WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

Com. Sub. for
HOUSE BILL No. 1381

(By Mr. Dale Brunke)

Passed ________________ 1985

In Effect ________________

90 Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1381
(By Delegate Burke)

[Passed April 13, 1985; in effect ninety days from passage.]

AN ACT to amend and reenact sections twenty-four, twenty-five and twenty-seven, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twelve, article four of said chapter three; to further amend said article four by adding thereto a new section, designated section twelve-a; to amend and reenact section thirteen, article four-a of said chapter three; and to further amend said article four-a by adding thereto a new section, designated section thirteen-a, relating generally to the delivery and receipt of election supplies; time limit for delivery of election supplies to election commissioners in counties using paper ballots, voting machines and electronic voting and to the appropriate officers in municipal elections; providing for the delivery of election supplies by special messenger in counties using paper ballots, voting machines and electronic voting; and providing for inspection, maintenance, removal and certification of ballot cards used in electronic voting.

Be it enacted by the Legislature of West Virginia:

That sections twenty-four, twenty-five and twenty-seven, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twelve, article four of said chapter three be amended and
reenacted; that said article four be further amended by adding thereto a new section, designated section twelve-a; that section thirteen, article four-a of said chapter three be amended and reenacted; and that said article four-a be further amended by adding thereto a new section, designated section thirteen-a, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-24. Obtaining and delivering election supplies.

It shall be the duty of the board of ballot commissioners to appoint one or more of the commissioners of election at each precinct of the county to attend at the offices of the clerks of the circuit court and county commission, as the case may be, at least one day before each election to receive the ballots, ballot boxes, poll books, registration records and forms and all other supplies and materials for conducting the election at the respective precincts. The clerks shall take a receipt for the respective materials delivered to the above commissioner or commissioners of election, and shall file such receipt in their respective offices. It shall be the duty of such commissioners to receive such supplies and materials from the respective clerks and to deliver the same with the seal of all sealed packages unbroken, at the election precinct in time to open the election.

Such commissioner or commissioners, if they perform such services, shall receive the per diem and mileage rate prescribed by law for this service.

Ballots shall be delivered in sealed packages with seals unbroken. For general and special elections the ballots so delivered shall not be in excess of one and one-twentieth times the number of registered voters in the precinct. For primary elections the ballots for each party shall be in a separately sealed package containing not more than one and one-twentieth times the number of registered voters of such party in the election precinct.

For primary elections one copy of the poll books, including the forms for oaths of commissioners of election and poll clerks written or printed thereon, shall be supplied at each voting precinct for each political party appearing on the primary ballot.
There shall be two ballot boxes for each election precinct for which a receiving and a counting board of election commissioners have been appointed.

§3-1-25. Supplies by special messenger.

In case any commissioner of election so appointed shall fail to appear at the offices of the clerks of such county commissions and circuit courts, by the close of the clerk's office on the day prior to any election, the board of ballot commissioners, the chairman thereof, or the circuit clerk shall forthwith dispatch a special messenger to the commissioners of election of each respective precinct with the ballots, registration records, ballot boxes, poll books and other supplies for such precinct. Such messenger, if not a county employee, shall be allowed five dollars for this service and, even if he be a county employee, twenty cents a mile for the distance necessary to be traveled by him, and shall promptly report to the clerks of the circuit court and county commission, respectively, and file with such clerks the receipts of the person to whom he delivered such ballots and other supplies, and his affidavit, stating when and to whom he delivered them.

§3-1-27. Municipal precinct registration records.

At least one day prior to every municipal election, it shall be the duty of the appropriate officer designated by the municipality to procure from the municipal precinct file in the office of the clerk of the county commission the registration records necessary for the conduct of such election.

Such records shall, within ten days after the date of the municipal election, be returned to the office of the clerk of the county commission by the appropriate officer or officers designated by the municipality.

In case of a contested municipal election, the registration record of any challenged voter shall be made available by the clerk of the county commission to the officer or tribunal empowered to determine the contest. Such record shall be returned to the office of the clerk of the county commission within a reasonable time after the contest shall have been finally decided.

The clerk of the county commission shall acknowledge the release and return of the registration records under this section.
by the issuance of appropriate receipts.

In the event any municipal registration record is lost, destroyed, defaced or worn in any way as to warrant replacement, it shall be the duty of the clerk of the county commission to prepare a duplicate of such record and it shall be the duty of the municipality to pay for such replacement.

ARTICLE 4. VOTING MACHINES.

§3-4-12. Inspection of machines; duties of county commission, ballot commissioners and election commissioners; keys and records relating to machines.

When the clerk of the county commission has completed the preparation of the voting machines, as provided in the next preceding section, and not later than seven days before the day of the election, he shall notify the members of the county commission and the ballot commissioners that the machines are ready for use. Thereupon the members of the county commission and the ballot commissioners shall convene at the office of the clerk, or at such other place wherein the voting machines are stored, not later than five days before the day of the election, and shall examine the machines to determine whether the requirements of this article have been met. Any candidate, and one representative of each political party having candidates to be voted on at the election, may be present during such examination. If the machines are found to be in proper order, the members of the county commission and the ballot commissioners shall endorse their approval in the book in which the clerk entered the numbers of the machines opposite the numbers of the precincts. The clerk shall then deliver the keys to the voting machines to the ballot commissioners who shall give a receipt for the keys, which receipt shall contain identification of such keys. Not later than one day before the election the election commissioner of each precinct who shall have been previously designated by the ballot commissioners, shall attend at the office of the clerks of the circuit court and county commission of such county to receive the key or keys to the device covering the registering counters and such other keys as may be necessary for the operation of the machine in registering votes, and to receive the other necessary election records, books and supplies required by law. Such election commissioners shall receive the
per diem mileage rate prescribed by law for this service. Such
election commissioners shall give the ballot commissioners a
receipt for such keys, records, books and supplies, and such
receipt shall contain identification of such keys. The master
key and all other keys shall remain in the possession of the
clerk of the county commission.

§3-4-12a. Supplies by special messenger.

In case any commissioner of election shall fail to appear at
the offices of the clerks of the county commission and circuit
court by the close of the clerks' offices on the day prior to
any election, the board of ballot commissioners, the chairman
thereof or the circuit clerk shall cause all necessary election
records, books and supplies to be delivered by special
messenger in the same manner and under the same terms and
conditions as is provided for the dispatch of the special
messenger under the provisions of section twenty-five, article
one of this chapter.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-13. Inspection of vote recording devices and ballot cards;
duties of county commission, ballot commissioners
and election commissioners; records relating to vote
recording devices and ballot cards; receipt of election
materials by ballot commissioners.

When the clerk of the county commission has completed the
preparation of the vote recording devices as provided in
section twelve of this article and the ballot cards as provided
in section twenty-one, article one of this chapter, and not later
than seven days before the day of the election, he shall notify
the members of the county commission and the ballot
commissioners that the devices are ready for use. Thereupon
the members of the county commission and the ballot
commissioners shall convene at the office of the clerk or at
such other place wherein the vote recording devices and ballot
cards are stored, not later than five days before the day of
the election, and shall inspect the devices and the ballot cards
to determine whether the requirements of this article have been
met. Notice of the place and time of such inspection shall be
published, no less than three days prior thereto, as a Class I-
O legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the county involved. Any candidate, and one representative of each political party on the ballot may be present during such examination. If the devices and ballot cards are found to be in proper order, the members of the county commission and the ballot commissioners shall endorse their approval in the book in which the clerk entered the numbers of the devices opposite the numbers of the precincts. The devices and the ballot cards shall then be secured in double lock rooms. The county clerk and the president or president pro tempore of the county commission shall each have a key. The rooms shall be unlocked only in their presence and only for the removal of the devices and the ballot cards for transportation to the polls. Upon such removal of the devices and ballot cards, the county clerk and president or president pro tempore of the county commission shall certify in writing signed by them that the devices and packages of ballot cards were found to be sealed when removed for transportation to the polls.

Not later than one day before the election the election commissioner of each precinct who shall have been previously designated by the ballot commissioners, shall attend at the office of the clerks of the circuit court and county commission of such county to receive the necessary election records, books and supplies required by law. Such election commissioners shall receive the per diem mileage rate prescribed by law for this service. Such election commissioners shall give the ballot commissioners a sequentially numbered written receipt, on a printed form, provided by the clerk of the county commission, for such records, books and supplies. Such receipt shall be prepared in duplicate. One copy of the receipt shall remain with the clerk of the county commission and one copy shall be delivered to the president or president pro tempore of the county commission.

§3-4A-13a. Supplies by special messenger.

In case any commissioner of election shall fail to appear at the offices of the clerks of the county commission and circuit court by the close of the clerks' offices on the day prior to any election, the board of ballot commissioners, the chairman thereof or the circuit clerk shall cause all necessary election records, books and supplies to be delivered by special messenger in the same manner and under the same terms and
conditions as is provided for the dispatch of the special
messenger under the provisions of section twenty-five, article
one of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill approved this the day of __________, 1985.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/9/85
Time 8:30pm