

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 162

(By Mr. Walter McClure)

PASSED July 23 1945

In Effect 90 days from Passage

162  
Rec'd  
3-1

**ENROLLED**

**House Bill No. 162**

(By MRS. WALKER and MR. McCLUNG)

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

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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

2 the county court shall be ex officio a board of canvassers,  
3 and, as such, shall keep in a well-bound book, marked  
4 "election record," a complete record of all their proceed-  
5 ings in ascertaining and declaring the result of every  
6 election in their respective counties. They shall con-  
7 vene as such canvassing board at the courthouse on the  
8 fifth day (Sundays excepted) after every election held in  
9 their county, or in any district thereof, and the officers  
10 in whose custody the ballots, poll books, tally sheets and  
11 certificates have been placed shall lay the same before  
12 them for examination. They may, if deemed necessary,  
13 require the attendance of any of the commissioners, poll  
14 clerks or other persons present at the election, to appear  
15 and testify respecting the same, and make such other  
16 orders as shall seem proper, to procure correct returns  
17 and ascertain the true result of the election in their  
18 county; but in such case all the questions to the witnesses  
19 and all the answers thereto, and evidence, shall be taken  
20 down in writing and filed and preserved. All orders made  
21 shall be entered upon the record. They may adjourn

22 from time to time, but no longer than absolutely neces-  
23 sary, and, when a majority of the commissioners are not  
24 present, their meeting shall stand adjourned until the  
25 next day, and so from day to day, until a quorum be  
26 present. The board, before proceeding to canvass the re-  
27 turns of the election, shall open each sealed package of  
28 ballots so laid before them, and, without unfolding them,  
29 count the number in each package and enter the same  
30 upon their record. The ballots shall then be again  
31 sealed up carefully in a new envelope, and each member  
32 of the board shall write his name across the place where  
33 such envelope is sealed. After canvassing the returns of  
34 the election, the board shall, upon the demand of any  
35 candidate voted for at such election, open and examine  
36 any one or more of the sealed packages of ballots, and  
37 recount the same; but in such case they shall seal the  
38 same again, along with the envelope above named, and  
39 the clerk of the county court and each member of the  
40 board write his name across the place or places where  
41 it is sealed, and indorse in ink, on the outside: "Ballots

42 of the election held at precinct No. \_\_\_\_\_, in the district  
43 of \_\_\_\_\_, and county of \_\_\_\_\_,  
44 on the \_\_\_\_\_ day of \_\_\_\_\_": *Provided,*  
45 That the board shall require every candidate who de-  
46 mands such recount to furnish bond in a reasonable  
47 amount with good sufficient surety to guarantee payment  
48 of the costs and the expenses of such recount in the event  
49 the result of the election be not changed by such recount;  
50 but the amount of such bond shall in no case exceed three  
51 hundred dollars. When they have made their certificates  
52 and declared the results as hereinafter provided, they shall  
53 deposit the sealed packages of ballots, poll books, tally  
54 sheets, and precinct certificates, with the clerks of the  
55 county and circuit courts from whom they were re-  
56 ceived, who shall carefully preserve the same for sixty  
57 days, and if there be no contest pending as to any such  
58 election, and their further preservation be not required  
59 by any order of a court, such ballots, poll books, tally  
60 sheets and certificates shall be destroyed by fire or other-  
61 wise, without opening the sealed packages of ballots; and

62 if there be such contest pending then they shall be so  
63 destroyed as soon as the contest is ended. If the result  
64 of the election be not changed by such recount, the costs  
65 and expenses thereof shall be paid by the party at whose  
66 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

*John G. Greathouse Jr.*

Chairman House Committee

Originated in the

*House*

Takes effect

*90 days from* passage.

*Howard Myers*

Clerk of the Senate

*John R. Clipp*

Clerk of the House of Delegates

*Donald M. Vickers*

President of the Senate

*John P. Amos*

Speaker House of Delegates

The within

*Approved*

this the

*2<sup>nd</sup>*

day of

*March*

, 1945.

*Robert Marshall*

Governor.



Filed in the office of the Secretary of State  
of West Virginia **MAR 2 1945**

Wm. S. O'BRIEN,  
Secretary of State