

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time \_\_\_\_\_

Mr. 346

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1981



**ENROLLED**

SENATE BILL NO. 346

(By Mr. Palumbo)



PASSED April 9, 1981

In Effect ninety days from Passage



**ENROLLED**  
**Senate Bill No. 346**

(By MR. PALUMBO)

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

AN ACT to amend and reenact section nineteen, article four-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to conducting electronic voting system elections generally; duties of election officers; deposit of ballot in ballot box.

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

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

**ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

**§3-4A-19. Conducting electronic voting system elections generally; duties of election officers.**

1 (1) The election officers shall constantly and diligently  
2 maintain a watch in order to see that no person votes more  
3 than once and to prevent any voter from occupying the voting  
4 booth for more than three minutes.

5 (2) In primary elections, before a voter is permitted to  
6 occupy the voting booth, the election officer representing the  
7 party to which the voter belongs shall direct the voter to the  
8 vote recording device which will allow the voter to vote only  
9 for the candidates who are seeking nomination on the ticket  
10 of the party with which the voter is affiliated.

11 (3) The election officers shall issue to each voter when he  
12 signs the poll book a card or ticket numbered to correspond  
13 to the number on the poll book of such voter, and in the case  
14 of a primary election, indicating the party affiliation of such  
15 voter, which numbered card or ticket shall be presented to  
16 the election officer in charge of the vote recording device.

17 (4) One hour before the opening of the polls the precinct  
18 election officers shall arrive at the polling place and set up the  
19 voting booths so that they will be in clear view of the election  
20 officers, open the vote recording devices, place them in the  
21 voting booths, and examine them to see that they have the  
22 correct ballots or ballot labels by comparing them with the  
23 sample ballots, and are in proper working order. They shall  
24 open and check the ballots, ballot cards, supplies, records and  
25 forms, and post the sample ballots or ballot labels and  
26 instructions to voters.

27 (5) Each voter shall be instructed how to operate the vote  
28 recording device before he enters the voting booth.

29 (6) Any voter who shall spoil, deface or mutilate the ballot  
30 or ballot card delivered to him, on returning the same to the  
31 poll clerks, shall receive another in place thereof. Every  
32 person who does not vote any ballot or ballot card delivered  
33 to him shall, before leaving the election room return such  
34 ballot or ballot card to the poll clerks. When a spoiled or  
35 defaced ballot or ballot card is returned, the poll clerks shall  
36 make a minute of the fact on the poll books, at the time, and  
37 the word "spoiled" shall be written across the face of the  
38 ballot or ballot card and it shall be placed in an envelope for  
39 spoiled ballots or ballot cards.

40 Immediately on closing the polls, the election  
41 commissioners shall ascertain the number of spoiled ballots  
42 or ballot cards during the election and the number of ballots  
43 or ballot cards remaining not voted. The election  
44 commissioners shall also ascertain from the poll books the  
45 number of persons who voted and shall report, over their  
46 signatures, to the clerk of the county commission, the  
47 number of ballots or ballot cards cast, the number of ballots  
48 or ballot cards spoiled during the election and the number of  
49 ballots or ballot cards unused. All unused ballots or ballot  
50 cards shall at the same time be returned to the clerk of the  
51 county commission, who shall immediately destroy them by  
52 fire or otherwise.

53 Each commissioner who is a member of an election board  
54 which fails to account for every ballot or ballot card delivered  
55 to it shall be guilty of a misdemeanor, and, upon conviction  
56 thereof, shall be fined not more than one thousand dollars or  
57 confined in the county jail for not more than one year, or both.

58 The board of ballot commissioners of each county, or the  
59 chairman thereof, shall preserve the ballots or ballot cards  
60 that are left over in their hands, after supplying the precincts  
61 as provided, until the close of the polls on the day of election,  
62 and such ballots or ballot cards, shall then be destroyed by  
63 such board, or the chairman thereof, by fire or otherwise.

64 (7) Where ballot cards are used, the voter, after he has  
65 marked his ballot card, shall, before leaving the voting booth,  
66 place the ballot card inside the envelope provided for this  
67 purpose, with the stub extending outside said envelope, and  
68 return it to an election officer who shall remove the stub and  
69 deposit the envelope with the ballot card inside in the ballot  
70 box, or if manila sleeve envelopes are used, the ballot shall be  
71 deposited in the ballot box in such a way that the sleeve  
72 envelope remains outside the ballot box while the ballot  
73 slides into the ballot box. No ballot from which the stub has  
74 been detached shall be accepted by the officer in charge of  
75 the ballot box, but it shall be marked "spoiled" and placed  
76 with the spoiled ballots.

77 (8) The precinct election officers shall prepare a report in  
78 quadruplicate of the number of voters who have voted, as  
79 indicated by the poll books, and shall place two copies of this  
80 report in the ballot box, which thereupon shall be sealed with  
81 a paper seal signed by the election officers so that no  
82 additional ballots may be deposited or removed from the  
83 ballot box. Two election officers of different political parties  
84 shall forthwith deliver the ballot box to the counting center or  
85 other designated place and receive a signed numbered receipt  
86 therefor, and the time of their departure from the polling  
87 place shall be noted on the two remaining copies of the  
88 report, which shall be immediately mailed to the clerk of the  
89 county commission.

90 (9) The poll books, register of voters, unused ballots or  
91 ballot cards, spoiled ballots or ballot cards and other records  
92 and supplies shall be delivered to the clerk of the county  
93 commission.

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

*R. R. Bayne*  
Chairman Senate Committee

*Jonny E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Todd C. Wilks*  
Clerk of the Senate

*Ch Blankenship*  
Clerk of the House of Delegates

*Wm. R. Royster*  
President of the Senate

*Walter G. Lee, Jr.*  
Speaker House of Delegates

The within *passed* this the *28*  
day of *April*, 1981.

*James R. Royster*  
Governor



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