

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. Baylor*  
Chairman Senate Committee

*Tommy E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Jedd C. Willis*  
Clerk of the Senate

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

*Clayton K. Rouse*  
President of the Senate

*Clayton M. Beebe, Jr.*  
Speaker House of Delegates

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

*John D. Roper*  
Governor

RECEIVED  
APR 20 10 15 AM '81  
OFFICE OF THE GOVERNOR

RECEIVED  
81 APR 29 4:35  
OFFICE OF STATE  
SECY. OF STATE