WEST VIRGINIA CODE: §3-5-2

§3-5-2. Delegates to national conventions; alternate delegates.

(a) At the primary election to be held in the year one thousand nine hundred ninety-two, and in each fourth year thereafter, there shall be elected by the voters of each political party of the state, in accordance with a plan adopted by the state party, persons to be delegates to the national convention of the party to be held next after the date of such primary.

(b) The plan adopted by each political party of the state shall state the method, subject to compliance with their national party rules and not inconsistent with the provisions of this chapter, for the election of persons in each congressional district of the state as delegates to the national convention of the party, for the election or selection of persons in each congressional district of the state as alternate delegates to the national convention of the party and for the selection of all remaining delegates and alternate delegates allocated to the party in their national convention. Not less than one hundred twenty days before the primary election to be held in the year one thousand nine hundred ninety-two, and in every fourth year thereafter, the governing body of each political party of the state shall certify the plan adopted by the party under signature of the state party chairman and file the plan with the Secretary of State. Any questions regarding whether such plan was rightfully adopted by the party shall be resolved by the party based upon party rules.

(c) The plan adopted by each political party of the state shall, to the extent permissible under their national party rules, provide for the following:

(1) The voters of each political party shall elect in each congressional district the number of persons as delegates to the national convention of the party to which the district is entitled.

(2) If the rules of the national political party do not require the apportionment of delegates on the basis of their commitment for president, the persons receiving the highest number of votes as delegates in any congressional district to the number to which the district is entitled, shall be elected delegates. After the election of delegates in each congressional district to the number to which the district is entitled, the persons receiving the next highest votes in each congressional district and having qualified, as may be provided in the plan adopted by the party, shall be elected as alternate delegates to the number of alternate delegates to which the district is entitled.

(3) If the rules of the national political party require that the percentage of votes cast for the various presidential candidates determine the apportionment of committed candidates to be elected as delegates or alternates, regardless of whether such committed candidates received the highest number of votes, then the plan adopted by the political party of the state shall prescribe the number of delegates and alternates to be elected under such apportionment, the method by which the apportionment shall be made, and the method by which the Secretary of State shall determine which delegates and alternates are elected. A

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committed candidate for delegate to national convention is one whose preference for particular presidential candidate appears on the ballot.

(4) In the event the number of persons elected in the primary election in a congressional district is less than the number to which the district is entitled as delegates and alternate delegates to the national convention of the political party, the governing body of the political party of the state shall appoint persons from the congressional district to serve as delegates or alternate delegates to the national convention of the party unless the rules of the party otherwise provide.

(5) The number of persons which each of the congressional districts in the state are entitled to elect as delegates to the national convention of the political party shall be apportioned among the congressional districts in the same proportion to the total number of delegates to the party's national convention elected in all congressional districts in the state as the population of the congressional district bears to the total population of the state based upon the census of population taken by the bureau of the census of the United States Department of Commerce in the year one thousand nine hundred ninety, and in every tenth year thereafter.

(d) The official primary ballot at the primary election to be held in the year one thousand nine hundred ninety-two, and in every fourth year thereafter shall, following the names of all candidates for delegates to the national convention of the party, contain the words "For election in accordance with the plan adopted by the party and filed with the Secretary of State."

(e) Unless and until a political party of the state has adopted and certified a plan for the election of delegates to the national convention of the party and filed the plan with the Secretary of State, there shall be elected by the voters of the political party of the state at the primary election to be held in the year one thousand nine hundred ninety-two, and in each fourth year thereafter, the number of persons to which the party is entitled as delegates-at-large, and by the voters of each political party in each congressional district in the state the number of delegates to which the district is entitled. The persons receiving the highest number of votes in the state as delegates-at-large, to the number to which the state is entitled, shall be elected delegates. The persons receiving the highest number of votes as delegates in any congressional district, to the number to which the district is entitled, shall be elected delegates. Each delegate so elected shall then appoint an individual to serve as alternate delegate, and shall by registered letter notify the Secretary of State of such appointment within forty days after the primary election.

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