

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1974

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ENROLLED

HOUSE BILL No. 1081

(By Mr. Jelliffe & Mr. Tucker)

— ● —

PASSED March 9 1974

In Effect 90 days Passage



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FILED IN THE OFFICE

CLERK OF THE HOUSE

OFFICE OF THE CLERK

THIS DATE 3-27-74

1081

**ENROLLED**

**H. B. 1081**

(By MR. JOLLIFFE and MR. TUCKER)

[Passed March 9, 1974; in effect ninety days from passage.]

AN ACT to repeal sections four, five, six, seven, eight and nine, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter, by adding thereto a new article, designated article one-a, relating to the state election commission; qualifications, terms of office, office and meetings, and powers and duties of said commission; filling vacancies in membership of commission; powers and duties of secretary of state as chief election official with respect to registration of voters and conduct of elections; and empowering appointees of secretary of state to exercise his powers and duties.

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

That sections four, five, six, seven, eight and nine, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said chapter three be further amended by adding thereto a new article, designated article one-a, to read as follows:

**ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.**

**§3-1A-1. Election commission continued; composition; chairman; traveling expense.**

1 The "state election commission," heretofore created, is  
2 hereby continued and, on and after the effective date of this  
3 section, shall be composed of the secretary of state, and four

4 persons appointed by the governor, by and with the advice  
5 and consent of the Senate. The commission shall, from this  
6 membership elect a chairman for a term of two years. Each  
7 member of the commission shall be reimbursed for all reason-  
8 able and necessary expenses actually incurred in the perfor-  
9 mance of his duties as a member of the commission.

**§3-1A-2. Qualifications of members of commission.**

1 No member of the commission appointed by the governor  
2 shall be a candidate for or hold any public office other than  
3 that of membership on the commission; nor shall such appoint-  
4 ed member be a member of any committee of a political party.  
5 Any person who, directly or indirectly, (1) designs, owns,  
6 manufactures, distributes or sells any voting machine, or (2)  
7 owns any patent rights or contract rights thereto, or (3) has  
8 any interest in any joint venture, partnership, firm, corporation  
9 or association designing, owning, manufacturing, distributing  
10 or selling any voting machine, or owning any patent rights or  
11 contract rights thereto, shall be disqualified from serving as a  
12 member of the commission. At least one member appointed by  
13 the governor shall be selected with special reference to his  
14 expert knowledge as a student of the problems of public elec-  
15 tions. Not more than two members appointed by the governor  
16 shall be members of the same political party. In case a mem-  
17 ber appointed by the governor becomes a candidate for or is  
18 appointed to any other public office or political committee,  
19 his office as member of the commission shall be deemed im-  
20 mediately vacated.

**§3-1A-3. Terms of office of commission members; filling vacancies.**

1 The terms of office of the members of the commission shall  
2 be six years. Members in office shall continue as members  
3 until their respective terms expire on the fourth day of June,  
4 one thousand nine hundred sixty-nine and one thousand nine  
5 hundred seventy-two. On the expiration of these terms and  
6 every three years thereafter appointments shall be made for six  
7 year terms. Appointments to fill vacancies shall be for the  
8 unexpired term.

**§3-1A-4. Office and meetings of commission.**

1 The office and place of meeting of the commission shall be

2 the office of the secretary of state in the state capitol.

3 The commission shall hold such meetings as may be called  
4 by the chairman, the governor or the secretary of state.

**§3-1A-5. Powers and duties of commission.**

1 The commission shall have the power and duty to approve  
2 or disapprove applications for approval of any voting machine  
3 as provided in section seven, article four of this chapter.

4 The commission also shall serve as a body advisory to the  
5 secretary of state, and, as such, shall have the following powers  
6 and duties;

7 (a) To recommend policies and practices pertaining to the  
8 registration of voters and the conduct of elections generally;

9 (b) To review the work of the office of secretary of state  
10 pertaining to the duties of that office with respect to elections,  
11 and for this purpose to have access at reasonable times to  
12 pertinent records, books, papers and documents;

13 (c) To consider and study the election practices of other  
14 jurisdictions, with a view to determining the techniques used  
15 in eliminating fraud in elections and in simplifying election  
16 procedure;

17 (d) To advise or make recommendations to the governor re-  
18 lative to election practices and policy in the state; and

19 (e) To keep minutes of the transactions of each meeting of  
20 the commission, which shall be public records and filed with  
21 the secretary of state.

22 It shall be the commissions further duty to prepare and dis-  
23 tribute in its name, within available appropriations and upon  
24 the recommendation of the secretary of state, (1) nonpartisan  
25 educational material to inform voters of the importance of  
26 voting, to encourage voters to vote, to inform voters of elec-  
27 tion laws and procedures, and to inform voters of the effect  
28 of any public question, constitutional amendment or bond is-  
29 sue that is to be voted upon by all the voters of the state and  
30 that has been authorized to be placed upon the ballot by the  
31 Legislature, and (2) manuals to assist county courts, ballot

32 commissioners, circuit and county clerks and other election  
33 officials in the proper performance of their duties in the con-  
34 duct of elections.

**§3-1A-6. Election rules; powers and duties of secretary of state;  
exercise of powers by appointees.**

1 The secretary of state shall be the chief election official  
2 of the state. He shall have authority, after consultation with  
3 the state election commission, of which he is a member,  
4 to make, amend and rescind such rules, regulations and  
5 orders as may be necessary to carry out the policy of the  
6 Legislature, as contained in this chapter. It shall be the  
7 duty of all election officials, county courts, clerks of county  
8 courts, clerks of circuit courts, boards of ballot commis-  
9 sioners, election commissioners and poll clerks to abide by  
10 such rules, regulations and orders, which shall include:

11 (a) Uniform rules of procedure for registrars and other  
12 registration officials in the performance of their duties, as  
13 to time and manner of performance;

14 (b) Uniform rules for the purging of registration records;

15 (c) Uniform rules for challenging registrants; and

16 (d) Any other rules, regulations or directions necessary  
17 to standardize and make effective the administration of the  
18 provisions of this chapter.

19 The secretary of state also shall have authority to require  
20 collection and report of statistical information and to require  
21 other reports by county courts, clerks of county courts and  
22 clerks of circuit courts.

23 It shall be his further duty to advise with election officials;  
24 to furnish to the election officials a sufficient number of  
25 indexed copies of the current election laws of West Virginia  
26 and the administrative orders and rules and regulations  
27 issued or promulgated thereunder; to investigate the ad-  
28 ministration of election laws, frauds and irregularities in any  
29 registration or election; to report violations of election laws  
30 to the appropriate prosecuting officials; and to prepare an  
31 annual report.

32     The secretary of state shall also have the power to ad-  
33     minister oaths and affirmations, issue subpoenas for the  
34     attendance of witnesses, issue subpoena duces tecum to compel  
35     the production of books, papers, records, registration records  
36     and other evidence, and fix the time and place for hearing  
37     any matters relating to the administration and enforcement  
38     of this chapter, or the rules, regulations and directions  
39     promulgated or issued hereunder by the secretary of state  
40     as the chief election official of the state. In case of disobedi-  
41     ence to a subpoena or supoen a duces tecum, he may invoke  
42     the aid of any circuit court in requiring the attendance,  
43     evidence and testimony of witnesses and the production of  
44     papers, books, records, registration records and other evi-  
45     dence.

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

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

H. David Darby  
Chairman Senate Committee

Clarence C. Christian Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Weason  
Clerk of the Senate

C. B. Blankenship  
Clerk of the House of Delegates

H. T. Brotherton Jr.  
President of the Senate

Levin R. M. Mauns  
Speaker House of Delegates

The within approved this the 26th  
day of March, 1974.

Arch A. Phares Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/18/74

Time 3:05 p.m.