

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED

SENATE BILL No. 19

(By Mr. Smith.....)

PASSED Feb. 11..... 1941

In Effect 90 days from..... Passage

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Filed in the office of the Secretary of State
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Wm. S. GIBSON,
Secretary of State

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Senate Bill No. 19

(BY MR. SMITH)

[Passed February 11, 1941; in effect 90 days from passage.]

AN ACT to amend and reenact section twenty-nine, article four, chapter three, of the code of West Virginia, one thousand nine hundred thirty-one, relating to elections and the nominations of candidates by certificate, and providing for authority to investigate the validity of such certificates and the institution of legal proceedings, and penalties for violations.

Be it enacted by the Legislature of West Virginia:

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

Section 29. *Certificate Nominations; Qualifications of*
2 *Signers and Solicitors; Penalties.* (a) Groups of citizens
3 having no party organization may nominate candidates
4 for public office otherwise than by conventions or pri-
5 mary elections. In such case, the candidate or candi-
6 dates, jointly or severally, shall file a declaration con-
7 taining the name of the political party he or they pro-
8 pose to represent, its platform, principles or purposes,
9 with the secretary of state if the office is to be filled by
10 the voters of more than one county, or with the clerk
11 of the circuit court of the county if the office is to be
12 filled by the voters of one county or political sub-
13 division thereof; such declaration to be filed at least
14 thirty days prior to the time of filing the certificate
15 provided by section thirty of this article and at the
16 time of filing of such declaration each candidate shall
17 pay the filing fee required by law, and if such declaration
18 is not so filed or the filing fee so paid the certificate
19 shall not be received by the secretary of state, or clerk
20 of the circuit court, as the case may be.
21 (b) The person or persons soliciting or canvassing sig-

22 natures of duly qualified voters on such certificate or
23 certificates, shall be residents and qualified, registered
24 voters, of the magisterial district of the county in which
25 such solicitation or canvassing is made, and may solicit or
26 canvass duly registered voters resident within their own
27 respective magisterial district, but must first obtain from
28 the clerk of the county court of which such canvasser or
29 solicitor is a resident, credentials which must be ex-
30 hibited to each voter canvassed or solicited, which creden-
31 tials may be in the following form or effect:

32 State of West Virginia, County of _____, ss:

33 This certifies that _____, a duly registered voter
34 of Precinct No. _____, _____ District, of this
35 county and state; whose postoffice address is _____,
36 is hereby authorized to solicit and canvass duly regis-
37 tered voters residing in _____ District of this
38 County to sign a certificate purporting to nominate
39 _____ (here place name of candidate head-
40 ing list on certificate) for the office of _____, and
41 others, to represent the _____ Party at the
42 general election to be held on _____, 19_____.

43 Given under my hand and the seal of my office this
44 _____ day of _____, 19____.

45

46 _____
46 Clerk, County Court of _____County.

47 The clerk of each county court, upon proper applica-
48 tion made as herein provided, shall issue such creden-
49 tials and shall keep a record thereof.

50 (c) The certificate shall be personally signed by duly
51 registered voters, in their own proper handwriting or
52 by their marks duly witnessed, who must be residents
53 within the magisterial district of the county wherein
54 such canvass or solicitation is made by the person or
55 persons duly authorized. Such signatures need not all
56 be on one certificate. The number of such signatures
57 shall be equal to not less than one per centum of the
58 entire vote cast at the last preceding general election
59 for the office in the State, circuit, district, county or
60 other political division for which the nomination is to
61 be made, but in no event shall the number be less than
62 twenty-five. Where two or more nominations may be
63 made for the same office, the total of the votes cast at

64 the last preceding general election for the candidates
65 receiving the highest number of votes on each ticket
66 for such office shall constitute the entire vote. No sig-
67 nature on such certificate shall be counted unless it be
68 that of a duly registered voter of a precinct within the
69 magisterial district wherein such certificate was presented.
70 No person signing such certificate shall vote at any pri-
71 mary election to be held to nominate candidates for
72 office to be voted for at the election to be held next after
73 the date of signing such certificate.

74 (d) Such certificates shall state the name and resi-
75 dence of each of such candidates; that he is legally quali-
76 fied to hold such office; that the subscribers are legally
77 qualified and duly registered as voters and desire to vote
78 for such candidates; and shall designate, by not more than
79 five words, a brief name of the party which such candi-
80 dates represent and may adopt a device or emblem to be
81 printed on the official ballot. All candidates nominated
82 by the signing of such certificates shall have their names
83 placed on the official ballot as candidates, as if otherwise
84 nominated under the provisions of this chapter. At the

85 top of each certificate shall be the following form or to
86 the following effect:

87 State of West Virginia, County of _____, ss:

88 This is to certify that we, the undersigned, are duly
89 registered voters, resident within the magisterial district
90 of _____, County of _____, State of
91 West Virginia, and do hereby make the following nomi-
92 nations for public office, to-wit:

93 For House of Delegates

94 A _____ B _____, Residence _____

95 (And so on for each nomination so made)

96 And, we further certify that each of said candidates is
97 legally qualified to hold the office for which he is nomi-
98 nated; that we are legally registered and qualified voters
99 and desire to vote for said candidates and acknowledge
100 that we are aware that no person signing this certifi-
101 cate can legally vote at the primary election next en-
102 suing after the date of the filing of this certificate. The
103 name of the party which the candidates represent is (here
104 state name) and the device or emblem of the party is
105 (here affix device).

106	Signature	Precinct No.	Residence	Postoffice Address
107	(Names	(Number of	(Describe	(Name of office)
108	of Voters)	precinct	it)	
109		in magisterial		
110		district)		

111 (e) The secretary of state, or the clerk of the circuit
 112 court, as the case may be, may investigate the validity
 113 of such certificates and the signatures thereon, and if
 114 upon such investigation there may be doubt as to the
 115 legitimacy and the validity of such certificate, he may re-
 116 quest the attorney general of the state, or the prosecuting
 117 attorney of the county, to institute a quo warranto pro-
 118 ceeding against the nominee or nominees by certificate to
 119 determine his or their right to such nomination to public
 120 office, and upon request being made, the attorney general
 121 or prosecuting attorney shall institute such quo warranto
 122 proceeding.

123 (f) An person violating the provisions hereof, in
 124 addition to penalties prescribed elsewhere for violations
 125 of this chapter, shall be guilty of a misdemeanor, and
 126 upon conviction, shall be fined not more than one thou-

127 sand dollars, or confined in the county jail for not more
128 than one year, or both, in the discretion of the court.

129 All acts, or parts of acts, in conflict with the provisions
130 hereof are hereby repealed; and if any clause, sentence,
131 paragraph, or part of this section shall for any reason be
132 adjudged by any court of competent jurisdiction to be in-
133 valid, such judgment shall not affect, impair or invalidate
134 the remainder of this section, but shall be confined in its
135 operation to the clause, sentence, paragraph or part there-
136 of directly involved in the controversy in which such
137 judgment shall have been rendered.

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

C. H. Minton
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the Senate

Takes effect 90 days from passage

W. Saul Watkins
Clerk of the Senate

J. Clipp
Clerk of the House of Delegates

Byron B. Randolph
President of the Senate

Malcolm R. Arnold
Speaker House of Delegates

The within approved this the 15th day of February, 1941.

Matthew M. Neely
Governor.



Filed in the office of **FEB 17 1941**
of West Virginia.
Wm. S. O'BRIEN,
Secretary of State