WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED

SENATE BILL No. 37

(By Mr. Randolph, Mr. President)

PASSED March 1, 1941

In Effect 90 days from Passage
AN ACT to amend and reenact section one, to add section one-a, one-b and one-c, to amend and reenact section two, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eight, acts of the Legislature first extraordinary session, one thousand nine hundred thirty-three; to add section five-a, to amend and reenact sections eight, nine, and twelve, to add sections twenty-two-a and twenty-three-a to article four; and to add section four-a to article
five, chapter three of the code of West Virginia one thou-
sand nine hundred thirty-one, all relating to the non-
partisan nomination and election of school board members.

Be it enacted by the Legislature of West Virginia:

That section one be amended and reenacted, that sections
cne-a, one-b, and one-c be added, that section two, article
five chapter eighteen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended by chapter eight,
acts of the Legislature, first extraordinary session, one thousand
nine hundred thirty-three, be amended and reenacted; that
section five-a be added, that sections eight, nine, and twelve be
amended and reenacted, and that sections twenty-two-a and
twenty-three-a, article four be amended and reenacted, and
that section four-a be added to article five chapter three of the
code of West Virginia, one thousand nine hundred thirty-one
to read as follows:

Chapter 18. Education

Article 5. District Board of Education

Section 1. Members; Non-partisan Nomination and
2 Election. Each county school district shall be under the
3 supervision and control of a county board of education,
which shall be composed of five members, nominated and
elected by the voters of the respective county, without
reference to political party affiliation. No more than two
members shall be elected from the same magisterial
district.

Sec. 1-a. Eligibility. No person shall be eligible for
membership on any county board of education who is not
a citizen, resident in such county, or who accepts a position
as teacher in any school district, or who holds membership
in any political party executive committee, or who be-
comes a candidate for or is appointed to any public
office; Provided, however, That the foregoing provisions
of this section shall in no manner affect the term of office
of any member of a board of education who holds an un-
expired term under prior existing law, or any person who
shall have been elected such member at the general elec-
tion held on November fifth, one thousand nine hundred
and forty.

No member of any board of education shall be eligible
for nomination for, or appointment to, any public office,
other than to succeed himself; unless and until his mem-
bership on the board has been terminated at or before
the time of his filing for such nomination for, or appoint-
ment to, such public office.
For the purposes of this section the term “public office”
shall be construed to include any position of public trust,
responsibility or service in any municipality, county, state,
or federal government, or any subdivision or combined
unit or units thereof, regardless of whether such position
be remunerative or not.
Sec. 1-b. Term of Office. At the general election in the
year one thousand nine hundred forty-two, two members
shall be elected for a term of six years and one member for
a term of four years; at the general election in the year
one thousand nine hundred forty-four, two members shall
be elected for a term of six years. As the terms provided
above expire, the offices shall be filled for six year terms.
The term of office of any member of any county board of
education shall immediately cease, and a vacancy shall
exist, upon occurrence of ineligibility as prescribed in
section one-a of this article.
This section, however, shall in no manner be construed
so as to affect the unexpired terms of county school board members who hold office or were elected under prior existing law.

Sec. 1-c. President of Board of Education. On the first Monday in July following each general election each respective board of education shall organize and elect for a two year term a president from its own membership.

Sec. 2. Filling Vacancies. The board shall, by appointment, fill within thirty days any vacancy that occurs in its membership. Such appointments shall continue until the next general election, when the voters shall elect a successor for the unexpired term. In the event that the board does not fill the vacancy within thirty days, the state superintendent of schools shall appoint a person to fill the vacancy.

Chapter 3. Elections


Section 5-a. Announcement of Candidacy for Membership on Board of Education. Any person who is eligible to hold office as a member of any county board of education may, at least thirty days prior to the primary election
day, file a certificate with the Clerk of the Circuit Court of the county, declaring himself a candidate for the nomination of such office and the length of term sought for such office. Such certificate shall be substantially in the following form:

I, ____________________________ hereby certify that I am a candidate for the non-partisan nomination for membership on the ____________________________ County Board of Education, and desire my name printed on the ballot to be voted at the primary election to be held on the __________ day of _________________, 19_____; that I am a legally qualified voter of the county of ____________________________, State of West Virginia; that my residence is number ___________ of _______________ in ______________________ county in said state; that I am eligible to hold the said office; and that I am a candidate for said office in good faith.

____________________________  
Candidate

Signed and acknowledged before me this __________ day of ______________________, 19____.
Signature and official title of person before whom signed.

Such announcement shall be signed and acknowledged by the candidate before some officer qualified to administer oaths, who shall certify the same.

Sec. 8. Certification and Posting of Candidacies. At least thirty days before the day fixed for the primary election, the secretary of state shall as provided in this article arrange a list of names of all the candidates who have filed announcements with him, and who are entitled to have their names printed on the ballot. He shall forthwith certify the list under his name and the lesser seal of the State, and file it in his office, and make and transmit a duplicate thereof by registered mail to the clerk of the circuit court of each county in the State, in which such candidate or candidates is or are to be voted for. He shall also post a duplicate of such list in a conspicuous place in his office, and keep the same posted until after the primary election. In case of emergency the secretary of state may transmit such duplicate list
Enrolled S. B. No. 37] 8

16 by telegraph. The certificates to be made by the secre-
17 tary of state shall as herein provided, give the name
18 and residence of each candidate, the office for which he
19 is a candidate, the name of the political party, if any,
20 of which he is a candidate, and upon what ballot or
21 ballots his name is to be printed.

Sec. 9. Publication and Printing of Ballots. At least
2 twenty-five days before the holding of any primary
3 election, the ballot commissioners of each county shall
4 prepare from the lists and certificates of announcements
5 as provided in this article, a sample official primary
6 ballot for each party, placing thereon the names of all
7 the candidates of the respective political party, and, as
8 the case may be, the non-partisan candidates to be voted
9 for at such primary election. They shall publish the
10 same in two issues of a newspaper of general circulation
11 published in such county and representing such party,
12 if one there be; if not, then in some other newspaper
13 published in such county in two issues of such newspaper.
14 The ballot commissioners shall cause official ballots,
15 to at least one and one-half times the number of regis-
tered voters in each election precinct of each political
ty, to be printed and delivered to them for holding
the primary election.

Sec. 12. *Form and Contents of Ballots.* The official
primary ballot shall contain at the left of each column
of names of candidates, a perpendicular column, and shall
be so printed as to leave a square at the left of each
name on the ballot.

On such primary ballot, the names of candidates for
president of the United States, for United States senator,
for representatives in Congress, and for delegates and
alternate delegates to the national convention of the
party, shall be placed in the first column of candidates;
the names of candidates for all state offices except judges
of the supreme court of appeals, and all other offices to
be filled by the voters of a political division greater than
a county, including the state executive committee and
excluding judges of the circuit courts, in the second
column. The names of all candidates for county offices,
including members of the house of delegates, and con-
gressional, judicial and senatorial executive committees
(except judges of the circuit court, in cases where a single
county constitutes a judicial circuit, and judges of inferior
courts) shall be placed in the third column; and the
names of all candidates for office in the magisterial dis-
tricts, in the fourth column.

The face of every primary election ballot shall con-
form as nearly as practicable to that used at the general
election.

The secretary of state, or the circuit court clerk, as the
case may be, shall arrange the names of the candidates
to be printed on the ballot in alphabetical order, accord-
ing to the surname, under the title of the respective
offices upon the ballot.

Immediately below the space provided on the ballot for
listing the candidates affiliated with the respective politi-
cal party, shall be printed in bold type, the caption, "Non-
partisan Nomination for Candidates for County Board of Education." The names of the candi-
dates for nomination to the respective county board of
education, the length of term for which they announce
their candidacy and the number of candidates for which
each person is entitled to vote shall be printed beneath said caption, without reference to political party affiliation.

In printing each set of ballots the position of the names of the candidates shall be changed in each office division as many times as there are candidates in that office division. As nearly as possible an equal number of ballots shall be printed after each change. In making the change of position, the printer shall take the line of type containing the first name in the office division concerned and place it at the bottom of the list of names in that division and move up the column so that the name that before was second shall be first, after the change. After the ballots are printed they shall be kept in separate piles, one pile for each change of position, and shall then be gathered by taking one from each pile. Sample ballots shall be in the same form as the official ballot, but the order of the names thereon need not be alternated.

All ballots used in primary elections shall be printed on paper conforming as nearly as practicable in weight,
texture, and color to the samples furnished by the secretary of state, and the paper shall be sufficiently thick so that the printing cannot be discernible from the back. On the back of the ballot shall be printed in black ink, and in plain, legible, black face pica type, the name of the political party as contained in the heading, followed by the word "ballot." Under this designation shall be printed two blank lines followed by the words "poll clerks."

Sec. 22-a. Non-Partisan Primary Nominees. There shall be no more than two nominees for each position sought on the respective county board of education except in case of a tie vote. The person who receives the greatest number of votes and the person who receives the next greatest number of votes for each position to be voted upon as listed on the ballot shall be deemed nominated for that respective position: Provided, That in case there is only one candidate for such a position, that candidate shall be deemed nominated. If there is more than one position to be filled for the office of county board of education, the nominations for
each additional position shall go to the two persons rece-
ving the next highest respective number of votes.

Sec. 23-a. Vacancy or Absence of Nominees in Non-
Partisan Primary. In the event of death, withdrawal or
disqualification of a nominee for any office appearing on
the non-partisan ballot, subsequent to the primary, and
prior to the general election, the person or persons receiv-
ing the next highest respective votes in the primary elec-
tion for the position in question shall be deemed nomi-
nated.

If for any reason there are no candidates for nomination
on the non-partisan primary election the procedure as
prescribed in section 23 of this article, for filling vacancies
in party nominations, shall be followed.

Article 5. Conducting Election. Ascertaining and Certifying
the Result.

Sec. 4-a. Form and Arrangement of Ballots for Election
of Members of County Boards of Education. At every
general election in which members of county boards of
education are to be elected there shall be printed in bold
type on the lower extremity of the official ballot pre-
scribed in section four of the article, the caption "Non-
partisan Election of Members of County Board of Education." Beneath such caption shall be printed the names of the nominees for membership and the term of office sought on the respective county boards of education without reference to political party affiliation. In all other matters consistent with the purpose of this Act, the procedures in article five shall apply.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect 90 days from passage

 Clerk of the Senate

 Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 14

day of March, 1941.

Governor.

Filed in the office of the Secretary of State
of West Virginia, MAR 17 1941

Wm. S. O'Brien,
Secretary.