of Highways programmers which can be accomplished by July 1, 2019. However, W.Va. Code §3-2-11 is not a unilateral project of the Division. We are working closely with the Secretary of State to provide information in a manner that best suits the needs of that office and the County Clerks and best meets the perceived intent of the Legislature.

The new driver's license vendor is expected to begin implementation on or around October 1, 2019. The Secretary of State has attended meetings with the Division's new vendor to ensure that information is submitted in a manner that is acceptable to it. The Division is working closely with the Secretary of State to identify and rectify glitches in the current process when they occur. The Division should be in position to transfer all information in a mutually-acceptable manner through the new driver's license vendor by October 1, 2019. The infrastructure necessary will be supplied by the new vendor and via programming changes by the Division of Highways.

The Division's internal driver's license system is a legacy system in need of modernization notwithstanding the mandates of W. Va. Code §3-2-11. Changes to the system are not easy. Each additional element expected to be collected and maintained through this legacy system through state or federal mandates exacerbates the need for a modernization project.

Currently a bill, SB 491, is proceeding through the legislature that would provide the Division more than ample time (until July 21, 2021) to comply with the current mandates of W.Va. Code §3-2-11 in a manner to achieve the expectations of the automatic voter registration project. The Division should also have time to analyze and report on any other changes that are passed by the Legislature this session by the amended reporting date of September 1, 2019.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pat Reed", with a stylized flourish extending to the right.

Pat Reed, Commissioner
WV Division of Motor Vehicles