

SB 493

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WEST VIRGINIA LEGISLATURE

SEVENTY-EIGHTH LEGISLATURE

REGULAR SESSION, 2008

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COMMITTEE SUBSTITUTE

FOR

ENROLLED

Senate Bill No. 493

(SENATORS KESSLER, OLIVERIO AND PLYMALE,
original sponsors)

[Passed March 5, 2008; in effect from passage.]

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[Passed March 5, 2008; in effect from passage.]

AN ACT to amend and reenact §3-1A-6 of the Code of West Virginia, 1931, as amended, authorizing the Secretary of State to implement emergency procedures to ensure the integrity of the election process in times of natural disaster, terrorist attack, war or general emergency.

Be it enacted by the Legislature of West Virginia:

That §3-1A-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-6. Powers and duties of Secretary of State; exercise of

powers by appointees.

1 (a) The Secretary of State shall be the chief election
2 official of the state. Except for those rules required by
3 the provisions of section five of this article to be
4 promulgated by the commission, the Secretary of State
5 shall have the authority, after consultation with the
6 State Election Commission, of which he or she is a
7 member, to make, amend and rescind such orders and
8 to promulgate legislative rules, in accordance with the
9 provisions of chapter twenty-nine-a of this code, as may
10 be necessary to standardize and make effective the
11 provisions of this chapter. All election officials, county
12 commissions, clerks of county commissions, clerks of
13 circuit courts, boards of ballot commissioners, election
14 commissioners and poll clerks shall abide by any orders
15 that may be issued and any legislative rules that may be
16 promulgated by the Secretary of State and the
17 commission.

18 (b) The Secretary of State also shall have authority to
19 require collection and report of statistical information
20 and to require other reports by county commissions,
21 clerks of county commissions and clerks of circuit
22 courts.

23 (c) The Secretary of State shall also advise with
24 election officials; furnish to the election officials a
25 sufficient number of indexed copies of the current
26 election laws of West Virginia and the administrative
27 orders and rules issued or promulgated thereunder;
28 investigate the administration of election laws, frauds
29 and irregularities in any registration or election; report
30 violations of election laws to the appropriate
31 prosecuting officials; and prepare an annual report.

32 (d) The Secretary of State shall also have the power to
33 administer oaths and affirmations, issue subpoenas for
34 the attendance of witnesses, issue subpoena duces
35 tecum to compel the production of books, papers,
36 records, registration records and other evidence and fix
37 the time and place for hearing any matters relating to
38 the administration and enforcement of this chapter, or

39 the rules promulgated by the State Election
40 Commission or by the Secretary of State as the chief
41 election official of the state. In case of disobedience to
42 a subpoena or subpoena duces tecum, he or she may
43 invoke the aid of any circuit court in requiring the
44 attendance, evidence and testimony of witnesses and
45 the production of papers, books, records, registration
46 records and other evidence.

47 (e) (1) The Secretary of State shall also have the
48 power, after consultation with the Secretary of the
49 Department of Military Affairs and Public Safety, to
50 implement emergency procedures and rules to ensure
51 that all eligible voters have the opportunity to cast a
52 valid ballot and to uphold the integrity of an election in
53 the event of natural disaster as declared by the
54 Governor of this state, terrorist attack, war or general
55 emergency, if any of which occur during or immediately
56 preceding an election.

57 (2) For purposes of this subsection, a "general
58 emergency" means circumstances preventing the
59 casting of ballots in one or more voting precincts. The
60 chief judge of the circuit court of the county where the
61 casting of ballots is being prevented must declare by
62 order that a general emergency exists.

63 (f) All powers and duties vested in the Secretary of
64 State pursuant to this article may be exercised by
65 appointees of the Secretary of State at his or her
66 discretion, but the Secretary of State shall be
67 responsible for their acts.

Enr. Com. Sub. for S. B. No. 493] 4

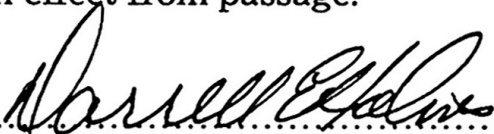
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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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 House of Delegates

The within approved this
the 1st Day of April, 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2008

Time

10:05 *llw*