

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978

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ENROLLED

Committee Substitute for  
HOUSE BILL No. 936

(By Mr. Shepherd + Mr. Mathis)

— ● —

PASSED March 10, 1978

In Effect ninety days from Passage

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 936**

**(By MR. SHEPHERD and MR. MATHIS)**

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**AN ACT** to amend and reenact sections nine, twenty-one, 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, ten, eleven, twelve, thirteen, twenty-one, twenty-two, twenty-seven, twenty-eight and thirty, article two of said chapter; to amend article three of said chapter by adding thereto a new section, designated section five-a; to amend and reenact section eleven, article four-a of said chapter; to amend and reenact sections one, six, seven, nine and ten, article five of said chapter; to further amend said article five by adding thereto a new section, designated section one-a; to amend and reenact section five, article six of said chapter; to amend and reenact sections five, five-a, eight and twelve, article eight of said chapter; to amend and reenact sections thirteen, fourteen and twenty-four, article nine of said chapter, all relating to elections; political party committees; how composed; providing for executive committee districts; organization; printing of ballots; use of candidates titles; opening and closing of polls, procedure; permitting voting after closing of the polls in certain cases by use of voter permits; preservation of spoiled ballots; use of ballpoint

pens; assistance to voters; providing certain requirements before assistance to voter may be given; requiring certain affidavits; requiring lists of persons given assistance; defining disability; prohibiting candidates from running for more than one office except under limited circumstances; changing time for registration of voters; cancellation and reinstatement; requiring county commission to remain open for registration; 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; changing times for registration transfers; procedure on change of registered voter's name; changing times thereof; time for registration prior to election changed; requiring the office of the clerk of the county commission to remain open during certain times for the purpose of registration; 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, except in the year one thousand nine hundred seventy-eight; hours polls open; election of county board of education members at primary elections; candidate for county board of education to be identified by magisterial district except in the year one thousand nine hundred seventy-eight; 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 preference; 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; restricting the use of certain corporate property to influence elections; corporate contributions; limitations on contributions to candidates; requiring that corpora-

tions permit employees to use corporations real property for establishing, administering and soliciting contributions; exceptions; limitations; defining contributions; exceptions; prohibitions applicable to public utilities and railroad companies; the powers and duties of the state election commission with respect thereto; conferring certain investigative powers to said commission; duties of the attorney general; buying or selling votes unlawful; limitations on prosecutions extended to five years; and prohibiting certain activities and providing penalties for such offenses.

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

That sections nine, twenty-one, 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, ten, eleven, twelve, thirteen, twenty-one, twenty-two, twenty-seven, twenty-eight and thirty, article two of said chapter be amended and reenacted; that article three of said chapter be amended by adding thereto a new section, designated section five-a; that section eleven, article four-a of said chapter be amended and reenacted; that sections one, six, seven, nine and ten, article five of said chapter be amended and reenacted; that said article five be further amended by adding thereto a new section, designated section one-a; that section five, article six of said chapter be amended and reenacted; that sections five, five-a, eight, and twelve, article eight of said chapter be amended and reenacted; that sections thirteen, fourteen and twenty-four, article nine 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 June primary election in the year one thousand nine  
 2 hundred eighty and at the June primary election in the year  
 3 one thousand nine hundred eighty-two, and in every fourth  
 4 year thereafter, the voters of each political party in each  
 5 senatorial district shall elect two male and two female members  
 6 of the state executive committee of the party. In senatorial  
 7 districts containing two or more counties, not more than two  
 8 such elected committee members shall be residents of the

9 same county. The committee, when convened and organized  
10 as herein provided, shall appoint three additional members  
11 of the committee from the state at large.

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

22 For the purpose of complying with the provision of this  
23 section the county commission shall create such executive com-  
24 mittee districts as they shall determine, which such districts  
25 shall not be fewer than the number of magisterial districts  
26 in such counties nor shall they exceed in number the fol-  
27 lowing: Fifty for counties having a population of one hundred  
28 thousand persons or more; forty for counties having a  
29 population of fifty thousand to one hundred thousand; ten  
30 for counties having a population of thirty thousand to fifty  
31 thousand; and such districts in counties having a population of  
32 less than thirty thousand persons shall be coextensive with  
33 the magisterial districts.

34 The executive committee districts shall not cross magisterial  
35 district lines, shall be as nearly equal in population as prac-  
36 ticable, and shall each be composed of compact, contiguous  
37 territory. The county commissions shall constitute the execu-  
38 tive committee district to be effective for the term of office  
39 of executive committee members elected at the one thou-  
40 sand nine hundred seventy-eight primary election and there-  
41 after. The county commissions shall change the territorial  
42 boundaries of such districts as necessary, only if there is an  
43 increase or decrease in the population of such district as  
44 determined by a decennial census and such changes must be  
45 made within two years following such census.

46 All members of executive committees, selected for each  
47 political division as herein provided, shall reside within the

48 county or district from which chosen. The term of office of all  
 49 members of executive committees elected at the June primary *in*  
 50 the year one thousand nine hundred eighty, shall begin on the *the*  
 51 first day of July, following said June primary, and shall con-  
 52 tinue for two years thereafter and until their successors are  
 53 elected and qualified. Vacancies in the state executive com-  
 54 mittee shall be filled by the members of the committee for  
 55 the unexpired term. Vacancies in the party's executive com-  
 56 mittee of a congressional district, senatorial district, delegate  
 57 district or county shall be filled by the party's executive com-  
 58 mittee of the county in which such vacancy exists, and shall be  
 59 for the unexpired term.

60 As soon as possible after the first day of July, following  
 61 the election of the new executive committees, as herein pro-  
 62 vided, they shall convene within their respective political  
 63 divisions, on the call of the chairman of corresponding out-  
 64 going executive committees, or by any member of the new  
 65 executive committee in the event there is no corresponding  
 66 outgoing executive committee, and proceed to select a chair-  
 67 man, a treasurer, and a secretary, and such other officers as  
 68 they may desire, each of which officers shall for their respec-  
 69 tive committees perform the duties that usually appertain to  
 70 such offices.

**§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 within  
 4 the county participate, and cause to be printed, on the ap-  
 5 propriate ballot, the name of every candidate, but in no case  
 6 shall the ballot contain any title, position, rank, degree, or such,  
 7 including but not limited to doctor, reverend, PhD., or the  
 8 equivalent, whose name has been certified to or filed with the  
 9 clerk of the circuit court of the county in any manner pro-  
 10 vided for in this chapter. In any case wherein the Constitution  
 11 or statutes limit or prescribe the number of candidates or  
 12 elected officers to be selected by the voters in any district or  
 13 other governmental subdivision, the ballot commissioners, in  
 14 the preparation of such ballots, shall cause to be printed

15 thereon, in plainly worded language, the number of candidates  
16 to be voted for in each district or other governmental sub-  
17 division. The printing of the ballots, and all other printing  
18 caused to be done by the board of ballot commissioners, shall  
19 be contracted for with the lowest responsible bidder. Ballots  
20 other than those caused to be printed by the respective boards  
21 of ballot commissioners, according to the provisions of this  
22 chapter, shall not be cast, received, or counted in any election.

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

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

1 At the time of opening the polls in all precincts wherein  
2 voting machines are not to be used, the election commissioners  
3 shall examine the ballot box and ascertain that there are no  
4 ballots in the same, and they shall thereupon securely lock  
5 the box and give one key to one of the commissioners and  
6 one to a commissioner of the opposite political party, who  
7 shall hold the same, and such boxes shall not be again  
8 opened until the time to begin counting the votes arrives  
9 and for that purpose. At or before opening the polls, the  
10 commissioners of election shall open the package contain-  
11 ing the ballots in such manner as to preserve the seals intact  
12 and thereupon deliver all of the ballots to the poll clerk.  
13 Before any voter is permitted to vote, the commissioners of  
14 election shall proclaim that such election is opened. When the  
15 polls are closed, proclamation must be made of the fact by

16 one of the commissioners of election to the people outside, in  
17 a loud and audible tone of voice, and a minute of such  
18 proclamation and of the time when it was made must be  
19 entered on the pollbooks by the clerks. The election com-  
20 missioner shall permit those electors to vote who are present  
21 at the polling place prior to the hour specified for the closing  
22 of the polls: *Provided*, That at that time they are in a line  
23 awaiting their turn to vote within the voting room itself or, if  
24 the line extends outside of the voting room itself, within  
25 that line. In that event an election commissioner from each  
26 party shall immediately after the closing proclamation begin  
27 with the last voter in line and together supply the voters  
28 within the line with waiting-voter permits which shall be  
29 prescribed by the secretary of state. Each voter shall sign  
30 his permit in the presence of both commissioners who shall  
31 then likewise affix their signatures to the permit in the  
32 presence of the voter and each other. After each such voter  
33 in line has received and signed his permit and the election  
34 commissioners have affixed their signatures thereto, voting  
35 shall be resumed. Each voter shall present his permit to one  
36 of the poll clerks so that the signature thereon may be com-  
37 pared to the voter's signature when he signs the pollbook.  
38 Each permit so presented shall be attached to the page in  
39 the pollbook on which the voter affixed his signature. In no  
40 case shall any person who arrives at the polling place after  
41 the closing hour be given a waiting-voter permit or be allowed  
42 to vote. After the final voter presents his waiting-voter permit  
43 and casts his ballot no more ballots shall be cast or received.

**§3-1-34. Voting procedures generally; assistance to voters; voting records; penalties.**

1 Any person offering to vote in an election shall, upon enter-  
2 ing the election room, clearly state his name and residence  
3 to one of the poll clerks who shall thereupon announce the  
4 same in a clear and distinct tone of voice. If such person is  
5 found to be duly registered as a voter at that precinct, he shall  
6 be required to sign his name in the space marked "signature  
7 of voter" on the pollbook described and provided for the  
8 precinct. If such person be physically or otherwise unable to  
9 sign his name, his mark shall be affixed by one of the poll



10 clerks in the presence of the other and the name of the poll  
11 clerk affixing the voter's mark shall be indicated immediately  
12 under such affixation. No ballot shall be given to such person  
13 until he so signs his name on the pollbook or his signature is  
14 so affixed thereon.

15 When the voter's signature is properly on the pollbook, the  
16 two poll clerks shall sign their names in the places indicated on  
17 the back of the official ballot and shall deliver the ballot to  
18 the voter to be voted by him then without leaving the election  
19 room. If he returns the ballot spoiled to the clerks, they shall  
20 immediately mark such ballot "spoiled" and the same shall be  
21 preserved and placed in a spoiled ballot envelope together with  
22 other spoiled ballots to be delivered to the board of canvassers  
23 and deliver to the voter another official ballot, signed by the  
24 clerks on the reverse side as before done. The voter shall there-  
25 upon retire alone to the booth or compartment prepared within  
26 the election room for voting purposes and there prepare his  
27 ballot, using <sup>or</sup> ballpoint pen of not less than five inches in length  
28 or other indelible marking device of not less than five inches in  
29 length. In voting for candidates in general and special elections,  
30 the voter shall comply with the rules and procedures prescribed  
31 in section five of article six of this chapter.

32 It shall be the duty of a poll clerk, in the presence of the  
33 other poll clerk, to indicate by a check mark inserted in the ap-  
34 propriate place on the registration record of each voter the fact  
35 that such voter voted in the election. In primary elections the  
36 clerk shall also insert thereon a distinguishing initial or initials  
37 of the political party for whose candidates the voter voted. If a  
38 person is challenged at the polls, such fact shall be indicated by  
39 the poll clerks on the registration record together with the name  
40 of the challenger. The subsequent removal of the challenge  
41 shall be recorded on the registration record by the clerk of the  
42 county commision.

43 No voter shall receive any assistance in voting unless (1) (a)  
44 his registration record indicates that because of illiteracy, he is  
45 unable to read the names on the ballot, or that he has a physical  
46 disability which renders him unable to see or mark the ballot, or  
47 to operate the voting machine, the exact nature of the physical  
48 disability being recorded on the registration record, or (b) he

49 shall make an affidavit, the form of which shall be prescribed  
50 by the secretary of state, that because of a physical disability  
51 which renders him unable to see or mark the ballot, or to oper-  
52 ate the voting machine, the exact nature of the physical disabil-  
53 ity being stated therein; and (2) a poll clerk of each political  
54 party determines that he is illiterate or suffers from the physical  
55 disability stated on his registration record or in his affidavit and  
56 that such physical disability renders him then unable to see or  
57 mark the ballot, or to operate the voting machine.

58 Any voter so determined to be qualified to receive assistance  
59 in voting under the provisions of this section may declare his  
60 choice of candidates to an election commissioner of each politi-  
61 cal party who, in the presence of the voter and in the presence  
62 of each other, shall prepare the ballot for voting in the manner  
63 hereinbefore provided, and, on request, shall read over to such  
64 voter the names of candidates on the ballot as so prepared; or  
65 such voter may require the election commissioners to indicate  
66 to him the relative position of the names of the candidates on  
67 the ballot, whereupon the voter shall retire to one of the booths  
68 or compartments to prepare his ballot in the manner hereinbe-  
69 fore provided, or may request the election commissioners, in the  
70 presence of the voter and in the presence of each other, to mark  
71 the ballot as he directs.

72 If the voter is unable to mark his ballot because of blindness  
73 and the voter's registration records so indicate such blindness,  
74 and if he shall so elect, said poll clerks shall both withdraw, and  
75 permit the voter to be assisted by any duly registered voter  
76 designated by such voter.

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

82 Any one or more of the election commissioners or poll clerks  
83 in the precinct may challenge such ballot on the ground that the  
84 voter thereof received assistance in voting it when in his or their  
85 opinion (1) either the registration record or affidavit of the per-  
86 son who received the assistance in voting the ballot does not in-

87 dicare a legally sufficient reason for such assistance, or (2) the  
88 person who received assistance in voting is not so illiterate as to  
89 have been unable to read the names on the ballot, or (3) that he  
90 did not have such a physical disability as to have been unable to  
91 see or mark the ballot or to operate the voting machine. The  
92 election commissioner or poll clerk or commissioner<sup>or</sup> poll clerk<sup>مدير</sup>  
93 clerks making such challenge shall enter the challenge and rea-  
94 son therefor on the form and in the manner prescribed or  
95 authorized by article three of this chapter.

96 Election commissioners providing assistance to voters under  
97 the provisions of this section shall not in any manner request,  
98 or seek to persuade, or induce the voter to vote any particular  
99 ticket or for any particular candidate or for or against any pub-  
100 lic question, and shall not keep or make any memorandum or  
101 entry of anything occurring within the voting booth or compart-  
102 ment, and shall not, directly or indirectly, reveal to any person  
103 the name of any candidate voted for by the voter, or which tick-  
104 et he had voted, or how he had voted on any public question, or  
105 anything occurring within the voting booth or compartment or  
106 voting machine booth, except when required pursuant to law to  
107 give testimony as to such matter in a judicial proceeding.

108 In accordance with instructions issued by the secretary of  
109 state, the clerk of the county commission shall provide a form  
110 entitled "List of Assisted Voters," the form of which list shall  
111 likewise be prescribed by the secretary of state. The commis-  
112 sioners shall enter the name of each voter receiving assistance  
113 in voting the ballot, together with the poll slip number of that  
114 voter and the signature of the commissioner from each party  
115 who assisted the voter certifying to the fact that they had  
116 determined that the voter who received assistance in voting  
117 the ballot was qualified to receive such assistance under the  
118 provisions of this section. If no voter shall have been assisted  
119 in voting the ballot as herein provided, the commissioners  
120 shall likewise make and subscribe to an oath of that fact on  
121 such list.

122 After preparing the ballot the voter shall fold the same so  
123 that the face shall not be exposed and so that the names of the  
124 poll clerks thereon shall be seen. The voter shall then announce  
125 his name and present his ballot to one of the commissioners

126 who shall hand the same to another commissioner, of a differ-  
127 ent political party, who shall deposit it in the ballot box, if  
128 such ballot is the official one and properly signed. The com-  
129 missioner of election may inspect every ballot before it is de-  
130 posited in the ballot box, to ascertain whether it is single, but  
131 without unfolding or unrolling it, so as to disclose its content.  
132 When the voter has voted, he shall retire immediately from the  
133 election room, and beyond the sixty-foot limit thereof, and  
134 shall not return, except by permission of the commissioners.

135 Following the election, the affidavits required by this section  
136 from assisted voters together with the "List of Assisted Voters,"  
137 shall be returned by the election commissioners to the clerk  
138 of the county commission along with the election supplies,  
139 records and returns, who shall make such oaths and list avail-  
140 able for public inspection and who shall preserve the same for  
141 a period of five years or until disposition is authorized or di-  
142 rected by the secretary of state, or court of record.

143 Any person making an affidavit required under the pro-  
144 visions of this section who shall therein knowingly swear false-  
145 ly, or any person who shall counsel, or advise, aid or abet  
146 another in the commission of false swearing under this sec-  
147 tion, shall be guilty of a misdemeanor, and, upon conviction  
148 thereof, shall be fined not more than one thousand dollars, or  
149 imprisoned in the county jail for a period of no more than one  
150 year, or both.

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

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

164 The term "physical disability", as used in this section, means  
165 blindness or such degree of blindness as will prevent the voter  
166 from seeing the names on the ballot, or amputation of both  
167 hands, or such disability of both upper extremities that neither  
168 can be used to make cross marks on the ballot, or operate the  
169 voting machine, or confinement to wheelchair which prevents  
170 or restricts use of voting machine.

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

1 No person shall be a candidate for more than one office  
2 at any election: *Provided*, That such candidate for an office  
3 may also be a candidate for president or vice president of  
4 the United States, for membership on a political party execu-  
5 tive committee or for delegate to a political party national  
6 convention. Any candidate who violates this section shall be  
7 disqualified from serving in any office to which he was elected  
8 while in violation of this section.

**ARTICLE 2. REGISTRATION OF VOTERS.**

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

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

9 Within one hundred and twenty days following any election,  
10 the clerk of the county commission shall, as evidenced by the  
11 presence or absence of signatures on the pollbooks for such  
12 election, correct any errors or omissions on the voter registra-  
13 tion records appertaining to such election resulting from the  
14 poll clerks erroneously checking or failing to check the registra-  
15 tion records as required by the provisions of section thirty-four,  
16 article one of this chapter; and, within the same time period  
17 following each statewide primary and general election and at  
18 the same time that such checkup is made as is by this para-  
19 graph required, the clerk shall cancel the registration of each  
20 person who has failed to vote at least once during a period

21 covering two statewide primary and general elections as in-  
 22 dicated by his registration record. Any person who has had  
 23 his registration for that reason canceled shall, by letter, be  
 24 given proper notice thereof by the clerk of the county  
 25 commission, to the effect that in order to vote he must register  
 26 again or execute and file, not later than thirty days before  
 27 the next primary or general election, with the clerk, an affi-  
 28 davit, the form of which shall be prescribed by the secretary  
 29 of state, stating that he desires to be reinstated as a qualified  
 30 voter at the same address and the clerk shall replace the  
 31 registration card of the voter in the registration records. A  
 32 blank form of such affidavit shall be included with and accom-  
 33 pany the aforesaid notice to the voter.

**§3-2-10. County commission's duties and powers; hours during registration period.**

1 Subject to the authority of the secretary of state, the county  
 2 commission shall be chief registration authority in each  
 3 respective county and all subdivisions therein, and shall super-  
 4 vise the county clerk and registrars in the performance of  
 5 their respective duties.

6 The county commission shall have power on its own motion  
 7 to summon and to interrogate any person concerning the  
 8 registration of voters, to investigate any irregularities in  
 9 registration, to summon and examine witnesses, to require the  
 10 production of any relevant books and papers, and to conduct  
 11 hearings on any matters relating to registration of voters.

12 Notwithstanding any provision of any other section of this  
 13 code, the office of the clerk of the county commission shall  
 14 remain open from 9:00 a.m. until 9:00 p.m. for the Friday,  
 15 Saturday and Monday prior to the close of the registration  
 16 period.

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

1 The county commission of each county may, not less than  
 2 eighteen nor more than twenty weeks prior to the date of a  
 3 statewide primary election, appoint two competent persons,  
 4 for one or more but not to exceed ten voting precincts in  
 5 the county, to act as registrars for the purpose of making a

6 biennial checkup allowed by this article. No person shall  
7 be eligible to appointment as a registrar, or in any way act  
8 as such, if he has been convicted of a felony or if he holds  
9 any elective or appointive office, or is a public employee,  
10 under the laws of this state or of the United States; or cannot  
11 read or write the English language; or is a candidate to be  
12 voted for at such election. If any such registrar shall fail or  
13 refuse to serve or is properly dismissed, the vacancy shall  
14 be filled either by the county commission or by the clerk  
15 thereof in vacation, in the manner provided for the appoint-  
16 ment of registrars. Each registrar, before entering upon the  
17 discharge of his duties, shall take an oath that he will perform  
18 the duties of the office to the best of his ability, which oath  
19 shall be filed in the office of the clerk of the county com-  
20 mission.

21 An equal number of such registrars shall be selected from  
22 the two political parties which at the last preceding election,  
23 cast the highest number and next highest number of votes  
24 in the county in which the election is to be held. The county  
25 commission shall, at least four weeks prior to making such  
26 appointment, request the county executive committee of each  
27 of the said two political parties to submit a list of names,  
28 equal to one half of the total number to be appointed, of  
29 persons qualified to act as registrars; and the county com-  
30 mission shall, if such lists are submitted, appoint the respective  
31 registrars therefrom, and shall notify each registrar of his  
32 appointment. Every such list so presented shall be filed and  
33 preserved for one year by the clerk of such commission in  
34 his office. Any and every act performed by any registrar  
35 under the provisions of this article shall be void unless per-  
36 formed in conjunction with a registrar of the opposite political  
37 party at the same time and place.

38 Before acting, all such registrars shall attend a session,  
39 or sessions, of instruction by the clerk of the county com-  
40 mission, or some person designated by him, concerning the  
41 performance of their duties.

42 Immediately following such instruction the clerk of the  
43 county commission shall deliver to the registrar a copy of  
44 the laws and regulations relating to registration of voters and

45 all necessary forms and other supplies, including a certified  
46 list of all registered voters within the precinct or precincts  
47 for which such registrars were appointed, upon such  
48 form as may be prescribed by the secretary of state. Such  
49 registrars shall thereupon proceed together to make a house-  
50 to-house canvass in their precincts for the purpose of making  
51 the biennial checkup allowed by section twenty-one of this  
52 article. Each biennial checkup subsequent to the year one  
53 thousand nine hundred seventy-eight shall be completed at  
54 least sixty days before the statewide primary election follow-  
55 ing the appointment of the registrars. In making such checkup  
56 the registrars shall not again register any person who is already  
57 registered in such precinct, but shall determine whether or  
58 not such person is duly registered and qualified to vote therein.

**§3-2-12. Additional duties of registrars and clerks; checking;  
notices.**

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

17 The clerk of the county commission is authorized to pub-  
18 lish such notices as may be proper in his opinion to advise  
19 the electorate of the respective dates after which transfers  
20 and registration, and changes of registration, may not be  
21 made with respect to any general or primary election.



**§3-2-13. Compensation of registrars.**

1 As compensation for his services, each registrar shall be  
2 paid at a rate to be fixed by the county commission, but not  
3 more than twenty-five dollars per day, and, in addition, shall  
4 be reimbursed for his travel expenses.

**§3-2-21. Biennial checkup.**

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

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

1 The clerk of the county commission may register any quali-  
2 fied person as a voter by having him fill in and complete the  
3 prescribed voter registration form and having him sign same  
4 under oath or affirmation. The clerk, upon proper proof, may  
5 alter, amend, correct, or cancel the registration record of any  
6 voter. Such registration or alteration, amendment, correction  
7 or cancellation of registration records shall be carried on  
8 throughout the year .

9 Beginning with the year one thousand nine hundred seventy-  
10 eight and every two years subsequent thereto, the clerk or  
11 one of his deputies shall, during the biennial checkup period,  
12 for the purposes of registration of voters, visit every public  
13 or private institution, excluding hospitals, in which resides  
14 aged, infirm, disabled, or chronically ill persons and every  
15 high school with students eligible by age for registration, and  
16 shall establish at least one temporary registration office per

17 magisterial or tax district, whichever is more numerous, for  
18 the purpose of registering the names of persons not so regist-  
19 ered but who are qualified to register, or to alter, amend, cor-  
20 rect or cancel such registration records. Such registration of-  
21 fices shall be open at least three days, including one Saturday  
22 and one evening within the sixty day period prior to each  
23 primary and each general election but prior to the thirtieth  
24 day before any such election at such hours as shall be posted  
25 and advertised as a Class III-0 legal advertisement with the  
26 publication area being the magisterial district. The clerk of the  
27 county commission shall also solicit public service advertising  
28 of such registration offices and times on radio, television and  
29 newspapers serving that county.

30 Any applicant not otherwise included under provisions of  
31 previous sections who is physically unable to appear before  
32 the clerk of the county commission, or at the temporary office  
33 may request the clerk of the county commission or one of his  
34 deputies to, and, upon proper request they shall, deliver or  
35 cause to be delivered in person or by mail the forms neces-  
36 sary to register.

37 Within fifteen days following receipt by the clerk from the  
38 state registrar of vital statistics or from the local registrar of  
39 vital statistics of a certificate of death which has occurred in  
40 his county or of a person who last resided prior to death in his  
41 county, the clerk of the county commission shall cancel the  
42 voter registration, if any, of the person shown to be deceased  
43 by such certificate.

44 For purposes of making certain that the voter registration  
45 records of the various counties do not contain voter registra-  
46 tion of persons who are deceased, the clerks shall, sixty days  
47 prior to a general election, review each certificate of death  
48 received by him from the state registrar of vital statistics or  
49 from the local registrar of vital statistics and shall cancel  
50 the voter registration, if any, of each person shown to be  
51 deceased by any such certificate and whose voter registration  
52 has not previously been canceled. By the forty-fifth day prior  
53 to a general election each clerk of a county commission shall  
54 certify to the secretary of state, as the chief registration  
55 official of the state, that he has performed the duty required

56 by this paragraph.

57 If found necessary, the county commission may order and  
58 direct the clerk of the county commission to maintain addi-  
59 tional office hours in the evening or at other proper times and  
60 places for accommodation of voter registration.

**§3-2-27. Registration transfers.**

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

10 Upon receipt of such notice the clerk of the county com-  
11 mission shall cause the signature thereon to be compared  
12 with the signature of the applicant upon his registration card  
13 and, if such signatures correspond, shall make entry of such  
14 change of residence upon all the registration records and  
15 the necessary transfers in the files. If the clerk of the county  
16 commission is not satisfied as to the genuineness of the  
17 signature on the notice of change of residence, and if the  
18 right of such applicant to register is challenged according to  
19 the procedure herein prescribed, such transfer shall not be  
20 made.

21 Transfers of the registration record may be made through-  
22 out the year except during the thirty days immediately  
23 preceding any election, and if any voter shall move from  
24 one precinct to another within the county within the thirty  
25 day period, he shall, for that election only, vote in the precinct  
26 from which he moved. If any voter shall move from one  
27 place to another within the precinct in which he is registered,  
28 whether within or more than thirty days preceding any  
29 election, he shall be permitted to vote in that precinct, and  
30 the election commissioners upon request of the registrant  
31 shall make entry of such change of residence upon the voter's

32 registration record in accordance with procedures prescribed  
33 by the secretary of state.

**§3-2-28. Procedure on change of registered voter's name.**

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

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

1 No person may vote in an election when he has registered  
2 or his voter registration has been altered, amended or cor-  
3 rected within a period of thirty days next preceding such  
4 election, but this inhibition shall not prevent, during such  
5 period of thirty days, additional registrations and changes  
6 in voter registrations with reference to future elections. If,  
7 during such period of thirty days preceding an election, a  
8 voter is registered or his voter registration is altered, amended  
9 or corrected, he shall not be permitted or qualified to vote at  
10 such election.

**ARTICLE 3. VOTING BY ABSENTEES.**

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

1 A person who completes the absent voter's ballot provided  
2 for by section five of this article may have someone personally  
3 deliver the sealed envelope during regular business hours at  
4 the office of the clerk of the circuit court of the county in  
5 which he is registered to vote not more than fourteen days  
6 before the election and on any day thereafter up to and in-  
7 cluding the Saturday next preceding the date of the primary or  
8 general election or, in the case of special elections, up to and  
9 including the third day next preceding the day of any such  
10 special election (in computing such third day, the day of con-  
11 ducting the special election, shall be excluded): *Provided*, That

12 no person shall be permitted to personally deliver more than  
13 two absentee ballots preceding any election.

14 The person who personally delivers the sealed envelope  
15 shall be required to certify that he or she has not altered the  
16 ballot. Any person who makes a false certification shall be  
17 in violation of the penalty provisions of article nine of this  
18 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.**

1 The ballot commissioners of any county in which an  
2 electronic voting system is to be used in any election shall  
3 cause to be printed for use in such election the ballots or  
4 ballot labels, as appropriate, for the electronic voting system.  
5 The ballot labels so printed shall total in number one and one-  
6 half times the total number of vote recording devices to be used  
7 in the several precincts of the county in such election. All  
8 such labels shall be delivered to the clerk of the county com-  
9 mission at least thirty days prior to the day of the election  
10 in which such labels are to be used. The labels shall contain  
11 the name of each candidate, but in no case shall the ballot con-  
12 tain any title, position, rank, degree, or such, including but not  
13 limited to "doctor", "reverend", "PhD.", or the equivalent, and  
14 each question to be voted upon and shall be clearly printed or  
15 typed in black ink on clear white material of such size as will fit  
16 the vote recording devices. Arrows may be printed on the bal-  
17 lot labels to indicate the place to punch the ballot card, which  
18 may be to the right or left of the name or proposition.

19 The titles of offices may be arranged on the ballot labels in  
20 vertical columns or in a series of separate pages, and shall be  
21 printed above or at the side of the names of candidates so as to  
22 indicate clearly the candidates for each office and the number  
23 to be elected. In case there are more candidates for an office  
24 than can be printed in one column or on one ballot label page,  
25 the ballot label shall be clearly marked that the list of candi-  
26 dates is continued on the following column or page, and so far  
27 as possible, the same number of names shall be printed on each  
28 column or page. The names of candidates for each office shall

29 be printed in vertical columns or on separate pages, grouped by  
30 the offices which they seek.

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

40 One set of ballot labels shall be inserted in the vote recording  
41 device prior to the delivery of such device to the polling place.  
42 The remainder of such ballot labels for each device shall be re-  
43 tained by the clerk of the county commission for use in the  
44 event the set so inserted in such device becomes lost, mutilated  
45 or damaged.

46 In addition to all other equipment and supplies required by  
47 the provisions of this article, the ballot commissioners shall  
48 cause to be printed a supply of instruction cards, sample bal-  
49 lots, facsimile diagrams of the vote recording device ballot and  
50 official printed ballots or ballot cards adequate for the orderly  
51 conduct of the election in each precinct in their county. In ad-  
52 dition they shall provide all other materials and equipment  
53 necessary to the conduct of the election, including voting  
54 booths, appropriate facilities for the reception and safekeeping  
55 of ballot cards, the ballots of absent voters and of challenged  
56 voters and of such "independent" voters who shall, in primary  
57 elections, cast their votes on nonpartisan candidates and public  
58 questions submitted to the voters.

**ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURE.**

**§3-5-1. Time and place of holding primary elections in the year one thousand nine hundred eighty and thereafter; hours polls open.**

1 Primary elections shall be held at the voting place in each  
2 of the voting precincts in the state, for the purposes set

3 forth in this article, on the first Tuesday in June in the  
4 year one thousand nine hundred eighty and in each second  
5 year thereafter.

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

**§3-5-1a. Time and place of holding primary elections held in the  
year one thousand nine hundred seventy-eight; hours  
polls open.**

1 The primary election held in the year one thousand nine  
2 hundred seventy-eight shall be held at the voting place in  
3 each of the voting precincts in the state, for the purposes set  
4 forth in this article, on the second Tuesday in May in the  
5 year one thousand nine hundred seventy-eight.

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

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

1 An election for the purpose of electing members of the  
2 county board of education shall be held on the same date as  
3 the primary elections as now provided by law, but upon a  
4 nonpartisan ballot printed for the purpose. At the election  
5 of members of the county board of education held in the year  
6 one thousand nine hundred eighty and each such election held  
7 thereafter, each candidate seeking the office shall be identi-  
8 fied as to the magisterial district from which he is a resident. In  
9 such nonpartisan election the person receiving the highest  
10 number of votes shall be elected for a long term, and if more  
11 than one is to be elected for a long term, the one receiving  
12 the next highest shall be elected; and if more than two are to  
13 be elected the candidate or candidates receiving the next highest  
14 votes shall be declared elected for any short term or terms,  
15 as the case may be, to fill vacancies; but no more than two  
16 such members shall be elected from the same magisterial  
17 district, and then only when such magisterial district does  
18 not have a holdover member of said board, and if such

19 magisterial district has one holdover member on said board  
 20 only one member shall be elected as aforesaid; and if more  
 21 persons from a magisterial district receive the highest number  
 22 of votes in said election, then of such persons only the person  
 23 or persons having the highest vote who do not make the  
 24 aggregate number of elected members and holdover members  
 25 more than two from such magisterial district shall be de-  
 26 clared elected, and the remaining members shall be declared  
 27 from the highest from other magisterial districts; and in no  
 28 event shall any member be declared elected from the same  
 29 magisterial district wherein reside two already elected or other-  
 30 wise qualified members of such board who will continue to  
 31 hold office after the beginning of the term for which such  
 32 election was held.

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

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

**§3-5-7. Filing announcements of candidacies; requirements; when section applicable.**

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

10 I, \_\_\_\_\_, hereby certify that I am a  
 11 candidate for the nomination for the office of \_\_\_\_\_  
 12 to represent the \_\_\_\_\_ Party, and desire my name  
 13 printed on the official ballot of said party to be voted at



14 the primary election to held on the ..... day  
15 of ....., 19.....; that I am a legally qualified  
16 voter of the County of ....., State of West  
17 Virginia; that my residence is number ..... of .....  
18 Street in the City (or Town) of ..... in .....  
19 County in said State; that I am eligible to hold the said  
20 office; that I am a member of and affiliated with said  
21 political party; that I am a candidate for said office in good  
22 faith.

23 .....  
24 ..... Candidate

25 Signed and acknowledged before me this ..... day of  
26 ....., 19.....

27 .....  
28 ..... Signature and official title of  
29 ..... person before whom signed.

30 Any candidate for delegate to the national convention  
31 of any political party shall provide, on a form prescribed  
32 by the secretary of state, the information required in the  
33 certificate hereinbefore described and shall also provide  
34 the name of the person he prefers as the presidential nominee  
35 of his party upon the first convention ballot, or if he has no  
36 preference, a statement that he is uncommitted: *Provided*, That  
37 any candidate for delegate may change his statement of presi-  
38 dential preference by notifying the secretary of state by  
39 registered letter, at least forty-five days prior to the day fixed  
40 for the primary election.

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

47 Such certificate shall be filed with the secretary of state  
48 or the clerk of the circuit court, as the case may be, not  
49 earlier than the last Monday in February next preceding the  
50 primary election day, and not later than the last Saturday of

51 March next preceding the primary election day, and must be  
52 received before midnight, eastern standard time, of that day  
53 or, if mailed, shall be postmarked before that hour.

54 The provisions of this section shall apply to the primary  
55 election held in the year one thousand nine hundred eighty  
56 and every primary election held thereafter.

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

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

10 Such certificate of candidates shall show (1) the name and  
11 residence of each candidate, (2) the office for which he is a  
12 candidate, (3) the name of the political party of which he is  
13 a candidate, (4) upon what ballot his name is to be  
14 printed and (5) in the case of a candidate for delegate to the  
15 national convention of any political party, the name of the  
16 person the candidate prefers as the presidential nominee of  
17 his party, or if he has no preference, the word "uncommitted."

18 The secretary of state shall post a duplicate of such certifi-  
19 cate in a conspicuous place in his office and keep same  
20 posted until after the primary election.

21 Immediately upon completion of such certification, the  
22 secretary of state shall ascertain therefrom the candidates  
23 whose names are to appear on the primary election ballots in  
24 the several counties of the state and shall certify to the clerk  
25 of the circuit court in each county the certificate information  
26 relating to each of the candidates whose names are to appear  
27 on the ballot in such county. He shall transmit such certificate  
28 to the several clerks by registered or certified mail, but, in  
29 emergency cases, he may resort to other reliable and speedy  
30 means of transmission which may be available so that such

31 certificates shall reach the several clerks by the thirtieth day  
32 next preceding such primary election day.

33 The provisions of this section shall apply to the primary  
34 election held in the year one thousand nine hundred eighty and  
35 every primary election held thereafter.

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

1 Between the thirtieth and the fifteenth days next prior to  
2 the date of the primary election, the ballot commissioners of  
3 each county shall prepare from the lists and certificates of  
4 announcements, as provided in this article, a sample official  
5 primary ballot for each party, placing thereon the names of all  
6 the candidates of the political party, but in no case shall the  
7 ballot contain any title, position, rank, degree, or such, in-  
8 cluding but not limited to "doctor", "reverend", "PhD.", or the  
9 equivalent, and, as the case may be, the nonpartisan candidates  
10 to be voted for at such primary election. In the case of a candi-  
11 date for delegate to the national convention of any political  
12 party the ballot commissioners shall, in addition, include in the  
13 ballot the name of the person the candidate prefers on the first  
14 convention ballot as the presidential nominee of his party, or if  
15 he has no preference the word "uncommitted." During the two  
16 weeks next preceding the primary election they shall publish  
17 such sample official primary election ballot as a Class II-O legal  
18 advertisement in compliance with the provisions of article  
19 three, chapter fifty-nine of this code, and the publication area  
20 for such publication shall be the county. The second publica-  
21 tion shall be on the last day upon which each newspaper is  
22 published before the election.

23 The ballot commissioners shall determine the total number  
24 of official ballots required for conducting the primary election  
25 in all of the election precincts of the county and shall cause  
26 same to be printed at least fifteen days next preceding the  
27 date of the election and made ready for delivery to the several  
28 precincts along with other election supplies. The number of  
29 official ballots of a political party prepared for delivery to a  
30 precinct shall not exceed one and one-twentieth times the num-  
31 ber 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.**

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

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

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

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

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

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

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

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

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

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

47 If the voter desires to vote for any person whose name  
48 does not appear on the ticket, he may substitute the name  
49 by writing it with black lead pencil or other means in the  
50 proper place, and making a cross mark in the blank space at  
51 the left of the name so written. The use of stamps, stickers,  
52 tapes, labels or any other means of writing in the name of  
53 a candidate on the ticket shall be permitted in accordance  
54 with rules and regulations prescribed by the secretary of state  
55 for such manner of voting. The secretary of state may pro-  
56 scribe devices which would cause mechanical difficulty with  
57 voting machines or electronic devices or which would obliterate  
58 or deface a paper ballot or any portion thereof, but the  
59 secretary of state shall preserve the right to vote by a write-in  
60 vote.

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

65 No ballot shall be rejected for any technical error which  
66 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.**

1 Every candidate, financial agent, person and association

2 of persons, organization of any kind, including every corpora-  
3 tion, directly or indirectly, supporting a political committee  
4 established pursuant to subsection (b) (1) (C) of section eight  
5 of this article or engaging in other activities permitted by  
6 said section eight of this article and also including the treasurer  
7 or equivalent officer of such association or organization, ad-  
8 vocating or opposing the nomination, election or defeat of  
9 any candidate, or the passage or defeat of any issue, thing or  
10 item to be voted upon, and the treasurer of every political  
11 party committee shall keep detailed accounts of every sum of  
12 money or other thing of value received by him, and of all  
13 expenditures and disbursements made, liabilities incurred, by  
14 such candidate, financial agent, person, association or organi-  
15 zation or committee, for political purposes, or by any of the  
16 officers or members of such committee, or any person acting  
17 under its authority or on its behalf.

18 Each person who files a certificate of candidacy for nomi-  
19 nation or election in this state as provided for in article five  
20 of this chapter and every financial agent, person, the treasurer  
21 or equivalent officer of any association or organization of any  
22 kind supporting or opposing the candidacy of any such candi-  
23 date, or any person or organization advocating or opposing the  
24 nomination, election, or defeat of any candidate, or the pas-  
25 sage or defeat of any issue, thing or item to be voted upon,  
26 shall, within fifteen days following the first Saturday of Feb-  
27 ruary next preceding the primary election day, file a detailed  
28 itemized statement, subscribed and sworn to before an officer  
29 authorized to administer oaths, setting forth all contributions  
30 and expenditures concerning the candidacy of that person or  
31 any person or organization advocating or opposing the nomi-  
32 nation, election or defeat of any candidate, or the passage or  
33 defeat of any issue, thing or item to be voted upon. Such  
34 statement shall include all contributions received or expendi-  
35 tures made which have taken place by the date of such report,  
36 subsequent to any previous report filed within the previous  
37 five years under this section or under the former provisions of  
38 this section, or if no report was filed, all contributions received  
39 or expenditures made within the preceding five years. The  
40 specific information required to be included in such statement  
41 is provided for in section five-a of this article.

42 Not less than five nor more than ten days before each  
43 primary or other election, and again within thirty days after  
44 each primary or other election, every candidate for nomina-  
45 tion or election, and every financial agent, person, the treasur-  
46 er or equivalent officer of any association or organization of  
47 any kind advocating or opposing the passage or defeat of any  
48 issue, thing or item to be voted upon or pertaining to the  
49 holding or conducting of any election, and the treasurer of  
50 every political party committee shall file with the officers  
51 hereinafter prescribed a detailed itemized financial statement  
52 subscribed and sworn to before an officer authorized to  
53 administer oaths, setting forth all financial transactions which  
54 have taken place by the date of such report in connection  
55 with such primary or other election as provided for in section  
56 five-a of this article.

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

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

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

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

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

11 (c) The first name, middle initial, if any, and the last  
12 name in the case of an individual, and the full name of  
13 each firm, association or committee, and the amount of such  
14 contribution of such individual, firm, association or com-  
15 mittee, and, if the aggregate of the sum or sums contributed  
16 by any one such individual, firm, association or comm.tee ex-

17 ceeds two hundred fifty dollars there shall also be reported  
18 the residence and mailing address and, in the case of an  
19 individual, the major business affiliation and occupation. A  
20 contribution totaling more than fifty dollars by any one  
21 contributor is prohibited unless it is by money order or by  
22 check, and a violation of this provision is subject to section  
23 five-d of this article. As used herein, the term "check" shall  
24 have the meaning ascribed to that term in section one hundred  
25 four, article three, chapter forty-six of this code.

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

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

35 When any lump sum payment is made to any advertising  
36 agency or other disbursing person who does not file a report  
37 of detailed accounts and verified financial statements as  
38 required herein, such lump sum expenditures shall be ac-  
39 counted for in the same manner as provided herein.

40 (f) The total expenditure for the nomination, election  
41 or defeat of a candidate or any person or organization ad-  
42 vocating or opposing the nomination, election or defeat of  
43 any candidate, or the passage or defeat of any issue, thing  
44 or item to be voted upon, in whose behalf an expenditure was  
45 made or a contribution was given for the primary or other  
46 election.

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

49 (h) Any unexpended balance at the time of making the  
50 financial statements herein provided for, shall be properly  
51 accounted for in that financial statement and shall appear  
52 as a balance in the next following financial statement.

53 (i) Each financial statement required by this section shall



54 contain a separate section setting forth the following infor-  
55 mation for each fund raising event held during the period  
56 covered by the financial statement:

57 (1) The type of event, date held, and address and name, if  
58 any, of the place where the event was held.

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

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

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

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

65 For the purpose of this section the term "fund raising event"  
66 means an event such as a dinner, reception, testimonial, cock-  
67 tail party, auction or similar affair through which contributions  
68 are solicited or received by such means as purchase of a tick-  
69 et, payment of an attendance fee or through purchase of goods  
70 or services.

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

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

86 (l) Any firm, association, committee or fund permitted by  
87 section eight of this article to be a political committee shall  
88 disclose on the financial statement its corporate or other  
89 affiliation.

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

1 (a) No officer of any corporation, or agent or person on  
2 behalf of such corporation, whether incorporated under the  
3 laws of this or any other state, or foreign country, shall  
4 pay, give or lend, or authorize to be paid, given or lent,  
5 any money or other thing of value belonging to such cor-  
6 poration, to any candidate, financial agent or political com-  
7 mittee or other person, for the payment of any primary or  
8 other election expenses whatever. No person shall solicit  
9 or receive such payment, contribution or other thing from  
10 any corporation, officer or agent thereof, or other person  
11 acting on behalf of such corporation.

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

14 (A) Direct communications, other than by newspapers of  
15 general circulation, radio, television or billboard advertising  
16 likely to reach the general public, by a corporation to its  
17 stockholders and executive or administrative personnel and  
18 their families on any subject;

19 (B) Nonpartisan registration and get-out-the-vote cam-  
20 paigns by a corporation aimed at its stockholders and exec-  
21 utives or administrative personnel and their families; and

22 (C) The solicitation of contributions to a separate segre-  
23 gated fund to be utilized for political purposes by any corporate  
24 officer, agent or any person on behalf of a corporation. Any  
25 such fund shall be deemed to be a political committee for the  
26 purpose of this article and subject to all reporting requirements  
27 thereof.

28 (2) It shall be unlawful:

29 (A) For such a fund to make a contribution or expenditure  
30 by utilizing money or anything of value secured by physical  
31 force, job discrimination, financial reprisals or the threat of  
32 force, job discrimination or financial reprisal, or as a con-  
33 dition of employment, or by moneys obtained in any com-  
34 mercial transaction;

35 (B) For any person soliciting a stockholder, executive

36 or administrative personnel and members of their family  
37 for a contribution to such fund to fail to inform such  
38 person of the political purposes of such fund at the time  
39 of such solicitation;

40 (C) For any person soliciting any other person for a con-  
41 tribution to such a fund to fail to inform such other person  
42 at the time of such solicitation of his right to refuse to so  
43 contribute without any reprisal;

44 (D) For a corporation, or a separate segregated fund estab-  
45 lished by a corporation to solicit contributions to such a  
46 fund from any person other than its stockholders and their  
47 families and its executive or administrative personnel and  
48 their families or to contribute any corporate funds;

49 (E) For a corporation, or a separate segregated fund  
50 established by a corporation to receive contributions to  
51 such a fund from any person other than its stockholders and  
52 their immediate families and its executive or administrative  
53 personnel and their immediate families;

54 (F) For a corporation to engage in job discrimination or  
55 to discriminate in job promotion or transfer because of an  
56 employee's failure to make a contribution to such fund;

57 (G) For such a fund directly or indirectly to make  
58 any contribution in excess of the value of one thousand  
59 dollars in connection with any campaign for nomination  
60 or election to or on behalf of any elective office in the  
61 state or any of its subdivisions, or in connection with or  
62 on behalf of any committee or other organization or person  
63 engaged in furthering, advancing or advocating the nomina-  
64 tion or election of any candidate for any such office; and

65 (H) For a corporation to pay, give or lend, or authorize  
66 to be paid, given or lent, any moneys or other things of  
67 value belonging to such corporation to such fund for any  
68 purpose. This provision shall not be deemed to prohibit  
69 such a fund from using the property, real or personal, facili-  
70 ties, and equipment of a corporation solely to establish, ad-  
71 minister, and solicit contributions to the fund, subject to the  
72 rules and regulations of the state election commission as pro-

73 vided in subsection (d) of this section: *Provided*, That such  
74 corporation shall also permit any group of employees thereof  
75 represented by a bona fide political action committee to use  
76 the real property of such corporation solely to establish, ad-  
77 minister and solicit contributions to the fund of such political  
78 action committee, subject to the rules and regulations of the  
79 state elections commission as provided in subsection (d) of  
80 this section. No such property, real or personal, facilities,  
81 equipment, materials or services of a corporation shall be  
82 utilized for the purpose of influencing any voter or voters to  
83 vote for a particular candidate, or in any particular manner,  
84 or upon any particular side of any question to be decided at  
85 any election, or to influence the result of any such election.

86 (I) Public Utility companies and railroad companies may  
87 not form funds or political action committees in support of  
88 political candidates or parties, and may not use corporate  
89 property, real or personal, facilities, equipment, materials or  
90 services of said utility to establish, administer or solicit con-  
91 tributions to such fund or political action committee.

92 (3) For the purposes of this section, the term "executive  
93 or administrative personnel" means individuals employed by  
94 a corporation who are paid on a salary rather than hourly  
95 basis and who have policymaking, managerial, professional  
96 or supervisory responsibilities.

97 (c) Any person or corporation violating any provision  
98 of this section shall be guilty of a misdemeanor, and, on  
99 conviction, shall be fined not more than five thousand dollars.  
100 No corporation shall reimburse any person the amount of  
101 any such fine imposed pursuant to this section.

102 (d) The state election commission shall promulgate rules  
103 and regulations to implement the provisions of this section,  
104 which rules and regulations, insofar as practicable, shall be  
105 the same as the rules and regulations promulgated by the  
106 federal election commission to carry out those provisions of  
107 2 USC § 441b which are similar or identical to those pro-  
108 visions contained in this section in order that the provisions of  
109 this section and the regulations promulgated thereunder and the  
110 similar provisions of 2 USC § 441b and the regulations pro-

111 promulgated thereunder may be uniformly administered and ap-  
112 plied to corporations subject to the cited section of the Federal  
113 Election Campaign Act Amendments of 1976 and to this  
114 section. The state election commission shall promulgate such  
115 rules and regulations not later than sixty days after the effec-  
116 tive date of this act and in doing so shall be governed by the  
117 provisions of article three, chapter twenty-nine-a of this code.

118 (e) In addition to its powers and duties as set forth in  
119 article one-a of this chapter, the state election commission shall  
120 have the following powers and duties:

121 1. To investigate, upon complaint or on its own initiative,  
122 any alleged violations or irregularities of this article.

123 2. To administer oaths and affirmations, issue subpoenas  
124 for the attendance of witnesses, issue subpoenas duces tecum  
125 to compel the production of books, papers, records and all  
126 other evidence necessary to any investigation.

127 3. To involve the aid of any circuit court in the execution  
128 of its subpoena power.

129 4. To report any alleged violations of this article to the  
130 appropriate prosecuting attorney having jurisdiction, which  
131 prosecuting attorney shall present to the grand jury such  
132 alleged violations, together with all evidence relating thereto,  
133 no later than the next term of court after receiving the  
134 report.

135 It shall be the duties of the attorney general to provide such  
136 legal and investigative assistance to the state election com-  
137 mission as it may request and require.

138 Any investigation either upon complaint or initiative, shall  
139 be conducted in an executive session of the state election com-  
140 mission and shall remain undisclosed except upon an indict-  
141 ment by a grand jury.

142 Any person who shall disclose the fact of any complaint,  
143 investigation or report or any part thereof, or any proceed-  
144 ings thereon, shall be guilty of a misdemeanor, and, upon  
145 conviction thereof, shall be fined not less than one thousand  
146 dollars, nor more than five thousand dollars, and shall be

147 imprisoned in the county jail not less than six months nor  
148 more than one year.

**§3-8-12. Additional acts forbidden; circulation or written matter; newspaper advertising; solicitation of contributions; intimidation and coercion of employees; promise of employment or other benefits; limitations on contributions; public contractors; penalty.**

1 (a) No person shall publish, issue or circulate, or cause to  
2 be published, issued or circulated, any anonymous letter, cir-  
3 cular, placard, or other publication tending to influence voting  
4 at any election;

5 (b) No owner, publisher, editor, or employee of a news-  
6 paper or other periodical shall insert, either in its advertising  
7 or reading columns, any matter, paid for or to be paid for,  
8 which tends to influence the voting at any election whatever,  
9 unless directly designating it as a paid advertisement and  
10 stating the name of the person authorizing its publication and  
11 the candidate in whose behalf it is published;

12 (c) No person shall, in any room or building occupied for  
13 the discharge of official duties by any officer or employee of  
14 the state or a political subdivision thereof, solicit orally or by  
15 written communication delivered therein, or in any other man-  
16 ner, any contribution or money or other thing of value for any  
17 party or political purpose whatever, from any postmaster or  
18 any other officer or employee of the federal government, or  
19 officer or employee of the state, or a political subdivision  
20 thereof. No officer, agent, clerk, or employee of the federal  
21 government, or of this state, or any political subdivision  
22 thereof, who may have charge or control of any building,  
23 office or room, occupied for any official purpose, shall know-  
24 ingly permit any person to enter the same for the purpose of  
25 therein soliciting or receiving any political assessments from,  
26 or delivering or giving written solicitations for, or any notice of,  
27 any political assessments to, any officer or employee of the  
28 state, or a political subdivision thereof;

29 (d) Except as provided in section eight of this article no  
30 person entering into any contract with the state or its sub-  
31 divisions, or any department or agency thereof, either for

32 rendition of personal services or furnishing any material, sup-  
33 plies or equipment or selling any land or building to the state,  
34 or its subdivisions, or any department or agency thereof, if  
35 payment for the performance of such contract or payment for  
36 such material, supplies, equipment, land or building is to be  
37 made in whole or in part from public funds shall, during the  
38 period of negotiation for or performance under such contract  
39 or furnishing of materials, supplies, equipment, land or build-  
40 ings, directly or indirectly make any contribution to any polit-  
41 ical party, committee or candidate for public office or to any  
42 person for political purposes or use; nor shall any person or  
43 firm solicit any contributions for any such purpose during any  
44 such period;

45 (e) No person shall, directly or indirectly, promise any em-  
46 ployment, position, work, compensation or other benefit pro-  
47 vided for, or made possible, in whole or in part by act of the  
48 Legislature, to any person as consideration, favor, or reward for  
49 any political activity for the support of or opposition to any  
50 candidate, or any political party in any election;

51 (f) No person shall, directly or indirectly, make any contri-  
52 bution in excess of the value of one thousand dollars in  
53 connection with any campaign for nomination or election to  
54 or on behalf of any statewide or national elective office, or in  
55 excess of the value of one thousand dollars, in connection  
56 with any other campaign for nomination or election to or on  
57 behalf of any other elective office in the state or any of its  
58 subdivisions, or in connection with or on behalf of any com-  
59 mittee or other organization or person engaged in furthering,  
60 advancing or advocating the nomination or election of any  
61 candidate for any such office; and

62 (g) No person shall solicit any contribution from any non-  
63 elective salaried employee of the state government or of any of  
64 its subdivisions or coerce or intimidate any such employee into  
65 making such contribution. No person shall coerce or intimi-  
66 date any nonsalaried employee of the state government or any  
67 of its subdivisions into engaging in any form of political ac-  
68 tivity. The provisions hereof shall not be construed to pre-  
69 vent any such employee from making such a contribution or

70 from engaging in political activity voluntarily, without coer-  
71 cion, intimidation or solicitation.

72 Any person violating any provision of this section shall be  
73 guilty of a misdemeanor, and, upon conviction thereof, shall be  
74 fined not more than one thousand dollars, or confined in jail  
75 for not more than one year, or, in the discretion of the court,  
76 be subject to both such fine and imprisonment.

#### 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  
3 for the vote of the offeree or payee, as the case may be, to  
4 be cast for or against any candidate or issue in any election  
5 held 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 person  
14 who violates the provisions of subsection (b) shall be guilty of  
15 a misdemeanor, and, upon conviction thereof, shall be fined  
16 not less than one hundred dollars nor more than one thousand  
17 dollars or imprisoned in the county jail not more than one  
18 year, or both.

##### §3-9-14. Unlawful acts by corporations; penalties.

1 Except as provided in section eight, article eight of this  
2 chapter, any corporation which shall, by its officers, agents or  
3 otherwise, offer, give or use, or caused to be offered, given  
4 or used, or place or cause to be placed, in the possession,  
5 under the control or at the disposal of another, to be offered,  
6 given or used, directly or indirectly, money or other thing  
7 of value, for the purpose of influencing any voter or voters  
8 to vote for a particular candidate, or in any particular manner,  
9 or upon any particular side of any question to be decided



10 at any such election, or to influence the result of any such  
11 election, it shall be guilty of a misdemeanor, and, upon con-  
12 viction thereof, shall be fined not less than five thousand nor  
13 more than twenty thousand dollars for every such offense, at  
14 the discretion of the jury.

**§3-9-24. Limitations on prosecutions.**

1 No person shall be prosecuted for any crime or offense  
2 under any provision of this chapter, unless upon an indictment  
3 found and presentment made within five years after the date  
4 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

*Lawrence C. Houston, Jr.*  
-----  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. C. Willson, Jr.*  
-----  
Clerk of the Senate

*C. A. Blankenship*  
-----  
Clerk of the House of Delegates

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

*Donald L. Kopp*  
-----  
Speaker House of Delegates

The within is approved this the 29  
day of March, 1978.

*John J. Rhyne*  
-----  
Governor

RECEIVED

MAR 22 9 56 AM '78  
OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date March 29, 1978  
Time 2:20 p.m.

RECEIVED

78 MAR 30 P 3: 09

OFFICE  
SECY. OF STATE