

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943

ENROLLED

SENATE BILL No. 213

Originating (By Mr. and Committee on the Judiciary)

PASSED March 13 1943

In Effect Ninety days from Passage



213

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Senate Bill No. 213

(Originating in the Committee on the Judiciary.)

[Passed March 13, 1943; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine; to amend and reenact section six-a, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-seven; and to amend and reenact section twelve, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-

one, as amended by chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the nomination of judges and other officers.

Be it enacted by the Legislature of West Virginia:

That section five, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted; that section six-a, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted; and that section twelve, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted, all to read as follows:

Article 4. Nomination of Candidates.

Section 5. *Nomination of Candidates for Offices.* At
2 each primary election, the candidate or candidates of

3 each political party for all offices to be filled at the en-
4 suing general election by the voters of the entire state,
5 of each congressional district, of each state senatorial
6 district, of each judicial circuit except the first judicial
7 circuit of West Virginia, of each county except candidates
8 for the office of judge of an inferior court in any county
9 in the first judicial circuit, and of each magisterial dis-
10 trict, in the state, shall be nominated by the voters of
11 the different political parties, except that candidates for
12 membership on any county board of education shall be
13 nominated on a non-partisan ballot, and that no presi-
14 dential elector shall be nominated at a primary election.
15 Candidates for the offices of judge of the circuit and in-
16 ferior courts of the first judicial circuit shall continue
17 to be nominated at party conventions as provided in
18 section twenty-seven of this article, but said section
19 twenty-seven is hereby repealed and superceded by this
20 enactment in so far as said section heretofore relates to
21 the nomination of candidates for the office of judge of
22 courts of record of West Virginia other than in the first
23 judicial circuit. In any primary election, the person re-

24 ceiving the highest number of votes of each political
25 party in all cases wherein one person only is to be elected,
26 and the persons receiving the highest number of votes,
27 to the number to be elected, in all cases in which two or
28 more persons are to be elected to the same office, in and
29 throughout the political division in which the person is
30 a candidate, and voted for as such, shall be nominated
31 as the party candidate, or candidates, for the office, or
32 offices, for which they are voted for at the primary elec-
33 tion: *Provided, however,* That with respect to nomina-
34 tions of commissioners of county courts no two of such
35 commissioners shall be nominated as the party candidates
36 from the same magisterial district where more than one
37 such commissioner is to be so nominated at any primary
38 election, and if two or more persons residing in the same
39 district shall in any case receive the greater number of
40 votes cast at such primary election, then only the one
41 of such persons receiving the highest number shall be
42 declared nominated as the candidate of his party, and
43 the person living in another district who shall receive
44 the next highest number of votes shall be declared nom-

45 inated as the candidate of his party, and so on to the
46 next highest in another district; and in no event shall
47 any such candidate be nominated from the same magis-
48 terial district wherein an already elected or otherwise
49 qualified member of such county court resides and who
50 will continue to hold office after the beginning of the
51 term for which such nomination is made: *Provided fur-*
52 *ther,* That with respect to nominations of members of a
53 county board of education no more than two of such
54 members shall be nominated from the same magisterial
55 district where more than two such members are to be
56 nominated at any primary election, and if more than
57 two persons residing in the same district shall receive
58 the greater number of votes cast at such primary elec-
59 tion, then only the two of such persons receiving the
60 highest number shall be declared nominated, and the
61 person or persons living in another district who shall
62 receive the next highest or two highest number of votes,
63 as the case may be, shall be declared so nominated, and
64 so on to the next highest in another district; and in no
65 event shall any such candidate or candidates be nom-

66 inated from the same magisterial district wherein two
67 already elected or otherwise qualified members of such
68 board of education reside and who will continue to hold
69 office after the beginning of the term for which such
70 nomination or nominations are made, except that, one
71 such nomination may be made for the same magisterial
72 district wherein only one such already elected or other-
73 wise qualified member resides and will continue to hold
74 office as aforesaid.

Sec. 6-a. *Filing Fees and Their Disposition.* Every
2 person who becomes a candidate for nomination for of-
3 fice in any primary election, shall, at the time of filing
4 the certificate of announcement as required in section
5 five-a, or section six of this article, pay a filing fee as
6 follows:

7 (a) A candidate for United States senator, for mem-
8 ber of the United States house of representatives, for
9 governor and for all other state elective offices shall pay
10 a fee equivalent to one per cent of the annual salary of
11 the office for which the candidate announces.

12 (b) A candidate for the office of judge of a circuit

13 court and judge of any court of record of limited jur-
14 isdiction shall pay a fee equivalent to one per cent of the
15 annual salary of the office for which the candidate an-
16 nounces.

17 (c) A candidate for member of the the house
18 of delegates shall pay a fee of ten dollars, and
19 a candidate for state senator shall pay a fee of
20 twenty dollars.

21 (d) A candidate for sheriff, prosecuting attorney, cir-
22 cuit clerk, county clerk, assessor, member of the county
23 court and member of the county board of education shall
24 pay a fee equivalent to one per cent of the annual salary
25 of the office for which the candidate announces: *Pro-*
26 *vided, however,* That the fee in no case shall be less than
27 five dollars. A candidate for any other county office
28 shall pay a fee of five dollars.

29 (e) A candidate for justice of the peace in districts
30 having a population of five thousand or less, shall pay a
31 fee of ten dollars; in districts having a population of
32 more than five thousand and not more than twenty-five
33 thousand, fifteen dollars, and in districts having more

34 than twenty-five thousand population, each candidate
35 shall pay a fee of twenty-five dollars.

36 (f) A candidate for constable in districts having a
37 population of five thousand or less, shall pay a fee of
38 five dollars; in districts having a population of more than
39 five thousand and not more than twenty-five thousand,
40 ten dollars, and in all other districts fifteen dollars.

41 (g) Delegates and alternate delegates to the national
42 convention of any political party shall pay the following
43 filing fees:

44 A candidate for delegate-at-large shall pay a fee of
45 twenty dollars; a candidate for alternate delegate-at-large
46 shall pay a fee of ten dollars; a candidate for delegate
47 from a congressional district shall pay a fee of ten dol-
48 lars; and a candidate for alternate delegate from a con-
49 gressional district shall pay a fee of five dollars.

50 (h) Candidates for members of political executive
51 committees and other political committees shall pay the
52 following filing fees:

53 A candidate for member of a state executive committee
54 of any political party shall pay a fee of ten dollars; a

55 candidate for member of a county executive committee
56 of any political party shall pay a fee of one dollar; and a
57 candidate for member of a congressional, senatorial or
58 judicial committee of any political party shall pay a fee
59 of one dollar.

60 Candidates filing for an office to be filled by the voters
61 of one county shall pay the filing fee to the clerk of the
62 circuit court, and candidates filing for an office to be
63 filled by the voters of more than one county shall pay
64 the filing fee to the secretary of state at the time of filing
65 their certificates of announcement, and no certificate of
66 announcement shall be received until the filing fee is paid

67 All moneys received by the circuit clerk from such
68 fees shall be credited to the general county fund. Moneys
69 received by the secretary of state from fees paid by can-
70 didates for offices to be filled by all the voters of the state
71 shall be deposited in a special fund for that purpose and
72 shall be apportioned and paid by him to the several coun-
73 ties on the basis of population, and that received from
74 candidates from a district or judicial circuit of more than
75 one county shall be apportioned to the counties compris-

76 ing the district or judicial circuit in like manner. When
77 such moneys are received by sheriffs, it shall be credited
78 to the general county fund.

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

6 On such primary ballot, the names of candidates for
7 president of the United States, for United States sen-
8 ator, for representative in congress, and for delegates and
9 alternate delegates for the national convention of the
10 party, shall be placed in the first column of candidates;
11 the names of candidates for all state offices, and all other
12 offices to be filled by the voters of a political division
13 greater than a county, including the state executive com-
14 mittee but excluding candidates for the offices of judge
15 of the first judicial circuit, in the second column; the
16 names of all candidates for county offices, including mem-
17 bers of the house of delegates, and congressional, judicial
18 and senatorial executive committees but excluding can-

19 didates for the office of judge of any inferior court of
20 record in any county of the first judicial circuit, shall be
21 placed in the third column; and the names of all can-
22 didates for office in the magisterial districts shall be
23 placed in the fourth column.

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

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

32 Immediately below the space so provided on the bal-
33 lot for listing the candidates affiliated with the respective
34 political party, there shall be printed in bold type the
35 caption: "Non-Partisan Nomination of Candidates for
36 _____ County Board of Education."

37 The names of the candidates for nomination to the re-
38 spective county board of education, the length of term
39 for which they announce their candidacy and the num-

ber of candidates for which each voter 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 in 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 secre-

61 tary of state, and the paper shall be sufficiently thick so
62 that the printing cannot be discernible from the back.
63 On the back of the ballot shall be printed in black ink
64 and in plain, legible, black face pica type, the name of
65 the political party as contained in the heading, followed
66 by the word "ballot." Under this designation shall be
67 printed two blank lines followed by the words "poll
68 clerks."

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

Ray F. Jones
Chairman Senate Committee

Fred L. Rotroff
Chairman House Committee

Originated in the Senate

Takes effect Unity day fund passage

Fred B. Watkins
Clerk of the Senate

Skiff
Clerk of the House of Delegates

James Penlee
President of the Senate

John E. Brown
Speaker House of Delegates

The within approved this the 19th
day of March, 1943.

Matthew Neely
Governor.

Filed in the office of the Secretary of State

of West Virginia MAR 19 1943

Wm. S. O'BRIEN,
Secretary of State