

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943



ENROLLED

HOUSE BILL No. 39

(By Mr. Taylor, of Mingo)



PASSED March 1, 1943

In Effect from Passage

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ENROLLED
House Bill No. 39

(BY MR. TAYLOR, of Mingo)

[Passed March 1, 1943; in effect from passage.]

AN ACT to amend and reenact section seventeen, article four, and section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the conduct of primary and other elections, and voting therein.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article four, and section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 17. *Conducting Primary; Voting.*—Any person
2 offering to vote in a primary election shall be required to
3 sign his name in the space marked “signature of voter”
4 on the poll book prescribed in section thirteen of this ar-
5 ticle, and until such person shall so sign the poll book no
6 ballot shall be given to him. After having signed the poll
7 book, as aforesaid, a ballot shall be given to the voter by
8 the poll clerks. If such person is physically or otherwise
9 unable to sign his name, his mark shall be affixed by one
10 of the poll clerks in the presence of the other. The name of
11 the poll clerk affixing the mark of such person shall be
12 indicated beneath such affixation.

13 The clerks shall write their names at the place designated
14 on the back of the official ballot called for and deliver it to
15 the voter, who shall have but one ballot unless he shall re-
16 turn the same spoiled; if he shall return the same spoiled,
17 the clerk shall immediately destroy the ballot so spoiled,
18 and deliver to him another ballot in the same manner as
19 they delivered the first one. The voter shall then forthwith,
20 and without leaving the room, return alone to the booth or
21 compartment prepared for the purpose, and there prepare

22 his ballot. Any voter, because of illiteracy or disability, as
23 shown by the registration record, may receive the as-
24 sistance as provided for in section twenty-one, article five,
25 chapter three of the code of West Virginia.

26 After preparing the ballot, the voter shall fold the
27 same so that the face shall not be exposed, but so as to
28 show plainly the name of the political party and the
29 names of the poll clerks signed thereon. The voter shall
30 then announce his name and present his ballot to the
31 commissioner of his party, if there be one, who shall hand
32 the same to another election official, who shall deposit it
33 in the ballot box, if such ballot is the official one and
34 properly signed. When the voter has voted, he shall retire
35 immediately from the election room, and beyond the
36 sixty foot limit thereof, and shall not return, except by
37 permission of the commissioners.

Sec. 19. *Conducting Elections other than Primaries;*

2 *Voting.*—Any person offering to vote in an election shall
3 sign his name in the space marked “signature of voter”
4 on the poll book prescribed in section twelve of this
5 article before being given a ballot, and after such person

6 shall have so signed the poll book a ballot shall be given
7 him by the poll clerks. If such person is physically or
8 otherwise unable to sign his name, his mark shall be
9 affixed by one of the poll clerks in the presence of
10 the other. The name of the poll clerk affixing the mark
11 of such person shall be indicated beneath such affixa-
12 tion.

13 The clerks shall write their names at the place desig-
14 nated on the back of the official ballot called for and de-
15 liver it to the voter, who shall have but one ballot un-
16 less he shall return the same spoiled; if he shall re-
17 turn the same spoiled, the clerks shall immediately
18 destroy the ballot so spoiled, and deliver to him another
19 ballot in the same manner as they delivered the first
20 one.

21 On receipt of the ballot the voter shall forthwith, and
22 without leaving the election room, retire alone to one
23 of the booths or compartments provided for the pur-
24 pose and shall prepare the ballot, using a black lead
25 pencil or other means for the purpose and observing the
26 following rules:

27 (a) If the voter desires to vote a straight ticket, or, in
28 other words, for each and every candidate for one party
29 for whatever office nominated, he shall either:

30 (1) Make a cross mark in the circular space below
31 the device and above the name of the party at the
32 head of the ticket, or

33 (2) Make a cross mark on the left and opposite the
34 name of each and every candidate of such party in
35 the blank space provided therefor; or

36 (3) Mark out, by lines, all the tickets on the ballot,
37 other than the ticket he desires to vote.

38 (b) If the voter desires to vote a mixed ticket, or,
39 in other words, for candidates of different parties, he shall
40 either:

41 (1) Omit making a cross in the circular space above
42 the name of the party, and make a cross mark in the
43 blank space before the name of each candidate for
44 whom he desires to vote on whatever ticket the name may
45 be; or

46 (2) Make a cross mark in the circular space above
47 the name of the party for some of whose candidates he

48 desires to vote, and then make a cross mark before the
49 name of any candidate of any other party for whom
50 he may desire to vote; in which case the cross mark
51 in the circular space above the name of the party will
52 cast his vote for every candidate on the ticket of such
53 party except for offices for which candidates are marked
54 on other party tickets, and the cross marks before the
55 name of such candidates will cast his vote for them;
56 or

57 (3) Write with black lead pencil or other means the
58 name of any person for whom he desires to vote in
59 the space immediately below the name of the oppos-
60 ing candidate for the same office, on the ticket voted
61 by him, and the name so written shall be counted.

62 If, in marking either a straight or mixed ticket as
63 above defined, a cross mark is made in the circular space
64 above the name of a party at the head of the ticket,
65 and also one or more cross marks made before the name
66 or names of candidates on the same ticket for offices
67 for which candidates on other party tickets are not
68 individually marked, such marks before the name of

69 candidates on the ticket so marked shall be treated as
70 surplusage and ignored.

71 If the voter desires to vote for any person whose name
72 does not appear on the ticket, he may substitute the
73 name by writing it with black pencil or other means in
74 the proper place, and making a cross mark in the blank
75 space at the left of the name so written.

76 If the voter marks more names than there are persons
77 to be elected to an office, or if, for any reason, it is
78 impossible to determine the voter's choice, for an office
79 to be filled, the ballot shall not be counted for such of-
80 fice.

81 No ballot shall be rejected for any technical error
82 which does not make it impossible to determine the voter's
83 choice.

84 After preparing the ballot the voter shall fold the
85 same so that the face shall not be exposed and so that
86 the names of the poll clerks thereon shall be seen. The
87 voter shall then announce his name and present his
88 ballot to one of the commissioners who shall hand the
89 same to another commissioner, of a different political

90 party, who shall deposit it in the ballot box, if such
91 ballot is the official one and properly signed. The com-
92 missioners of election may inspect every ballot before
93 it is deposited in the ballot box, to ascertain whether
94 it is single, but without unfolding or unrolling it, so
95 as to disclose its content. When the voter has voted,
96 he shall retire immediately from the election room, and
97 beyond the sixty-foot limit thereof, and shall not return,
98 except by permission of the commissioners.

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

Ray Z. Johnson
Chairman Senate Committee

Arundel H. Patton
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

Arthur Watkins
Clerk of the Senate

Ed Sliff
Clerk of the House of Delegates

James Paule
President of the Senate

John E. Cannon
Speaker House of Delegates

The within *approved* this the *10*

day of *March*, 1943.

Matthew M. Neely
Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 10 1943**

Wm. S. O'BRIEN,
Secretary of State