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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

HOUSE BILL No. 4031

(By Delegates Doyle and Manuel)



Passed February 9, 1998

In Effect from Passage

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H. B. 4031

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AN ACT to amend and reenact section thirteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the form and contents of ballots and ballot labels; and requiring that the office of county commissioner be listed by magisterial district to be filled in certain counties.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-13. Form and contents of ballots and ballot labels.

1 The face of every primary election ballot shall
2 conform as nearly as practicable to that used at the general
3 election.

4 (a) The heading of every ballot shall be printed in
5 display type. The heading shall contain a ballot title, the
6 name of the county, the state, the words "Primary Election"
7 and the month, day and year of the election. The ballot
8 title of the political party ballots shall contain the words
9 "Official Ballot of the (Name) Party" and the official
10 symbol of the political party may be included in the
11 heading. The ballot title of any separate paper ballot or

12 portion of any electronic or voting machine ballot for the
13 board of education shall contain the words "Nonpartisan
14 Ballot of Election of Members of the _____
15 County Board of Education". The districts for which less
16 than two candidates may be elected and the number of
17 available seats shall be specified and the names of the
18 candidates shall be printed without reference to political
19 party affiliation, and without designation as to a particular
20 term of office. Any other ballot or portion of a ballot on
21 a question shall have a heading which clearly states the
22 purpose of the election, according to the statutory
23 requirements for that question.

24 (b) (1) For paper ballots, the heading of the ballot
25 shall be separated from the rest of the ballot by heavy
26 lines, and the offices shall be arranged in columns with the
27 following headings, from left to right across the ballot:
28 "National Ticket", "State Ticket", "County Ticket", and, in a
29 presidential election year, "National Convention", or, in a
30 nonpresidential election year "District Ticket". The
31 columns shall be separated by heavy lines. Within the
32 columns, the offices shall be arranged in the order
33 prescribed in section thirteen-a of this article.

34 (2) For voting machines, electronic voting devices and
35 any ballot tabulated by electronic means, the offices shall
36 appear in the same sequence as prescribed in section
37 thirteen-a, and under the same headings as prescribed in
38 subsection (a) of this section. The number of pages,
39 columns or rows, where applicable, may be modified to
40 meet the limitations of ballot size and composition
41 requirements, subject to approval by the secretary of state.

42 (3) The title of each office shall be separated from
43 preceding offices or candidates by a line, and shall be
44 printed in bold type, no smaller than eight point. Below
45 the office shall be printed the number of the district, if
46 any, the number of the division, if any, and the words
47 "Vote for _____" with the number to be nominated or
48 elected or "Vote For Not More Than _____" in
49 multicandidate elections. For offices in which there are
50 limitations relating to the number of candidates which
51 may be nominated, elected or appointed to or hold office
52 at one time from a political subdivision within the district

53 or county in which they are elected, there shall be a clear
54 explanation of such limitation, as prescribed by the
55 secretary of state, printed in bold type immediately
56 preceding the names of the candidates for those offices on
57 the ballot in every voting system. For counties in which
58 the number of county commissioners exceeds three and
59 the total number of members of the county commission is
60 equal to the number of magisterial districts within the
61 county, the office of county commission shall be listed
62 separately for each district to be filled, with the name of
63 the magisterial district and the words "Vote for One"
64 printed below the name of the office.

65 (c) The location for indicating the voter's choices on
66 the ballot shall be clearly shown. For paper ballots, other
67 than those tabulated electronically, the official primary
68 ballot shall contain a square formed in dark lines at the
69 left of each name on the ballot, arranged in a
70 perpendicular column of squares before each column of
71 names.

72 (d) (1) The name of every candidate certified by the
73 secretary of state or the board of ballot commissioners
74 shall be printed in capital letters in no smaller than eight
75 point type on the ballot for the appropriate precincts.
76 Subject to the rules promulgated by the secretary of state,
77 the name of each candidate shall appear in the form set
78 out by the candidate on the certificate of announcement,
79 but in no case may the name misrepresent the identity of
80 the candidate, nor may the name include any title,
81 position, rank, degree or nickname implying or inferring
82 any status as a member of a class or group or affiliation
83 with any system of belief.

84 (2) The city of residence of every candidate, the state
85 of residence of every candidate residing outside the state,
86 the county of residence of every candidate for an office
87 on the ballot in more than one county, and the magisterial
88 district of residence of every candidate for an office
89 subject to magisterial district limitations, shall be printed in
90 lower case letters beneath the names of the candidates.

91 (3) The arrangement of names within each office shall
92 be determined as prescribed in section thirteen-a of this
93 article.

94 (4) If the number of candidates for an office exceeds
95 the space available on a column or ballot label page and
96 requires that candidates for a single office be separated, to
97 the extent possible, the number of candidates for the
98 office on separate columns or pages shall be nearly equal,
99 and clear instructions given the voter that the candidates
100 for the office are continued on the following column or
101 page.

102 (e) When an insufficient number of candidates has
103 filed for a party to make the number of nominations
104 allowed for the office, or for the voters to elect sufficient
105 members to the board of education or to executive
106 committees, the vacant positions on the ballot shall be
107 filled with the words "No Candidate Filed": *Provided*,
108 That in paper ballot systems which allow for write-ins to
109 be made directly on the ballot, a blank line shall be placed
110 in any vacant position in the office of board of education
111 or for election to any party executive committee. A line
112 shall separate each candidate from every other candidate
113 for the same office.

114 (f) In presidential election years, the words "For
115 election in accordance with the plan adopted by the party
116 and filed with the secretary of state" shall be printed
117 following the names of all candidates for delegate to
118 national convention.

119 (g) All paper ballots shall be printed in black ink on
120 paper sufficiently thick so that the printing or marking
121 cannot be discernible from the back. Ballot cards and
122 paper for printing ballots using electronically sensible ink
123 shall meet minimum requirements of the tabulating
124 systems.

125 (h) Electronically tabulated ballots and ballot cards
126 shall contain perforated tabs at the top of the ballots and
127 shall be printed with unique sequential numbers from one
128 to the highest number representing the total number of
129 ballots or ballot cards printed. On paper ballots, the ballot
130 shall be bordered by a solid line at least one sixteenth of

131 an inch wide, and the ballot shall be trimmed to within
132 one-half inch of that border.

133 (i) On the back of every official ballot or ballot card,
134 there shall be printed the words "Official Ballot" with the
135 name of the county and the date of the election. Beneath
136 shall be two blank lines, followed by the words "Poll
137 Clerks".

138 (j) Absent voters' ballots shall be in all respects like
139 other official ballots, except that three blank lines shall be
140 printed on the back of the ballot or ballot card in the
141 lower left corner with the words "Ballot Commissioners"
142 printed underneath.

143 (k) The face of sample paper ballots and sample ballot
144 labels shall be like other official ballots or ballot labels,
145 except that the word "sample" shall be prominently printed
146 across the front of the ballot in such a way that the names
147 of candidates are not obscured, and the word "sample"
148 may be printed in red ink. No printing may be placed on
149 the back of the sample.

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

Randy Schorover
Chairman Senate Committee

Nick Fantasia
Chairman House Committee

Originating in the House.

Takes effect from passage.

Cerullo
Clerk of the Senate

Gregory M. Bay
Clerk of the House of Delegates

Carl Ray Imbler
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *approved* this the *19th*
day of *February*, 1998.

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date 2/16/98

Time 3:20pm