

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

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ENROLLED

SENATE BILL NO. 198

(By Mr. Hubbard and Mr. Protherton)

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PASSED March 11, 1967

In Effect Ninety days from Passage

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 3-21-67

861#

**ENROLLED**

**Senate Bill No. 198**

(By MR. HUBBARD and MR. BROTHERTON)

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[Passed March 11, 1967; in effect ninety days from passage.]

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AN ACT to amend and reenact section twenty-eight, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment and notification of election officers, certain powers and duties of election officers, and double boards of election officers, and providing that for any special election where there are only public questions to be voted upon there shall be but one board of election officers in each precinct.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-eight, 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:

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-28. Election commissioners and clerks—Appointment and notification; vacancies; authority to administer oaths, etc.**

The county court of each county shall hold a regular  
2 or special session at the courthouse of the county on the  
3 first Tuesday of the month next preceding the date on  
4 which any election is to be held and appoint three com-  
5 missioners and two clerks to hold the election in each  
6 precinct in the county. In primary and general elections  
7 and in any special election in which political party can-  
8 didates are to be nominated or elected, the election com-  
9 missioners and clerks shall be selected from the two po-  
10 litical parties which at the last preceding general election  
11 cast the highest and the second highest number of votes  
12 in this state. For every precinct in which there are three  
13 hundred, but not more than four hundred, registered  
14 voters, there may be two boards of election officers, and  
15 for all precincts in which there are more than four hun-

16 dred registered voters, there shall be two boards of elec-  
17 tion officers, and where two boards are used, each board  
18 shall consist of three election commissioners and two poll  
19 clerks, one of which boards shall be designated the “re-  
20 ceiving board” and the other the “counting board” and  
21 not more than two commissioners and one poll clerk of  
22 each board shall be appointed from the same political  
23 party: *Provided*, That for any special election for the pur-  
24 pose of taking the sense of the voters on the question of  
25 calling a constitutional convention, and for any special  
26 election to elect members of a constitutional convention,  
27 and for any special election to ratify or reject the pro-  
28 posals, acts and ordinances of a constitutional convention,  
29 and for any special election where there are only public  
30 questions to be voted upon, there shall be but one board of  
31 election officials in each precinct, consisting of three com-  
32 missioners and two poll clerks. If, at any time before or  
33 during the session of the county court, the county ex-  
34 ecutive committee of either or both of the political parties,  
35 from which commissioners and clerks of election are to  
36 be selected, shall file with or present to the county court

37 a writing signed by them, or by the chairman or secre-  
38 tary of such committee on their behalf, requesting the  
39 appointment of a member and of one clerk of each board  
40 of the political party for which such committee, chairman  
41 or secretary is acting, and designating persons who are  
42 qualified under this article for such appointment for each  
43 election precinct in the county, the county court shall  
44 appoint the persons so designated.

45 The county court shall by mail notify all commissioners  
46 and poll clerks of their appointment, and include with  
47 such notice an appropriate form for each person so ap-  
48 pointed to return indicating whether or not he will serve  
49 as such commissioner or poll clerk. It shall be the duty of  
50 all persons so appointed to immediately return said form  
51 to the county court. In the event any of the persons so  
52 appointed refuse to serve as such commissioners or poll  
53 clerks, the county court shall immediately notify the  
54 chairman of the county executive committee of the po-  
55 litical party from which such commissioners and poll  
56 clerks are to be selected. The chairman of the political  
57 committee so notified shall recommend the person or per-

58 sons to be appointed to replace those declining to serve  
59 and it shall be the duty of the county court to appoint the  
60 person or persons so recommended.

61 If any person appointed receiving commissioner or  
62 clerk of election shall fail to appear at the voting place  
63 at the hour for opening the polls, the remaining commis-  
64 sioner or commissioners of election of the political party  
65 to which the absentee belongs shall select another com-  
66 missioner or clerk, as the case may be, of such political  
67 party. But if the qualified voters of his party present at  
68 the polls shall nominate a voter of his party qualified to  
69 act under the provisions of this section, such nominee  
70 shall be appointed. If none of the receiving commissioners  
71 of the election or poll clerks shall appear at the voting  
72 place at the hour appointed for opening the polls, the  
73 qualified voters present, being at least ten in number, of  
74 the political party which cast the highest number of votes  
75 in the county at the last preceding election, shall select  
76 two commissioners and one clerk and those of the po-  
77 litical party which cast the next highest number of votes  
78 in the county at such election shall select one commis-

79 sioner and one clerk of the receiving board of such pre-  
80 cinct, and the persons so selected shall constitute the re-  
81 ceiving board for the precinct. A vacancy or vacancies  
82 on the counting board shall be filled in the manner herein  
83 provided for filling a vacancy or vacancies on the re-  
84 ceiving board, except that such vacancy or vacancies shall  
85 be determined and filled as of the hour appointed in this  
86 chapter for the counting board to attend at the polls. Any  
87 commissioner of election acting at any election precinct  
88 is hereby empowered and authorized to administer oaths  
89 and to take and certify affidavits in relation to any mat-  
90 ter or thing required or permitted to be done by any of  
91 the provisions of this article in conducting and holding  
92 the election.

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

*William Tompkins*  
Chairman Senate Committee

*Clayton C. Davidson*  
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

*J. Howard Meeker*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Howard W. Carson*  
President of the Senate

*H. Laban White*  
Speaker House of Delegates

The within *approved* this the *17*  
day of *March*, 1967.

*Stewart C. Smith*  
Governor



**PRESENTED TO THE  
GOVERNOR**

**Date** 3/17/67

**Time** 3:45 PM.