WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

HOUSE BILL No. 4031

(By Delegates Doyle and Manuel)

Passed February 9, 1998

In Effect from Passage
ENROLLED

H. B. 4031

(BY DELEGATES DOYLE AND MANUEL)

[Passed February 9, 1998; in effect from passage.]

AN ACT to amend and reenact section thirteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the form and contents of ballots and ballot labels; and requiring that the office of county commissioner be listed by magisterial district to be filled in certain counties.

Be it enacted by the Legislature of West Virginia:

That section thirteen, 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.

§3-5-13. Form and contents of ballots and ballot labels.

1 The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

2 (a) The heading of every ballot shall be printed in display type. The heading shall contain a ballot title, the name of the county, the state, the words "Primary Election" and the month, day and year of the election. The ballot title of the political party ballots shall contain the words "Official Ballot of the (Name) Party" and the official symbol of the political party may be included in the heading. The ballot title of any separate paper ballot or
portion of any electronic or voting machine ballot for the board of education shall contain the words "Nonpartisan Ballot of Election of Members of the ____________ County Board of Education". The districts for which less than two candidates may be elected and the number of available seats shall be specified and the names of the candidates shall be printed without reference to political party affiliation, and without designation as to a particular term of office. Any other ballot or portion of a ballot on a question shall have a heading which clearly states the purpose of the election, according to the statutory requirements for that question.

(b) (1) For paper ballots, the heading of the ballot shall be separated from the rest of the ballot by heavy lines, and the offices shall be arranged in columns with the following headings, from left to right across the ballot: "National Ticket", "State Ticket", "County Ticket", and, in a presidential election year, "National Convention", or, in a nonpresidential election year "District Ticket". The columns shall be separated by heavy lines. Within the columns, the offices shall be arranged in the order prescribed in section thirteen-a of this article.

(2) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices shall appear in the same sequence as prescribed in section thirteen-a, and under the same headings as prescribed in subsection (a) of this section. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements, subject to approval by the secretary of state.

(3) The title of each office shall be separated from preceding offices or candidates by a line, and shall be printed in bold type, no smaller than eight point. Below the office shall be printed the number of the district, if any, the number of the division, if any, and the words "Vote for ________" with the number to be nominated or elected or "Vote For Not More Than ________" in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district
or county in which they are elected, there shall be a clear explanation of such limitation, as prescribed by the secretary of state, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission shall be listed separately for each district to be filled, with the name of the magisterial district and the words "Vote for One" printed below the name of the office.

(c) The location for indicating the voter's choices on the ballot shall be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot shall contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(d) (1) The name of every candidate certified by the secretary of state or the board of ballot commissioners shall be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the secretary of state, the name of each candidate shall appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate, nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(2) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county, and the magisterial district of residence of every candidate for an office subject to magisterial district limitations, shall be printed in lower case letters beneath the names of the candidates.
(3) The arrangement of names within each office shall be determined as prescribed in section thirteen-a of this article.

(4) If the number of candidates for an office exceeds the space available on a column or ballot label page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages shall be nearly equal, and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(e) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office, or for the voters to elect sufficient members to the board of education or to executive committees, the vacant positions on the ballot shall be filled with the words "No Candidate Filed": Provided, That in paper ballot systems which allow for write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in the office of board of education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office.

(f) In presidential election years, the words "For election in accordance with the plan adopted by the party and filed with the secretary of state" shall be printed following the names of all candidates for delegate to national convention.

(g) All paper ballots shall be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back. Ballot cards and paper for printing ballots using electronically sensible ink shall meet minimum requirements of the tabulating systems.

(h) Electronically tabulated ballots and ballot cards shall contain perforated tabs at the top of the ballots and shall be printed with unique sequential numbers from one to the highest number representing the total number of ballots or ballot cards printed. On paper ballots, the ballot shall be bordered by a solid line at least one sixteenth of
an inch wide, and the ballot shall be trimmed to within one-half inch of that border.

(i) On the back of every official ballot or ballot card, there shall be printed the words "Official Ballot" with the name of the county and the date of the election. Beneath shall be two blank lines, followed by the words "Poll Clerks".

(j) Absent voters' ballots shall be in all respects like other official ballots, except that three blank lines shall be printed on the back of the ballot or ballot card in the lower left corner with the words "Ballot Commissioners" printed underneath.

(k) The face of sample paper ballots and sample ballot labels shall be like other official ballots or ballot labels, except that the word "sample" shall be prominently printed across the front of the ballot in such a way that the names of candidates are not obscured, and the word "sample" may be printed in red ink. No printing may be placed on the back of the sample.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ____________ this the ______ day of ____________, 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 2/14/98
Time 3:30 pm