WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED

SENATE BILL NO. 41

(By Senators Sensette, M. President & Honor)

PASSED March 9, 1990
In Effect 90 days from Passage
ENROLLED

Senate Bill No. 41

(BY SENATORS BURDETTE, MR. PRESIDENT, AND WARNER)

[Passed March 9, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article eleven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to specifying the percentage of registered voters required for petitions to establish or rescind a county recycling program for solid waste; establishing filing deadlines; giving the secretary of state the authority to prescribe the form of the petition; and including certain identifying information on the petition.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11. WEST VIRGINIA RECYCLING PROGRAM.

§20-11-5. Establishment of county recycling programs for solid waste; petition for referendum; ballot contents; election procedure; effect of such election.

(a) A comprehensive recycling program for solid
waste may be established in any county of this state by
action of a county commission in accordance with the
provisions of this section. Such program shall require:

(1) That, prior to collection at its source, all solid
waste shall be segregated into separate identifiable
recyclable materials by each person, partnership,
corporation and governmental agency subscribing to a
solid waste collection service in the county or trans-
porting solid waste to a commercial solid waste facility
in the county;

(2) That each commercial solid waste facility located
in the county and each person engaged in the com-
mercial collection, transportation, processing or dis-
posal of solid waste within the county shall accept only
such solid waste from which recyclable materials in
accordance with said county’s comprehensive recy-
cling program have been segregated; and

(3) That the provisions of the recycling plan pre-
pared pursuant to section four of this article shall, to
the extent practicable, be incorporated in said county’s
comprehensive recycling program.

(b) For the purposes of this article, recyclable
materials shall include, but not be limited to, steel and
bi-metallic cans, aluminum, glass, paper and such
other solid waste materials as may be specified by the
county commission with the advice of the county or
regional solid waste authority.

(c) A comprehensive recycling program for solid
waste may be established in any county of this state
by: (1) A petition filed with the county commission
bearing the signatures of registered voters of the
county equal to not less than five percent of the
number of votes cast within the county for governor
at the preceding gubernatorial election; and (2) appro-
val by a majority of the voters in a subsequent
referendum on the issue. A referendum to determine
whether it is the will of the voters of a county that a
comprehensive recycling program for solid waste be
established in the county may be held at any regular
primary or general election or in conjunction with any
other countywide election. Any election at which the question of establishing a policy of comprehensive recycling for solid waste is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The secretary of state shall prescribe the form of the petition which shall include the printed name, address and date of birth of each person whose signature appears on the petition. Upon verification of the required number of signatures on the petition, the county commission shall, not less than seventy days before the election, order that the issue be placed on the ballot and referendum held at the next primary, general or special election to determine whether it is the will of the voters of said county that a policy of comprehensive recycling of solid waste be established in the county: Provided, That the petition bearing the necessary signatures has been filed with the county commission at least one hundred days prior to the election.

The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the County Commission be required to establish a comprehensive recycling program for solid waste in ________________County, West Virginia?

☐ For Recycling

☐ Against Recycling

(Place a cross mark in the square opposite your choice.)"

If a majority of legal votes cast upon the question be for the establishment of a policy of comprehensive recycling of solid waste, the county commission shall, after the certification of the results of the referendum, thereafter establish by ordinance a comprehensive recycling program for solid waste in the county within ninety days of said certification. If a majority of the
legal votes cast upon the question be against the establishment of a policy of comprehensive recycling of solid waste, said policy shall not take effect, but the question may again be submitted to a vote at any subsequent election in the manner herein provided.

(d) A comprehensive recycling program for solid waste established by petition and referendum may be rescinded only pursuant to the procedures set out herein to establish the program.

To rescind the program, the ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the County Commission be required to terminate the comprehensive recycling program for solid waste in ______________ County, West Virginia?

[ ] Continue Recycling
[ ] End Recycling

(Place a cross mark in the square opposite your choice.)"

(e) If a majority of legal votes cast upon the question be for the termination of a policy of comprehensive recycling of solid waste previously established in the county, the county commission shall, after the certification of the results of the referendum, thereafter rescind by ordinance the comprehensive recycling program for solid waste in the county within ninety days of said certification. If a majority of the legal votes cast upon the question be for the continuation of the policy of comprehensive recycling of solid waste, said ordinance shall not be rescinded, but the question may again be submitted to a vote at any subsequent election in the manner herein provided.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved...this the day of , 1890.

Governor
PRESENTED TO THE GOVERNOR
Date 3/16/90
Time 3:50 pm