

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951

ENROLLED

SENATE BILL NO. 246

(By Mr. Mr. Kowen)

PASSED March 9, 1951

In Effect Ninety days from Passage



246

ENROLLED

Senate Bill No. 246

(By MR. MCKOWN)

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

AN ACT to repeal sections twenty-two-a and twenty-three-a, article four, and section four-a, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections five, five-a, six-a, twelve and twenty-five, article four, chapter three thereof, and to further amend said article four by adding thereto a new section to be designated section five-b, all relating to elections and providing for election of school board members.

Be it enacted by the Legislature of West Virginia:

That sections twenty-two-a and twenty-three-a, article four, and section four-a, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be repealed, and that sections five, five-a, six-a, twelve and twenty-five, article four, chapter three thereof, be amended and reenacted, and that said article four be further amended by adding thereto a new section to be designated section five-b, all to read as follows:

Article 4. Nomination or Election of Candidates at Primaries.

Section 5. *Nomination of Candidates for Offices.*—At
2 each primary election, the candidate or candidates of each
3 political party for all offices to be filled at the ensuing
4 general election by the voters of the entire state, of each
5 congressional district, of each state senatorial district, of
6 each judicial circuit except the first judicial circuit of
7 West Virginia, of each county except candidates for the
8 office of judge of an inferior court in any county in the
9 first judicial circuit, and of each magisterial district, in
10 the state, shall be nominated by the voters of the different
11 political parties, except that no presidential elector shall
12 be nominated at a primary election. Candidates for the
13 offices of judge of the circuit and inferior courts of the
14 first judicial circuit shall continue to be nominated at
15 party conventions as provided in section twenty-seven of

16 this article, but such section is hereby repealed and super-
17 ceded by this enactment in so far as it relates to the nomi-
18 nation of candidates for the office of judge of courts of
19 record of West Virginia, other than in the first judicial
20 circuit.

21 In any primary election, the person receiving the
22 highest number of votes of each political party in all
23 cases wherein one person only is to be elected, and the
24 persons receiving the highest number of votes, to the
25 number to be elected, in all cases in which two or more
26 persons are to be elected to the same office, in and
27 throughout the political division in which the person is a
28 candidate, and voted for as such, shall be nominated as the
29 party candidate, or candidates, for the office, or offices,
30 for which they are voted for at the primary election:
31 *Provided, however,* That with respect to nominations of
32 commissioners of county courts no two of such commis-
33 sioners shall be nominated as the party candidates from
34 the same magisterial district where more than one such
35 commissioner is to be nominated at any primary election,
36 and if two or more persons residing in the same district

37 shall in any case receive the greater number of votes
38 cast at such primary election, then only the one of such
39 persons receiving the highest number shall be declared
40 nominated as the candidate of his party, and the person
41 living in another district who shall receive the next
42 highest number of votes shall be declared nominated as
43 the candidate of his party, and so on to the next highest
44 in another district; and in no event shall any such candi-
45 date be nominated from the same magisterial district
46 wherein an already elected or otherwise qualified member
47 of such county court resides and who will continue to
48 hold office after the beginning of the term for which such
49 nomination is made.

Sec. 5-a. *Announcement of Candidacy for Membership*

2 of *Board of Education*.—Any person who is eligible to
3 hold office as a member of a county board of education
4 may, at least thirty days prior to the day fixed for the
5 primary election, file a certificate with the clerk of the
6 circuit court of the county, declaring himself a candidate
7 for election to such office. Such certificate shall be sub-
8 stantially in the following form:

9 I _____, hereby certify that I am a
10 candidate for nonpartisan election to membership on the
11 _____ County Board of Education, and
12 desire my name printed on the ballot to be voted at the
13 primary election to be held on the _____ day of _____,
14 19_____; that I am a legally qualified voter of the county
15 of _____; State of West Virginia; that the
16 address of my residence in _____; County is _____;
17 that I am eligible to hold the office; and that I am a
18 candidate therefor in good faith.

19 _____
20 Candidate

21 Signed and acknowledged before me this _____ day of
22 _____ 19_____.

23 _____
24 Signature and official title of
25 Certifying Officer

26 Such announcement shall be signed and acknowledged
27 by the candidate before some officer qualified to admin-
28 ister oaths, who shall certify the same.

Sec. 5-b. *Election of County Board of Education.*—An

2 election for the purpose of electing members of the county
3 board of education shall be held on the same date as the
4 primary elections as now provided by law, but upon a
5 non-partisan ballot printed for the purpose. In such non-
6 partisan election the person receiving the highest number
7 of votes, shall be elected for a long term, and if more than
8 one is to be elected for a long term, the one receiving the
9 next highest shall be elected; and if more than two are to
10 be elected the candidate or candidates receiving the next
11 highest votes shall be declared elected for any short term
12 or terms, as the case may be, to fill vacancies; but no more
13 than two such members shall be elected from the same
14 magisterial district, and then only when such magisterial
15 district does not have a hold-over member of said board,
16 and if such magisterial district has one hold over member
17 on said board only one member shall be elected as afore-
18 said; and if more persons from a magisterial district
19 receive the highest number of votes in said election, then
20 of such persons only the person or persons having the
21 highest vote who do not make the aggregate number of
22 elected members and hold-over members more than two

23 from such magisterial district shall be declared elected,
24 and the remaining members shall be declared from the
25 highest from other magisterial districts; and in no event
26 shall any member be declared elected from the same
27 magisterial district wherein resides two already elected
28 or otherwise qualified members of such board who will
29 continue to hold office after the beginning of the term for
30 which such election was held.

31 It is declared to be the intent of this statute that any
32 person declared to be elected under the preceding provi-
33 sions of the section shall take office as a duly elected mem-
34 ber or members, even though he, she or they may not
35 have received a majority or plurality of all votes cast at
36 such election.

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

7 (a) A candidate for president of the United States, for

8 vice president of the United States, for United States
9 Senator, for member of the United States house of repre-
10 sentatives, for governor and for all other state elective
11 offices shall pay a fee equivalent to one per cent of the
12 annual salary of the office for which the candidate an-
13 nounces.

14 (b) A candidate for the office of judge of a circuit
15 court and judge of any court of record of limited juris-
16 diction shall pay a fee equivalent to one per cent of the
17 annual salary of the office for which the candidate an-
18 nounces.

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

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

28 dollars. A candidate for any other county office shall pay
29 a fee of five dollars.

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

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

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

45 A candidate for delegate-at-large shall pay a fee of
46 twenty dollars; a candidate for alternate delegate-at-large
47 shall pay a fee of ten dollars; a candidate for delegate
48 from a congressional district shall pay a fee of ten dollars;

49 and a candidate for alternate delegate from a congres-
50 sional district shall pay a fee of five dollars.

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

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

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

69 All moneys received by the circuit clerk from such fees

70 shall be credited to the general county fund. Moneys re-
71 ceived by the secretary of state from fees paid by candi-
72 dates for offices to be filled by all the voters of the state
73 shall be deposited in a special fund for that purpose and
74 shall be apportioned and paid by him to the several
75 counties on the basis of population, and that received
76 from candidates from a district or judicial circuit of
77 more than one county shall be apportioned to the counties
78 comprising the district or judicial circuit in like manner.
79 When such moneys are received by sheriffs, it shall be
80 credited 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 of
3 names of candidates, a perpendicular column, and shall
4 be so printed as to leave a square at the left of such name
5 on the ballot.

6 On such primary ballot, the names of candidates for
7 president of the United States, for United States senator,
8 for representative in congress, and for delegates and al-
9 ternate delegates to the national convention of the party,
10 shall be placed in the first column of candidates; the

11 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 by excluding candidates for offices of judge of the
15 first judicial circuit, in the second column; the names of
16 all candidates for county offices, including members of
17 the house of delegates, and congressional, judicial and
18 senatorial executive committees but excluding candidates
19 for the office of judge of any inferior court of record in
20 any county of the first judicial circuit, shall be placed
21 in the third column, and the names of all candidates for
22 office in the magisterial districts shall be placed in the
23 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 the
28 case may be, shall arrange the names of the candidates to
29 be printed on the ballot in alphabetical order, according
30 to the surname, under the title of the respective offices
31 upon the ballot.

32 A separate ballot, in connection with primary election,
33 for election of members of county board of education,
34 shall be printed in bold type, under the caption, "Non-
35 partisan Ballot for Election of Members of the -----
36 County Board of Education." The names of the candidates
37 for election to the county board of education, and the
38 number of candidates for which each voter is entitled to
39 vote shall be printed beneath the caption, without refer-
40 ence to political party affiliation, and without designation
41 as to a particular term of office.

42 In printing each set of ballots the position of the names
43 of the candidates shall be changed in each office division
44 as many times as there are candidates in that office divi-
45 sion. As nearly as possible an equal number of ballots
46 shall be printed after each change. In making the change
47 of position, the printer shall take the line of type con-
48 taining the first name in the office division concerned and
49 place it at the bottom of the list of names in that division
50 and move up the column so that the name that before
51 was second shall be first after the change. After the bal-
52 lots are printed they shall be kept in separate piles, one

53 pile for each change in position, and shall then be gathered
54 by taking one from each pile. Sample ballots shall be in
55 the same form as the official ballot, but the order of the
56 names thereon need not be alternated.

57 All ballots used in primary elections shall be printed
58 on paper conforming as nearly as practicable in weight,
59 texture, and color to the samples furnished by the secre-
60 tary of state, and the paper shall be sufficiently thick so
61 that the printing cannot be discernible from the back.
62 On the back of the ballot shall be printed in black ink,
63 and in plain, legible, black face pica type, the name of the
64 political party as contained in the heading or "Nonpar-
65 tisan Board of Education", as the case may be, followed
66 by the word "ballot". Under this designation shall be
67 printed two blank lines followed by the words "poll
68 clerks".

Sec. 25. *Contests; Review by the Courts.*—Any candi-
2 date for nomination for or election to an office to be filled
3 by the voters of a county, school district or of a magisterial
4 district, or any candidate for membership on any county
5 political executive committee, may contest the primary

6 election before the county court of the county. The pro-
7 cedure in such case shall be the same as that governing
8 the contest of a general election by candidates for county
9 offices or offices in school districts or magisterial districts.
10 The decision of the county court upon such contest may
11 be reviewed by the circuit court of the county and by the
12 supreme court of appeals of the state.

13 Any action of a political party executive committee in
14 the discharge of any of the duties imposed upon such
15 committee by this article, or of any board of election
16 officials in conducting and ascertaining the result of the
17 primary election, or of any board of canvassers in can-
18 vassing and certifying the result of the primary election
19 for the county, may be reviewed by the circuit court of
20 the county, upon the petition of any candidate, political
21 committeeman or delegate voted for at such primary and
22 affected adversely by the action of such committee,
23 board of election officials, or board of canvassers. From
24 the judgment of the circuit court in any such proceeding,
25 an appeal shall lie to the supreme court of appeals of the
26 state.

27 Any such contest, or petition for review, of a candidate
28 for a nomination not finally determined within ten days
29 next preceding the date of the next election after the
30 primary, or of a candidate for delegate to any convention
31 within ten days next preceding the date fixed for holding
32 the convention, shall stand dismissed, and the person
33 shown by the face of the returns of the primary election
34 to be nominated for any office shall be entitled to have
35 his name printed upon the regular ballot to be voted at
36 the election, and the person shown upon the face of the
37 returns to have been elected as a delegate to any conven-
38 tion shall be entitled to sit in such convention as a dele-
39 gate.

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 Senate.

Takes effect Ninety days from passage.

Takes effect Ninety days from
Thomas H. Rye
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

W E J
Speaker House of Delegates

The within approved this the 10th
day of March, 1951.

Okuy L. Patterson
Governor.



1970-1971 1971-1972 1972-1973 1973-1974 1974-1975 1975-1976 1976-1977 1977-1978 1978-1979 1979-1980 1980-1981 1981-1982 1982-1983 1983-1984 1984-1985 1985-1986 1986-1987 1987-1988 1988-1989 1989-1990 1990-1991 1991-1992 1992-1993 1993-1994 1994-1995 1995-1996 1996-1997 1997-1998 1998-1999 1999-2000 2000-2001 2001-2002 2002-2003 2003-2004 2004-2005 2005-2006 2006-2007 2007-2008 2008-2009 2009-2010 2010-2011 2011-2012 2012-2013 2013-2014 2014-2015 2015-2016 2016-2017 2017-2018 2018-2019 2019-2020 2020-2021 2021-2022 2022-2023 2023-2024 2024-2025 2025-2026 2026-2027 2027-2028 2028-2029 2029-2030 2030-2031 2031-2032 2032-2033 2033-2034 2034-2035 2035-2036 2036-2037 2037-2038 2038-2039 2039-2040 2040-2041 2041-2042 2042-2043 2043-2044 2044-2045 2045-2046 2046-2047 2047-2048 2048-2049 2049-2050 2050-2051 2051-2052 2052-2053 2053-2054 2054-2055 2055-2056 2056-2057 2057-2058 2058-2059 2059-2060 2060-2061 2061-2062 2062-2063 2063-2064 2064-2065 2065-2066 2066-2067 2067-2068 2068-2069 2069-2070 2070-2071 2071-2072 2072-2073 2073-2074 2074-2075 2075-2076 2076-2077 2077-2078 2078-2079 2079-2080 2080-2081 2081-2082 2082-2083 2083-2084 2084-2085 2085-2086 2086-2087 2087-2088 2088-2089 2089-2090 2090-2091 2091-2092 2092-2093 2093-2094 2094-2095 2095-2096 2096-2097 2097-2098 2098-2099 2099-2100 2100-2101 2101-2102 2102-2103 2103-2104 2104-2105 2105-2106 2106-2107 2107-2108 2108-2109 2109-2110 2110-2111 2111-2112 2112-2113 2113-2114 2114-2115 2115-2116 2116-2117 2117-2118 2118-2119 2119-2120 2120-2121 2121-2122 2122-2123 2123-2124 2124-2125 2125-2126 2126-2127 2127-2128 2128-2129 2129-2130 2130-2131 2131-2132 2132-2133 2133-2134 2134-2135 2135-2136 2136-2137 2137-2138 2138-2139 2139-2140 2140-2141 2141-2142 2142-2143 2143-2144 2144-2145 2145-2146 2146-2147 2147-2148 2148-2149 2149-2150 2150-2151 2151-2152 2152-2153 2153-2154 2154-2155 2155-2156 2156-2157 2157-2158 2158-2159 2159-2160 2160-2161 2161-2162 2162-2163 2163-2164 2164-2165 2165-2166 2166-2167 2167-2168 2168-2169 2169-2170 2170-2171 2171-2172 2172-2173 2173-2174 2174-2175 2175-2176 2176-2177 2177-2178 2178-2179 2179-2180 2180-2181 2181-2182 2182-2183 2183-2184 2184-2185 2185-2186 2186-2187 2187-2188 2188-2189 2189-2190 2190-2191 2191-2192 2192-2193 2193-2194 2194-2195 2195-2196 2196-2197 2197-2198 2198-2199 2199-2200 2200-2201 2201-2202 2202-2203 2203-2204 2204-2205 2205-2206 2206-2207 2207-2208 2208-2209 2209-2210 2210-2211 2211-2212 2212-2213 2213-2214 2214-2215 2215-2216 2216-2217 2217-2218 2218-2219 2219-2220 2220-2221 2221-2222 2222-2223 2223-2224 2224-2225 2225-2226 2226-2227 2227-2228 2228-2229 2229-2230 2230-2231 2231-2232 2232-2233 2233-2234 2234-2235 2235-2236 2236-2237 2237-2238 2238-2239 2239-2240 2240-2241 2241-2242 2242-2243 2243-2244 2244-2245 2245-2246 2246-2247 2247-2248 2248-2249 2249-2250 2250-2251 2251-2252 2252-2253 2253-2254 2254-2255 2255-2256 2256-2257 2257-2258 2258-2259 2259-2260 2260-2261 2261-2262 2262-2263 2263-2264 2264-2265 2265-2266 2266-2267 2267-2268 2268-2269 2269-2270 2270-2271 2271-2272 2272-2273 2273-2274 2274-2275 2275-2276 2276-2277 2277-2278 2278-2279 2279-2280 2280-2281 2281-2282 2282-2283 2283-2284 2284-2285 2285-2286 2286-2287 2287-2288 2288-2289 2289-2290 2290-2291 2291-2292 2292-2293 2293-2294 2294-2295 2295-2296 2296-2297 2297-2298 2298-2299 2299-2300 2300-2301 2301-2302 2302-2303 2303-2304 2304-2305 2305-2306 2306-2307 2307-2308 2308-2309 2309-2310 2310-2311 2311-2312 2312-2313 2313-2314 2314-2315 2315-2316 2316-2317 2317-2318 2318-2319 2319-2320 2320-2321 2321-2322 2322-2323 2323-2324 2324-2325 2325-2326 2326-2327 2327-2328 2328-2329 2329-2330 2330-2331 2331-2332 2332-2333 2333-2334 2334-2335 2335-2336 2336-2337 2337-2338 2338-2339 2339-2340 2340-2341 2341-2342 2342-2343 2343-2344 2344-2345 2345-2346 2346-2347 2347-2348 2348-2349 2349-2350 2350-2351 2351-2352 2352-2353 2353-2354 2354-2355 2355-2356 2356-2357 2357-2358 2358-2359 2359-2360 2360-2361 2361-2362 2362-2363 2363-2364 2364-2365 2365-2366 2366-2367 2367-2368 2368-2369 2369-2370 2370-2371 2371-2372 2372-2373 2373-2374 2374-2375 2375-2376 2376-2377 2377-2378 2378-2379 2379

West Virginia

MAR 16 1951

D. PITT O'BRIEN.

SECRETARY OF STATE