

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

No: 131

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Committee Substitute
for SENATE BILL NO. 131

(By Mr. Tenkovich)



PASSED April 9, 1981

In Effect ninety days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 131
(MR. TONKOVICH, *original sponsor*)

[Passed April 9, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-one, article one; section eleven, article four; and section twelve, article four-a, all of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to elections; and drawing by lot to determine the ballot position of candidates for the office of delegate to a political party national convention.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article one; section eleven, article four; and section twelve, article four-a, all of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-21. Printing of ballots; drawing by lot to determine position of candidates for the office of delegate to a political party national convention on 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
5 appropriate ballot, the name of every candidate, but in no
6 case shall the ballot contain any title, position, rank, degree,

7 or such, including but not limited to doctor, reverend, PhD.,
8 or the equivalent, whose name has been certified to or filed
9 with the clerk of the circuit court of the county in any manner
10 provided for in this chapter. In any case wherein the
11 constitution or statutes limit or prescribe the number of
12 candidates or elected officers to be selected by the voters in
13 any district or other governmental subdivision, the ballot
14 commissioners, in the preparation of such ballots, shall cause
15 to be printed thereon, in plainly worded language, the
16 number of candidates to be voted for in each district or other
17 governmental subdivision.

18 The clerk of the circuit court shall appoint a time at which
19 all candidates for the office of delegate to a political party
20 national convention are to appear in his office for the purpose
21 of drawing by lot to determine where their names will appear
22 on the ballots. The clerk shall give due notice of such time to
23 each such candidate by registered or certified mail, return
24 receipt requested. At the time appointed, all such candidates
25 for the office of delegate to a political party national
26 convention shall assemble in the office of such clerk and such
27 candidates shall then proceed to draw by lot to determine
28 where their names shall appear on the ballots. The number so
29 drawn by each such candidate shall determine where his or
30 her name shall appear on the ballots. In the event any
31 candidate or candidates fail to appear at the time appointed,
32 the clerk shall draw for such absent candidate or candidates
33 in the presence of those candidates assembled, if any, and the
34 number so drawn by the clerk shall determine where the
35 name of any absent candidate or candidates shall appear on
36 the ballots.

37 The printing of the ballots, and all other printing caused to
38 be done by the board of ballot commissioners, shall be
39 contracted for with the lowest responsible bidder. Ballots
40 other than those caused to be printed by the respective
41 boards of ballot commissioners, according to the provisions
42 of this chapter, shall not be cast, received or counted in any
43 election.

44 For each such election to be held in their county and at least
45 thirty days before the date of such election, the board of ballot
46 commissioners shall cause to be printed official ballots to not
47 more than one and one-fifth times the number of registered
48 voters in the county. Provisions of article five of this chapter

49 shall govern the printing of ballots for primary elections. The
 50 ballots so printed shall be wrapped and tied in packages, one
 51 for each precinct in their county, containing ballots to the
 52 number of one and one-twentieth times the number of
 53 registered voters in such precinct. Each package of ballots
 54 shall be sealed with wax, and plainly marked with the
 55 number of ballots therein, the name of the magisterial
 56 district, and the number of the voting place therein, to which
 57 it is intended to be sent. The names of the ballot
 58 commissioners shall also be endorsed thereon.

ARTICLE 4. VOTING MACHINES.

§3-4-11. Ballot label arrangement in machines; drawing by lot to determine position of candidates for House of Delegates and for the office of delegate to a political party national convention on machines; adjustment; records.

1 When the ballot labels are printed and delivered to the clerk
 2 of the county commission, he shall place them in the ballot
 3 frames of the voting machines in such manner as will most
 4 nearly conform to the arrangement prescribed for paper
 5 ballots, and as will clearly indicate the party designation or
 6 emblem of each candidate. Each column or row containing
 7 the names of the office and candidates for such office shall be
 8 so arranged as to clearly indicate the office for which the
 9 candidate is running. The names of the candidates for each
 10 office indicated shall be placed on the ballot.

11 The clerk of the circuit court shall appoint a time at which
 12 all candidates for the House of Delegates and the office of
 13 delegate to a political party national convention are to appear
 14 in his office for the purpose of drawing by lot to determine
 15 where their names will appear on the voting machines. The
 16 clerk shall give due notice of such time to each candidate by
 17 registered or certified mail, return receipt requested. At the
 18 time appointed, all such candidates for the House of
 19 Delegates and office of delegate to a political party national
 20 convention shall assemble in the office of such clerk and such
 21 candidates shall then proceed to draw by lot to determine
 22 where their names shall appear on the voting machines. The
 23 number so drawn by each such candidate shall determine
 24 where his or her name shall appear on the voting machines. In
 25 the event any candidate or candidates fail to appear at the

26 time appointed, the clerk shall draw for such absent
27 candidate or candidates in the presence of those candidates
28 assembled, if any, and the number so drawn by the clerk shall
29 determine where the name of any absent candidate or
30 candidates shall appear on the voting machines.

31 The clerk shall then see that the counters referred to in
32 subsection eleven of section eight of this article are set at zero
33 (000) and shall lock the operating device and mechanism and
34 devices protecting the counter and ballot labels. The clerk
35 shall then enter in an appropriate book, opposite the number
36 of each precinct, the identifying or distinguishing number of
37 the specific voting machine or machines to be used in that
38 precinct.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

**§3-4A-12. Ballot label arrangement in vote recording devices;
drawing by lot to determine position of candidates
for House of Delegates and for the office of delegate
to a political party national convention on ballots
or ballot labels; sealing of devices; record of
identifying numbers.**

1 When the ballot labels are printed and delivered to the clerk
2 of the county commission, he shall place them in the vote
3 recording devices in such manner as will most nearly
4 conform to the arrangement prescribed for paper ballots, and
5 as will clearly indicate the party designation or emblem of
6 each candidate. Each column row or page containing the
7 names of the office and candidates for such office shall be so
8 arranged as to clearly indicate the office for which the
9 candidate is running. The names of the candidates for each
10 office indicated shall be placed on the ballot.

11 The clerk of the circuit court shall appoint a time at which
12 all candidates for the House of Delegates and the office of
13 delegate to a political party national convention are to appear
14 in his office for the purpose of drawing by lot to determine
15 where their names will appear on the ballots or ballot labels.
16 The clerk shall give due notice of such time to each such
17 candidate by registered or certified mail, return receipt
18 requested. At the time appointed, all such candidates for the
19 House of Delegates and the office of delegate to a political
20 party national convention shall assemble in the office of such
21 clerk and such candidates shall then proceed to draw by lot to

22 determine where their names shall appear on the ballots or
23 ballot labels. The number so drawn by each such candidate
24 shall determine where his or her name shall appear on the
25 ballots or ballot labels. In the event any candidate or
26 candidates fail to appear at the time appointed, the clerk shall
27 draw for such absent candidate or candidates in the presence
28 of those candidates assembled, if any, and the number so
29 drawn by the clerk shall determine where the name of any
30 absent candidate or candidates shall appear on the ballots or
31 ballot labels. The clerk shall then seal the vote recording
32 devices so as to prevent tampering with ballot labels. The
33 clerk shall then enter in an appropriate book, opposite the
34 number of each precinct, the identifying or distinguishing
35 number of the specific vote recording device or devices to be
36 used in that precinct.

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

R. P. Bayler
Chairman Senate Committee

Henry E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Alvin R. Rouse
President of the Senate

Charles H. Sees, Jr.
Speaker House of Delegates

The within *is approved* this the *22*
day of *April* 1981.

John B. Rhyne
Governor

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