WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

ENROLLED
SENATE BILL NO. 274

(By Senator Tucker)

PASSED March 8, 1986
In Effect 90 days from Passage
AN ACT to amend and reenact section twenty-three, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishing the first day of August before a general election as the deadline for presidential and vice presidential candidates to file nomination certificates; requiring that those soliciting or providing signatures for these certificates must reside within the political division represented by the office sought and must give oral notice that signing the certificate forfeits the right to vote in the corresponding primary election; removing the requirement that candidates must designate their party and its emblem; and requiring the secretary of state to prescribe the certificates.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, 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.

§3-5-23. Certificate nominations; requirements and control; penalties.

1 (a) Groups of citizens having no party organization may
nominate candidates for public office otherwise than by
conventions or primary elections. In such case, the
candidate or candidates, jointly or severally, shall file a
declaration with the secretary of state if the office is to be
filled by the voters of more than one county, or with the
clerk of the circuit court of the county if the office is to be
filled by the voters of one county or political subdivision
thereof; such declaration to be filed at least thirty days
prior to the time of filing the certificate provided by section
twenty-four of this article: Provided, That the deadline for
filing the certificate for persons seeking ballot access as a
candidate for the office of president or vice president shall
be filed not later than the first day of August preceding the
general election. At the time of filing of such declaration
each candidate shall pay the filing fee required by law, and
if such declaration is not so filed or the filing fee so paid, the
certificate shall not be received by the secretary of state, or
clerk of the circuit court, as the case may be.

(b) The person or persons soliciting or canvassing
signatures of duly qualified voters on such certificate or
certificates, may solicit or canvass duly registered voters
residing within the county, district, or other political
division represented by the office sought, but must first
obtain from the clerk of the county commission credentials
which must be exhibited to each voter canvassed or
solicited, which credentials may be in the following form or
effect:

State of West Virginia, County of ................., ss:
This certifies that ......................, a duly registered
voter of this State; whose post-office address is ........,
is hereby authorized to solicit and canvass duly registered
voters residing in ........ (here place the county, district
or other political division represented by the office sought)
to sign a certificate purporting to nominate ........
(here place name of candidate heading list on certificate) for
the office of ........ and others, at the general election
to be held on .................................., 19 ....
Given under my hand and the seal of my office this
........ day of ................................., 19 ....

Clerk, County Commission of .............. County.

The clerk of each county commission, upon proper
application made as herein provided, shall issue such
credentials and shall keep a record thereof.

(c) The certificate shall be personally signed by duly
registered voters, in their own proper handwriting or by
their marks duly witnessed, who must be residents within
the county, district or other political division represented
by the office sought wherein such canvass or solicitation is
made by the person or persons duly authorized. Such
signatures need not all be on one certificate. The number of
such signatures shall be equal to not less than one percent of
the entire vote cast at the last preceding general election for
the office in the state, district, county or other political
division for which the nomination is to be made, but in no
event shall the number be less than twenty-five. Where two
or more nominations may be made for the same office, the
total of the votes cast at the last preceding general election
for the candidates receiving the highest number of votes on
each ticket for such office shall constitute the entire vote.
No signature on such certificate shall be counted unless it
be that of a duly registered voter of the county, district or
other political division represented by the office sought
wherein such certificate was presented. It shall be the duty
of those soliciting signatures to read to each voter whose
signature is solicited the statement written on the
certificate which gives notice that no person signing such
certificate shall vote at any primary election to be held to
nominate candidates for office to be voted for at the election
to be held next after the date of signing such certificate.

(d) Such certificates shall state the name and residence
of each of such candidates; that he is legally qualified to
hold such office; that the subscribers are legally qualified
and duly registered as voters and desire to vote for such
candidates; and may designate, by not more than five
words, a brief name of the party which such candidates
represent and may adopt a device or emblem to be printed
on the official ballot. All candidates nominated by the
signing of such certificates shall have their names placed on
the official ballot as candidates, as if otherwise nominated
under the provisions of this chapter.

The secretary of state shall prescribe the form and
content of the nomination certificates to be used for
soliciting signatures. The content shall include the
language to be used in giving written and oral notice to each voter that signing of the nominating certificate forfeits that voter's right to vote in the corresponding primary election. Offices to be filled by the voters of more than one county shall use separate petition forms for the signatures of qualified voters for each county.

(e) The secretary of state, or the clerk of the circuit court, as the case may be, may investigate the validity of such certificates and the signatures thereon, and if upon such investigation there may be doubt as to the legitimacy and the validity of such certificate, he may request the attorney general of the state, or the prosecuting attorney of the county, to institute a quo warranto proceeding against the nominee or nominees by certificate to determine his or their right to such nomination to public office, and upon request being made, the attorney general or prosecuting attorney shall institute such quo warranto proceeding.

(f) Any person violating the provisions hereof, in addition to penalties prescribed elsewhere for violation of this chapter, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams  
Chairman Senate Committee

Floyd Fuller  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd S. Wilder  
Clerk of the Senate

Donald L. Kopp  
Clerk of the House of Delegates

Dan Tomlinson  
President of the Senate

Joseph P. Alessi  
Speaker House of Delegates

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

ANDREW MARION  
Governor