WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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ENROLLED

Comm. sub. for
HOUSE BILL No. 1198

(By Del. Hamilton & Del. Mastantonio)

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Passed March 8, 1986

In Effect July 1, 1986
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1198

(By Delegate Hamilton and Delegate Mastrantoni)

[Passed March 8, 1986; in effect July 1, 1986.]

AN ACT to amend and reenact section five, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend sections eleven and twenty-two, article two of said chapter; and to amend and reenact section eleven, article three of said chapter, all relating to requiring municipalities to provide maps of their boundaries to clerks of county commissions; requiring appointments as registrars to be persons from both major political parties; requiring clerks of county commissions to give registrars written instructions for performing their duties; requiring registrars when making house-to-house canvasses and clerks of county commissions or their deputies when registering voters, (1) to require registrants to prove their identities and ages, (2) attempt to establish whether the registrants reside within a municipality, and (3) have registrants residing within municipalities complete a municipal registration form if that municipality has a separate registration file for it; requiring clerks to have registrants signing municipal registration forms to do so under oath or affirmation; requiring temporary registration offices to be open for three days between thirty and sixty days prior to elections; and requiring the clerks to cancel registration of voters for
whom an obituary is published in a newspaper or for
whom a death certificate is received from a state or local
registrant of vital statistics; preparation, number and
handling of absent voters' ballots; time in which to
estimate and determine the number of absent voters'
ballots required.

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

That section five, article one, chapter three of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted; that sections eleven and
twenty-two, article two, of said chapter be amended and
reenacted; and that section three, article three of said chapter
be amended and reenacted to read as follows:

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-5. Voting precincts and places established; number of voters in precincts; precinct map; municipal map.**

The precinct shall be the basic territorial election
unit. The county commission shall divide each magiste-
rial district of the county into election precincts, shall
number the precincts, shall determine and establish the
boundaries thereof, and shall designate one voting place
in each precinct, which place shall be established as
nearly as possible at the point most convenient for the
voters of the precinct. Each magisterial district shall
contain at least one voting precinct and each precinct
shall have but one voting place therein.

Each precinct within any urban center shall contain
not less than three hundred nor more than eight
hundred registered voters. Each precinct in a rural or
less thickly settled area shall contain not less than two
hundred nor more than seven hundred registered voters,
unless upon a written finding by the county commission
that establishment of or retention of a precinct of less
than two hundred voters would prevent undue hardship
to the voters, the secretary of state determines that such
precinct be exempt from the two hundred voter min-
imum limit. If, at any time the number of registered
voters exceeds the maximum number specified, the county commission shall rearrange the precincts within the political division so that the new precincts each contain a number of registered voters within the designated limits. If a county commission fails to rearrange the precincts as required, any qualified voter of the county may apply for a writ of mandamus to compel the performance of this duty.

In order to facilitate the conduct of local and special elections and the use of election registration records therein, precinct boundaries shall be established to coincide with the boundaries of any municipality of the county and with the wards or other geographical districts of the municipality except in instances where found by the county commission to be wholly impracticable so to do. Governing bodies of all municipalities shall provide accurate and current maps of their boundaries to the clerk of any county commission of a county in which any portion of the municipality is located.

The provisions of this section are subject to the provisions of section twenty-eight, article four of this chapter relating to the number of voters in precincts in which voting machines are used.

The county commission shall keep available at all times during business hours in the courthouse at a place convenient for public inspection a map or maps of the county and municipalities with the current boundaries of all precincts.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Appointment of registrars; qualifications and duties.

The county commission of each county may, not less than eighteen nor more than twenty weeks prior to the date of a statewide primary election, appoint registrars to make a biennial checkup allowed by this article. Two persons of opposite political parties shall together serve as registrars for from one to ten precincts.

No person is eligible to be appointed a registrar, or
in any way act as such, if he or she has been convicted
of a felony; or if he or she holds, or is a candidate for,
any elective or appointive office; or is a public employee,
under the laws of this state or of the United States; or
cannot read or write the English language. If any
registrar fails or refuses to serve or is properly
dismissed, the vacancy shall be filled either by the
county commission or by the clerk thereof in vacation,
in the manner provided for the appointment of regis-
trars. Each registrar, before entering upon the dis-
charge of his or her duties, shall take an oath that he
or she will perform the duties of the office to the best
of his or her ability, which oath shall be filed in the
office of the clerk of the county commission.

An equal number of such registrars shall be selected
from the two major political parties. The county
commission shall, at least four weeks prior to making
such appointment, request the county executive commit-
tee of each of the two political parties to submit a list
of names, equal to one half of the total number to be
appointed, of persons qualified to act as registrars; and
the county commission shall, if such lists are submitted,
appoint the qualified persons recommended and shall
notify each registrar of his or her appointment. Every
list so presented shall be filed and preserved for one
year by the clerk of the county commission. Any and
every act performed by any registrar under the
provisions of this article is void unless performed in
conjunction with a registrar of the opposite political
party at the same time and place.

Before acting, all such registrars shall attend a
session, or sessions, of instruction by the clerk of the
county commission, or some person designated by him
or her, concerning the performance of their duties.

Immediately following such instruction the clerk of
the county commission shall give to the registrars a copy
of the laws and regulations relating to registration of
voters, written instructions for performing their duties,
and all necessary forms and other supplies, including
maps with municipal precincts superimposed over
county precincts in cases where boundaries differ, and
a certified list of all registered voters within the
precinct or precincts for which such registrars were
appointed, upon such form as may be prescribed by the
secretary of state. Such registrars shall proceed together
to make a house-to-house canvass in their precincts for
the purpose of making the biennial checkup allowed by
section twenty-one of this article. Each biennial checkup
shall be completed at least sixty days before the
statewide primary election following the appointment of
the registrars. In making the checkup the registrars
shall not reregister any person who is already registered
in such precinct, but shall determine whether or not
such person is duly registered and qualified to vote
therein.

The registrars shall require valid identification and
proof of age of each registrant, and shall inquire and
attempt to establish whether the registrant resides
within a municipality. The registrars shall have the
registrant complete the voter registration form for
county-state permanent registration and if the person
resides within the limits of a municipality for which a
separate registration file is kept, the registrars shall
also have the registrant complete the form for municipal
registration.

§3-2-22. Registration in clerk's office; cancellation of
registrations of deceased persons; temporary
registration offices.

The clerk or any deputy clerk of the county commis-
sion may register any qualified person as a voter. The
clerk or deputy shall first require valid indentification
and proof of age, and inquire and attempt to establish
whether the voter resides within the limits of a
municipality using the map provided by the municipal-
ity in accordance with section five, article one of this
chapter. The clerk or deputy clerk shall have the person
registering fill in and complete the prescribed voter
registration form for county-state permanent registra-
tion. If the person resides within the limits of a
municipality for which a separate registration file is
kept, the clerk or deputy shall also have the person
complete the form for municipal registration. The
registrant shall sign the form or forms under oath or affirmation. The clerk, upon proper proof, may alter, amend, correct or cancel the registration record of any voter. Such registration or alteration, amendment, correction or cancellation of registration records shall be carried on throughout the year.

During the biennial checkup period of every even-numbered year, the clerk or deputy clerk shall visit every public or private institution, excluding hospitals, in which reside aged, infirm, disabled or chronically ill persons and every high school to register qualified voters. The clerk shall establish at least one temporary registration office per magisterial or tax district, whichever is more numerous, to register qualified persons or to alter, amend, correct or cancel such registration records. Temporary registration offices shall be open at least three days, including one Saturday and one evening, not more than sixty days nor less than thirty days prior to each primary and each general election. The hours shall be posted and advertised as a Class III-O legal advertisement with the publication area being the magisterial district. The clerk of the county commission shall also solicit public service advertising of such registration offices and times on radio, television and newspapers serving that county.

Within fifteen days following receipt of a death certificate from the state or local registrar of vital statistics or the publication in a newspaper of the county an obituary clearly identifying a deceased person by name, residence and age, the clerk of the county commission shall cancel the voter registration, if any, of the person shown to be deceased by such certificate or obituary.

Sixty days prior to a general election, the clerk of the county commission shall review each death certificate received by him and shall cancel the voter registration, if any, of each deceased person whose voter registration has not previously been canceled. By the forty-fifth day prior to a general election each clerk of a county commission shall certify to the secretary of state that he has performed the duty required by this paragraph.
If found necessary, the county commission may order and direct the clerk of the county commission to maintain additional office hours in the evening or at other proper times and places for accommodation of voter registration.

§3-3-11. Preparation, number and handling of absent voters' ballots.

Absent voters' ballots shall be in all respects like other ballots. Not less than seventy days prior to the date on which any primary, general or special election is to be held, unless a lesser number of days is provided for in any specific election law in which case such lesser number of days shall apply, the clerks of the circuit courts of the several counties shall estimate and determine the number of absent voters' ballots of all kinds which will be required in their respective counties for any such election. The ballots for the election of all officers, or the ratification, acceptance or rejection of any measure, proposition or other public question to be voted on by the voters, shall be prepared and printed under the direction of the board of ballot commissioners constituted as provided in article one of this chapter.

The several county boards of ballot commissioners shall prepare and have printed, in such number as they shall determine, such absent voters' ballots as are to be printed under their directions as hereinbefore provided, and such ballots shall be delivered to the clerk of the circuit court of the county not less than forty-two days prior to the day of the election at which they are to be used. Before any ballot is mailed or delivered, the clerk of the circuit court shall affix his official seal and he and the other members of the board of ballot commissioners shall place their signatures near the lower left-hand corner on the back thereof. An absent voter's ballot not containing such seal and signatures shall be invalid and shall be subject to challenge by any election commissioner or poll clerk.

The clerk of the circuit court shall be primarily responsible for the preparation, mailing, receiving, delivering and otherwise handling of all absent voters' ballots. He shall keep such record, as may be prescribed
by the secretary of state, of all ballots so delivered for the purpose of absentee voting, as well as all ballots, if any, marked before him, and shall deliver to the commissioner of election to whom the ballots for the precinct are delivered and at the time of the delivery of such ballots a certificate stating the number of ballots delivered or mailed to absent voters, and those marked before him, if any, and the names of the voters to whom such ballots have been delivered or mailed, or by whom they have been marked, if marked before him.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Beverly O. Williams  
Chairman Senate Committee

Floyd Fields  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1986.

Todd J. Yull  
Clerk of the Senate

Donald L. Kapp  
Clerk of the House of Delegates

Dan Tankersley  
President of the Senate

Joseph P. AlUGH  
Speaker of the House of Delegates

The within .................. Approved .................. this the 25th day of March, 1986.

Aubie D. Hewitt  
Governor
PRESENTED TO THE
GOVERNOR
Date 3/21/86
Time 4:41 p.m.