

**FILED**  
2003 MAR 28 P 4: 44  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **WEST VIRGINIA LEGISLATURE**

FIRST REGULAR SESSION, 2003



# **ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 3070**

(By Delegates Trump and Staton)



Passed March 8, 2003

In Effect Ninety Days from Passage

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## H. B. 3070

(BY DELEGATES TRUMP AND STATON)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-one, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to elections generally; and providing that a mass convention of a political party, to elect delegates to the state convention, be held in the county instead of the various magisterial districts.

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

That section twenty-one, 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.

**§3-5-21. Party conventions to nominate presidential electors; candidates; organization; duties.**

1 Candidates for presidential electors shall be nominated by  
2 the delegated representatives of the political party assembled in  
3 a state convention to be held during the months of June, July or  
4 August next preceding any general election at which presiden-  
5 tial electors are to be elected. The state executive committee of  
6 the political party, by resolution, shall designate the place and  
7 fix the date of the convention, shall prescribe the number of  
8 delegates thereto, and shall apportion the delegates among the  
9 several counties of the state in proportion to the vote cast in the  
10 state for the party's candidate for governor at the last preceding  
11 general election at which a governor was elected. The state  
12 executive committee shall also ascertain and designate all  
13 offices for which candidates are to be nominated at the conven-  
14 tion.

15 At least sixty days prior to the date fixed for holding any  
16 state convention, the chairman of the party's state executive  
17 committee shall cause to be delivered to the party's county  
18 executive committee in each county of the state a copy of the  
19 resolutions fixing the time and place for holding the state  
20 convention and prescribing the number of delegates from each  
21 county to the convention. Within ten days after receipt of the  
22 copy of the resolutions, the party executive committee of each  
23 county shall meet and, by resolution, shall apportion the  
24 delegates to the state convention among the several magisterial  
25 districts of the county, on a basis of the vote received in the  
26 county by the candidate of the party for governor at the last  
27 preceding general election at which a governor was elected, but  
28 in such apportionment of county delegates each magisterial  
29 district shall be entitled to at least one delegate to the state  
30 convention. The party's county executive committee shall call  
31 a meeting of the members of the political party in mass conven-  
32 tion in the county, which meeting shall be held at least thirty  
33 days prior to the date fixed for the state convention and at  
34 which meeting the members of the political party in each

35 magisterial district shall elect the number of delegates to which  
36 the district is entitled in the state convention.

37 The meeting place in the county shall be as central and  
38 convenient as can reasonably be selected, and all recognized  
39 members of the political party shall be entitled to participate in  
40 any mass convention and in the selection of delegates. Notice  
41 of the time and place of holding the county mass convention  
42 and of the person who shall act as temporary chairman thereof  
43 shall be given by publication as a Class II-O legal advertise-  
44 ment in compliance with the provisions of article three, chapter  
45 fifty-nine of this code, and the publication area for the publica-  
46 tion shall be the county. The first publication shall be made not  
47 more than fifteen days and the second publication shall be made  
48 not less than five days prior to the date fixed for holding the  
49 convention. The notice published shall specify the number of  
50 delegates which each magisterial district in the county is  
51 entitled to elect to the state convention.

52 Upon assembling, the mass convention of the county, shall  
53 choose a chairman and a secretary, who, within five days after  
54 the holding of the convention, shall certify to the chairman of  
55 the state executive committee of the political party and the  
56 chairman of the county committee of the political party, the  
57 names and addresses of the parties selected as delegates to the  
58 state convention.

59 If, after the election, a vacancy exists for a delegate from  
60 any magisterial district, the party's county executive committee,  
61 within ten days after the mass convention, shall appoint a  
62 member of the political party in the magisterial district to fill  
63 the vacancy, and shall certify the appointment to the chairman  
64 of the state executive committee of the political party.

65 All contests over the selection of delegates to conventions  
66 shall be heard and determined by the party executive committee

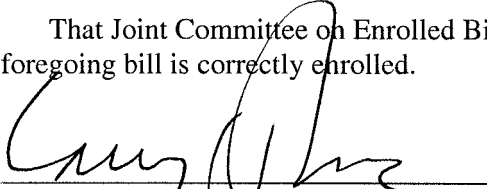
67 of the county from which the delegates are chosen, and the  
68 county executive committee shall, upon written petition of any  
69 contest, meet for a hearing and make a determination within ten  
70 days after the holding of a county mass convention. The circuit  
71 court of the county and the supreme court of appeals of the state  
72 shall have concurrent original jurisdiction to review, by  
73 mandamus or other proper proceeding, the decision of a county  
74 executive committee in any contest.

75 The delegates chosen and certified by and from the several  
76 magisterial districts in the state and, in the event of any contest,  
77 those prevailing in the contest, shall make up the state conven-  
78 tion. The number present of those entitled to participate in any  
79 convention shall cast the entire vote to which the county is  
80 entitled in the convention, and it shall require a majority vote to  
81 nominate any candidate for office.

82 All nominations made at state conventions shall be certified  
83 within fifteen days thereafter, by the chairman and the secretary  
84 of the convention, to the secretary of state, who shall certify  
85 them to the clerk of the circuit court of each county concerned,  
86 and the names of the persons so nominated shall be printed  
87 upon the regular ballot to be voted at the ensuing general  
88 election, except that the names of the presidential elector  
89 candidates shall not be printed thereon.

90 The delegates to any state convention may formulate and  
91 promulgate the party platform or declaration of party principles  
92 as to them shall seem advisable.

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

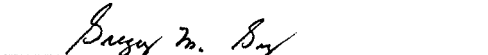
  
Chairman Senate Committee

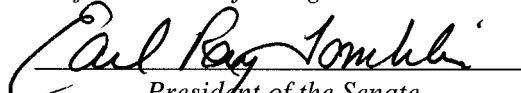
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage

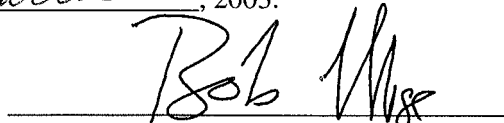
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 24<sup>th</sup>  
day of March, 2003.

  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/26/03

Time 3:50 pm