WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

HOUSE BILL No. 862

(By Mr. Speaker, Mr. W. White)

PASSED March 12, 1965

In Effect from Passage

FILED IN THE OFFICE OF
JOE F. BUNDY
SECRETARY OF STATE
THIS DATE 3-13-65
AN ACT to amend and reenact sections two, three, eighteen, twenty-eight and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions of certain terms as used in the West Virginia election code, persons entitled to vote in certain elections, elections to fill certain offices, election officials in certain elections, and compensation of election officials in certain elections, and providing that expenses of certain elections be borne by the state.

Be it enacted by the Legislature of West Virginia:

That sections two, three, eighteen, twenty-eight and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. Scope of Chapter; Definitions.—Unless restricted by the context, the provisions of this chapter shall apply to every general, primary, and special election in which candidates are nominated or elected or in which voters pass upon any public question submitted to them, except that the provisions hereof shall be construed to be operative in municipal elections only in those instances in which they are made expressly so applicable.

Unless the context clearly requires a different meaning, as herein used:

"Voter" shall mean any person who possesses the statutory and constitutional qualifications for voting;

"Election" shall mean the procedure whereby the voters of this state or any subdivision thereof elect persons to fill public offices, or elect members of a constitutional convention, or vote on public questions;

"Any election" or "all elections" shall include every general, primary, or special election held in this state, or in any of its subdivisions, for the purpose of nominating or electing federal or state officers, or county, city, town
or village officers of any subdivision now existing or
hereafter created, or for the purpose of electing members
of a constitutional convention, or for voting upon any
public question submitted to the people of the state or
any of the aforesaid subdivisions;

"Office" shall be construed to mean "public office"
which shall include (1) any elective office provided for
by the constitution or laws of the United States or of
this state to which a salary or other compensation
attaches, and (2) membership in a constitutional con-
vention;

"Candidates" shall mean any person to be voted for
at an election;

"Public question" shall mean any issue or proposition,
now or hereafter required by the governing body of this
state or any of its subdivisions to be submitted to the
voters of the state or subdivision for decision at elections.

Sec. 3. Persons Entitled to Vote.—Citizens of the state
shall be entitled to vote at all elections held within the
precincts of the counties and municipalities in which
they respectively reside. But no person who has not been
registered as a voter as required by law, or who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in an election, or who, in the case of state-county elections has not been a bona fide resident of the state for one year and of the county in which he offers to vote for sixty days next preceding such election, or who, in the case of a special election to elect members to a constitutional convention, has not been a bona fide resident of the state for one year and of the county in which he offers to vote for sixty days next preceding such election, or who in the case of municipal elections has not been a bona fide resident of the state for one year and of the municipality in which he offers to vote for sixty days next preceding such election, shall be permitted to vote at such election while such disability continues. Subject to the qualifications otherwise prescribed in this section, however, a minor shall be permitted to vote in a primary election if he will have reached the age of twenty-one years on the date of the general election next to be held after such primary election.
Sec. 18. Election to Fill Other Offices.—If the legislature shall hereafter create any elective office, or make any office now filled by appointment an elective office, in the state or in any subdivision thereof, the person to fill the same shall be elected at the general election last preceding the beginning of the term of such office.

The provisions of this section shall not apply to the office of member or to the election of members of a constitutional convention.

Sec. 28. Election Commissioners and Clerks; Appointment and Notification; Vacancies; Authority to Administer Oaths, etc.—The county court of each county shall hold a regular or special session at the courthouse of the county on the first Tuesday of the month next preceding the date on which any election is to be held and appoint three commissioners and two clerks to hold the election in each precinct in the county. In primary and general elections and in any special election in which political party candidates are to be nominated or elected, the election commissioners and clerks shall be selected from the two political parties which at the last preceding
general election cast the highest and the second highest number of votes in this state. For every precinct in which there are three hundred, but not more than four hundred, registered voters, there may be two boards of election officers, and for all precincts in which there are more than four hundred registered voters, there shall be two boards of election officers, and where two boards are used, each board shall consist of three election commissioners and two poll clerks, one of which boards shall be designated the “receiving board” and the other the “counting board” and not more than two commissioners and one poll clerk of each board shall be appointed from the same political party: Provided, That for any special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, and for any special election to elect members of a constitutional convention, and for any special election to ratify or reject the proposals, acts and ordinances of a constitutional convention, there shall be but one board of election officials in each precinct, consisting of three commissioners and two poll clerks. If, at any time before or
during the session of the county court, the county execu-

tive committee of either or both political parties,

from which commissioners and clerks of election are to be selected, shall file with or present to the county court a writing signed by them, or by the chairman or secretary of such committee on their behalf, requesting the appointment of a member and of one clerk of each board of the political party for which such committee, chairmain or secretary is acting, and designating persons who are qualified under this article for such appointment for each election precinct in the county, the county court shall appoint the persons so designated.

The county court shall by mail notify all commissioners and poll clerks of their appointment, and include with such notice an appropriate form for each person so appointed to return indicating whether or not he will serve as such commissioner or poll clerk. It shall be the duty of all persons so appointed to immediately return said form to the county court. In the event any of the persons so appointed refuse to serve as such commissioners or poll clerks, the county court shall immediately notify the
chairman of the county executive committee of the political party from which such commissioners and poll clerks are to be selected. The chairman of the political committee so notified shall recommend the person or persons to be appointed to replace those declining to serve and it shall be the duty of the county court to appoint the person or persons so recommended.

If any person appointed receiving commissioner or clerk of election shall fail to appear at the voting place at the hour for opening the polls, the remaining commissioner or commissioners of election of the political party to which the absentee belongs shall select another commissioner or clerk, as the case may be, of such political party. But if the qualified voters of his party present at the polls shall nominate a voter of his party qualified to act under the provisions of this section, such nominee shall be appointed. If none of the receiving commissioners of the election or poll clerks shall appear at the voting place at the hour appointed for opening the polls, the qualified voters present, being at least ten in number, of the political party which cast the highest number of
votes in the county at the last preceding election, shall
select two commissioners and one clerk and those of the
political party which cast the next highest number of
times in the county at such election shall select one com-
missioner and one clerk of the receiving board of such
precinct, and the persons so selected shall constitute the
receiving board for the precinct. A vacancy or vacancies
on the county board shall be filled in the manner herein
provided for filling a vacancy or vacancies on the receiv-
ing board, except that such vacancy or vacancies shall be
determined and filled as of the hour appointed in this
chapter for the counting board to attend at the polls.
Any commissioner of election acting at any election pre-
cinct is hereby empowered and authorized to administer
oaths and to take and certify affidavits in relation to any
matter or thing required or permitted to be done by any
of the provisions of this article in conducting and holding
the election.

Sec. 44. Compensation of Election Officials; Expenses.—
Each ballot commissioner shall be allowed and paid a
sum, to be fixed by the county court, not exceeding
twenty dollars for each day he shall serve as such, but
in no case shall a ballot commissioner receive allowance
for more than ten days' services for any one primary,
general or special election. Each commissioner of elec-
tion and poll clerk shall be allowed and paid a sum, to
be fixed by the county court, not exceeding ten dollars
for one day's services for attending the school of instruc-
tions for election officials and a sum not exceeding twenty
dollars for his services at any one election: Provided,
That each commissioner of election and poll clerk shall be
paid and allowed a sum not exceeding ten dollars for his
services at any of the three special elections hereinafter
specified and described. The commissioners of election
obtaining and delivering the election supplies, as pro-
vided in section twenty-four of this article, and returning
them as provided in articles five and six of this chapter,
shall be allowed and paid an additional sum, likewise
fixed by the county court, not exceeding ten dollars for
all such services at any one election and, in addition, shall
be allowed and paid mileage at the rate of seven cents
per mile necessarily traveled in the performance of such
services. The compensation of election officers, cost of printing ballots, and all other expenses incurred in holding and making the return of elections, other than the three special elections hereinafter specified and described, shall be audited by the county court and paid out of the county treasury. The compensation of election officers, cost of printing ballots, and all other reasonable and necessary expenses in holding and making the return of a special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, of a special election to elect members of a constitutional convention, and of a special election to ratify or reject the proposals, acts and ordinances of a constitutional convention shall be obligations of the state incurred by the ballot commissioners, clerks of the circuit courts, clerks of the county courts, and county courts of the various counties as agents of the state, and all such expenses shall be audited by the secretary of state. The secretary of state shall prepare and transmit to the county courts forms on which the county courts shall certify all such expenses of such special elections to the secre-
tary of state. If satisfied that such expenses as certified
by the county courts are reasonable and were neces-
sarily incurred, the secretary of state shall requisition
the necessary warrants from the auditor of the state to
be drawn on the state treasurer, and shall mail such
warrants directly to the vendors of such special election
services, supplies and facilities.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 19th day of March, 1965.

Governor