WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

Committee Substitute
SENATE BILL NO. 183

(By Senators printnames)

PASSED April 4, 1989
In Effect 90 days from Passage
AN ACT to amend and reenact sections three, ten, eleven, twenty-two and thirty, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the registration of voters; changing the date by which the county clerk must commence the cancellation of registrations; setting forth the basis for cancellation of registrations; restating the misdemeanor crime for the failure of election officials to perform duties and incorporating the penalty therefor by reference; changing the hours of registration within the county clerk’s office; authorizing the county commission to appoint registrars for purposes other than biennial check-ups; setting forth the minimum amount of hours in which temporary registration offices must remain open; authorizing the county commission to establish additional temporary registration offices; and expanding the time in which incomplete postcard registrations may be corrected.

Be it enacted by the Legislature of West Virginia:
That sections three, ten, eleven, twenty-two and thirty, article two, 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 2. REGISTRATION OF VOTERS.

§3-2-3. Registration, cancellation and reinstatement; and criminal penalty.

1 A permanent registration system shall hereby be established which shall be uniform throughout the state and all of its subdivisions. No voter so registered shall be required to register again for any election while he continues to reside at the same address, or, having moved from such address, is properly transferred according to the provisions of section twenty-seven or forty-one of this article, unless his registration is canceled as provided in this article.

2 Within one hundred twenty days following any election, the clerk of the county commission shall, as evidenced by the presence or absence of signatures on the pollbooks for such election, correct any errors or omissions on the voter registration records pertaining to the election resulting from the poll clerks erroneously checking or failing to check the registration records as required by the provisions of section thirty-four, article one of this chapter.

3 Within one hundred twenty days following the general election, the clerk shall cancel the registration of each person who has failed to vote at least once in any statewide, special or municipal election held after the statewide general election held four years previously as indicated by his or her registration record. Any clerk failing to perform such duty is guilty of a misdemeanor as provided in section thirty-six of this article. The clerk of the county commission shall notify by mail each person whose registration is canceled for failure to vote. The notice shall inform the voter that:

(a) In order to be reinstated he or she must:

(1) Register again, either in person at the county
clerk’s office or by mail, according to the provisions of section three or forty-one of this article; or

(2) Execute and file an affidavit of reinstatement of registration at the same residence address not later than thirty days before the next primary or general election, except that reinstatement by affidavit shall not be permitted if the voter registration in question was canceled because the voter failed to make his first vote in person as required by the provisions of subsection (e), section forty-one of this article; and

(b) That the last day to register to vote in any election is thirty days before that election.

A blank copy of the affidavit form shall be included with the notice to the voter.

The clerk shall replace the registration card of any voter who files a completed affidavit of reinstatement in the registration records.

§3-2-10. County commission's duties and powers; hours during registration period.

Subject to the authority of the secretary of state, the county commission shall be chief registration authority in each respective county and all subdivisions therein, and shall supervise the county clerk and registrars in the performance of their respective duties.

The county commission shall have power on its own motion to summon and to interrogate any person concerning the registration of voters, to investigate any irregularities in registration, to summon and examine witnesses, to require the production of any relevant books and papers, and to conduct hearings on any matters relating to registration of voters.

Notwithstanding any provision of any other section of this code, the office of the clerk of the county commission shall remain open from 9:00 a.m. until 8:00 p.m. on the Friday and Monday, and from 9:00 a.m. until 5:00 p.m. on the Saturday prior to the close of the registration periods for statewide primary and general
§3-2-11. Appointment of registrars; qualifications and duties.

The county commission of each county may appoint registrars to make a biennial checkup or to conduct other authorized registration activities 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 registrars. Each registrar, before entering upon the discharge 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 committee 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. Registrars appointed for the purpose of conducting a biennial checkup shall proceed together to make a house-to-house canvass in their precincts as 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. Registrars may be appointed under the provisions of this article to conduct registration at temporary registration offices established throughout the county.

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 commission may register any qualified person as a voter. The clerk or deputy shall first require valid identification 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 municipality 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 registration. 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 a minimum of four hours each day on 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. Additional temporary offices may be established throughout the county for the public convenience. 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.

§3-2-30. Time of registration prior to election; changes.

No person may vote in an election when he has registered or his voter registration has been altered, amended or corrected within a period of thirty days next preceding such election: Provided, That postcard registrations containing incomplete information which are received by the county clerk no later than the close of registration may be corrected within four days after the close of registration if such information is available. This inhibition shall not prevent, during such period of thirty days, additional registrations and changes in voter registrations with reference to future elections. If, during such period of thirty days preceding an election, a voter is registered or his voter registration is altered, amended or corrected, he shall not be permitted or qualified to vote at such election.
Enr. Com. Sub. For S. B. No. 183] 8

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

\[Signature\]
Chairman Senate Committee

\[Signature\]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

\[Signature\]
Clerk of the Senate

\[Signature\]
Clerk of the House of Delegates

\[Signature\]
President of the Senate

\[Signature\]
Speaker House of Delegates

The within is approved... this the ... day of ... April, ... 1989.

\[Signature\]
Governor