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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

HOUSE BILL No. 1322

(By Mr. Cline)

PASSED April 14, 1973

In Effect Ninety days from Passage



C 641

FILED IN THE OFFICE
EDGAR F. WEISKELL III
SECRETARY OF STATE
THIS DATE 5/3/73

Veto - 1322

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 1322
(By MR. CLINE)

(Originating in the House Select Committee on Redistricting)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to amend sections nine, ten and twenty-one, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections eight and thirteen, article five of said chapter; to amend and reenact sections two and five, article six of said chapter; and to amend and reenact section five, article ten of said chapter, all relating to elections; compensation and organization of political party committees; deleting election of members from wards from certain cities and to provide in lieu thereof election of members from executive committee districts created by county court for purposes of this section to be compact, contiguous and of equal population; the printing of ballots; number and requirement of ballots; clarification when multiple seats are to be filled for the same office; packaging and sealing of ballots; form and contents of ballots in primary elections; requiring that candidates for House of Delegates shall be in first column; preparation and form of general election ballots; order of offices and candidates to be same as in primary elections; rules and procedures in elections other than primaries; pro-

cedure for voting a straight ticket; voting for candidates of another party when multiple seats are to be filled for that office; delegate district executive committees; extending terms of present members of said committees; and establishing new delegate district executive committees and procedures to fill vacancies in office and vacancies in nomination of members of the House of Delegates.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-9. Political party committees; how composed; organization.

1 At the May primary election in the year one thousand nine
2 hundred seventy-two and at the May primary election in the
3 year one thousand nine hundred seventy-four and in every
4 fourth year subsequent to the May primary election held in
5 the year one thousand nine hundred seventy-four, the voters
6 of each political party in each senatorial district shall elect
7 two male and two female members of the state executive
8 committee of the party. In senatorial districts containing two
9 or more counties, not more than two such elected committee
10 members shall be residents of the same county. The com-
11 mittee, when convened and organized as herein provided,
12 shall appoint three additional members of the committee
13 from the state at large.

14 At such primary election, the voters of each political party
15 in each county shall elect one male and one female member
16 of the party's executive committee of the congressional district
17 and of the senatorial district in which such county is situated.
18 At the same time such voters in each magisterial district or exe-
19 cutive committee district, as the case may be, of the county
20 shall elect one male and one female member of the party's
21 county executive committee.

22 For the purpose of complying with the provisions of this
23 section the county court shall create such executive committee
24 districts as they shall determine, which such districts shall
25 not be fewer than the number of magisterial districts in such
26 counties nor shall they exceed in number the following: Fifty
27 for counties having a population of one hundred thousand
28 persons or more; forty for counties having a population of
29 fifty thousand to one hundred thousand; and ten from counties
30 having a population of fifty thousand or less.

31 The executive committee districts shall not cross magis-
32 terial district lines, shall be as nearly equal in population as
33 practicable, and shall each be composed of compact, contiguous
34 territory. The county courts shall constitute the executive com-
35 mittee districts before January first, one thousand nine hundred
36 seventy-four to be effective for the term of office of executive
37 members elected at the one thousand nine hundred seventy-four
38 primary election and thereafter. The county courts shall not
39 thereafter change the territorial boundaries of such districts,
40 except such change shall be made within two years immediately
41 following a decennial census.

42 All members of executive committees, selected for each
43 political division as herein provided, shall reside within the
44 county, district or ward from which chosen.

45 The terms of office of all members of executive committees
46 so elected at the May primary election in the year one thousand
47 nine hundred seventy-two shall begin on the first day of June,
48 following said May primary, and shall continue for two years
49 thereafter and until their successors are elected and qualified.
50 The term of office of all members of executive committees
51 elected at the May primary in the year one thousand nine
52 hundred seventy-four, and every four years thereafter, shall
53 begin on the first day of June, following said May primary,
54 and shall continue for four years thereafter and until their
55 successors are elected and qualified. Vacancies in the state
56 executive committee shall be filled by the members of the
57 committee for the unexpired term. Vacancies in the party's
58 executive committee of a congressional district, senatorial
59 district or county shall be filled by the party's executive
60 committee of the county in which such vacancy exists, and
61 shall be for the unexpired term.

62 As soon as possible after the first day of June, following

63 the election of the new executive committees, as herein
64 provided, they shall convene within their respective political
65 divisions, on the call of the chairman of corresponding out-
66 going executive committees, or by any member of the new
67 executive committee in the event there is no corresponding
68 outgoing executive committee, and proceed to select a chair-
69 man, a treasurer and a secretary, and such other officers
70 as they may desire, each of which officers shall for their
71 respective committees perform the duties that usually apper-
72 tain to such offices.

§3-1-10. Delegate district executive committees.

1 (a) On and after the first day of January, one thousand
2 nine hundred seventy-four, new delegate district executive
3 committees shall be constituted as follows:

4 (1) In delegate districts that include only one whole county
5 or only a portion of one county, the political party executive
6 committee of that county shall constitute the political party
7 executive committee of that delegate district;

8 (2) In delegate districts that include two or more whole
9 counties, the political party executive committee of each county
10 within that delegate district shall elect one male and one female
11 resident of that county, all of whom shall constitute the political
12 party executive committee of that delegate district;

13 (3) In the thirtieth delegate district, the political party
14 executive committees in the counties of Randolph and Poca-
15 hontas shall each elect one male and one female resident of
16 their respective counties, all of whom shall constitute the
17 political party executive committee of the thirtieth delegate
18 district;

19 (4) Except as provided for in subdivision (3) of this sec-
20 tion, in delegate districts that contain one or more whole
21 counties together with a portion of another county, the political
22 party executive committees of each county wholly included
23 within the delegate district shall elect one male and one female
24 resident of that county, and the political party executive com-
25 mittee of each county only partially included within the
26 delegate district shall elect one resident of that county, who
27 shall reside within that portion of the county included in that
28 delegate district, all of whom shall constitute the political par-
29 ty executive committee of that delegate district.

30 (b) Vacancies in delegate district executive committees
31 shall be filled by the political party executive committee of
32 the county from which the vacating member was a resident
33 and, in case only a portion of a county is included within a
34 delegate district the person filling the vacancy shall reside
35 in that portion of the county.

36 (c) Members of delegate district executive committees that
37 are elected by county executive committees shall serve at the
38 will and pleasure of the county executive committee that elected
39 them.

40 (d) As soon as possible after their election, delegate
41 district executive committees shall convene within their
42 respective delegate districts, on the call of any member of the
43 new delegate district executive committee, and proceed to
44 select a chairman, a treasurer and a secretary, and such
45 other officers as they may desire, each of which officers shall
46 for their respective committees perform the duties that usually
47 appertain to such offices.

48 (e) The delegate district executive committees elected at
49 the primary election in the year one thousand nine hundred
50 seventy-two, as well as any persons now or hereafter ap-
51 pointed to fill vacancies in such committees, shall continue
52 in office until the first day of December, one thousand nine
53 hundred seventy-four, for the purpose of making nominations
54 to fill vacancies in the House of Delegates pursuant to section
55 five, article ten of this chapter.

56 (f) For the purpose of filling vacancies in nomination on
57 and after the first day of January, one thousand nine hundred
58 seventy-four, pursuant to section nineteen, article five of this
59 chapter, and for the purpose of filling vacancies in the office
60 of member of the House of Delegates on and after the first
61 day of December, one thousand nine hundred seventy-four,
62 pursuant to section five, article ten of this chapter, delegate
63 district executive committees shall reflect the apportionment
64 of the House of Delegates as constituted by "The House of
65 Delegates Apportionment Act of 1973."

66 (g) In case of a tie vote in delegate district executive com-
67 mittees in filling vacancies in office or in filling vacancies in
68 nomination for members of the House of Delegates, the
69 chairman of the state political party executive committee of
70 that party shall cast the deciding vote.

§3-1-21. Printing of ballots; number and requirements; packaging and sealing.

1 It shall be the duty of the board of ballot commissioners for
2 each county to provide printed ballots for every election for
3 public officers in which the voters or any of the voters
4 within the county participate, and cause to be printed, on the
5 appropriate ballot, the name of every candidate whose name
6 has been certified to or filed with the clerk of the circuit
7 court of the county in any manner provided for in this chapter.
8 In any case wherein the constitution or statutes limit or
9 prescribe the number of candidates or elected officers to be
10 selected by the voters in any district or other governmental
11 subdivision, the ballot commissioners, in the preparation of
12 such ballots, shall cause to be printed thereon, in plainly
13 worded language, the number of candidates to be voted for in
14 each district or other governmental subdivision: *Provided,*
15 That in any election when more than one seat is to be filled
16 for a public office, such instructions shall be centered across
17 the ballot or electronic voting system so as to be stated only
18 once and to apply to all parties. The printing of the ballots,
19 and all other printing caused to be done by the board of ballot
20 commissioners, shall be contracted for with the lowest respon-
21 sible bidder. Ballots other than those caused to be printed
22 by the respective boards of ballot commissioners, according
23 to the provisions of this chapter, shall not be cast, received,
24 or counted in any election.

25 For each such election to be held in their county and at
26 least thirty days before the date of such election, the board of
27 ballot commissioners shall cause to be printed official bal-
28 lots to not more than one and one-fifth times the number
29 of registered voters in the county. Provisions of article five of
30 this chapter shall govern the printing of ballots for primary
31 elections. The ballots so printed shall be wrapped and tied in
32 packages, one for each precinct in their county, containing
33 ballots to the number of one and one-twentieth times the
34 number of registered voters in such precinct. Each package
35 of ballots shall be sealed with wax, and plainly marked with
36 the number of ballots therein, the name of the magisterial
37 district, and the number of the voting place therein, to which
38 it is intended to be sent. The names of the ballot commissioners
39 shall also be endorsed thereon.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-8. Filing fees and their disposition.

1 Every person who becomes a candidate for nomination for
2 or election to office in any primary election, shall, at the time
3 of filing the certificate of announcement as required in this
4 article, pay a filing fee as follows:

5 (a) A candidate for president of the United States, for vice
6 president of the United States, for United States senator, for
7 member of the United States house of representatives, for gov-
8 ernor and for all other state elective offices shall pay a fee
9 equivalent to one percent of the annual salary of the office for
10 which the candidate announces;

11 (b) A candidate for the office of judge of the circuit court
12 and judge of any court of record of limited jurisdiction shall
13 pay a fee equivalent to one percent of the total annual salary
14 of the office paid from any and all sources for which the can-
15 didate announces;

16 (c) A candidate for member of the House of Delegates shall
17 pay a fee of thirty-three dollars, and a candidate for state sen-
18 ator shall pay a fee of sixty-six dollars;

19 (d) A candidate for sheriff, prosecuting attorney, circuit
20 clerk, county clerk, assessor, member of the county court and
21 member of the county board of education shall pay a fee
22 equivalent to one percent of the annual salary of the office for
23 which the candidate announces: *Provided*, That the fee in no
24 case shall be less than five dollars. A candidate for any other
25 county office shall pay a fee of five dollars;

26 (e) A candidate for justice of the peace in districts having
27 a population of five thousand or less shall pay a fee of ten
28 dollars; in districts having a population of more than five
29 thousand and not more than twenty-five thousand, fifteen dol-
30 lars; and in districts having more than twenty-five thousand
31 population, each candidate shall pay a fee of twenty-five dol-
32 lars;

33 (f) A candidate for constable in districts having a popula-
34 tion of five thousand or less shall pay a fee of five dollars; in
35 districts having a population of more than five thousand and
36 not more than twenty-five thousand, ten dollars; and in all

37 other districts fifteen dollars;

38 (g) Delegates to the national convention of any political
39 party shall pay the following filing fees:

40 A candidate for delegate-at-large shall pay a fee of twenty
41 dollars; and a candidate for delegate from a congressional dis-
42 trict shall pay a fee of ten dollars;

43 (h) Candidates for members of political executive commit-
44 tees and other political committees shall pay the following fil-
45 ing fees:

46 A candidate for member of a state executive committee of
47 any political party shall pay a fee of ten dollars; a candidate
48 for member of a county executive committee of any political
49 party shall pay a fee of one dollar; and a candidate for member
50 of a congressional or senatorial district committee of any poli-
51 tical party shall pay a fee of one dollar.

52 Candidates filing for an office to be filled by the voters of
53 one county shall pay the filing fee to the clerk of the circuit
54 court, and candidates filing for an office to be filled by the
55 voters of more than one county shall pay the filing fee to the
56 secretary of state at the time of filing their certificates of
57 announcement, and no certificate of announcement shall be
58 received until the filing fee is paid.

59 All moneys received by such clerk from such fees shall be
60 credited to the general county fund. Moneys received by the
61 secretary of state from fees paid by candidates for offices to be
62 filled by all the voters of the state shall be deposited in a
63 special fund for that purpose and shall be apportioned and
64 paid by him to the several counties on the basis of population,
65 and that received from candidates from a district or judicial
66 circuit of more than one county shall be apportioned to the
67 counties comprising the district or judicial circuit in like man-
68 ner. When such moneys are received by sheriffs, it shall be
69 credited to the general county fund.

§3-5-13. Form and contents of ballots.

1 The official primary ballot shall contain at the left of each
2 column of names of candidates, a perpendicular column, and
3 shall be so printed as to leave a square at the left of each
4 name on the ballot.

5 On such primary ballot, the names of candidates for

6 president of the United States, for vice president of the United
 7 States, for United States senator and for representative in Con-
 8 gress, shall be placed in the first column of candidates; the
 9 names of candidates for all state offices, including state senators
 10 and members of the House of Delegates, and all other offices to
 11 be filled by the voters of a political division greater than a
 12 county, including the state executive committee, in the second
 13 column; the names of all candidates for county offices, includ-
 14 ing members of the congressional and senatorial district execu-
 15 tive committees, shall be placed in the third column; the names
 16 of all candidates for office in the magisterial districts shall be
 17 placed in the fourth column; and the names of all candidates for
 18 delegates to the national convention of the party shall be placed
 19 in the fifth column and in counties using voting machines the
 20 names of all candidates for delegates to the national convention
 21 of the party shall be placed after the names of all other can-
 22 didates for all of the other above specified offices.

23 The face of every primary election ballot shall conform as
 24 nearly as practicable to that used at the general election.

25 The secretary of state, or the circuit court clerk, as the case
 26 may be, shall arrange the names of the candidates to be
 27 printed on the ballot in alphabetical order, according to the
 28 surname, under the title of the respective offices upon the
 29 ballot.

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

40 In printing each set of ballots the position of the names of
 41 the candidates shall be changed in each office division as
 42 many times as there are candidates in that office division.
 43 As nearly as possible an equal number of ballots shall be
 44 printed after each change. In making the change of position,
 45 the printer shall take the line of type containing the first
 46 name in the office division concerned and place it at the

47 bottom of the list of names in that division and move up the
48 column so that the name that before was second shall be
49 first after the change. After the ballots are printed they
50 shall be kept in separate piles, one pile for each change in
51 position, and shall then be gathered by taking one from each
52 pile. Sample ballots shall be in the same form as the official
53 ballot, but the order of the names thereon need not be altered.

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

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-2. Preparation and form of general election ballots.

1 All ballots prepared under the provisions of this article shall
2 be printed in black ink on number two white book paper
3 sufficiently thick so that the printing cannot be distinguished
4 from the back, and shall contain the names of every candidate
5 whose nomination for any office to be voted for at the election
6 has been certified and filed according to law, and no others,
7 except that if it shall appear to the satisfaction of the ballot
8 commissioners that a person has been legally nominated as a
9 candidate for an office and is lawfully entitled to have his
10 name upon the ballot and no certificate of the nomination
11 has been received by the clerk of the circuit court, they shall
12 print the name of such candidate upon the ballot in its
13 proper place.

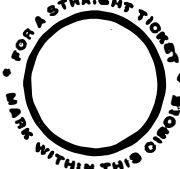
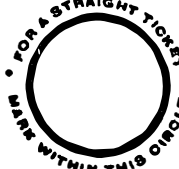

14 The tickets, except the heading, which shall be in display
15 type, shall be printed in eight point type; the name or
16 designation of the office and the residence of the candidate
17 in lower case letters, and the name of the candidate in capital
18 letters. The name and residence of the candidate may be
19 printed in the same line. The name of each candidate shall

20 be printed in a space defined by ruled lines, and with a black
21 square on its left enclosed by heavy dark lines. If, upon
22 any ticket, there be no candidate or candidates for a designated
23 office, a blank space equal to the space that would be
24 occupied by such name or names, if they were printed
25 thereon, with the blank space herein provided for, shall be
26 left. The heading of each party ticket including the name of
27 the party and the device or emblem above and the large
28 circle between the device or emblem and such name, shall
29 be separated from the rest of the ticket by heavy lines and
30 the circle above the name of the party in which the voter
31 is to place the cross mark, if he desires to vote the straight
32 ticket, shall be defined by heavier lines than the lines defining
33 the blank spaces before the names of candidates, and such
34 circle shall be surrounded by the following words printed in
35 heavy face six point type: "For a straight ticket mark within
36 this circle." Each party ticket shall be separated from other
37 party tickets and bordered on either side by a heavy border,
38 or a broad solid line, at least one sixteenth of an inch wide,
39 and the edges of the ballot on either side trimmed off to
40 within one-half inch of the border or solid line described.

41 Then names of the candidates shall be arranged on the ballot
42 in tickets or lists, in separate columns under the respective
43 party or political or other designation certified, each column or
44 ticket containing the names of candidates nominated by the
45 same political party and no others. In elections for presi-
46 dential electors, the names of candidates for electors of any
47 political party or group of petitioners, shall not be placed on
48 the ballot, but shall, after nomination, be filed with the secre-
49 tary of state. In place of their names, there shall be printed
50 first on the ballots the names of the candidates for president
51 and vice president, respectively, of each such party or group of
52 petitioners, and they shall be arranged under the title of the
53 office. Before the names of such candidates for president and
54 vice president of each party, or group, a single square shall be
55 printed, in front of a brace, in which the voter shall place the
56 cross mark for the candidate of his choice for such offices. A
57 vote for any of such candidates shall be a vote for the electors
58 of the party by which such candidates were named, and whose
59 names have been filed with the secretary of state.

60 The names of the candidates on each ticket shall be arranged

61 in groups, with a heading over each group printed in heavy
 62 faced eight point type to indicate the political divisions in which
 63 such group is to be voted for. The arrangement of the ballot
 64 shall conform as nearly as practicable to the plan here given:

Device	Device	Device
		
Republican Ticket	Democratic Ticket	Prohibition Ticket
For Governor	For Governor	For Governor
Name	Name	Name
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

65 The tickets of the several political parties shall be printed on
 66 the ballot in parallel columns, each ticket in a separate column
 67 headed by the chosen device, and the tickets in such order on
 68 the ballot and the names of the office and the candidates
 69 for the offices in such order on the ticket as the secretary
 70 of state may direct, when practicable, as provided in section
 71 thirteen, article five of this chapter, preference, however,
 72 being given to the political party which had the highest
 73 number of registered voters at the last preceding general
 74 election, and so on. No ticket or list of candidates shall
 75 be printed under the name of any party containing more
 76 candidates for any office than are to be elected.

77 The ballot shall be so printed as to give each voter a
 78 clear opportunity to designated by a cross mark in a large,
 79 blank, circular space, three quarters of an inch in diameter,
 80 below the device and above the name of the party at the
 81 head of the ticket or list of candidates, his choice of a
 82 party ticket and desire to vote for each and every candidate
 83 thereon; and by a cross mark, in a blank, enclosed space on
 84 the left and before the name of each candidate, his choice
 85 of particular candidates.

86 On the back of the ballot shall be printed or stamped
87 in black ink the words "Official Ballot," with the date of the
88 election, and underneath shall be two blank lines, followed by
89 the words "Poll Clerks."

§3-6-5. Rules and procedures in elections other than primaries.

1 The provisions of article one of this chapter relating to elec-
2 tions generally shall govern and control arrangements and elec-
3 tion officials for the conduct of elections under this article.
4 The following rules and procedures shall govern the voter in
5 his voting for candidates in general and special elections:

6 (a) If the voter desires to vote a straight ticket, or,
7 in other words, for each and every candidate for one party for
8 whatever office nominated, he shall either:

9 (1) Make a cross mark in the circular space below the
10 device and above the name of the party at the head of the
11 ticket; or

12 (2) Make a cross mark on the left and opposite the name
13 of each and every candidate of such party in the blank space
14 provided therefor; or

15 (3) Mark out, by lines, all the tickets on the ballot, other
16 than the ticket he desires to vote.

17 (b) If the voter desires to vote a mixed ticket, or, in other
18 words, for candidates of different parties, he shall either:

19 (1) Omit making a cross in the circular space above the
20 name of the party, and make a cross mark in the blank space
21 before the name of each candidate for whom he desires to
22 vote on whatever ticket the name may be; or

23 (2) Make a cross mark in the circular space above the
24 name of the party for some of whose candidates he desires
25 to vote, and then make a cross mark before the name of
26 any candidate of any other party for whom he may desire
27 to vote; in which case the cross mark in the circular space
28 above the name of the party will cast his vote for every
29 candidate on the ticket of such party except for offices for
30 which candidates are marked on other party tickets, and the
31 cross marks before the name of such candidates will cast
32 his vote for them: *Provided*, If there are multiple candidates
33 under the name of any party for terms of equal duration in the
34 same office, and if the voter placing a straight ticket cross mark

35 in the circle above the name of one party also places a cross
36 mark or cross marks before the name of a candidate or can-
37 didates for such office on another party ticket or column, then
38 any and all candidates for such office having a cross mark
39 before his or her name shall receive credit for a vote, but on the
40 party ticket or column with the straight ticket cross mark, no
41 candidate for such office before whose name a cross mark has
42 not been placed shall receive credit for a vote unless: (1) The
43 voter has marked through the name or names of the candidate
44 or candidates for which the voter does not intend to vote in
45 the straight party column, or (2) by reason of other markings
46 or vacancies, the ballot clearly indicates which of the candidates
47 for whom the voter intended to vote; but in no event shall any
48 voter so mark his ballot so as to indicate an intention to vote
49 for more persons than the total number to be elected for
50 such office.

51 (3) Write with black lead pencil or other means the name
52 of any person for whom he desires to vote in the space im-
53 mediately below the name of the opposing candidate for
54 the same office, on the ticket voted by him, and the name
55 so written shall be counted.

56 If, in marking either a straight or mixed ticket as above
57 defined, a cross mark is made in the circular space above the
58 name of a party at the head of the ticket, and also one or
59 more cross marks made before the name or names of can-
60 didates on the same ticket for offices for which candidates on
61 other party tickets are not individually marked, such marks be-
62 fore the name of candidates on the ticket so marked shall be
63 treated as surplusage and ignored.

64 If the voter desires to vote for any person whose name does
65 not appear on the ticket, he may substitute the name by
66 writing it with black lead pencil or other means in the proper
67 place, and making a cross mark in the blank space at the left of
68 the name so written.

69 If the voter marks more names than there are persons to be
70 elected to an office, or if, for any reason, it is impossible to
71 determine the voter's choice, for an office to be filled, the
72 ballot shall not be counted for such office.

73 No ballot shall be rejected for any technical error which
74 does not make it impossible to determine the voter's choice.

ARTICLE 10. FILLING VACANCIES.**§3-10-5. Vacancies in state Legislature.**

1 Any vacancy in the office of state senator or member of the
2 House of Delegates shall be filled by appointment by the
3 governor, in each instance from a list of three legally qualified
4 persons submitted by the county party executive committee
5 in the case of a member of the House of Delegates who
6 is elected from a county that is not situated in a delegate
7 district, by the party executive committee of the delegate
8 district in the case of a member of the House of Delegates
9 who is elected from such delegate district, and by the party
10 executive committee of the state senatorial district in the
11 case of a state senator, of the party with which the person
12 holding the office immediately preceding the vacancy was
13 affiliated, and of the county or state senatorial district,
14 respectively, in which he resided at the time of his election or
15 appointment. If the vacating member of the House of Dele-
16 gates resided in a county only a portion of which is included in
17 his delegate district, all three of the qualified persons sub-
18 mitted shall be residents of that portion of the county in which
19 the vacating delegate resided at the time of his election or
20 appointment to the House of Delegates. The appointment to
21 fill a vacancy in the House of Delegates shall be for the
22 unexpired term. If the unexpired term in the office of the
23 state senator be for less than two years and two months, the
24 appointment shall be for the unexpired term. If the unexpired
25 term be for a period longer than two years and two months,
26 the appointment shall be until the next general election and
27 until the election and qualification of a successor to the person
28 appointed, at which general election the vacancy shall be
29 filled by election for the unexpired term. Notice of an election
30 to fill a vacancy in the office of state senator shall be given
31 by the governor by proclamation and shall be published prior
32 to such election as a Class II-0 legal advertisement in com-
33 pliance with the provisions of article three, chapter fifty-nine
34 of this code, and the publication area for such publication
35 shall be each county in the senatorial district. Nominations
36 for candidates to fill such vacancy shall be made in the man-
37 ner prescribed for nominating a candidate to fill a vacancy
38 in the office of governor to be voted for at a general election.

39 The state senatorial district executive committee of the political
40 party shall discharge the duties incident to state senator
41 nominations devolving upon the party state executive com-
42 mittee in nominating a candidate for a state office.

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

H. Darrel Darby
Chairman Senate Committee

Clarence C. Christian, Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard E. Williams
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. T. Brotherton, Jr.
President of the Senate

Lewis N. McMann
Speaker House of Delegates

The within disapproved this the 30th
day of April, 1973.

Arch A. Shaace, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/30/73

Time 11:33 a.m.