

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4356**

BY DELEGATES MCGEEHAN AND SPONAUGLE

[Introduced February 2, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §3-1-8 of the Code of West Virginia, 1931, and to amend and  
 2 reenact §3-2-5 of said code; all relating to the criteria for political party status; allowing a  
 3 group of affiliated voters to become a recognized political party if the group’s candidate  
 4 receives one percent of the votes in an election for any one of six statewide offices,  
 5 including that of Governor, Secretary of State, Treasurer, Auditor, Attorney General or  
 6 Commissioner of Agriculture; allowing a group of affiliated voters to become a recognized  
 7 political party if five thousand or more individuals have identified as members of the group  
 8 on their current voter registration forms; and requiring voting registration forms to provide  
 9 a space for individuals who do not select a political party affiliation to write the name of a  
 10 group of affiliated voters to which they belong.

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

1 That §3-1-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted,  
 2 and that §3-2-5 of said code, be amended and reenacted, all to read as follows:

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-8. Political party defined; parties or groups that may participate in municipal primary elections.**

1 (a) Any affiliation of voters representing any principle or organization shall be a political  
 2 party, within the meaning and for the purpose of this chapter ~~which if~~, at the last preceding general  
 3 election, the affiliation ~~polled for its candidate for Governor~~ at least one per cent of the total  
 4 number of votes cast for all candidates for ~~that office in the state~~, ~~shall be a political party, within~~  
 5 ~~the meaning and for the purpose of this chapter~~ at least one of the following state offices:

(1) Governor;

(2) Secretary of State;

(3) Attorney General;

(4) State Treasurer;

(5) State Auditor; or

11 (6) Commissioner of Agriculture.

12 (b) Regardless of whether an affiliation of voters meets the requirements of subsection (a)  
13 of this section, any affiliation of voters representing any principle or organization shall be a political  
14 party, within the meaning and for the purpose of this chapter, if at least five thousand voters in  
15 the state are registered to vote as a member of the affiliation.

16 ~~(c) Provided, That~~ Notwithstanding the foregoing provisions of this section, the governing  
17 body of any municipality may, by ordinance adopted by the affirmative vote of at least three fourths  
18 of the members of such governing body by recorded vote, provide that municipal political parties  
19 or groups within such municipality that do not meet the requirements of this section for  
20 classification as a political party may participate in the primary elections of any such municipality.  
21 Any such ordinance shall contain provisions implementing the foregoing proviso, which  
22 implementing provisions shall conform as nearly as practicable to any general provisions of law  
23 relating to municipal primary elections.

**ARTICLE 2. REGISTRATION OF VOTERS.**

**§3-2-5. Forms for application for registration; information required and requested; types of application forms; notices.**

1 (a) (1) All state forms for application for voter registration shall be prescribed by the  
2 Secretary of State and shall conform with the requirements of 42 U. S. C. §1973gg, *et seq.*, the  
3 National Voter Registration Act of 1993 and the requirements of the provisions of this article.  
4 Separate application forms may be prescribed for voter registration conducted by the clerk of the  
5 county commission, registration by mail, registration in conjunction with an application for motor  
6 vehicle driver's license and registration at designated agencies. These forms may consist of one  
7 or more parts, may be combined with other forms for use in registration by designated agencies  
8 or in conjunction with driver licensing and may be revised and reissued as required by the

9 Secretary of State to provide for the efficient administration of voter registration.

10 (2) Notwithstanding any provisions of subdivision (1) of this subsection to the contrary, the  
11 federal postcard application for voter registration issued pursuant to 42 U. S. C. §1973, *et seq.*,  
12 the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the mail voter registration  
13 application form prescribed by the Federal Election Commission pursuant to 42 U. S. C. §1973gg,  
14 *et seq.*, the National Voter Registration Act of 1993, are accepted as valid forms of application for  
15 registration pursuant to the provisions of this article.

16 (3) The Secretary of State is authorized to promulgate procedures to permit persons to  
17 register to vote through a secure electronic voter registration system.

18 (b) Each application form for registration shall include:

19 (1) A statement specifying the eligibility requirements for registration and an attestation  
20 that the applicant meets each eligibility requirement;

21 (2) Any specific notice or notices required for a specific type or use of application by 42 U.  
22 S. C. §1973gg, *et seq.*, the National Voter Registration Act of 1993;

23 (3) A notice that a voter may be permitted to vote the partisan primary election ballot of a  
24 political party only if the voter has designated that political party on the application for registration  
25 unless the political party has determined otherwise;

26 (4) The applicant's driver's license number or an identification number issued by the  
27 Division of Motor Vehicles. If the applicant does not have a driver's license or an identification  
28 card issued by the Division of Motor Vehicles, then the last four digits of the applicant's Social  
29 Security number; and

30 (5) Any other instructions or information essential to complete the application process.

31 (c) Each application form shall require that the following be provided by the applicant,  
32 under oath, and an application which does not contain each of the following is incomplete:

33           (1) The applicant's legal name, including the first name, middle or premarital name, if any,  
34 and last name;

35           (2) The month, day and year of the applicant's birth;

36           (3) The applicant's residence address including the number and street or route and city  
37 and county of residence except:

38           (A) In the case of a person eligible to register under the provisions of 42 U. S. C. §1973ff,  
39 *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act, the address at which he or  
40 she last resided before leaving the United States or entering the uniformed services, or if a  
41 dependent child of such a person, the address at which his or her parent last resided;

42           (B) In the case of a homeless person having no fixed residence address who nevertheless  
43 resides and remains regularly within the county, the address of a shelter, assistance center or  
44 family member with whom he or she has regular contact or other specific location approved by  
45 the clerk of the county commission for the purposes of establishing a voting residence; or

46           (C) In the case of a participant in the Address Confidentiality Program administered by the  
47 Secretary of State in accordance with section one hundred three, article twenty-eight (a), chapter  
48 forty-eight of this code, the designated address assigned to the participant by the Secretary of  
49 State; and

50           (4) The applicant's signature, under penalty of perjury as provided in section thirty-six of  
51 this article, to the attestation of eligibility to register to vote and to the truth of the information  
52 given. The clerk may accept the electronically transmitted signature kept on file with another  
53 approved state database for an applicant who applies to register to vote using an approved  
54 electronic voter registration system in accordance with procedures promulgated by the Secretary  
55 of State.

56           (d) The applicant shall be requested to provide the following information but no application

57 may be rejected for lack of this information:

58 (1) An indication whether the application is for a new registration, change of address,  
59 change of name or change of party affiliation;

60 (2) The applicant's choice of political party affiliation, if any, or an indication of no affiliation.

61 An applicant who does not enter a choice of political party affiliation is listed as having no party  
62 affiliation on the voting record;

63 (3) In the case of an applicant who has not indicated a political party affiliation, the name  
64 of a group of affiliated voters to which an applicant belongs.

65 ~~(3)~~(4) The applicant's residence mailing address if different than the residence street  
66 address;

67 ~~(4)~~(5) The last four digits of the applicant's Social Security number;

68 ~~(5)~~(6) The applicant's telephone number;

69 ~~(6)~~(7) The applicant's e-mail address;

70 ~~(7)~~(8) The address where the applicant was last registered to vote, if any, for the purpose  
71 of canceling or transferring the previous registration; and

72 ~~(8)~~(9) The applicant's gender.

73 (e) The Secretary of State shall prescribe the printing specifications of each type of voter  
74 registration application and the voter registration application portion of any form which is part of a  
75 combined agency form.

76 (f) Application forms prescribed in this section may refer to various public officials by title  
77 or official position but in no case may the actual name of an officeholder be printed on the voter  
78 registration application or on any portion of a combined application form.

79 (g) No later than July 1 of each odd-numbered year, the Secretary of State shall submit  
80 the specifications of the voter registration application by mail for statewide bidding for a contract

81 period beginning September 1 of each odd-numbered year and continuing for two calendar years.  
82 The successful bidder shall produce and supply the required mail voter registration forms at the  
83 contract price to all purchasers of the form for the period of the contract.

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NOTE: The purpose of this bill is to allow a group to become a recognized political party if the group's candidate receives one percent of the votes in an election for any one of six statewide offices, including that of Governor, Secretary of State, Treasurer, Auditor, Attorney General or Commissioner of Agriculture; to allow a group of affiliated voters to become a recognized political party if five thousand or more individuals have identified as a member of the group on their current voter registration forms; and to require voting registration forms to provide a space for individuals who do not select a political party affiliation to write the name of a group of affiliated of voters to which they belong.

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