

1 **H. B. 4342**

2
3 (By Delegates Miley and Poore)

4 [By Request of the Secretary of State]

5 [Introduced January 30, 2012; referred to the
6 Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

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10 A BILL to amend and reenact §3-2-30 of the Code of West Virginia,
11 1931, as amended; and to amend said code by adding thereto a
12 new section, designated §59-1-2b, all relating to the
13 preparation and sale of voter registration lists; establishing
14 the fees to be collected; requiring the fees to be deposited
15 in the State Election Fund; and permitting a county clerk to
16 collect an additional fee for list preparation.

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

18 That §3-2-30 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted; and that said code be amended by adding
20 thereto a new section, designated §59-1-2b, all to read as follows:

21 **CHAPTER 3. ELECTIONS.**

22 **ARTICLE 2. REGISTRATION OF VOTERS.**

23 **§3-2-30. Public inspection of voter registration records in the**

1 **office of the clerk of the county commission; providing**
2 **voter lists for noncommercial use; prohibition against**
3 **resale of voter lists for commercial use or profit.**

4 (a) Any person may examine the active, inactive, rejected and
5 canceled voter registration records during office hours of the
6 clerk of the county commission in accordance with ~~the provisions of~~
7 chapter twenty-nine-b of this code. ~~as follows:~~

8 ~~(1) When the active and inactive files are maintained on~~
9 ~~precinct registration books, any person may examine the files under~~
10 ~~the supervision of the clerk and obtain copies of records except~~
11 ~~when a precinct book is in temporary use for updating and preparing~~
12 ~~lists or during the time the books are sealed for use in an~~
13 ~~election. Other original voter registration records, including~~
14 ~~canceled voter records, pending applications, rejected~~
15 ~~applications, records of change requests, reinstatements and other~~
16 ~~documents, shall be available for inspection upon specific request;~~
17 and

18 ~~(2) When the active~~ Active, inactive, rejected and canceled
19 voter files are to be maintained in electronic data format. ~~any~~
20 Any person may examine voter record information in printed form or
21 in a read-only data format on a computer terminal set aside for
22 public use, if available. The data files available for examination
23 and copying shall include all registration and voting information
24 maintained in the file, but may not include the registrant's

1 telephone number, e-mail address, social security number or
2 driver's license number or nonoperator's identification number
3 issued by the Division of Motor Vehicles.

4 (b) Printed lists of registered voters may be purchased for
5 noncommercial use from the clerk of the county commission at a cost
6 ~~of 1¢ per name~~ established in section two-b, article one, chapter
7 fifty-nine of this code.

8 (c) ~~In counties maintaining active and inactive files in~~
9 ~~digitized data format, the~~ The clerk of the county commission
10 shall, upon request, ~~prepare~~ provide printed copies of the lists of
11 voters for each precinct. No list prepared under this section may
12 include the registrant's telephone number, e-mail address, social
13 security number or driver's license number or nonoperator's
14 identification number issued by the Division of Motor Vehicles.
15 The clerk shall establish a written policy, posted within public
16 view, listing the options for selection and sorting criteria and
17 available data elements. The data elements shall include, at
18 least:

19 (1) The name, residence address, political party affiliation
20 and status of the registrant;

21 (2) The available formats of the lists; and

22 (3) The times at which lists will be prepared. A copy of the
23 county policy shall be filed with the Secretary of State no later
24 than January 1, of each even-numbered year.

1 (d) ~~In counties which maintain voter files in a digitized data~~
2 ~~format, lists~~ Lists of registered voters may be obtained for
3 noncommercial purposes in data format on disk provided and prepared
4 by the clerk of the county commission at a cost ~~of 1¢ per name plus~~
5 ~~\$10 for each disk required~~ established by section two-b, article
6 one, chapter fifty-nine of this code. No data file prepared under
7 this subsection may include the registrant's telephone number, e-
8 mail address, social security number or driver's license number or
9 nonoperator's identification number issued by the Division of Motor
10 Vehicles.

11 (e) The ~~fees~~ income received by the clerk of the county
12 commission shall be ~~kept~~ placed in a separate fund under the
13 supervision of the clerk ~~for the purpose of defraying the cost of~~
14 ~~the preparation of the voter lists.~~ Any unexpended balance in the
15 ~~fund shall be transferred to the General Fund of the county~~
16 ~~commission~~ or remitted directly to the Secretary of State for
17 placement in the State Election Fund as set forth in subsection
18 (b), section forty-eight, article one of this chapter. For the
19 purpose of this subsection, "income" means the portion of fees
20 remaining after moneys for the costs of producing the voter lists
21 have been expended. Any balance in the fund under the supervision
22 of the clerk, along with any interest earned, shall be transferred
23 at least annually to the State Election Fund no later than July 31
24 of each year.

1 (f) The Secretary of State may make voter lists and other
2 reports extracted from the statewide voter registration system
3 available for sale subject to the limitations as provided in this
4 section for counties. The ~~cost~~ costs shall be as established by
5 section two b, article one, chapter fifty-nine of this code. ~~for a~~
6 ~~partial list shall be one and one-half cents per name plus \$10 for~~
7 ~~each disk required; the cost for a complete statewide list shall be~~
8 ~~one-half cent per name and a flat fee of \$1,000. One cent per name~~
9 ~~for each voter from a particular county on each partial list and~~
10 ~~one-half cent per name for each voter from a particular county on~~
11 ~~each statewide list sold shall be reimbursed to the appropriate~~
12 ~~county. The disk fee and one-half cent per name associated with a~~
13 ~~partial list and the flat fee of \$1,000 associated with a complete~~
14 ~~statewide list shall be deposited to a special revenue account for~~
15 ~~purpose of defraying the cost of preparing the lists. The fees~~
16 associated with the purchase of a partial list, or associated with
17 a complete statewide list, shall be deposited to the State Election
18 Fund as set forth in subsection (b), section forty-eight, article
19 one of this chapter.

20 (g) ~~An update to a previously purchased list may be provided~~
21 ~~by the Secretary of State or the clerk of the county commission at~~
22 ~~a prorated cost based on the amount of additional information~~
23 ~~provided. The additional rates charged by the clerk of the county~~
24 ~~commission shall be specified in the policy established pursuant to~~

1 ~~subsection (c) of this section.~~

2 ~~(h)~~ (g) No voter registration lists or data files containing
3 voter names, addresses or other information derived from voter data
4 files obtained pursuant to the provisions of this article may be
5 used for commercial or charitable solicitations or advertising,
6 sold or reproduced for resale.

7 (h) This section may not be interpreted to prevent the
8 Secretary of State from sharing data files containing voter
9 information with authorized service providers or with any state or
10 local election officials for the purpose of voter registration and
11 election administration in accordance with this chapter or
12 applicable federal law.

13 **CHAPTER 59. FEES, ALLOWANCES AND COSTS;**

14 **NEWSPAPERS; LEGAL ADVERTISEMENTS.**

15 **ARTICLE 1. FEES AND ALLOWANCES.**

16 **§59-1-2b. Purchase of voter registration lists and election data.**

17 (a) Except as may be otherwise provided in this code, the
18 Secretary of State shall collect the following fees for data
19 originating in the statewide voter registration system from the
20 person requesting the information:

21 (1) Election Cycle Subscription Service.....\$6,000

22 An Election Cycle Subscription Service includes:

1 (A) Statewide Registered Voter List, updated monthly;

2 (B) Master Voter History List Export following certification
3 of the primary, general and odd-year elections;

4 (C) Statewide All Mail-in Request List for the primary,
5 general and odd-year elections;

6 (D) First file sixty days prior to election day. Updated files
7 daily starting thirty days prior to election day through election
8 day;

9 (E) Statewide Public Received Mail-in List for the primary,
10 general and odd-year elections;

11 (F) Updated files daily starting thirty days prior to election
12 day through ten days following election day;

13 (G) Statewide Early Voters List for the primary, general, and
14 odd-year elections; and

15 (H) Updated files daily starting on the first day of early
16 voting through election day.

17 (2) Statewide Voter Registration List.....\$500

18 (3) Master Voter History List Export.....\$500

19 (4) Statewide Early Voters List.....\$200

1 (5) Statewide Absentee Requests List.....\$200

2 (6) Statewide Absentee Received List.....\$200

3 (7) Partial Voter Registration or Voter History List...Current
4 hourly rate

5 (8) Complex Research Query.....Current hourly rate

6 (9) The current hourly rate shall be determined by the
7 Secretary of State, or in the case of a county-generated list by
8 the clerk of the county commission, and shall be provided to the
9 purchaser before a list is prepared and supplied.

10 (b) Clerks of county commissions providing voter lists in
11 pursuant to subsection (d), section thirty, article two, chapter
12 three of this code shall charge the fees established by this
13 section. Clerks may additionally charge a reasonable and necessary
14 fee to defray the costs associated with list preparation and
15 distribution.

16 (c) Proceeds from the sale of data originating in the
17 statewide voter registration system, along with any interest on
18 those funds, shall be deposited into the State Election Fund as set
19 forth in subsection (b), section forty-eight, article one, chapter
20 three of this code.

NOTE: The purpose of this bill concerns the preparation and sale of voter registration lists. The bill establishes the fees to be collected and requires those fees be deposited in the State Election Fund. The bill also permits a county clerk to collect an additional fee for list preparation.

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

§59-1-2b. is new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Secretary of State.