WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED

HOUSE BILL No. 1081

(By Mr. [Signature])

PASSED March 9, 1974

In Effect [Signature] Passage

FILED IN THE OFFICE
EDGAR R. MARSHALL, III
SECRETARY OF STATE
THIS DATE 3-27-74
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and nine, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said chapter three be further amended by adding thereto a new article, designated article one-a, to read as follows: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 hereby continued and, on and after the effective date of this section, shall be composed of the secretary of state, and four
persons appointed by the governor, by and with the advice and consent of the Senate. The commission shall, from this membership elect a chairman for a term of two years. Each member of the commission shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.

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

No member of the commission appointed by the governor shall be a candidate for or hold any public office other than that of membership on the commission; nor shall such appointed member be a member of any committee of a political party. Any person who, directly or indirectly, (1) designs, owns, manufactures, distributes or sells any voting machine, or (2) owns any patent rights or contract rights thereto, or (3) has any interest in any joint venture, partnership, firm, corporation or association designing, owning, manufacturing, distributing or selling any voting machine, or owning any patent rights or contract rights thereto, shall be disqualified from serving as a member of the commission. At least one member appointed by the governor shall be selected with special reference to his expert knowledge as a student of the problems of public elections. Not more than two members appointed by the governor shall be members of the same political party. In case a member appointed by the governor becomes a candidate for or is appointed to any other public office or political committee, his office as member of the commission shall be deemed immediately vacated.

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

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

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

The office and place of meeting of the commission shall be
the office of the secretary of state in the state capitol.

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

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

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

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

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

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

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

(d) To advise or make recommendations to the governor relative to election practices and policy in the state; and

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

It shall be the commission's further duty to prepare and distribute in its name, within available appropriations and upon the recommendation of the secretary of state, (1) nonpartisan educational material to inform voters of the importance of voting, to encourage voters to vote, to inform voters of election laws and procedures, and to inform voters of the effect of any public question, constitutional amendment or bond issue that is to be voted upon by all the voters of the state and that has been authorized to be placed upon the ballot by the 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 conduct 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 of the state. He shall have authority, after 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 chapter. It shall be the duty of all election officials, county courts, clerks of county courts, clerks of circuit courts, boards of ballot commissioners, election commissioners and poll clerks 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 chapter.

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

It shall be his further duty to advise with election officials; to furnish to the election officials a sufficient number of indexed copies of the current election laws of West Virginia and the administrative orders and rules and regulations issued or promulgated thereunder; to investigate the administration of election laws, frauds and irregularities in any registration or election; to report violations of election laws to the appropriate prosecuting officials; and to prepare an annual report.
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 chapter, or the rules, regulations and directions promulgated or issued hereunder by the secretary of state as the chief election 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.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within appeared this the 26th
day of , 1974.

Governor
PRESENTED TO THE GOVERNOR

Date  3/18/74
Time  3:05 p.m.