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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



# ENROLLED

*Com. Sub. for*  
**HOUSE BILL NO. 2096**

(By *Del. Reid + Del. Whitt*)



Passed ..... *Jan. 20,* ..... 1987

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

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2096**  
(By DELEGATE REID and DELEGATE WHITT)

[Passed January 20, 1987; in effect from passage.]

AN ACT to amend article five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-a, relating to municipal elections generally; the holding of special elections in cases wherein all of the municipal officers or governing body of any Class IV town or village have been removed from office by order of a court of competent jurisdiction; setting forth the time and manner in which such election shall be held; the calling and holding of party conventions with respect thereto; providing for the publication of notice of such convention; the term of office of such persons elected to office at such special elections; procedures relating to such elections; the applicability of other statutes; and providing for the expiration of the provisions of said section.

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

That article five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-a, to read as follows:

**ARTICLE 5. ELECTION, APPOINTMENT, QUALIFICATION AND**

COMPENSATION OF OFFICERS; GENERAL PROVISIONS RELATING TO OFFICERS AND EMPLOYEES; ELECTIONS AND PETITIONS GENERALLY; CONFLICT OF INTEREST.

**§8-5-5a. Special election of officers when all municipal officers removed by order of court; procedures applicable to such special elections; terms of office of persons elected.**

1 (a) Any other provision of this code to the contrary  
2 notwithstanding a special election shall be held in every  
3 Class IV town or village wherein a vacancy has been  
4 created in all of the elective offices of such town or  
5 village by reason of the removal from office of all of the  
6 occupants thereof by order of any court of competent  
7 jurisdiction upon a petition of quo warranto or other  
8 proceeding and where such order has designated or  
9 appointed a person or persons to temporarily manage or  
10 govern the affairs of such town or village. Such election  
11 shall be held on a Tuesday not earlier than ninety days  
12 nor later than one hundred twenty days from the date  
13 of the entry of the order removing such persons from  
14 office, which order shall hereinafter be referred to as  
15 the order of removal.

16 (b) Within seventy days of the entry of the order of  
17 removal, as provided in subsection (a) of this section, the  
18 members of the several political parties which fielded  
19 candidates at the next preceding election at which the  
20 officers and governing board of such town or village  
21 were elected, shall meet in separate conventions on the  
22 same day, which date shall be designated in the order  
23 by which the officers and governing body of the affected  
24 town or village were removed from office. If the order  
25 does not so provide, then the person designated in the  
26 order of removal shall designate such date. Notice of the  
27 convention date, time, place and subject matter shall be  
28 published in a Class I legal advertisement in a news-  
29 paper of general circulation serving the town or village.  
30 At such convention such parties shall nominate their  
31 respective candidates for mayor, recorder, municipal  
32 council or such other officers as may be required to be  
33 elected by the charter of such town or village or as may

34 be required by general law in the absence of any such  
35 charter provision. At such conventions each of such  
36 parties shall nominate one ballot commissioner, two  
37 election commissioners, one poll clerk and two persons  
38 to serve as members of a board of canvassers who shall  
39 serve in their respective capacities at the election  
40 required by this section. Such parties may also select  
41 alternate nominees for such election officials.

42 The names of the candidates and election officials so  
43 chosen shall be certified by the chairman and secretary  
44 of the party convention to the court which ordered the  
45 removal from office of such municipal officers within  
46 three days next following the sine die adjournment of  
47 the convention. Such certification shall also include the  
48 names of all of the nominated election officials chosen  
49 to represent each party at the special election to be held  
50 pursuant to this section and their respective alternates,  
51 if any. From the nominees for election officials, one  
52 ballot commissioner, one election commissioner and one  
53 poll clerk shall be chosen in the manner specified by the  
54 person designated in the order of removal to conduct or  
55 oversee such election.

56 (c) Such person so designated in the order of removal  
57 shall perform all of the functions otherwise assigned by  
58 general law and municipal ordinance to the municipal  
59 recorder and council for the conduct of elections. Such  
60 person shall also serve as one of three ballot commis-  
61 sioners for the purpose of preparing ballots and conducting  
62 absentee voting. Further, such person shall also see to  
63 the training of the designated election officials, the  
64 testing of voting equipment, if necessary, the proper  
65 delivery of election supplies and shall serve as a member  
66 of the board of canvassers for the tabulating of the  
67 results of the special election required by this section.  
68 A number of observers, representing the public at large  
69 or the respective political parties fielding candidates at  
70 such election, as shall not interfere with the orderly  
71 conduct or canvassing thereof shall be permitted.

72 (d) All ballots to be used in such special election shall  
73 be delivered to the person designated to conduct and  
74 oversee the special election mandated herein not later

75 than the twenty-ninth day next preceding the date of  
76 such special elections. All absentee ballots shall be cast  
77 not earlier than the twenty-eighth day next preceding  
78 the election nor later than five o'clock p. m., of the  
79 Saturday next preceding such election.

80 (e) If the affected Class IV town or village normally  
81 elects its officers for terms of two years and if the  
82 special election required by this section shall be held  
83 within one hundred twenty days of the next regularly  
84 scheduled municipal election to be held in such Class IV  
85 town or village, then such next regularly scheduled  
86 municipal election shall not be held and the persons  
87 elected at such special election shall hold their respec-  
88 tive offices until the termination of the next ensuing two  
89 year term.

90 (f) (1) The provisions of this section shall have general  
91 application and shall also be applicable to any circum-  
92 stance or Class IV town or village wherein all of the  
93 elective officers thereof have been removed from their  
94 respective offices and such offices are vacant on the  
95 effective date of this section.

96 (2) All of the provisions of this code relating to the  
97 conduct of municipal elections not in conflict with this  
98 section shall govern such special elections.

99 (g) The provisions of this section shall expire and be  
100 of no force or effect from and after the first day of July  
101 in the year one thousand nine hundred eighty-nine.

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

*Joe Spears*  
.....  
Chairman Senate Committee  
member

*Bernard V. Kelly*  
.....  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Ed C. Gitch*  
.....  
Clerk of the Senate

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

*Ram Tamberini*  
.....  
President of the Senate

*Robert C. Allen*  
.....  
Speaker of the House of Delegates

The within *approved* ..... this the *22nd*  
day of *January* ..... 1987.

*Rich. L. Bruce, Jr.*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 1/21/87

Time 3:30 p.m.