WEST VIRGINIA CODE: §3-4A-27

§3-4A-27. Proceedings at the central counting center.

(a) All proceedings at the central counting center are to be under the supervision of the clerk of the county commission and are to be conducted under circumstances which allow observation from a designated area by all persons entitled to be present. The proceedings shall take place in a room of sufficient size and satisfactory arrangement to permit observation. Those persons entitled to be present include all candidates whose names appear on the ballots being counted or, if a candidate is absent, a representative of the candidate who presents a written authorization signed by the candidate for the purpose and two representatives of each political party on the ballot who are chosen by the county executive committee chairperson. A reasonable number of the general public is also freely admitted to the room. In the event all members of the general public desiring admission to the room cannot be admitted at one time, the county commission shall provide for a periodic and convenient rotation of admission to the room for observation, to the end that each member of the general public desiring admission, during the proceedings at the central counting center, is to be granted admission for reasonable periods of time for observation: Provided, That no person except those authorized for the purpose may touch any ballot or other official records and papers utilized in the election during observation.

(b) All persons who are engaged in processing and counting the ballots are to work in teams consisting of two persons of opposite political parties, and are to be deputized in writing and take an oath that they will faithfully perform their assigned duties. These deputies are to be issued an official badge or identification card which is assigned an identity control number and the deputies are to prominently wear on his or her outer garments the issued badge or identification card. Upon completion of the deputies' duties, the badges or identification cards are to be returned to the county clerk.

(c) Ballots are to be handled and tabulated and the write-in votes tallied according to procedures established by the Secretary of State, subject to the following requirements:

(1) In systems using ballots marked with electronically sensible ink, ballots are to be removed from the ballot boxes and stacked for the tabulator which separates ballots containing marks for a write-in position. Immediately after tabulation, the valid write-in votes are to be tallied. No write-in vote may be counted for an office unless the voter has entered the name of an official write-in candidate for that office on the line provided, either by writing, affixing a sticker or placing an ink-stamped impression thereon;

(2) In systems using ballots in which votes are recorded upon screens with a stylus or by means of touch, the ballots are to be tabulated according to the processes of the system. Systems using ballots in which votes are recorded upon screens with a stylus or by means of touch are to tally write-in ballots simultaneously with the other ballots;

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(3) When more than one person is to be elected to an office and the voter desires to cast write-in votes for more than one official write-in candidate for that office, the voter shall mark the location appropriate for the voting system in the write-in location for that office. When there are multiple write-in votes for the same office and the combination of choices for candidates on the ballot and write-in choices for the same office exceed the number of candidates to be elected, the ballot is to be duplicated or hand counted, with all votes for that office rejected;

(4) Write-in votes for nomination for any office and write-in votes for any person other than an official write-in candidate are to be disregarded; and

(5) Official write-in candidates are those who have filed a write-in candidate's certificate of announcement and have been certified according to the provisions of section four-a, article six of this chapter.

(d) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy is to be made of the damaged ballot in the presence of representatives of each political party on the ballot and substituted for the damaged ballot. All duplicate ballots are to be clearly labeled "duplicate" and are to bear a serial number which is recorded on the damaged or defective ballot and on the replacement ballot.

(e) The returns printed by the automatic tabulating equipment at the central counting center, to which have been added write-in and other valid votes, are, when certified by the clerk of the county commission, to constitute the unofficial preliminary returns of the county. Upon completion of the count, the returns are to be open to the public by posting a summary of the returns as have been tabulated at the central counting center. Upon completion of the canvass, the returns are to be posted as tabulated precinct by precinct.

(f) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the county commission may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(g) As soon as possible after the completion of the count, the clerk of the county commission shall have the vote-recording devices properly boxed or securely covered and removed to a proper and secure place of storage.

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