WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 16

(By Mr. Walter M. Clark)

PASSED February 23, 1945

In Effect from Passage
ENROLLED

House Bill No. 162

(By MRS. WALKER and MR. MCCLUNG)

[Passed February 23, 1945; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty-three, article five, chapter three, of the code of West Virginia, one thousand nine hundred thirty-one, relating to the duties of the county courts as canvassing boards, and providing for the canvassing of the vote of elections in their counties; the certification of the result thereof; the manner of recounting same; hearing contests thereof and providing for bond to guarantee the costs and expenses thereof where no change in the result is made.

Be it enacted by the Legislature of West Virginia:

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

Section 33. Canvassing Board.—The commissioners of
the county court shall be ex officio a board of canvassers, and, as such, shall keep in a well-bound book, marked "election record," a complete record of all their proceedings in ascertaining and declaring the result of every election in their respective counties. They shall convene as such canvassing board at the courthouse on the fifth day (Sundays excepted) after every election held in their county, or in any district thereof, and the officers in whose custody the ballots, poll books, tally sheets and certificates have been placed shall lay the same before them for examination. They may, if deemed necessary, require the attendance of any of the commissioners, poll clerks or other persons present at the election, to appear and testify respecting the same, and make such other orders as shall seem proper, to procure correct returns and ascertain the true result of the election in their county; but in such case all the questions to the witnesses and all the answers thereto, and evidence, shall be taken down in writing and filed and preserved. All orders made shall be entered upon the record. They may adjourn
from time to time, but no longer than absolutely neces-
sary, and, when a majority of the commissioners are not
present, their meeting shall stand adjourned until the
next day, and so from day to day, until a quorum be
present. The board, before proceeding to canvass the re-
turns of the election, shall open each sealed package of
ballots so laid before them, and, without unfolding them,
count the number in each package and enter the same
upon their record. The ballots shall then be again
sealed up carefully in a new envelope, and each member
of the board shall write his name across the place where
such envelope is sealed. After canvassing the returns of
the election, the board shall, upon the demand of any
candidate voted for at such election, open and examine
any one or more of the sealed packages of ballots, and
recount the same; but in such case they shall seal the
same again, along with the envelope above named, and
the clerk of the county court and each member of the
board write his name across the place or places where
it is sealed, and indorse in ink, on the outside: “Ballots
of the election held at precinct No. ______, in the district
of __________________________, and county of ________________________,
on the ______ day of ________________________.". Provided,

That the board shall require every candidate who de-
mands such recount to furnish bond in a reasonable
amount with good sufficient surety to guarantee payment
of the costs and the expenses of such recount in the event
the result of the election be not changed by such recount;
but the amount of such bond shall in no case exceed three
hundred dollars. When they have made their certificates
and declared the results as hereinafter provided, they shall
deposit the sealed packages of ballots, poll books, tally
sheets, and precinct certificates, with the clerks of the
county and circuit courts from whom they were re-
ceived, who shall carefully preserve the same for sixty
days, and if there be no contest pending as to any such
election, and their further preservation be not required
by any order of a court, such ballots, poll books, tally
sheets and certificates shall be destroyed by fire or other-
wise, without opening the sealed packages of ballots; and
if there be such contest pending then they shall be so
destroyed as soon as the contest is ended. If the result
of the election be not changed by such recount, the costs
and expenses thereof shall be paid by the party at whose
instance the same was made.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C. Morris  
Chairman Senate Committee

Takes effect from passage.

Horace Keys  
Chairman House Committee

Originated in the House

Clerk of the Senate

Clerk of the House of Delegates

The within is approved this the 2nd day of March, 1945.

Governor.

Filed in the office of the Secretary of State of West Virginia  
MAR 2, 1945  
Wa. S. O'Brien, Secretary of State