

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951

~~Committee Substitute for~~
ENROLLED

HOUSE BILL No. 77

*(Originating in the Committee
for the Judiciary)*
(By Mr. _____)

PASSED March 9 1951

In Effect from Passage



ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 77

[Originating in the Committee on the Judiciary]

[Passed March 9, 1951; in effect from passage.]

AN ACT to amend and reenact section five, article two; section fifteen, article four; and section nine, article five, all of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the registration of voters, appointment of commissioners and clerks for primary and general elections.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Registration of Voters.

Section 5. *Permanent and Uniform Registration.*—A
2 permanent registration system shall hereby be estab-
3 lished which shall be uniform throughout the state and

4 all of its subdivisions. No voter so registered shall be re-
5 quired to register again for any election while he con-
6 tinues to reside at the same address, or, having moved
7 from such address, is properly transferred according to
8 the provisions of section thirty-three of this article, unless
9 his registration is cancelled as provided in this article. If
10 a voter fails to vote at least once during a period cover-
11 ing two primary and general elections, his registration
12 shall be cancelled and he shall, by letter, be given proper
13 notice thereof by the clerk of the county court, to the
14 effect that in order to vote he must register again or
15 execute and file, not later than thirty days before the
16 next primary or general election, with the clerk, an
17 affidavit, the form of which shall be prescribed by the
18 secretary of state, stating that ^{he}he desires to be reinstated
19 as a qualified voter at the same address and the clerk
20 shall replace the registration card of the voter in the
21 registration records. A blank form of such affidavit shall
22 be included with and accompany the aforesaid notice to
23 the voter.

Article 4. Nomination of Candidates.

Section 15. *Commissioners and Clerks for Primary.*—

2 The county court of every county shall hold a regular or
3 special session at the courthouse of the county on the
4 second Tuesday of the month preceding that in which
5 any primary election is to be held, and shall appoint for
6 each precinct in the county three commissioners of elec-
7 tion and two poll clerks, who shall be legal voters in the
8 magisterial district in which such precinct is located.
9 Such commissioners and poll clerks shall be persons of
10 good standing and character and not addicted to drunken-
11 ness. They shall be selected from the two political parties
12 which, at the last preceding general election, cast the
13 highest and next highest number of votes in the county
14 in which the election is to be held, and not more than
15 two of such commissioners or one clerk shall belong to
16 the same political party: *Provided, however,* That for
17 every precinct in which there are three hundred but
18 not more than four hundred registered voters, there may
19 be two board of election officers, and for all precincts in
20 which there are more than four hundred registered
21 voters, there shall be two boards of election officers, and

22 where two boards are used, each board shall consist of
23 three election commissioners and two poll clerks, one of
24 which boards shall be designated the "receiving board"
25 and the other the "counting board", and not more than
26 two commissioners and one poll clerk of each board shall
27 be appointed from the same political party. If, at any time
28 prior to or during such session, the county executive com-
29 mittee of either political party from which such commis-
30 sioners of election and poll clerks are to be selected or
31 appointed, as herein provided, shall present to such court
32 a writing signed by them, or by the chairman or secre-
33 tary of such committee on their behalf, requesting the
34 appointment of a qualified voter of their political party,
35 for commissioner and/or poll clerk, who is otherwise
36 qualified to act as such under the provisions of this chap-
37 ter, it shall be the duty of the county court to appoint
38 the person so named in such writing as such commis-
39 sioner and/or poll clerk. No person shall be eligible to
40 appointment as commissioner or poll clerk, or in any
41 way to act as such, who has anything of value bet or
42 wagered on the result of such primary election, or has

43 received a promise, agreement or understanding that he
44 is to receive appointment as deputy by any candidate to
45 be voted for at such primary election, or has any agree-
46 ment, understanding or arrangement that he shall receive
47 any sum of money or any portion of the salary, fees or
48 emoluments of any office, for which any candidate is to
49 be voted for at such primary election, should such candi-
50 date be nominated at such primary election and elected
51 to such office at the ensuing general election, or who is a
52 candidate to be voted for at such primary election.

53 The county court shall by mail notify all commissioners
54 and poll clerks of their appointment, and include with
55 such notice an appropriate form for each person so ap-
56 pointed to return indicating whether or not he will serve
57 as such commissioner or poll clerk. It shall be the duty
58 of all persons so appointed to immediately return said
59 form to the county court. In the event any of the persons
60 so appointed refuse to serve as such commissioners or poll
61 clerks, the county court shall immediately notify the
62 chairman of the county executive committee of the politi-
63 cal party from which such commissioners and poll clerks

64 are to be selected. If the chairman of the political com-
65 mittee so notified promptly recommends persons to be
66 appointed to replace those declining to serve, it shall be
67 the duty of the county court to appoint the persons so
68 recommended. When no such recommendations are made
69 the county court shall proceed to fill the vacancies.

70 If any of the commissioners of election and poll clerks
71 of the receiving board so selected shall fail to appear at
72 the hour appointed for the opening of the polls, the re-
73 mainder of the commissioners of such board may select
74 a commissioner and poll clerk, if necessary, who shall
75 be of the same political party as the absent commissioner
76 or poll clerk; but if the qualified voters of the party of
77 such absent commissioner or poll clerk, present at the
78 opening of the polls, shall nominate a voter, having the
79 qualifications to act under the provisions of this section,
80 for commissioner or poll clerk, or both if necessary, such
81 nominee or nominees shall be appointed. If none of the
82 commissioners of election or poll clerks of such board
83 appear at the hour appointed for opening the polls, the
84 qualified voters present, being at least ten in number, shall

85 elect three commissioners of election and two poll clerks
86 for such board to act in their stead, by a viva voce vote;
87 not more than two of such commissioners and one poll
88 clerk for such board shall belong to or be elected by the
89 voters of the same political party. A vacancy or vacancies
90 on the counting board shall be filled in the manner herein
91 provided for filling a vacancy on the receiving board,
92 except that such vacancy or vacancies shall be determined
93 and filled as of the hour appointed in this chapter for the
94 counting board to attend at the polls. A list of all com-
95 missioners and poll clerks appointed by the county court,
96 as herein provided, shall be published in two newspapers
97 of general circulation in the county, of opposite politics,
98 if such there be, for at least two weeks prior to such
99 primary election.

**Article 5. Conducting Election; Ascertaining and Certifying
the Result.**

Section 9. *Appointment of Commissioners and Clerks.*—

2 The county court of each county shall hold a regular or
3 special session at the court house of the county on the
4 first Tuesday of the month next preceding the date on

5 which any election is to be held and appoint three com-
6 missioners and two clerks to hold the election in each pre-
7 cinct in the county, to be selected from the two political
8 parties which at the last preceding election cast the
9 highest and second highest number of votes in this state:
10 *Provided, however,* That for every precinct in which
11 there are three hundred, but not more than four hun-
12 dred, registered voters, there may be two boards of elec-
13 tion officers, and for all precincts in which there are more
14 than four hundred registered voters, there shall be two
15 boards of election officers, and where two boards are
16 used, each board shall consist of three election commis-
17 sioners and two poll clerks, one of which boards shall be
18 designated the "receiving board" and the other the
19 "counting board", and not more than two commissioners
20 and one poll clerk of each board shall be appointed from
21 the same political party. If, at any time before or during
22 the session of the county court, the county executive
23 committee of either or both of the political parties, from
24 which commissioners and clerks of election are to be
25 selected, shall file with or present to the county court

26 a writing signed by them, or by the chairman or secre-
27 tary of such committee on their behalf, requesting the
28 appointment of a member and of one clerk of each board
29 of the political party for which such committee, chairman
30 or secretary is acting, and designating persons who are
31 qualified under this article for such appointment for each
32 election precinct in the county, the county court shall
33 appoint the persons so designated.

34 The county court shall by mail notify all commissioners
35 and poll clerks of their appointment, and include with
36 such notice an appropriate form for each person so ap-
37 pointed to return indicating whether or not he will serve
38 as such commissioner or poll clerk. It shall be the duty
39 of all persons so appointed to immediately return said
40 form to the county court. In the event any of the persons
41 so appointed refuse to serve as such commissioners or
42 poll clerks, the county court shall immediately notify
43 the chairman of the county executive committee of the
44 political party from which such commissioners and poll
45 clerks are to be selected. If the chairman of the political
46 committee so notified promptly recommends persons to

47 be appointed to replace those declining to serve, it shall
48 be the duty of the county court to appoint the persons so
49 recommended. When no such recommendations are made
50 the county court shall proceed to fill the vacancies.

51 If any person appointed receiving commissioner or
52 clerk of election shall fail to appear at the voting place
53 at the hour for opening the polls, the remaining commis-
54 sioner or commissioners of election of the political
55 party to which the absentee belongs shall select another
56 commissioner or clerk, as the case may be, of such po-
57 litical party. But if the qualified voters of his party pres-
58 ent at the polls shall nominate a voter of his party quali-
59 fied to act under the provisions of this section, such nomi-
60 nee shall be appointed. If none of the receiving commis-
61 sioners of the election or poll clerks shall appear at the
62 voting place at the hour appointed for opening the polls,
63 the qualified voters present, being at least ten in num-
64 ber, of the political party which cast the highest number
65 of votes in the county at the last preceding election, shall
66 select one commissioner and one clerk of the receiving
67 board of such precinct, and the persons so selected shall

68 constitute the receiving board for the precinct. A vacancy
69 or vacancies on the counting board shall be filled in the
70 manner herein provided for filling a vacancy or vacancies
71 on the receiving board, except that such vacancy or va-
72 cancies shall be determined and filled as of the hour ap-
73 pointed in this chapter for the counting board to attend
74 at the polls. Any commissioner of election acting at any
75 election precinct is hereby empowered and authorized
76 to administer oaths and to take and certify affidavits in
77 relation to any matter or thing required or permitted to
78 be done by any of the provisions of this article in conduc-
79 ting and holding the election.

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

Robert C. Byrd
Chairman Senate Committee

James M. Loop
Chairman House Committee

Originated in the House of Delegates

Takes effect *from* _____ passage.

Thomas M. Nease
Clerk of the Senate

J.R. Aliff
Clerk of the House of Delegates

Samuel R. Houston
President of the Senate

W.E. Harman
Speaker House of Delegates

The within *Approved* this the *15th*
day of *MARCH*, 1951.

Chas. E. Patton
Governor



MADE IN THE OFFICE OF THE SECRETARY OF STATE
of West Virginia **MAR 15 1951**
D. PITT O'BRIEN,
SECRETARY OF STATE