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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COMMITTEE SUBSTITUTE

FOR

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.
Candidates for presidential electors shall be nominated by the delegated representatives of the political party assembled in a state convention to be held during the months of June, July or August next preceding any general election at which presidential electors are to be elected. The state executive committee of the political party, by resolution, shall designate the place and fix the date of the convention, shall prescribe the number of delegates thereto, and shall apportion the delegates among the several counties of the state in proportion to the vote cast in the state for the party’s candidate for governor at the last preceding general election at which a governor was elected. The state executive committee shall also ascertain and designate all offices for which candidates are to be nominated at the convention.

At least sixty days prior to the date fixed for holding any state convention, the chairman of the party’s state executive committee shall cause to be delivered to the party’s county executive committee in each county of the state a copy of the resolutions fixing the time and place for holding the state convention and prescribing the number of delegates from each county to the convention. Within ten days after receipt of the copy of the resolutions, the party executive committee of each county shall meet and, by resolution, shall apportion the delegates to the state convention among the several magisterial districts of the county, on a basis of the vote received in the county by the candidate of the party for governor at the last preceding general election at which a governor was elected, but in such apportionment of county delegates each magisterial district shall be entitled to at least one delegate to the state convention. The party’s county executive committee shall call a meeting of the members of the political party in mass convention in the county, which meeting shall be held at least thirty days prior to the date fixed for the state convention and at which meeting the members of the political party in each
magisterial district shall elect the number of delegates to which
the district is entitled in the state convention.

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

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

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

All contests over the selection of delegates to conventions
shall be heard and determined by the party executive committee
of the county from which the delegates are chosen, and the
county executive committee shall, upon written petition of any
contest, meet for a hearing and make a determination within ten
days after the holding of a county mass convention. The circuit
court of the county and the supreme court of appeals of the state
shall have concurrent original jurisdiction to review, by
mandamus or other proper proceeding, the decision of a county
executive committee in any contest.

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

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

The delegates to any state convention may formulate and
promulgate the party platform or declaration of party principles
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 26th day of March, 2003.

Governor