WASHINGTON LEGISLATURE
REGULAR SESSION, 1968

ENROLLED

HOUSE BILL No. 330

(By Mr. Rockefeller and Mr. Armistead)

PASSED February 7, 1968

In Effect 30 days from Passage

Filed in the office
by D. Bailey
Secretary of State
this date 2-16-68
ENROLLED

House Bill No. 330
(By Mr. Rockefeller and Mr. Armistead)

[Passed February 7, 1968; in effect ninety days from passage.]

AN ACT to amend and reenact sections three, nine, eleven, sixteen, twenty-two and thirty-six, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section nine, article six, of said chapter, all relating to the review, cancellation and reinstatement of the voter registration of persons who have failed to vote within a specified period, to the powers and duties of the secretary of state as the chief registration official of the state, to the completion date of a biennial or quadrennial checkup, to the removal of registration records from the custody of the county court to comply with a subpoena duces tecum issued by the chief
registration official of the state, to the cancellation of voter registrations of persons shown to be deceased by certificates of death, to the imposition of penalties for a wilful delay, neglect or refusal to perform duties imposed by the rules, regulations or directions promulgated or issued by the chief registration official of the state, and to the preservation of poll books following elections.

Be it enacted by the Legislature of West Virginia:

That sections three, nine, eleven, sixteen, twenty-two and thirty-six, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that section nine, article six of said chapter, be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-3. Registration, cancellation and reinstatement.

1 A permanent registration system shall hereby be established which shall be uniform throughout the state and all of its subdivisions. No voter so registered shall be required to register again for any election while he continues to reside at the same address, or, having moved from such address, is properly transferred according to
the provisions of section twenty-seven of this article, unless his registration is cancelled as provided in this article.

Within one hundred and twenty days following any election, the clerk of the county court shall, as evidenced by the presence or absence of signatures on the poll books for such election, correct any errors or omissions on the voter registration records appertaining to such election resulting from the poll clerks erroneously checking or failing to check the registration records as required by the provisions of section thirty-four, article one of this chapter; and, within the same time period following each state-wide primary and general election and at the same time that such checkup is made as is by this paragraph required, the clerk shall cancel the registration of each person who has failed to vote at least once during a period covering two state-wide primary and general elections as indicated by his registration record. Any person who has had his registration for that reason cancelled shall, by letter, be given proper notice thereof by the clerk of the county court,
to the effect that in order to vote he must register again or execute and file, not later than twenty-nine days before the next primary or general election, with the clerk, an affidavit, the form of which shall be prescribed by the secretary of state, stating that he desires to be reinstated as a qualified voter at the same address and the clerk shall replace the registration card of the voter in the registration records. A blank form of such affidavit shall be included with and accompany the aforesaid notice to the voter.

§3-2-9. Election rules; powers and duties of secretary of state; exercise of powers by appointees.

The secretary of state shall be the chief registration official of the state. He shall have authority, upon consultation with the state election commission, of which he is a member, to make, amend and rescind such rules, regulations and orders as may be necessary to carry out the policy of the Legislature, as contained in this article. It shall be the duty of all registration officials to abide by such rules, regulations and orders, which shall include:
(a) Uniform rules of procedure for registrars and other registration officials in the performance of their duties, as to time and manner of performance;
(b) Uniform rules for the purging of registration records;
(c) Uniform rules for challenging registrants; and
(d) Any other rules, regulations, or directions necessary to standardize and make effective the administration of the provisions of this article.

It shall be his further duty to advise with registration officials; to furnish to the registration officials a sufficient number of indexed copies of the current registration laws of West Virginia and the administrative orders and rules and regulations issued or promulgated thereunder; to investigate the administration of registration laws, frauds, and irregularities in any registration; to report violations of registration laws to the appropriate prosecuting officials, and to prepare an annual report of registration.

The secretary of state shall also have the power to administer oaths and affirmations, issue subpoenas for
the attendance of witnesses, issue subpoena duces tecum to compel the production of books, papers, records, registration records and other evidence, and fix the time and place for hearing any matters relating to the administration and enforcement of this article, or the rules, regulations and directions promulgated or issued hereunder by the secretary of state as the chief registration official of the state. In case of disobedience to a subpoena or subpoena duces tecum, he may invoke the aid of any circuit court in requiring the attendance, evidence and testimony of witnesses and the production of papers, books, records, registration records and other evidence.

All powers and duties vested in the secretary of state under this article may be exercised by appointees of the secretary of state at his discretion, but the secretary of state shall be responsible for their acts.

§3-2-11. Appointment of registrars; qualifications and duties.

The county court of each county shall, not less than eighteen nor more than twenty weeks prior to the date of a state-wide primary election, appoint two competent
persons, for one or more but not to exceed ten voting
precincts in the county, to act as registrars for the
purpose of making a biennial or quadrennial checkup
required by this article. No person shall be eligible
to appointment as a registrar, or in any way act as
such, if he has been convicted of a felony or if he holds
any elective or appointive office, or is a public employee,
under the laws of this State or of the United States;
or cannot read or write the English language; or is a
candidate to be voted for at such election. If any such
registrar shall fail or refuse to serve or is properly
dismissed, the vacancy shall be filled either by the
county court or by the clerk thereof in vacation, in the
manner provided for the appointment of registrars.
Each registrar, before entering upon the discharge of his
duties, shall take an oath that he will perform the
duties of the office to the best of his ability, which
oath shall be filed in the office of the clerk of the county
court.
An equal number of such registrars shall be selected
from the two political parties which at the last pre-
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25 ceding election, cast the highest number and next highest number of votes in the county in which the election is to be held. The county court shall, at least four weeks prior to making such appointment, request the county executive committee of each of the said two political parties to submit a list of names, equal to one half of the total number to be appointed, of persons qualified to act as registrars; and the county court shall, if such lists are submitted, appoint the respective registrars therefrom, and shall notify each registrar of his appointment. Every such list so presented shall be filed and preserved for one year by the clerk of such court in his office. Any and every act performed by any registrar under the provisions of this article shall be void unless performed in conjunction with a registrar of the opposite political party at the same time and place. Before acting, all such registrars shall attend a session, or sessions, of instruction by the clerk of the county court, or some person designated by him, concerning the performance of their duties.

45 Immediately following such instruction the clerk of
the county court shall deliver to the registrar a copy of the laws and regulations relating to registration of voters and all necessary forms and other supplies, including a certified list of all registered voters within the precinct or precincts for which such registrars were appointed, upon such form as may be prescribed by the secretary of state. Such registrars shall thereupon proceed together to make a house-to-house canvass in their precincts for the purpose of making the biennial or quadrennial checkup required by section twenty-one of this article. Each biennial or quadrennial checkup subsequent to the year one thousand nine hundred sixty-eight shall be completed at least sixty days before the state-wide primary election following the appointment of the registrars. In making such checkup the registrars shall not again register any person who is already registered in such precinct, but shall determine whether or not such person is duly registered and qualified to vote therein.

§3-2-16. Custody of registration records; public inspection.

1 The registration records shall not be removed from
§3-2-22. Registration in clerk's office; cancellation of registrations of deceased persons.

1. The clerk of the county court may register any qualified person as a voter by having him fill in and complete the prescribed voter registration form and having him sign same under oath or affirmation. The clerk, upon proper proof, may alter, amend, correct, or cancel the registration record of any voter. Such registration or alteration, amendment, correction or cancellation of registration records shall be carried on throughout the year.

2. Within fifteen days following receipt by the clerk from the state registrar of vital statistics or from the local registrar of vital statistics of a certificate of death
which has occurred in his county or of a person who
last resided prior to death in his county, the clerk of
the county court shall cancel the voter registration,
if any, of the person shown to be deceased by such cer-
tificate.
For purposes of making certain that the voter regis-
tration records of the various counties do not contain
voter registration of persons who are deceased, the
clers of the county courts shall prior to September one,
one thousand nine hundred sixty-eight, review each
certificate of death received by him from the state regis-
trar of vital statistics or from the local registrar of vital
statistics since January one, one thousand nine hundred
sixty-four, and shall cancel the voter registration,
if any, of each person shown to be deceased by any such
certificate and whose voter registration has not pre-
viously been cancelled. Between September one and
September fifteen, one thousand nine hundred and sixty-
eight, each clerk of a county court shall certify to the
secretary of state, as the chief registration official of the
state, that he has performed the duty required by this
paragraph.
If found necessary, the county court may order and direct the clerk of the county court to maintain additional office hours in the evening or at other proper times and places for accommodation of voter registration.

§3-2-36. Neglect of duty by registration officers; penalties.

Any registrar or clerk of the county court or their authorized deputies or any other persons upon whom a duty is laid by the Permanent Registration Law, or the rules, regulations or directions promulgated or issued by the secretary of state as the chief registration official of the state, who shall willfully delay, neglect, or refuse to perform such duty, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both, at the discretion of the court.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-9. Canvass of returns; recounts; preservation and subsequent destruction of ballots, records, etc.

The commissioners of the county court shall be ex officio a board of canvassers, and, as such, shall keep
in a well-bound book, marked "election record," a complete record of all their proceedings in ascertaining and declaring the result of every election in their respective counties. They shall convene as such canvassing board at the courthouse on the fifth day (Sundays excepted) after every election held in their county, or in any district thereof, and the officers in whose custody the ballots, poll books, registration records, tally sheets and certificates have been placed shall lay the same before them for examination. They may, if deemed necessary, require the attendance of any of the commissioners, poll clerks or other persons present at the election, to appear and testify respecting the same, and make such other orders as shall seem proper, to procure correct returns and ascertain the true result of the election in their county; but in such case all the questions to the witnesses and all the answers thereto, and evidence, shall be taken down in writing and filed and preserved. All orders made shall be entered upon the record. They may adjourn from time to time, but no longer than absolutely necessary, and, when a ma-
oration of the commisioners are not present, their meeting
shall stand adjourned until the next day, and so from
day to day, until a quorum be present. The board shall
proceed to open each sealed package of ballots so laid
before them, and, without unfolding them, count the
number in each package and enter the same upon their
record. The ballots shall then be again sealed up care-
fully in a new envelope, and each member of the board
shall write his name across the place where such
envelope is sealed. After canvassing the returns of the
election, the board shall, upon the demand of any can-
didate voted for at such election, open and examine
any one or more of the sealed packages of ballots, and
recount the same; but in such case they shall seal the
same again, along with the envelope above named, and
the clerk of the county court and each member of the
board shall write his name across the place or places
where it is sealed, and endorse in ink, on the outside:
“Ballots of the election held at precinct No. .................,
in the district of ................., and county of ................., on
the ........ day of ..................” Every candidate who demands
such recount shall be required to furnish bond in a
reasonable amount with good sufficient surety to guar-
antee payment of the costs and the expenses of such
recount in the event the result of the election be not
changed by such recount; but the amount of such bond
shall in no case exceed three hundred dollars. When
they have made their certificates and declared the re-
sults as hereinafter provided, they shall deposit the
sealed packages of ballots, absent voter ballots, regis-
tration records, poll books, tally sheets, and precinct
certificates with the clerks of the county and circuit
courts for whom they were received, who shall care-
fully preserve the same for sixty days, and if there be
no contest pending as to any such election, and their
further preservation be not required by any order of a
court, such ballots, poll books, tally sheets and certifi-
cates shall be destroyed by fire or otherwise, without
opening the sealed packages of ballots; and if there be
such contest pending, then they shall be so destroyed as
soon as the contest is ended: Provided, That the poll
books shall be preserved until such time as the clerk
of the county court has completed the duties imposed
upon him by section three, article two of this chapter.
If the result of the election be not changed by such re-
count, the costs and expenses thereof shall be paid by
the party at whose instance the same was made.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Temps
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Howard W. Causer
President of the Senate

A. Laban White
Speaker of the House of Delegates

The within approved this the 14th day of February, 1968.

Hulet C. Smith
Governor