

No: 1122

**WEST VIRGINIA LEGISLATURE**

REGULAR SESSION, 1984



**ENROLLED**

HOUSE BILL No. 1122

(By ~~Mr.~~ Del. Casey + Del. Hatcher )



Passed ..... January 27, ..... 1984

In Effect ..... From ..... Passage



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**H. B. 1122**

(By DELEGATE CASEY and DELEGATE HATCHER)

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[Passed January 27, 1984; in effect from passage.]

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AN ACT to amend and reenact section two, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the election of delegates to national conventions of political parties in accordance with a plan adopted by the party and filed with the secretary of state; certain provisions required in plan if permissible under rules of the national party; ballot notation; and providing for the election of delegates to the national convention of a political party when the party has not filed a plan for the election of such delegates with the secretary of state.

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

That section two, article five, 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 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

**§3-5-2. Delegates to national conventions; alternate delegates.**

1 (a) At the primary election to be held in the year one  
2 thousand nine hundred eighty-four, and in every fourth year  
3 thereafter, there shall be elected by the voters of each  
4 political party of the state, in accordance with a plan  
5 adopted by the state party, persons to be delegates to the  
6 national convention of the party to be held next after the  
7 date of such primary.

8 (b) The plan adopted by each political party of the state  
9 shall state the method, subject to compliance with their  
10 national party rules and not inconsistent with the provisions  
11 of this section, for the election of persons in each con-  
12 gressional district of the state as delegates to the national  
13 convention of the party, for the election or selection of  
14 persons in each congressional district of the state as alternate  
15 delegates to the national convention of the party and for  
16 the selection of all remaining delegates and alternate delegates  
17 allocated to the party in their national convention. Not less  
18 than ninety days before the primary election to be held in  
19 the year one thousand nine hundred eighty-four, and in every  
20 fourth year thereafter, the governing body of each political  
21 party of the state shall certify the plan adopted by the party  
22 under signature of the state party chairman and file the plan  
23 with the secretary of state. Any questions regarding whether  
24 such plan was rightfully adopted by the party shall be resolved  
25 by the party based upon party rules.

26 (c) The plan adopted by each political party of the state  
27 shall, to the extent permissible under their national party  
28 rules, provide for the following:

29 (1) The voters of each political party shall elect in each  
30 congressional district in the state at the primary election  
31 next preceding the date on which the national convention of the  
32 party is to be held, the number of persons as delegates to the  
33 national convention of the party to which the district is en-  
34 titled as delegates to the national convention. The persons  
35 receiving the highest number of votes as delegates in any con-  
36 gressional district, to the number to which the district is en-  
37 titled, shall be elected delegates.

38 (2) After the election of delegates in each congressional  
39 district to the number to which the district is entitled, the per-  
40 sons receiving the next highest votes in each congressional  
41 district and having qualified, as may be provided in the  
42 plan adopted by the party, shall be elected as alternate dele-  
43 gates to the number of alternate delegates to which the dis-  
44 trict is entitled.

45 (3) In the event the number of persons elected in the

46 primary election in a congressional district is less than the  
47 number to which the district is entitled as delegates and  
48 alternate delegates to the national convention of the political  
49 party, the governing body of the political party of the state  
50 shall appoint persons from the congressional district to serve  
51 as delegates or alternate delegates to the national convention  
52 of the party unless the rules of the party otherwise provide.

53 (4) The number of persons which each of the con-  
54 gressional districts in the state are entitled to elect as dele-  
55 gates to the national convention of the political party shall  
56 be apportioned among the congressional districts in the same  
57 proportion to the total number of delegates to the party's  
58 national convention elected in all congressional districts in  
59 the state as the population of the congressional district bears  
60 to the total population of the state based upon the census of  
61 population taken by the bureau of the census of the United  
62 States department of commerce in the year one thousand  
63 nine hundred eighty and in every tenth year thereafter.

64 (d) The official primary ballot at the primary election to be  
65 held in the year one thousand nine hundred eighty-four and in  
66 every fourth year thereafter, shall, following the names of all  
67 candidates for delegates to the national convention of the  
68 party, contain the words "For election in accordance with the  
69 plan adopted by the party and filed with the secretary of  
70 state."

71 (e) Unless and until a political party of the state has  
72 adopted and certified a plan for the election of delegates  
73 to the national convention of the party and filed the plan  
74 with the secretary of state, there shall be elected by the voters  
75 of the political party of the state at the primary election to  
76 be held in the year one thousand nine hundred eighty-four,  
77 and in each fourth year thereafter, the number of persons  
78 to which the party is entitled as delegates-at-large, and by  
79 the voters of each political party in each congressional district  
80 in the state the number of delegates to which the district is  
81 entitled, in the national convention of the party to be next held  
82 after the date of such primary. The persons receiving the  
83 highest number of votes in the state as delegates-at-large, to the

84 number to which the state is entitled, shall be elected dele-  
85 gates. The persons receiving the highest number of votes as  
86 delegates in any congressional district, to the number to  
87 which the district is entitled, shall be elected delegates. Each  
88 delegate so elected shall then appoint an individual to serve  
89 as alternate delegate, and shall by registered letter notify the  
90 secretary of state of such appointment within forty days after  
91 the primary election.

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

*James L. Davis*  
Chairman Senate Committee

*Robert L. Childers*  
Vice Chairman House Committee

Originating in the House.

Takes effect from passage.

*David C. Willis*  
Clerk of the Senate

*Donald L. Hoyle*  
Clerk of the House of Delegates

*Warren R. McAnaw*  
President of the Senate

*William Lee*  
Speaker House of Delegates

The within *is approved* this the *2*  
day of *February*, 1984.

*John D. Poyner*  
Governor

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~~11 15 AM '84~~  
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OFFICE  
SECY. OF STATE