WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

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ENROLLED
Committee substitute for
HOUSE BILL No. 1162

(By Mr. Shepherd & Mr. Mathis)

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PASSED April 9, 1977

In Effect ninety days from Passage
AN ACT to amend and reenact sections thirty-two and thirty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article one by adding thereto a new section, designated section forty-seven; to amend and reenact sections three, eleven, twelve, thirteen, twenty-one, twenty-two, twenty-seven, twenty-eight and thirty of article two; to amend article three by adding thereto a new section, designated section five-a; to amend and reenact section eleven of article four-a; to amend and reenact sections one, six, seven, nine and ten of article five; to amend and reenact section five of article six; to amend and reenact sections five, five-a, five-c and eight of article eight; to amend and reenact sections thirteen and twenty-four of article nine of said chapter three, all relating to elections; opening and closing polls; procedure; permitting voting by use of voter permits; assistance to voters; providing certain requirements before assistance to voter may be given; requiring certain affidavits; requiring lists of persons given assistance; prohibiting candidates from running for more than one office except under limited circumstances; registration of voters; cancellation and reinstatement; appointment of registrars; qualifications and duties; compensation of registrars; checking notices; eliminating quadrennial checkup of county voter registration; retaining
biennial checkup option; registration; creating temporary field offices for voter registration; advertising such offices; registration transfers; procedure on change of registered voter's name; time for registration prior to election changed; providing for hand delivery to clerk of circuit court of absent voter's ballot by person other than voter; ballot labels, instructions and other supplies; vacancy changes; procedure and requirements; time and place of holding primary elections; primary elections changed to June and filing deadline changed to March; hours polls open; election of county board of education members at primary elections; candidate to be identified by magisterial district; filing announcements of candidacies; requirements; filing procedure for candidate for delegates to national conventions of political parties and certification and publication of ballots pertaining to candidates for delegate to national convention of any political party; statement of presidential choice; certification and posting of candidacies; publication and printing of ballots; number; rules and procedures in elections other than primaries; detailed accounts and verified financial statements required; financial reports required by write-in candidates; use of stamps, stickers and tapes to indicate write-in preference in accordance with rules and regulations by secretary of state; information required in financial statements; disclosure of corporate affiliation; corporate contributions forbidden; exceptions; defining contribution; exceptions; buying or selling votes unlawful; limitations on prosecutions extended to five years; and providing penalties for offenses.

Be it enacted by the Legislature of West Virginia:

That sections thirty-two and thirty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article one be further amended by adding thereto a new section designated section forty-seven; that sections three, eleven, twelve, thirteen, twenty-one, twenty-two, twenty-seven, twenty-eight and thirty of article two be amended and reenacted; that section eleven of article four-a be amended and reenacted; that section four-a be amended and reenacted; that sections one, six, seven, nine and ten of article five be amended and reenacted; that section five of article six be amended and reenacted;
that sections five, five-a, five-c and eight of article eight be amended and reenacted; that sections thirteen and twenty-four of article nine be amended and reenacted all of said chapter three, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-32. Opening and closing polls; procedure.

1 At the time of opening the polls in all precincts wherein voting machines are not to be used, the election commissioners shall examine the ballot box and ascertain that there are no ballots in the same, and they shall thereupon securely lock the box and give one key to one of the commissioners and one to a commissioner of the opposite political party, who shall hold the same, and, such boxes shall not be again opened until the time to begin counting the votes arrives and for that purpose. At or before opening the polls, the commissioners of election shall open the package containing the ballots in such manner as to preserve the seals intact and thereupon deliver all of the ballots to the poll clerk. Before any voter is permitted to vote, the commissioners of election shall proclaim that such election is opened. When the polls are closed, proclamation must be made of the fact by one of the commissioners of election to the people outside, in a loud and audible tone of voice, and a minute of such proclamation and of the time when it was made must be entered on the poll books by the clerks. The election commissioners shall permit those electors to vote who are present at the polling place prior to the hour specified for the closing of the polls: Provided, That at that time they are in a line awaiting their turn to vote within the voting room itself or, if the line extends outside of the voting room itself, within that line. In that event an election commissioner from each party shall immediately after the closing proclamation begin with the last voter in line and together supply the voters within the line with waiting-voter permits which shall be prescribed by the secretary of state. Each voter shall sign his permit in the presence of both commissioners who shall then likewise affix their signatures to the permit in the presence of the voter and each other. After each such voter in line has received and signed his permit and the election commissioners have affixed their signatures
§3-1-34. Voting procedures generally; assistance to voters; voting records; penalties.

Any person offering to vote in an election shall, upon entering the election room, clearly state his name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. If such person is found to be duly registered as a voter at that precinct, he shall be required to sign his name in the space marked "signature of voter" on the poll book prescribed and provided for the precinct. If such person be physically or otherwise unable to sign his name, his mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under such affixation. No ballot shall be given to such person until he so signs his name on the poll book or his signature is so affixed thereon.

When the voter's signature is properly on the poll book, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and shall deliver the ballot to the voter to be voted by him then without leaving the election room. If he returns the ballot spoiled to the clerks, they shall immediately destroy the spoiled ballot and deliver to the voter another official ballot, signed by the clerks on the reverse side as before done. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his ballot, using a black lead pencil or other means for the purpose. In voting for candidates in general and special elections, the voter shall comply with the
rules and procedures prescribed in section five of article six of this chapter.

It shall be the duty of a poll clerk, in the presence of the other poll clerk, to indicate by a check mark inserted in the appropriate place on the registration record of each voter the fact that such voter voted in the election. In primary elections the clerk shall also insert thereon a distinguishing initial or initials of the political party for whose candidates the voter voted. If a person is challenged at the polls, such fact shall be indicated by the poll clerks on the registration record together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county commission.

No voter shall receive any assistance in voting unless (1) (a) his registration record indicates that because of illiteracy, he is unable to read the names on the ballot, or that he has a physical disability which renders him unable to see or mark the ballot, or to operate the voting machine, the exact nature of the physical disability being recorded on the registration record, or (b) he shall make an affidavit, the form of which shall be prescribed by the secretary of state, that because of a physical disability which renders him unable to see or mark the ballot, or to operate the voting machine, the exact nature of the physical disability being stated therein; and (2) a poll clerk of each political party determines that he is illiterate or suffers from the physical disability stated on his registration record or in his affidavit and that such physical disability renders him then unable to see or mark the ballot, or to operate the voting machine.

Any voter so determined to be qualified to receive assistance in voting under the provisions of this section may declare his choice of candidates to an election commissioner of each political party who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner hereinbefore provided, and, on request, shall read over to such voter the names of candidates on the ballot as so prepared; or such voter may require the election commissioners to indicate to him the relative position of the names of the candidates on the ballot, whereupon the voter shall retire to one
of the booths or compartments to prepare his ballot in
the manner hereinbefore provided, or may request the
election commissioners, in the presence of the voter and in
the presence of each other, to mark the ballot as he di-
rects.

If the voter is unable to mark his ballot because of blindness
and the voters' registration records so indicate such blindness,
and if he shall so elect, said poll clerks shall both withdraw, and
permit the voter to be assisted by any person designated by
such voter.

Any voter who requests assistance in voting but who is
determined not to be qualified for such assistance under the
provisions of this section shall nevertheless be permitted
to vote a challenged ballot with the assistance of any person
herein authorized to render assistance.

Any one or more of the election commissioners or poll
clerks in the precinct may challenge such ballot on the
ground that the voter thereof received assistance in voting
it when in his or their opinion (1) either the registration
record or affidavit of the person who received the assistance
in voting the ballot does not indicate a legally sufficient
reason for such assistance or (2) the person who received
assistance in voting is not so illiterate as to have been
unable to read the names on the ballot or (3) that he did not
have such a physical disability as to have been unable to
see or mark the ballot or to operate the voting machine. The
election commissioner or poll clerk or commissioners or poll
clerks making such challenge shall enter the challenge and rea-
son therefor on the form and in the manner prescribed or
authorized by article three of this chapter.

Election commissioners providing assistance to voters under
the provisions of this section shall not in any manner request,
or seek to persuade, or induce the voter to vote any particular
ticket or for any particular candidate or for or against any
public question, and shall not keep or make any memorandum
or entry of anything occurring within the voting booth or com-
artment, and shall not, directly or indirectly, reveal to any
person the name of any candidate voted for by the voter, or
which ticket he had voted, or how he had voted on any public
question, or anything occurring within the voting booth or
compartment or voting machine booth, except when required
pursuant to law to give testimony as to such matter in a judi-
cial proceeding.

In accordance with instructions issued by the secretary of
state, the clerk of the county commission shall provide a
form entitled “List of Assisted Voters,” the form of which
list shall likewise be prescribed by the secretary of state.
The commissioners shall enter the name of each voter re-
ceiving assistance in voting the ballot, together with the poll
slip number of that voter and the signature of the commissioner
from each party who assisted the voter certifying to the fact
that they had determined that the voter who received assis-
tance in voting the ballot was qualified to receive such assist-
ance under the provisions of this section. If no voter shall have
been assisted in voting the ballot as herein provided, the com-
missioners shall likewise make and subscribe to an oath of
that fact on such list.

After preparing the ballot the voter shall fold the same
so that the face shall not be exposed and so that the names of
the poll clerks thereon shall be seen. The voter shall then an-
nounce his name and present his ballot to one of the com-
missioners who shall hand the same to another commissioner,
of a different political party, who shall deposit it in the ballot
box, if such ballot is the official one and properly signed. The
commissioners of election may inspect every ballot before it
is deposited in the ballot box, to ascertain whether it is single,
but without unfolding or unrolling it, so as to disclose its
content. When the voter has voted, he shall retire immediately
from the election room, and beyond the sixty-foot limit there-
of, and shall not return, except by permission of the com-
missioners.

Following the election, the affidavits required by this sec-
tion from assisted voters together with the “List of Assisted
Voters,” shall be returned by the election commissioners to
the clerk of the county commission along with the election
supplies, records and returns, who shall make such oaths and
list available for public inspection and who shall preserve the
same for a period of five years or until disposition is autho-
Any person making an affidavit required under the provisions of this section who shall therein knowingly swear falsely, or any person who shall counsel, or advise, aid or abet another in the commission of false swearing under this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail for a period of no more than one year, or both.

Any election commissioner or poll clerk who authorizes or provides unchallenged assistance to a voter when such voter is known to such election commissioner or poll clerk not to be or have been authorized by the provisions of this section to receive or to have received assistance in voting shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the penitentiary for a period of not less than one year nor more than five years, or both fined and imprisoned.

The term "assistance in voting" as used in this section means assistance in physically marking the official ballot for a voter, or reading or directing the voter's attention to any part of the official ballot, or physically operating the voting machine.

The term "physical disability," as used in this section, means only blindness or such degree of blindness as will prevent the voter from seeing the names on the ballot, or amputation of both hands, or such disability of both hands that neither can be used to make cross marks on the ballot, or operate the voting machine.

§3-1-47. Candidate not to run for more than one office; exceptions.

No person shall be a candidate for more than one office at any election: Provided, That such candidate for an office may also be a candidate for president and vice president of the United States, for membership on a political party executive committee or for delegate to a political party national convention. Any candidate who violates this section shall be disqualified from serving in any office to which he was elected while in violation of this section.
ARTICLE 2. REGISTRATION OF VOTERS.

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

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 commission 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 statewide 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 failed to vote at least once during a period covering two statewide 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 commission, to the effect that in order to vote he must register again or execute and file, not later than fifteen 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.

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

The county commission of each county may, 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 checkup allowed 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 commission 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 commission.

An equal number of such registrars shall be selected from the two political parties which at the last preceding election, cast the highest number and next highest number of votes in the county in which the election is to be held. The county commission 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 commission 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 commission 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 commission, or some person designated by him, concerning the performance of their duties.

Immediately following such instruction the clerk of the
county commission 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 check-
up allowed by section twenty-one of this article. Each biennial
checkup subsequent to the year one thousand nine hundred
seventy-eight shall be completed at least sixty days before
the statewide 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.

§3-2-12. Additional duties of registrars and clerks; check'ng notices.

Upon the completion of the biennial checkup, the registrars
shall return the records and lists to the clerk of the county
commission, together with an affidavit that the returns,
records and lists returned to the clerk are true and correct
to the best of their knowledge and belief. The clerk of the
county commission shall make the necessary changes in
his other registration records. The list checked by the registrars
in each precinct shall be compared with the register of
deaths kept by the clerk of the county commission in his office.
Each person named in the list who is not shown to have
been found and so checked by the registrars and whose death
is not shown on such register shall be given proper notice by
the clerk of the county commission that his registration has
been cancelled and that in order to vote he must register
again. The notice shall be mailed to such person's last
address appearing on the registration record.

The clerk of the county commission is authorized to pub-
lish such notices as may be proper in his opinion to advise
the electorate of the respective dates after which transfers
and registration, and changes of registration, may not be made
with respect to any general or primary election.
§3-2-13. Compensation of registrars.

As compensation for his services, each registrar shall be paid at a rate to be fixed by the county commission, and, in addition, shall be reimbursed for his travel expenses.


Beginning with the year one thousand nine hundred seventy-eight and every two years subsequent thereto, there may be a biennial checkup of voter registration in each precinct of each county in this state if in the discretion of a county commission such checkup is deemed necessary and advisable for its county. The registrars, according to directions prescribed by the secretary of state and as provided in sections eleven and twelve of this article, shall proceed to register the names of all persons not registered but who are qualified to register, and shall also check and, if necessary, alter, amend, correct or cancel the registration records of the voters of the respective precincts, so as to provide a complete and accurate record of all persons qualified to vote.

During the biennial checkup period the county clerk or his agents or deputies shall, for the purposes of registration of voters, visit every public or private institution, excluding hospitals, in which resides aged, infirm, disabled, or chronically ill persons and every high school with students eligible by age for registration.

Any applicant not otherwise included under provisions of previous sections who is physically unable to appear before the clerk of the county commission or at the magisterial office, may request the clerk of the county commission or his deputy to deliver or cause to be delivered in person or by mail the necessary forms to register to vote.

§3-2-22. Registration in clerk’s office; cancellation of registrations of deceased persons; temporary registration offices.

The clerk of the county commission 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.

Beginning with the year one thousand nine hundred seventy-eight and every two years subsequent thereto, the clerk or one of his deputies shall establish at least one temporary registration office per magisterial or tax district, whichever is more numerous, for the purpose of registering the names of persons not so registered but who are qualified to register, or to alter, amend, correct or cancel such registration records. Such registration offices shall be open at least three days, including one Saturday and one evening within the forty-five day period prior to each primary and each general election but prior to the fifteenth day before any such election at such hours as shall be posted and advertised as a class III-O legal advertisement with the publication area being the magisterial district. The clerk of the county commission shall also solicit public service advertising of such registration offices and times on radio, television and newspapers serving that county.

Any applicant not otherwise included under provisions of previous sections who is physically unable to appear before the clerk, or at the temporary office, may request the clerk of the county commission or one of his deputies to visit him to register to vote.

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 certificate.

For purposes of making certain that the voter registration records of the various counties do not contain voter registration of persons who are deceased, the clerks of the county commissions shall sixty days prior to a general election review each certificate of death received by him from the state registrar of vital statistics or from the local registrar of vital statistics 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 previously been cancelled. By the forty-fifth day prior to a general election each clerk of a county commission 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 commission may order and direct the clerk of the county commission to maintain additional office hours in the evening or at other proper times and places for accommodation of voter registration.

§3-2-27. Registration transfers.

Whenever a voter removes his residence from one place to another within the same county he shall request that the change be made on his registration record. Such request shall be made by filling in, and, if he is able, signing under oath or affirmation the necessary form, which may be procured in person or by mail from the office of the clerk of the county commission, or from the registrars during the biennial checkup. The form of such notice shall be prescribed by the secretary of state.

Upon receipt of such notice the clerk of the county commission shall cause the signature thereon to be compared with the signature of the applicant upon his registration card and, if such signatures correspond, shall make entry of such change of residence upon all the registration records and the necessary transfers in the files. If the clerk of the county commission is not satisfied as to the genuineness of the signature on the notice of change of residence, and if the right of such applicant to register is challenged according to the procedure herein prescribed, such transfers shall not be made.

Transfers of the registration record may be made throughout the year except during the fifteen days immediately preceding any election, and if any voter shall move from one precinct to another within the county within the fifteen-day period, he shall, for that election only, vote in the precinct from which he moved. If any voter shall move from one place to another within the precinct in which he is registered, whether within or more than fifteen days preceding any election, he shall be
§3-2-28. Procedure on change of registered voter's name.

Whenever a voter, previously registered, shall change his name, such person shall be required to register again. For this purpose such person may register by mail in the same manner as absentee registrant, according to the procedure prescribed in section twenty-three of this article. Upon such registration, the clerk of the county commission shall cancel the registration record bearing the voter's former name. When such change of name is made during the fifteen days immediately preceding any election, such voter, if duly registered, may vote at the election under his former name.

§3-2-30. Time of registration prior to election; changes.

No person may vote in an election when he has registered or his voter registration has been altered, amended or corrected within a period of fifteen days next preceding such election, but this inhibition shall not prevent, during such period of fifteen days, additional registrations and changes in voter registrations with reference to future elections. If, during such period of fifteen days preceding an election, a voter is registered or his voter registration is altered, amended or corrected, he shall not be permitted or qualified to vote at such election.

ARTICLE 3. VOTING BY ABSENTEEES.

§3-3-5a. Hand delivery of absent voter's ballot; penalties.

A person who completes the absent voter's ballot provided for by section five of this article may have sometime personally deliver the sealed envelope during regular business hours at the office of the clerk of the circuit court of the county in which he is registered to vote not more than fifteen days before the election and on any day thereafter up to and including the Saturday next preceding the date of the primary or general election or, in the case of special elections, up to and including the third day next preceding the day of any
such special election (in computing such third day, the day of conducting the special election shall be excluded): Provided, That no person shall be permitted to personally deliver more than one absentee ballot preceding any election.

The person who personally delivers the sealed envelope shall be required to certify that he or she has not altered the ballot. Any person who makes a false certification shall be in violation of the penalty provision of article nine of this chapter and subject to those provisions.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11. Ballot labels, instructions and other supplies; vacancy changes; procedure and requirements.

The ballot commissioners of any county in which an electronic voting system is to be used in any election shall cause to be printed for use in such election the ballots or ballot labels, as appropriate, for the electronic voting system. The ballot labels so printed shall total in number one and one-half times the total number of vote recording devices to be used in the several precincts of the county in such election. All such labels shall be delivered to the clerk of the county commission at least thirty days prior to the day of the election in which such labels are to be used. The labels shall contain the name of each candidate and each question to be voted upon and shall be clearly printed or typed in black ink on clear white material of such size as will fit the vote recording devices. Arrows may be printed on the ballot labels to indicate the place to punch the ballot card, which may be to the right or left of the name or proposition.

The titles of offices may be arranged on the ballot labels in vertical columns or in a series of separate pages, and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. In case there are more candidates for an office than can be printed in one column or on one ballot label page, the ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be printed on each column or page. The names of
candidates for each office shall be printed in vertical columns
or on separate pages, grouped by the offices which they seek.

In elections in which voters are authorized to vote for
persons whose names do not appear on the ballot card, a
separate write-in ballot, which may be in the form of a paper
ballot or card, shall be provided if required to permit voters
to write in the title of the office and the names of persons
whose names are not on the ballot, for whom he wishes to
vote. The manner of voting for write-in candidates upon
electronic voting devices shall be as prescribed by rules and
regulations of the secretary of state.

One set of ballot labels shall be inserted in the vote record-
ing device prior to the delivery of such device to the polling
place. The remainder of such ballot labels for each device
shall be retained by the clerk of the county commission
for use in the event the set so inserted in such device becomes
lost, mutilated or damaged.

In addition to all other equipment and supplies required
by the provisions of this article, the ballot commissioners
shall cause to be printed a supply of instruction cards, sample
ballots, facsimile diagrams of the vote recording device ballot
and official printed ballots or ballot cards adequate for the
orderly conduct of the election in each precinct in their county.
In addition they shall provide all other materials and equip-
ment necessary to the conduct of the election, including voting
booths, appropriate facilities for the reception and safekeeping
of ballot cards, the ballots of absent voters and of challenged
voters and of such “independent” voters who shall, in primary
elections, cast their votes on nonpartisan candidates and
public questions submitted to the voters.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCE-
DURES.

§3-5-1. Time and place of holding primary elections; hours polls
open.

Primary elections shall be held at the voting place in each
of the voting precincts in the state, for the purposes set forth
in this article, on the first Tuesday after the second Monday
in June in the year one thousand nine hundred seventy-eight and in each second year thereafter.

At such election the polls shall be opened and closed at the hours provided for opening and closing the polls in a general election.

§3-5-6. Election of county board of education members at primary elections.

An election for the purpose of electing members of the county board of education shall be held on the same date as the primary elections as now provided by law, but upon a nonpartisan ballot printed for the purpose. Each candidate seeking the office shall be identified as to the magisterial district from which he is a resident. In such nonpartisan election the person receiving the highest number of votes shall be elected for a long term, and if more than one is to be elected for a long term, the one receiving the next highest shall be elected; and if more than two are to be elected the candidate or candidates receiving the next highest votes shall be declared elected for any short term or terms, as the case may be, to fill vacancies; but no more than two such members shall be elected from the same magisterial district, and then only when such magisterial district does not have a holdover member of said board, and if such magisterial district has one holdover member on said board only one member shall be elected as aforesaid; and if more persons from a magisterial district receive the highest number of votes in said election, then of such persons only the person or persons having the highest vote who do not make the aggregate number of elected members and holdover members more than two from such magisterial district shall be declared elected, and the remaining members shall be declared elected from the highest from other magisterial districts; and in no event shall any member be declared elected from the same magisterial district wherein reside two already elected or otherwise qualified members of such board who will continue to hold office after the beginning of the term for which such election was held.

It is declared to be the intent of this statute that any person declared to be elected under the preceding provisions of the
section shall take office as a duly elected member or members, even though he, she or they may not have received a majority or plurality of all votes cast at such election.

In case of tie votes for county board of education member candidates in any primary election, the provisions of section twelve, article six of this chapter shall be invoked and shall control in determination of the election.

§3-5-7. Filing announcements of candidacies; requirements.

Any person who is eligible to hold an office (including that of member of any political party executive committee) shall file with the secretary of state, if it be an office to be filled by the voters of more than one county, or with the clerk of the circuit court, if it be for an office to be filled by the voters of a county or subdivision less than a county, a certificate declaring himself a candidate for the nomination for such office; which certificate shall be in form or effect as follows:

I, ______________, hereby certify that I am a candidate for the nomination for the office of ______________ to represent the ______________ party, and desire my name printed on the official ballot of said party to be voted at the primary election to be held on the ______ day of ____________________ , 19_____; that I am a legally qualified voter of the county of ________________ , State of West Virginia; that my residence is number ________________ of ______________ street in the city (or town) of ______________ in _______________; that I am eligible to hold the said office; that I am a member of and affiliated with said political party; that I am a candidate for said office in good faith.

______________________________
Candidate

Signed and acknowledged before me this ________________ day of ________________, 19_____.

______________________________
Signature and official title of person before whom signed.

Any candidate for delegate to the national convention of any political party shall provide, on a form prescribed by the secretary of state, the information required in the certificate hereinbefore described and shall also provide the name

of the person he prefers as the presidential nominee of his
party upon the first convention ballot, or if he has no pref-

erence, a statement that he is uncommitted: Provided, That
any candidate for delegate may change his statement of
presidential preference by notifying the secretary of state by
registered letter forty-five days prior to the day fixed for the
primary election.

Such announcement shall be signed and acknowledged by
the candidate before some officer qualified to administer
oaths, who shall certify the same. Any person who knowingly
provides false information on said certificate shall be guilty
of an offense and shall be punished as set forth in section
twenty-three, article nine of this chapter.

Such certificate shall be filed with the secretary of state
or the clerk of the circuit court, as the case may be, not
earlier than the last Monday in February next preceding the
primary election day, and not later than the last Saturday of
March next preceding the primary election day, and must be
received before midnight, eastern standard time, of that day or,
if mailed, shall be postmarked before that hour.

§3-5-9. Certification and posting of candidacies.

During the week next following the last Saturday of March
next preceding the day fixed for the primary election, the
secretary of state shall arrange the names of all the candidates,
who have filed announcements with him, as provided in this
article, and who are entitled to have their names printed on any
political party ballot, in accordance with the provisions of this
chapter, and shall forthwith certify the same under his name
and the lesser seal of the state, and file the same in his office.

Such certificate of candidates shall show (1) the name and
residence of each candidate, (2) the office for which he is a
candidate, (3) the name of the political party of which he is a
candidate, (4) upon what ballot his name is to be printed,
and (5) in the case of a candidate for delegate to the national
convention of any political party, the name of the person the
candidate prefers as the presidential nominee of his party, or if
he has no preference, the word “uncommitted.” The secretary
of state shall post a duplicate of such certificate in a conspic-
uos place in his office and keep same posted until after the primary election.

Immediately upon completion of such certification, the secretary of state shall ascertain therefrom the candidates whose names are to appear on the primary election ballots in the several counties of the state and shall certify to the clerk of the circuit court in each county the certificate information relating to each of the candidates whose names are to appear on the ballot in such county. He shall transmit such certificate to the several clerks by registered or certified mail, but, in emergency cases, he may resort to other reliable and speedy means of transmission which may be available so that such certificates shall reach the several clerks by the thirtieth day next preceding such primary election day.

§3-5-10. Publication and printing of ballots; number.

Between the thirtieth and the fifteenth days next prior to the date of the primary election, the ballot commissioners of each county shall prepare from the lists and certificates of announcements, as provided in this article, a sample official primary ballot for each party, placing thereon the names of all the candidates of the political party, and, as the case may be, the nonpartisan candidates to be voted for at such primary election. In the case of a candidate for delegate to the national convention of any political party, the ballot commissioners shall, in addition, include on the ballot the name of the person the candidate prefers upon the first convention ballot as the presidential nominee of his party, or if he has no preference, the word “uncommitted.” During the two weeks next preceding the primary election they shall publish such sample official primary election ballot as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The second publication shall be on the last day upon which each newspaper is published before the election.

The ballot commissioners shall determine the total number of official ballots required for conducting the primary election in all of the election precincts of the county and shall cause
same to be printed at least fifteen days next preceding the
date of the election and made ready for delivery to the several
precincts along with other election supplies. The number of
official ballots of a political party prepared for delivery to a
precinct shall not exceed one and one-twentieth times the
number of registered voters of such party in that precinct.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

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

The provisions of article one of this chapter relating to
elections generally shall govern and control arrangements
and election officials for the conduct of elections under this
article. The following rules and procedures shall govern
the voter in his voting for candidates in general and special
elections:

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

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

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

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

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

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

(2) Make a cross mark in the circular space above the name
of the party for some of whose candidates he desires to
vote, and then make a cross mark before the name of any
candidate of any other party for whom he may desire to vote;
in which case the cross mark in the circular space above the
name of the party will cast his vote for every candidate
on the ticket of such party except for offices for which
candidates are marked on other party tickets, and the cross
marks before the name of such candidates will cast his vote
for them; or

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

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

If the voter desires to vote for any person whose name
does not appear on the ticket, he may substitute the name by
writing it with black lead pencil or other means in the
proper place, and making a cross mark in the blank space at
the left of the name so written. The use of stamps, stickers,
tapes, labels or any other means of writing in the name of a
candidate on the ticket shall be permitted in accordance
with rules and regulations prescribed by the secretary of
state for such manner of voting. The secretary of state may
proscribe such devices which would cause mechanical difficulty
with voting machines or electronic devices but the secretary
of state shall preserve the right to vote by a write-in vote.

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

No ballot shall be rejected for any technical error which
does not make it impossible to determine the voter's choice.
ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-5. Detailed accounts and verified financial statements required.

Every candidate, financial agent, person and association of persons, organization of any kind, including the treasurer or equivalent officer of such association or organization, advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, and the treasurer of every political party committee shall keep detailed accounts of every sum of money or other thing of value received by him, and of all expenditures and disbursements made, liabilities incurred, by such candidate, financial agent, person, association or organization or committee, for political purposes, or by any of the officers or members of such committee, or any person acting under its authority or on its behalf.

Each person who files a certificate of candidacy for nomination or election in this state as provided for in article five of this chapter and every financial agent, person, the treasurer or equivalent officer of any association or organization of any kind supporting or opposing the candidacy of any such candidate, or any person or organization advocating or opposing the nomination, election, or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, shall, within fifteen days following the first Saturday of February next preceding the primary election day, file a detailed itemized statement, subscribed and sworn to before an officer authorized to administer oaths, setting forth all contributions and expenditures concerning the candidacy of that person or any person or organization advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon. Such statement shall include all contributions received or expenditures made which have taken place by the date of such report, subsequent to any previous report filed within the previous five years under this section or under the former provisions of this section, or if no report was filed, all contributions received or expenditures made within the preceding five years. The specific information required to be included in such statement is provided for in section five-a of this article.
38 Not less than five nor more than ten days before each primary or other election, and again within thirty days after each primary or other election, every candidate for nomination or election, and every financial agent, person, the treasurer or equivalent officer of any association or organization of any kind advocating or opposing the passage or defeat of any issue, thing or item to be voted upon or pertaining to the holding or conducting of any election, and the treasurer of every political party committee shall file with the officers hereinafter prescribed a detailed itemized financial statement subscribed and sworn to before an officer authorized to administer oaths, setting forth all financial transactions which have taken place by the date of such report in connection with such primary or other election as provided for in section five-a of this article.

52 Every person who shall announce as a write-in candidate for any elective office, his financial agent or election organization of any kind, shall comply with all of the requirements of this section after public announcement of such person's candidacy has been made.

§3-8-5a. Information required in financial statement.

1 Each financial statement as required by this article shall show the following information:

3 (a) The first name, middle initial, if any, and last name, residence and mailing address and telephone number of each candidate, financial agent, treasurer or person, and the full name, address and telephone number of each association, organization or committee filing a financial statement.

8 (b) The balance of cash and any other sum of money on hand at the beginning and the end of the period covered by the financial statement.

11 (c) The first name, middle initial, if any, and the last name in the case of an individual, and the full name of each firm, association or committee, and the amount of such contribution of such individual, firm, association or committee, and, if the aggregate of the sum or sums contributed by any one such individual, firm, association or committee exceeds two hundred fifty dollars there shall also be reported the residence and mailing address and, in the case of an individual, the major
business affiliation and occupation. A contribution totaling
more than fifty dollars by any one contributor is prohibited
unless it is by money order or by check, and a violation of this
provision is subject to section five-d of this article. As used
herein, the term “check” shall have the meaning ascribed
to that term in section one hundred four, article three, chapter
forty-six of this code.

(d) The total amount of contributions received during the
period covered by the financial statement.

(e) The first name, middle initial, if any, and the last
name, residence and mailing address in the case of an in-
dividual, or the full name and mailing address of each firm,
association or committee to whom each expenditure was made
or liability incurred, together with the amount and purpose
of each expenditure or liability incurred and the date of each
transaction.

When any lump sum payment is made to any advertising
agency or other disbursing person who does not file a report
of detailed accounts and verified financial statements as re-
quired herein, such lump sum expenditures shall be accounted
for in the same manner as provided herein.

(f) The total expenditure for the nomination, election or
defeat of a candidate or any person or organization advocating
or opposing the nomination, election or defeat of any candidate,
or the passage or defeat of any issue, thing or item to be voted
upon, in whose behalf an expenditure was made or a contri-
bution was given for the primary or other election.

(g) The total amount of expenditures made during the
period covered by the financial statement.

(h) Any unexpended balance at the time of making the
financial statements herein provided for, shall be properly ac-
counted for in that financial statement and shall appear as a
balance in the next following financial statement.

(i) Each financial statement required by this section shall
contain a separate section setting forth the following informa-
tion for each fund raising event held during the period covered
by the financial statement:
(1) The type of event, date held, and address and name, if any, of the place where the event was held.

(2) All of the information required by subdivision (c) of this section.

(3) The total of all moneys received at the fund raising event.

(4) The expenditures incident to the fund raising event.

(5) The net receipts of the fund raising event.

For the purpose of this section the term "fund raising event" means an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as purchase of a ticket, payment of an attendance fee or through purchase of goods or services.

(j) Any contribution or expenditure made by or on behalf of a candidate for public office, to any other candidate, or committee for a candidate for any public office in the same election shall comply with the provisions of this article.

(k) No person, firm, association or committee shall make any contribution except from his own funds, unless such person, firm, association or committee discloses in writing to the person required to report under this section the first name, middle initial, if any, and the last name in the case of an individual, or the full name in the case of a firm, association or committee; residence and mailing address; the major business affiliation and occupation of the person, firm, association or committee which furnished the funds to such contributor. All such disclosures shall be included in the statement required by this section.

(1) Any firm, association, committee or fund permitted by section eight of this article to be a political committee shall disclose on said financial statement its corporate or other affiliation.

§3-8-8. Corporation contributions forbidden; exceptions; penalties.

(a) No officer of any corporation, or agent or person on behalf of such corporation, whether incorporated under
the laws of this or any other state, or foreign country, shall pay, give or lend, or authorize to be paid, given or lent, any money or other thing of value belonging to such corporation, to any candidate, financial agent or political committee or other person, for the payment of any primary or other election expenses whatever. No person shall solicit or receive such payment, contribution or other thing from any corporation, officer or agent thereof, or other person acting on behalf of such corporation.

(b) (1) The provisions of this section shall not be deemed to prohibit:

(A) Direct communications by a corporation to its stockholders and executive or administrative personnel and their families on any subject;

(B) Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executives or administrative personnel and their families; and

(C) The establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, membership organization, cooperative, or corporation without capital stock. Any such fund shall be deemed to be a political committee for the purpose of this section.

(2) It shall be unlawful:

(A) For such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals or the threat of force, job discrimination or financial reprisal, or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) For any person soliciting an employee for a contribution to such fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) For any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at
39 the time of such solicitation, of his right to refuse to so
40 contribute without any reprisal.

41 (D) For a corporation, or a separate segregated fund
42 established by a corporation, to solicit contributions to such
43 a fund from any person other than its stockholders and their
44 families and its executive or administrative personnel and their
45 families.

46 (E) For a corporation to engage in job discrimination,
47 or to discriminate in job promotion or transfer because of an
48 employee’s failure to make a contribution to such fund.

49 (3) For the purposes of this section, the term “executive
50 or administrative personnel” means individuals employed by a
51 corporation who are paid on a salary, rather than hourly, basis
52 and who have policy-making, managerial, professional or
53 supervisory responsibilities.

54 (c) Any person or corporation violating any provision
55 of this section shall be guilty of a misdemeanor, and, upon
56 conviction, shall be fined not more than five thousand dollars.

ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-13. Buying or selling vote unlawful; penalties.

1 (a) It is unlawful for any person to offer or to pay money
2 or any other thing of value to any person as consideration for
3 the vote of the offeree or payee, as the case may be, to be
4 cast for or against any candidate or issue in any election held
5 in the state. Any person who violates the provisions of
6 subsection (a) shall be guilty of a felony and, upon conviction
7 thereof, shall be fined not less than five thousand dollars or
8 imprisoned for a period of not less than one year, nor more
9 than five years, or both.

10 (b) It is likewise unlawful for any person to accept or
11 agree to accept money or other thing of value as consideration
12 for the vote of the acceptee, to be cast for or against any
13 candidate or issue in any election held in the state. Any
14 person who violates the provisions of subsection (b) shall
15 be guilty of a misdemeanor and, upon conviction thereof,
16 shall be fined not less than one hundred dollars nor more than
one thousand dollars or imprisoned in the county jail not more than one year, or both.

§3-9-24. Limitations on prosecutions.

1 No person shall be prosecuted for any crime or offense under any provision of this chapter, unless upon an indictment found and presentment made within five years after the date of the commission of the crime or offense.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence C. Chresten  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Wilks, Jr.  
Clerk of the Senate

VT Blankenship  
Clerk of the House of Delegates

W. J. Battle  
President of the Senate

Donald L. Kopp  
Speaker House of Delegates

The bill is hereby approved this the 27th day of April, 1977.

Governor