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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 616

(BY SENATORS KESSLER, EDGELL, MINARD AND HUNTER)

[Passed March 10, 2007; in effect ninety days from passage.]

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AN ACT to repeal §3-4A-11 and §3-4A-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1-20, §3-1-21 and §3-1-41 of said code; to amend and reenact §3-4A-11a and §3-4A-15 of said code; to amend and reenact §3-5-7, §3-5-10, §3-5-13 and §3-5-19 of said code; and to amend and reenact §3-6-2 and §3-6-3 of said code, all relating to election ballots; providing for two copies of sample ballots for each voting place; providing that paper ballots used in conjunction with electronic voting systems must be prepared for eighty percent of registered voters eligible to vote; providing that the number of regular official ballots packaged for each precinct shall equal at least seventy-five percent of the number of registered

voters in a precinct; providing for the board of canvassers to protect the privacy of provisional ballots; clarifying ballot lay out; clarifying voter instructions and models; providing print size of sample ballots; and changing date upon which a person may challenge a candidate's eligibility before the State Election Commission.

Be it enacted by the Legislature of West Virginia:

That §3-4A-11 and §3-4A-12 of the Code of West Virginia, 1931, as amended, be repealed; that §3-1-20, §3-1-21 and §3-1-41 of said code be amended and reenacted; that §3-4A-11a and §3-4A-15 of said code be amended and reenacted; that §3-5-7, §3-5-10, §3-5-13 and §3-5-19 of said code be amended and reenacted; and that §3-6-2 and §3-6-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-20. Cards of instructions to voters; sample ballots; posting.

1 (a) The board of ballot commissioners of each county
2 shall provide cards of general information which will
3 include:

4 (1) The date of the election and the hours during
5 which polling places will be open;

6 (2) Instruction for mail-in registrants and first-time
7 voters;

8 (3) Voters' rights; and

9 (4) Prohibitions against fraud and misrepresentation.

10 The board of ballot commissioners shall also provide
11 cards of instruction for voters in preparing their ballots
12 and casting a provisional ballot as prescribed by the
13 Secretary of State. The board of ballot commissioners
14 shall furnish a sufficient number of cards to the
15 commissioners of election at the same time they deliver
16 the ballots for the precinct.

17 (b) The commissioners of election shall post one
18 instruction card in each voting booth giving instructions
19 to the voters on how to prepare the ballots for deposit in
20 the ballot boxes and how to obtain a new ballot in place
21 of one accidentally spoiled.

22 (c) The commissioners of election shall post one or
23 more other cards of general information at places inside
24 and outside of the voting place where voters pass or
25 wait to vote. The commissioners shall also post the
26 official write-in candidates in the same locations inside
27 and outside of the voting place.

28 (d) The ballot commissioners shall have printed, on a
29 different color paper than the official ballot, two or
30 more copies of sample ballots for each voting place for
31 each election. Sample ballots shall be furnished and
32 posted with the cards of general information at each
33 voting place.

34 (e) During the period of early in-person voting, the
35 clerk of the county commission shall post the cards of
36 general information, a list of official write-in candidates
37 and sample ballots within the area where absentee
38 voting is conducted.

**§3-1-21. Printing of official and sample ballots; number;
packaging and delivery; correction of ballots.**

1 (a) The board of ballot commissioners for each county
2 shall provide the ballots and sample ballots necessary
3 for conducting every election for public officers in
4 which the voters of the county participate.

5 (b) The persons required to provide the ballots
6 necessary for conducting all other elections are:

7 (1) The Secretary of State, for any statewide special
8 election ordered by the Legislature;

9 (2) The board of ballot commissioners, for any
10 countywide special election ordered by the county
11 commission;

12 (3) The Board of Education, for any special levy or
13 bond election ordered by the Board of Education; or

14 (4) The municipal board of ballot commissioners, for
15 any election conducted for or within a municipality
16 except an election in which the matter affecting the
17 municipality is placed on the county ballot at a county
18 election. Ballots other than those printed by the proper
19 authorities as specified in this section may not be cast,
20 received or counted in any election.

21 (c) When paper ballots are used, the total number of
22 regular official ballots printed shall equal one and
23 one-twentieth times the number of registered voters
24 eligible to vote that ballot. When paper ballots are used
25 in conjunction with or as part of an electronic voting
26 system, the total number of regular official ballots
27 printed shall equal at a minimum eighty percent of the
28 number of registered voters eligible to vote that ballot.
29 The clerk of the county commission shall determine the
30 number of absentee official ballots.

31 (d) The number of regular official ballots packaged for
32 each precinct shall equal at a minimum seventy-five
33 percent of the number of registered voters of the
34 precinct. The remaining regular official ballots shall be
35 packaged and delivered to the clerk of the county
36 commission, who shall retain them unopened until they
37 are required for an emergency. Each package of ballots
38 shall be wrapped and sealed in a manner which will
39 immediately make apparent any attempt to open, alter
40 or tamper with the ballots. Each package of ballots for
41 a precinct shall be clearly labeled, in a manner which
42 cannot be altered, with the county name, the precinct
43 number and the number of ballots contained in each
44 package. If the packaging material conceals the face of
45 the ballot, a sample ballot identical to the official
46 ballots contained therein shall be securely attached to
47 the outside of the package or, in the case of ballot cards,
48 the type of ballot shall be included in the label.

49 (e) All absentee ballots necessary for conducting
50 absentee voting in all voting systems shall be delivered
51 to the clerk of the county commission of the appropriate
52 county not later than the forty-second day before the
53 election. All official ballots in paper ballot systems
54 shall be delivered to the clerk of the county commission
55 of the appropriate county not later than twenty-eight
56 days before the election.

57 (f) Upon a finding of the board of ballot
58 commissioners that an official ballot contains an error
59 which, in the opinion of the board, is of sufficient
60 magnitude to confuse or mislead the voters, the board
61 shall cause the error to be corrected either by the
62 reprinting of the ballots or by the use of stickers printed
63 with the correction and of suitable size to be placed over
64 the error without covering any other portion of the

65 ballot.

**§3-1-41. Challenged and provisional voter procedures;
counting of provisional voters' ballots; ballots of
election officials.**

1 (a) It is the duty of the members of the receiving
2 board, jointly or severally, to challenge the right of any
3 person requesting a ballot to vote in any election:

4 (1) If the person's registration record is not available
5 at the time of the election;

6 (2) If the signature written by the person in the poll
7 book does not correspond with the signature purported
8 to be his or hers on the registration record;

9 (3) If the registration record of the person indicates
10 any other legal disqualification; or

11 (4) If any other valid challenge exists against the voter
12 pursuant to section ten, article three of this chapter.

13 (b) Any person challenged shall nevertheless be
14 permitted to vote in the election. He or she shall be
15 furnished an official ballot not endorsed by the poll
16 clerks. In lieu of the endorsements, the poll clerks shall
17 complete and sign an appropriate form indicating the
18 challenge, the reason thereof and the name or names of
19 the challengers. The form shall be securely attached to
20 the voter's ballot and deposited together with the ballot
21 in a separate box or envelope marked "provisional
22 ballots".

23 (c) At the time that an individual casts a provisional
24 ballot, the poll clerk shall give the individual written

25 information stating that an individual who casts a
26 provisional ballot will be able to ascertain under the
27 free access system established in this section whether
28 the vote was counted and, if the vote was not counted,
29 the reason that the vote was not counted.

30 (d) Provisional ballots may not be counted by the
31 election officials. The county commission shall, on its
32 own motion, at the time of canvassing of the election
33 returns, sit in session to determine the validity of any
34 challenges according to the provisions of this chapter.
35 If the county commission determines that the challenges
36 are unfounded, each provisional ballot of each
37 challenged voter, if otherwise valid, shall be counted
38 and tallied together with the regular ballots cast in the
39 election. The county commission, as the board of
40 canvassers, shall protect the privacy of each provisional
41 ballot cast. The county commission shall disregard
42 technical errors, omissions or oversights if it can
43 reasonably be ascertained that the challenged voter was
44 entitled to vote.

45 (e) Any person duly appointed as an election
46 commissioner or clerk under the provisions of section
47 twenty-eight of this article who serves in that capacity
48 in a precinct other than the precinct in which the person
49 is legally entitled to vote may cast a provisional ballot
50 in the precinct in which the person is serving as a
51 commissioner or clerk. The ballot is not invalid for the
52 sole reason of having been cast in a precinct other than
53 the precinct in which the person is legally entitled to
54 vote. The county commission shall record the
55 provisional ballot on the voter's permanent registration
56 record: *Provided*, That the county commission may
57 count only the votes for the offices that the voter was
58 legally authorized to vote for in his or her own precinct.

59 (f) The Secretary of State shall establish a free access
60 system, which may include a toll-free telephone number
61 or an internet website, that may be accessed by any
62 individual who casts a provisional ballot to discover
63 whether his or her vote was counted and, if not, the
64 reason that the vote was not counted.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

**§3-4A-11a. Ballots tabulated electronically; arrangement,
quantity to be printed, ballot stub numbers.**

1 (a) The board of ballot commissioners in counties
2 using ballots upon which votes may be recorded by
3 means of marking with electronically sensible ink or
4 pencil and which marks are tabulated electronically
5 shall cause the ballots to be printed or displayed upon
6 the screens of the electronic voting system for use in
7 elections.

8 (b) (1) For the primary election, the heading of the
9 ballot, the type faces, the names and arrangement of
10 offices and the printing of names and arrangement of
11 candidates within each office are to conform as nearly
12 as possible to the provisions of sections thirteen and
13 thirteen-a, article five of this chapter.

14 (2) For the general election, the heading of the ballot,
15 the straight ticket positions, the instructions to straight
16 ticket voters, the type faces, the names and arrangement
17 of offices and the printing of names and the
18 arrangement of candidates within each office are to
19 conform as nearly as possible to the provisions of
20 section two, article six of this chapter, except as
21 otherwise provided in this article.

22 (3) Nonpartisan elections for board of education and
23 any question to be voted upon are to be separated from
24 the partisan ballot and separately headed in display
25 type with a title clearly identifying the purpose of the
26 election and constituting a separate ballot wherever a
27 separate ballot is required under the provisions of this
28 chapter.

29 (4) Both the face and the reverse side of the ballot may
30 contain the names of candidates only if means to ensure
31 the secrecy of the ballot are provided and lines for the
32 signatures of the poll clerks on the ballot are printed on
33 a portion of the ballot which is deposited in the ballot
34 box and upon which marks do not interfere with the
35 proper tabulation of the votes.

36 (5) The arrangement of candidates within each office
37 is to be determined in the same manner as for other
38 electronic voting systems, as prescribed in this chapter.
39 On the general election ballot for all offices, and on the
40 primary election ballot only for those offices to be filled
41 by election, except delegate to national convention, lines
42 for entering write-in votes are to be provided below the
43 names of candidates for each office, and the number of
44 lines provided for any office shall equal the number of
45 persons to be elected, or three, whichever is fewer. The
46 words "WRITE-IN, IF ANY" are to be printed, where
47 applicable, directly under each line for write-ins. The
48 lines are to be opposite a position to mark the vote.

49 (c) Except for electronic voting systems that utilize
50 screens upon which votes may be recorded by means of
51 a stylus or by means of touch, the primary election
52 ballots are to be printed in the color of ink specified by
53 the Secretary of State for the various political parties,
54 and the general election ballot is to be printed in black

55 ink. For electronic voting systems that utilize screens
56 upon which votes may be recorded by means of a stylus
57 or by means of touch, the primary ballots and the
58 general election ballot are to be printed in black ink.
59 All ballots are to be printed, where applicable, on white
60 paper suitable for automatic tabulation and are to
61 contain a perforated stub at the top or bottom of the
62 ballot, which is to be numbered sequentially in the same
63 manner as provided in section thirteen, article five of
64 this chapter, or are to be displayed on the screens of the
65 electronic voting system upon which votes are recorded
66 by means of a stylus or touch. The number of ballots
67 printed and the packaging of ballots for the precincts
68 are to conform to the requirements for paper ballots
69 provided in this chapter.

70 (d) In addition to the official ballots, the ballot
71 commissioners shall provide all other materials and
72 equipment necessary to the proper conduct of the
73 election.

**§3-4A-15. Instructions and help to voters; vote-recording
device models; facsimile diagrams; sample
ballots; legal ballot advertisements.**

1 (a) For the instruction of the voters on any election
2 day in counties utilizing an electronic voting system
3 that uses a screen upon which votes may be recorded by
4 means of a stylus or by means of touch, the ballot
5 commissioners shall provide for each polling place a
6 sample ballot with each screen as it will appear on the
7 devices, together with written instructions regarding the
8 operation of the devices. Upon request, the election
9 officers shall offer instruction to each voter, before
10 voting, in the operation of the vote-recording device.

11 (b) The ballot commissioners shall also provide
12 facsimile ballots, at least two of which, or complete sets
13 of which, are to be posted on the walls of each polling
14 place. The facsimile diagrams are exact diagrams of the
15 ballots or screens so that the voter may become familiar
16 with the location of the parties, offices, candidates and
17 questions as they appear on the ballot to be used in his
18 or her precinct.

19 (c) The ballot commissioners may, with the consent of
20 the county commission, or the county commission may,
21 prepare and mail to each qualified voter at the address
22 shown on the registration books a facsimile sample of
23 the ballot or screens for his or her precinct.

24 (d) In counties where an electronic voting system has
25 been adopted, the legal ballot advertisements required
26 by articles five and six of this chapter, which specify the
27 publication of a facsimile sample ballot, are to consist
28 of a facsimile of the ballot or screens with the names of
29 the candidates and the offices for which they are
30 running shown in their proper positions.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

**§3-5-7. Filing announcements of candidacies; requirements;
withdrawal of candidates when section applicable.**

1 (a) Any person who is eligible and seeks to hold an
2 office or political party position to be filled by election
3 in any primary or general election held under the
4 provisions of this chapter shall file a certificate of
5 announcement declaring as a candidate for the
6 nomination or election to the office.

7 (b) The certificate of announcement shall be filed as

8 follows:

9 (1) With the Secretary of State if it be an office or
10 political position to be filled by the voters of more than
11 one county;

12 (2) With the clerk of the county commission if it be for
13 an office to be filled by the voters of a single county or
14 of a subdivision less than a county;

15 (3) With the recorder or city clerk if it be for an office
16 to be filled by the voters of a municipality.

17 (c) The certificate of announcement shall be filed with
18 the proper officer not earlier than the second Monday in
19 January next preceding the primary election day, and
20 not later than the last Saturday in January next
21 preceding the primary election day, and must be
22 received before midnight, eastern standard time, of that
23 day or, if mailed, shall be postmarked by the United
24 States Postal Service before that hour.

25 (d) The certificate of announcement shall be on a form
26 prescribed by the Secretary of State on which the
27 candidate shall make a sworn statement before a notary
28 public or other officer authorized to give oaths,
29 containing the following information:

30 (1) The date of the election in which the candidate
31 seeks to appear on the ballot;

32 (2) The name of the office sought; the district, if any;
33 and the division, if any;

34 (3) The legal name of the candidate and the exact
35 name the candidate desires to appear on the ballot,

36 subject to limitations prescribed in section thirteen,
37 article five of this chapter;

38 (4) The county of residence and a statement that the
39 candidate is a legally qualified voter of that county; and
40 the magisterial district of residence for candidates
41 elected from magisterial districts or under magisterial
42 district limitations;

43 (5) The specific address designating the location at
44 which the candidate resides at the time of filing,
45 including number and street or rural route and box
46 number and city, state and zip code;

47 (6) For partisan elections, the name of the candidate's
48 political party and a statement that the candidate: (A)
49 Is a member of and affiliated with that political party as
50 evidenced by the candidate's current registration as a
51 voter affiliated with that party; and (B) has not been
52 registered as a voter affiliated with any other political
53 party for a period of sixty days before the date of filing
54 the announcement;

55 (7) For candidates for delegate to national convention,
56 the name of the presidential candidate to be listed on
57 the ballot as the preference of the candidate on the first
58 convention ballot; or a statement that the candidate
59 prefers to remain "uncommitted";

60 (8) A statement that the person filing the certificate of
61 announcement is a candidate for the office in good faith;

62 (9) The words "subscribed and sworn to before me this
63 _____ day of _____, 20____" and a space for the
64 signature of the officer giving the oath.

65 (e) The Secretary of State or the board of ballot
66 commissioners, as the case may be, may refuse to certify
67 the candidacy or may remove the certification of the
68 candidacy upon receipt of a certified copy of the voter's
69 registration record of the candidate showing that the
70 candidate was registered as a voter in a party other than
71 the one named in the certificate of announcement
72 during the sixty days immediately preceding the filing
73 of the certificate: *Provided*, That unless a signed formal
74 complaint of violation of this section and the certified
75 copy of the voter's registration record of the candidate
76 are filed with the officer receiving that candidate's
77 certificate of announcement no later than ten days
78 following the close of the filing period, the candidate
79 shall not be refused certification for this reason.

80 (f) The certificate of announcement shall be
81 subscribed and sworn to by the candidate before some
82 officer qualified to administer oaths, who shall certify
83 the same. Any person who knowingly provides false
84 information on the certificate is guilty of false swearing
85 and shall be punished in accordance with section three,
86 article nine of this chapter.

87 (g) Any candidate for delegate to a national
88 convention may change his or her statement of
89 presidential preference by notifying the Secretary of
90 State by letter received by the Secretary of State no
91 later than the third Tuesday following the close of
92 candidate filing. When the rules of the political party
93 allow each presidential candidate to approve or reject
94 candidates for delegate to convention who may appear
95 on the ballot as committed to that presidential
96 candidate, the presidential candidate or the candidate's
97 committee on his or her behalf may file a list of
98 approved or rejected candidates for delegate and the

99 Secretary of State shall list as “uncommitted” any
100 candidate for delegate who is disapproved by the
101 presidential candidate.

102 (h) No person shall be a candidate for more than one
103 office or office division at any election: *Provided*, That
104 a candidate for an office may also be a candidate for
105 president of the United States, for membership on
106 political party executive committees or for delegate to
107 a political party national convention.

108 (i) Any candidate who files a certificate of
109 announcement for more than one office or division and
110 does not withdraw, as provided by section eleven,
111 article five of this chapter, from all but one office prior
112 to the close of the filing period shall not be certified by
113 the Secretary of State or placed on the ballot for any
114 office by the board of ballot commissioners.

115 (j) The provisions of this section enacted during the
116 regular session of the Legislature in the year one
117 thousand nine hundred ninety-one shall apply to the
118 primary election held in the year one thousand nine
119 hundred ninety-two and every primary election held
120 thereafter. The provisions of this section enacted during
121 the regular session of the Legislature in the year one
122 thousand nine hundred ninety-eight shall apply to the
123 primary election held in the year two thousand and
124 every primary election held thereafter.

§3-5-10. Publication of sample ballots and lists of candidates.

1 (a) The ballot commissioners of each county shall
2 prepare a sample official primary ballot for each party
3 and, as the case may be, for the nonpartisan candidates
4 to be voted for at the primary election, according to the

5 provisions of this article and articles four and four-a of
6 this chapter, as appropriate to the voting system. If any
7 ballot issue is to be voted on in the primary election, the
8 ballot commissioners shall likewise prepare a sample
9 official ballot for that issue according to the provisions
10 of law authorizing the election.

11 (b) The facsimile sample ballot for each political party
12 and for nonpartisan candidates or ballot issues shall be
13 published as follows:

14 (1) For counties in which two or more qualified
15 newspapers publish a daily newspaper, not more than
16 twenty-six nor less than twenty days preceding the
17 primary election, the ballot commissioners shall publish
18 each sample official primary election ballot as a Class
19 I-0 legal advertisement in the two qualified daily
20 newspapers of different political parties within the
21 county having the largest circulation in compliance with
22 the provisions of article three, chapter fifty-nine of this
23 code;

24 (2) For counties having no more than one daily
25 newspaper, or having only one or more qualified
26 newspapers which publish weekly, not more than
27 twenty-six nor less than twenty days preceding the
28 primary election, the ballot commissioners shall publish
29 the sample official primary election ballot as a Class I
30 legal advertisement in the qualified newspaper within
31 the county having the largest circulation in compliance
32 with the provisions of article three, chapter fifty-nine of
33 this code; and

34 (3) Each facsimile sample ballot shall be a
35 photographic reproduction of the official sample ballot
36 or ballot pages and shall be printed in a size no less than

37 sixty-five percent of the actual size of the ballot, at the
38 discretion of the ballot commissioners: *Provided*, That
39 when the ballots for the precincts within the county
40 contain different senatorial, delegate, magisterial or
41 executive committee districts or when the ballots for
42 precincts within a city contain different municipal
43 wards, the facsimile shall be altered to include each of
44 the various districts in the appropriate order. If, in
45 order to accommodate the size of each ballot, the ballot
46 or ballot pages must be divided onto more than one
47 page, the arrangement and order shall be made to
48 conform as nearly as possible to the arrangement of the
49 ballot. The publisher of the newspaper shall submit a
50 proof of the ballot and the arrangement to the ballot
51 commissioners for approval prior to publication.

52 (c) The ballot commissioners of each county shall
53 prepare, in the form and manner prescribed by the
54 Secretary of State, an official list of offices and
55 candidates for each office which will appear on the
56 primary election ballot for each party and, as the case
57 may be, for the nonpartisan candidates to be voted for
58 at the primary election. All information which appears
59 on the ballot, including instructions as to the number of
60 candidates for whom votes may be cast for the office,
61 any additional language which will appear on the ballot
62 below the name of the office, any identifying
63 information relating to the candidates, such as his or
64 her residence and magisterial district or presidential
65 preference, shall be included in the list in the same
66 order in which it appears on the ballot. Following the
67 names of all candidates, the list shall include the full
68 title, text and voting positions of any issue to appear on
69 the ballot.

70 (d) The official list of candidates and issues as

71 provided in subsection (c) of this section shall be
72 published as follows:

73 (1) For counties in which two or more qualified
74 newspapers publish a daily newspaper, on the last day
75 on which a newspaper is published immediately
76 preceding the primary election, the ballot
77 commissioners shall publish the official list of
78 candidates and issues as a Class I-0 legal advertisement
79 in the two qualified daily newspapers of different
80 political parties within the county having the largest
81 circulation in compliance with the provisions of article
82 three, chapter fifty-nine of this code;

83 (2) For counties having no more than one daily
84 newspaper, or having only one or more qualified
85 newspapers which publish weekly, on the last day on
86 which a newspaper is published immediately preceding
87 the primary election, the ballot commissioners shall
88 publish the sample official list of nominees and issues as
89 a Class I legal advertisement in the qualified newspaper
90 within the county having the largest circulation in
91 compliance with the provisions of article three, chapter
92 fifty-nine of this code;

93 (3) The publication of the official list of candidates for
94 each party and for nonpartisan candidates shall be in
95 single or double columns, as required to accommodate
96 the type size requirements as follows: (A) The words
97 "official list of candidates", the name of the county, the
98 words "primary election", the date of the election, the
99 name of the political party or the designation of
100 nonpartisan candidates shall be printed in all capital
101 letters and in bold type no smaller than fourteen point.
102 The designation of the national, state, district or other
103 tickets shall be printed in all capital letters in type no

104 smaller than fourteen point; (B) the title of the office
105 shall be printed in bold type no smaller than twelve
106 point and any voting instructions or other language
107 printed below the title shall be printed in bold type no
108 smaller than ten point; and (C) the names of the
109 candidates shall be printed in all capital letters in bold
110 type no smaller than ten point and the residence
111 information shall be printed in type no smaller than ten
112 point; and

113 (4) When any ballot issue is to appear on the ballot,
114 the title of that ballot shall be printed in all capital
115 letters in bold type no smaller than fourteen point. The
116 text of the ballot issue shall appear in no smaller than
117 eight point type. The ballot commissioners may require
118 the publication of the ballot issue under this subsection
119 in the facsimile sample ballot format in lieu of the
120 alternate format.

121 (e) Notwithstanding the provisions of subsections (c)
122 and (d) of this section, beginning with the primary
123 election to be held in the year two thousand, the ballot
124 commissioners of any county may choose to publish a
125 facsimile sample ballot for each political party and for
126 nonpartisan candidates or ballot issues instead of the
127 official list of offices and candidates for each office for
128 purposes of the last publication required before any
129 primary election.

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

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

4 (1) The heading of every ballot is to be printed in

5 display type. The heading is to contain a ballot title, the
6 name of the county, the state, the words "Primary
7 Election" and the month, day and year of the election.
8 The ballot title of the political party ballots is to contain
9 the words "Official Ballot of the (Name) Party" and the
10 official symbol of the political party may be included in
11 the heading. The ballot title of any separate paper
12 ballot or portion of any electronic or voting machine
13 ballot for the Board of Education is to contain the
14 words "Nonpartisan Ballot of Election of Members of
15 the _____ County Board of Education". The
16 districts for which less than two candidates may be
17 elected and the number of available seats are to be
18 specified and the names of the candidates are to be
19 printed without reference to political party affiliation
20 and without designation as to a particular term of
21 office. Any other ballot or portion of a ballot on a
22 question is to have a heading which clearly states the
23 purpose of the election according to the statutory
24 requirements for that question.

25 (2) (A) For paper ballots, the heading of the ballot is to
26 be separated from the rest of the ballot by heavy lines
27 and the offices shall be arranged in columns with the
28 following headings, from left to right across the ballot:
29 "National Ticket", "State Ticket", "County Ticket" and,
30 in a presidential election year, "National Convention"
31 or, in a nonpresidential election year, "District Ticket".
32 The columns are to be separated by heavy lines. Within
33 the columns, the offices are to be arranged in the order
34 prescribed in section thirteen-a of this article.

35 (B) For voting machines, electronic voting devices and
36 any ballot tabulated by electronic means, the offices are
37 to appear in the same sequence as prescribed in section
38 thirteen-a of this article and under the same headings as

39 prescribed in subsection (a) of this section. The number
40 of pages, columns or rows, where applicable, may be
41 modified to meet the limitations of ballot size and
42 composition requirements subject to approval by the
43 Secretary of State.

44 (C) The title of each office is to be separated from
45 preceding offices or candidates by a line and is to be
46 printed in bold type no smaller than eight point. Below
47 the office is to be printed the number of the district, if
48 any, the number of the division, if any, and the words
49 "Vote for _____" with the number to be nominated or
50 elected or "Vote For Not More Than _____" in
51 multicandidate elections. For offices in which there are
52 limitations relating to the number of candidates which
53 may be nominated, elected or appointed to or hold office
54 at one time from a political subdivision within the
55 district or county in which they are elected, there is to
56 be a clear explanation of the limitation, as prescribed by
57 the Secretary of State, printed in bold type immediately
58 preceding the names of the candidates for those offices
59 on the ballot in every voting system. For counties in
60 which the number of county commissioners exceeds
61 three and the total number of members of the county
62 commission is equal to the number of magisterial
63 districts within the county, the office of county
64 commission is to be listed separately for each district to
65 be filled with the name of the magisterial district and
66 the words "Vote for One" printed below the name of the
67 office: *Provided*, That the office title and applicable
68 instructions may span the width of the ballot so as it is
69 centered among the respective columns.

70 (D) The location for indicating the voter's choices on
71 the ballot is to be clearly shown. For paper ballots,
72 other than those tabulated electronically, the official

73 primary ballot is to contain a square formed in dark
74 lines at the left of each name on the ballot, arranged in
75 a perpendicular column of squares before each column
76 of names.

77 (3) (A) The name of every candidate certified by the
78 Secretary of State or the board of ballot commissioners
79 is to be printed in capital letters in no smaller than
80 eight-point type on the ballot for the appropriate
81 precincts. Subject to the rules promulgated by the
82 Secretary of State, the name of each candidate is to
83 appear in the form set out by the candidate on the
84 certificate of announcement, but in no case may the
85 name misrepresent the identity of the candidate nor
86 may the name include any title, position, rank, degree or
87 nickname implying or inferring any status as a member
88 of a class or group or affiliation with any system of
89 belief.

90 (B) The city of residence of every candidate, the state
91 of residence of every candidate residing outside the
92 state, the county of residence of every candidate for an
93 office on the ballot in more than one county and the
94 magisterial district of residence of every candidate for
95 an office subject to magisterial district limitations are to
96 be printed in lower case letters beneath the names of the
97 candidates.

98 (C) The arrangement of names within each office must
99 be determined as prescribed in section thirteen-a of this
100 article.

101 (D) If the number of candidates for an office exceeds
102 the space available on a column or ballot page and
103 requires that candidates for a single office be separated,
104 to the extent possible, the number of candidates for the

105 office on separate columns or pages are to be nearly
106 equal and clear instructions given the voter that the
107 candidates for the office are continued on the following
108 column or page.

109 (4) When an insufficient number of candidates has
110 filed for a party to make the number of nominations
111 allowed for the office or for the voters to elect sufficient
112 members to the board of education or to executive
113 committees, the vacant positions on the ballot shall be
114 filled with the words "No Candidate Filed": *Provided,*
115 That in paper ballot systems which allow for write-ins
116 to be made directly on the ballot, a blank line shall be
117 placed in any vacant position in the office of board of
118 education or for election to any party executive
119 committee. A line shall separate each candidate from
120 every other candidate for the same office.
121 Notwithstanding any other provision of this code, if
122 there are multiple vacant positions on a ballot for one
123 office, the multiple vacant positions which would
124 otherwise be filled with the words "No Candidate
125 Filed" may be replaced with a brief detailed
126 description, approved by the Secretary of State,
127 indicating that there are no candidates listed for the
128 vacant positions.

129 (5) In presidential election years, the words "For
130 election in accordance with the plan adopted by the
131 party and filed with the Secretary of State" is to be
132 printed following the names of all candidates for
133 delegate to national convention.

134 (6) All paper ballots are to be printed in black ink on
135 paper sufficiently thick so that the printing or marking
136 cannot be discernible from the back. Ballot cards and
137 paper for printing ballots using electronically sensible

138 ink are to meet minimum requirements of the tabulating
139 systems and are to conform in size and weight to ensure
140 ease in tabulation.

141 (7) Ballots are to contain perforated tabs at the top of
142 the ballots and are to be printed with unique sequential
143 numbers from one to the highest number representing
144 the total number of ballots printed. On paper ballots,
145 the ballot is to be bordered by a solid line at least one
146 sixteenth of an inch wide and the ballot is to be
147 trimmed to within one-half inch of that border.

148 (8) On the back of every official ballot or ballot card
149 the words "Official Ballot" with the name of the county
150 and the date of the election are to be printed. Beneath
151 the date of the election there are to be two blank lines
152 followed by the words "Poll Clerks".

153 (9) The face of sample paper ballots and sample ballot
154 labels are to be like other official ballots or ballot labels
155 except that the word "sample" is to be prominently
156 printed across the front of the ballot in a manner that
157 ensures the names of candidates are not obscured and
158 the word "sample" may be printed in red ink. No
159 printing may be placed on the back of the sample.

§3-5-19. Vacancies in nominations; how filled; fees.

1 (a) If any vacancy shall occur in the party nomination
2 of candidates for office nominated at the primary
3 election or by appointment under the provisions of
4 section eleven of this article, the vacancies may be
5 filled, subject to the following requirements and
6 limitations:

7 (1) Each appointment made under this section shall be

8 made by the executive committee of the political party
9 for the political division in which the vacancy occurs:
10 *Provided*, That if the executive committee holds a duly
11 called meeting in accordance with section nine, article
12 one of this chapter but fails to make an appointment or
13 fails to certify the appointment of the candidate to the
14 proper filing officer within the time required, the
15 chairperson of the executive committee may make the
16 appointment not later than two days following the
17 deadline for the executive committee.

18 (2) Each appointment made under this section is
19 complete only upon the receipt by the proper filing
20 officer of the certificate of appointment by the executive
21 committee, or its chairperson, as the case may be, the
22 certificate of announcement of the candidate as
23 prescribed in section seven of this article and, except for
24 appointments made under subdivision (4), (5), (6) or (7)
25 of this subsection, the filing fee or waiver of fee as
26 prescribed in section eight or eight-a of this article. The
27 proper filing officer is the officer with whom the
28 original certificate of nomination is regularly filed for
29 that office.

30 (3) If a vacancy in nomination is caused by the failure
31 of a candidate to file for an office, or by withdrawal of
32 a candidate no later than the third Tuesday following
33 the close of candidate filing pursuant to the provisions
34 of section eleven of this article, a nominee may be
35 appointed by the executive committee and certified to
36 the proper filing officer no later than the Thursday
37 preceding the primary election.

38 (4) If a vacancy in nomination is caused by the
39 disqualification of a candidate and the vacancy occurs
40 not later than eighty-four days before the general

41 election, a nominee may be appointed by the executive
42 committee and certified to the proper filing officer not
43 later than seventy-eight days before the general
44 election. A candidate may be determined ineligible if a
45 written request is made by an individual with
46 information to show a candidate's ineligibility to the
47 State Election Commission no later than eighty-four
48 days before the general election explaining grounds why
49 a candidate is not eligible to be placed on the general
50 election ballot or not eligible to hold the office, if
51 elected. The State Election Commission shall review the
52 reasons for the request. If the commission finds the
53 circumstances warrant the disqualification of the
54 candidate, the commission may authorize appointment
55 by the executive committee to fill the vacancy. Upon
56 receipt of the authorization a nominee may be
57 appointed by the executive committee and certified to
58 the proper filing officer no later than seventy-eight days
59 before the general election.

60 (5) If a vacancy in nomination is caused by the
61 incapacity of the candidate and if the vacancy occurs
62 not later than eighty-four days before the general
63 election, a nominee may be appointed by the executive
64 committee and certified to the proper filing officer no
65 later than seventy-eight days before the general
66 election.

67 (6) If a vacancy in nomination is caused by the
68 withdrawal of the candidate no later than eighty-four
69 days before the general election due to extenuating
70 personal circumstances which will prevent the
71 candidate from serving in the office if elected and if the
72 candidate or the chairperson of the executive committee
73 for the political division applies in writing to the State
74 Election Commission no later than eighty-four days

75 before the general election for permission to remove the
76 candidate's name from the general election ballot, the
77 State Election Commission shall review the reasons for
78 the request. If the commission finds the circumstances
79 warrant the withdrawal of the candidate, the
80 commission shall authorize appointment by the
81 executive committee to fill the vacancy. Upon receipt of
82 the authorization, a nominee may be appointed by the
83 executive committee and certified to the proper filing
84 officer no later than seventy-eight days before the
85 general election.

86 (7) If a vacancy in nomination is caused by the death
87 of the candidate occurring no later than twenty-five
88 days before the general election, a nominee may be
89 appointed by the executive committee and certified to
90 the proper filing officer no later than twenty-one days
91 following the date of death or no later than twenty-two
92 days before the general election, whichever date occurs
93 first.

94 (b) Except as otherwise provided in article ten of this
95 chapter, if any vacancy occurs in a partisan office or
96 position other than political party executive committee,
97 which creates an unexpired term for a position which
98 would not otherwise appear on the ballot in the general
99 election, and the vacancy occurs after the close of
100 candidate filing for the primary election but not later
101 than eighty-four days before the general election, a
102 nominee of each political party may be appointed by the
103 executive committee and certified to the proper filing
104 officer no later than seventy-eight days before the
105 general election. Appointments shall be filed in the
106 same manner as provided in subsection (a) of this
107 section, except that the filing fee shall be paid before
108 the appointment is complete.

109 (c) When a vacancy occurs in the board of education
110 after the close of candidate filing for the primary
111 election but not later than eighty-four days before the
112 general election, a special candidate filing period shall
113 be established. Candidates seeking election to any
114 unexpired term for board of education shall file a
115 certificate of announcement and pay the filing fee to the
116 clerk of the county commission no earlier than the first
117 Monday in August and no later than seventy-seven days
118 before the general election.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-2. Preparation and form of general election ballots.

1 (a) All ballots prepared under the provisions of this
2 section are to contain:

3 (1) The name and ticket of each party which is a
4 political party under the provisions of section eight,
5 article one of this chapter;

6 (2) The name chosen as the party name by each group
7 of citizens which has secured nomination for two or
8 more candidates by petition under the provisions of
9 section twenty-three of this article;

10 (3) The names of every candidate for any office to be
11 voted for at the election whose nomination in the
12 primary election, nomination by petition or nomination
13 by appointment to fill a vacancy on the ballot has been
14 certified and filed according to law and no others.

15 (b) The provisions of paragraphs (C) and (D),
16 subdivision (2), section thirteen, article five of this
17 chapter; subdivision (3) of said section; paragraphs (A)

18 and (B), subdivision (4) of said section; and subdivisions
19 (6), (7), (8) and (9) of said section pertaining to the
20 preparation and form of primary election ballots shall
21 likewise apply to general election ballots.

22 (c) (1) For all ballot systems, the ballot heading is to be
23 in display type and contain the words "Official Ballot,
24 General Election" and the name of the county and the
25 month, day and year of the election.

26 (2) After the heading, each ballot is to contain, laid out
27 in parallel columns, rows or pages as required by the
28 particular voting system, the party emblem, the position
29 for straight party voting for each party and the name of
30 each party as prescribed in subsection (a) of this section.
31 On paper ballots, the position for straight party voting
32 is to be a heavy circle, three-fourths inch in diameter,
33 surrounded by the words "For a straight ticket mark
34 within this circle" printed in bold six-point type. On all
35 other ballots or ballot labels, the positions for straight
36 party voting is to be marked "Straight Party Ticket".

37 (3) The party whose candidate for president received
38 the highest number of votes at the last preceding
39 presidential election is to be placed in the left, or first
40 column, row or page, as is appropriate to the voting
41 system. The party which received the second highest
42 vote is to be next and so on. Any groups or third parties
43 which did not have a candidate for president on the
44 ballot in the previous presidential election are to be
45 placed in the sequence in which the final certificates of
46 nomination by petition were filed.

47 (4)(A) The following general instructions for straight
48 party voters are to be printed in no smaller than
49 eight-point bold type: "IF YOU MARKED A

50 STRAIGHT TICKET: When you mark any individual
51 candidate in a different party, that vote will override
52 your straight party vote for that office. When you mark
53 any individual candidate in a different party for an
54 office where more than one will be elected, YOU MUST
55 MARK EACH OF YOUR CHOICES FOR THAT OFFICE
56 because your straight ticket vote will not be counted for
57 that office". The last sentence of the instructions may
58 not be included on any ballot which does not contain
59 any office or division where more than one candidate
60 will be elected.

61 On paper ballots, the general instructions are to be
62 placed below the party name and across the top of all
63 columns, followed by a heavy line separating them from
64 the rest of the ballot: *Provided*, That the instructions
65 may be centered among the columns running the full
66 width of the ballot. On ballots marked with
67 electronically sensible ink, the general instructions are
68 to be placed after the position for straight voting and
69 before any office.

70 (B) The following specific instructions are to be
71 printed on the ballot for any partisan election for an
72 office or division to which more than one candidate is to
73 be elected: "If you marked a straight ticket and you
74 mark any candidate in a different party for this office,
75 you must mark all your choices for this office because
76 your straight ticket vote will not be counted for this
77 office".

78 On paper ballots, the specific instructions are to be
79 placed below the office name of any partisan office
80 where more than one is to be elected and across the top
81 of all columns for that office or centered among the
82 columns before the names of any candidates. On all

83 other ballots and ballot labels, the specific instructions
84 are to be placed above or to the side of the names of the
85 candidates as the voting system requires.

86 (5) For all ballots, any columns, rows or sections in
87 which the ticket of one party appears are to be clearly
88 separated from the other columns, rows or sections by
89 a heavy line or other clear division. For each party, the
90 offices are to be arranged in the order prescribed in
91 section thirteen-a, article five of this chapter under the
92 appropriate tickets, which are to be headed "National
93 Ticket", "State Ticket" and "County Ticket". The
94 number of pages, columns or rows, where applicable,
95 may be modified to meet the limitations of ballot size
96 and composition requirements, subject to approval by
97 the Secretary of State.

98 (d) The arrangement of names within each office for
99 all ballot systems is to be as follows:

100 (1) In elections for presidential electors, the names of
101 the candidates for president and vice president of each
102 party are to be placed beside a brace with a single
103 voting position, so that a vote for any presidential
104 candidate is a vote for the electors of the party for
105 which the candidates were named.

106 (2) The order of names of candidates for any office or
107 division for which more than one is to be elected is
108 determined as prescribed in section thirteen-a, article
109 five of this chapter: *Provided*, That the drawing by lot
110 is to be conducted on the seventieth day next preceding
111 the date of the general election, beginning at 9:00 a. m.

112 (3) In any office where more than one person is to be
113 elected, the names of the candidates for the office are to

114 be staggered so that no two candidates for that office
 115 appear directly opposite any other candidate, as shown
 116 in the example below: *Provided*, That if the voting
 117 system cannot accurately tabulate any ballot due to this
 118 requirement, the ballot may be adjusted so that it is
 119 accurately tabulated. However, each candidate shall be
 120 separated by a thin line to distinguish between each
 121 candidate.

	For House of Delegates	For House of Delegates
122	First Delegate District	First Delegate District
123	(Vote For Not More Than Two)	(Vote For Not More Than Two)
124		
125	SUSAN B. ANTHONY	
126	City (County)	
127		JOHN ADAMS
128		City (County)
129	ABRAHAM LINCOLN	
130	City (County)	
131		JAMES MONROE
132		City (County)

133 (4) Each voting system is to provide a means for voters
 134 to vote for any person whose name does not appear on
 135 the ticket by writing it with pen or pencil or by using
 136 stamps, stickers, tapes, labels or other means of writing
 137 in the name of a candidate which does not interfere with
 138 the tabulation of the ballot.

139 (A) In paper ballot systems which allow for write-ins
 140 to be made directly on the ballot, a blank square and a
 141 blank line equal to the space which would be occupied
 142 by the name of the candidate is to be placed under the
 143 proper office for each vacancy in nomination and for an
 144 office for which more than one is to be elected, any

145 vacancy is to appear after any other candidates for the
146 office. If no write-in lines are included on the ballot,
147 specific instructions are to be added to the top of the
148 ballot notifying the voter that a write-in vote may be
149 cast by writing the name and office on any location on
150 the front of the ballot.

151 (B) In machine and electronically tabulated ballot
152 systems in which write-in votes must be made in a place
153 other than on the ballot, if there is a vacancy in
154 nomination leaving fewer candidates in any party than
155 can be elected to that office, the words "No Candidate
156 Nominated" is to be printed in the space that would be
157 occupied by the name of the candidate and for an office
158 for which more than one is to be elected, any vacancy is
159 to appear after any other candidates for the office.
160 Notwithstanding any other provision of this code, if
161 there are multiple vacant positions on a ballot for one
162 office, the multiple vacant positions which would
163 otherwise be filled with the words "No Candidate
164 Filed" may be replaced with a brief detailed
165 description, approved by the Secretary of State,
166 indicating that there are no candidates listed for the
167 vacant positions.

168 (5) In a general election in any county in which
169 unexpired terms of the board of education are to be
170 filled by election, a separate section or page of the ballot
171 is to be set off by means clearly separating the
172 nonpartisan ballot from the ballot for the political party
173 candidates and is to be headed "Nonpartisan Board of
174 Education".

175 (e) Any constitutional amendment is to be placed
176 following all offices, followed by any other issue upon
177 which the voters are to cast a vote. The heading for

178 each amendment or issue is to be printed in large, bold
179 type according to the requirements of the resolution
180 authorizing the election.

181 (f) The board of ballot commissioners may not place
182 any issue on the ballot for election which is not
183 specifically authorized under the West Virginia
184 Constitution or statutes or which has not been properly
185 ordered by the appropriate governmental body charged
186 with calling the election.

§3-6-3. Publication of sample ballots and lists of candidates.

1 (a) The ballot commissioners of each county shall
2 prepare a sample official general election ballot for all
3 political party or independent nominees, nonpartisan
4 candidates for election, if any, and all ballot issues to be
5 voted for at the general election, according to the
6 provisions of this article and articles four and four-a of
7 this chapter, as appropriate to the voting system, and
8 for any ballot issue, according to the provisions of law
9 authorizing the election.

10 (b) The facsimile sample general election ballot shall
11 be published as follows:

12 (1) For counties in which two or more qualified
13 newspapers publish a daily newspaper, not more than
14 twenty-six nor less than twenty days preceding the
15 general election, the ballot commissioners shall publish
16 the sample official general election ballot as a Class I-0
17 legal advertisement in the two qualified daily
18 newspapers of different political parties within the
19 county having the largest circulation in compliance with
20 the provisions of article three, chapter fifty-nine of this
21 code;

22 (2) For counties having no more than one daily
23 newspaper, or having only one or more qualified
24 newspapers which publish weekly, not more than
25 twenty-six nor less than twenty days preceding the
26 primary election, the ballot commissioners shall publish
27 the sample official general election ballot as a Class I
28 legal advertisement in the qualified newspaper within
29 the county having the largest circulation in compliance
30 with the provisions of article three, chapter fifty-nine of
31 this code; and

32 (3) Each facsimile sample ballot shall be a
33 photographic reproduction of the official sample ballot
34 or ballot pages and shall be printed in a size no less than
35 sixty-five percent of the actual size of the ballot, at the
36 discretion of the ballot commissioners: *Provided*, That
37 when the ballots for the precincts within the county
38 contain different senatorial, delegate, magisterial or
39 executive committee districts or when the ballots for
40 precincts within a city contain different municipal
41 wards, the facsimile shall be altered to include each of
42 the various districts in the appropriate order. If, in
43 order to accommodate the size of each ballot, the ballot
44 or ballot pages must be divided onto more than one
45 page, the arrangement and order shall be made to
46 conform as nearly as possible to the arrangement of the
47 ballot. The publisher of the newspaper shall submit a
48 proof of the ballot and the arrangement to the ballot
49 commissioners for approval prior to publication.

50 (c) The ballot commissioners of each county shall
51 prepare, in the form and manner prescribed by the
52 Secretary of State, an official list of offices and
53 nominees for each office which will appear on the
54 general election ballot for each political party or as
55 independent nominees and, as the case may be, for the

56 nonpartisan candidates to be voted for at the general
57 election:

58 (1) All information which appears on the ballot,
59 including the names of parties for which a straight
60 ticket may be cast, instructions relating to straight
61 ticket voting, instructions as to the number of
62 candidates for whom votes may be cast for the office,
63 any additional language which will appear on the ballot
64 below the name of the office, any identifying
65 information relating to the candidates, such as his or
66 her residence and magisterial district or presidential
67 preference. Following the names of all candidates, the
68 list shall include the full title, text and voting positions
69 of any issue to appear on the ballot.

70 (2) The order of the straight ticket positions, offices
71 and candidates for each office and the manner of
72 designating the parties shall be as follows:

73 (A) The straight ticket positions shall be designated
74 "straight (party name) ticket", with the parties listed in
75 the order in which they appear on the ballot, from left
76 to right or from top to bottom, as the case may be;

77 (B) The offices shall be listed in the same order in
78 which they appear on the ballot;

79 (C) The candidates within each office for which one is
80 to be elected shall be listed in the order they appear on
81 the ballot, from left to right or from top to bottom, as
82 the case may be, and the candidate's political party
83 affiliation or independent status shall be indicated by
84 the one or two letter initial specifying the affiliation,
85 placed in parenthesis to the right of the candidate's
86 name; and

87 (D) The candidates within each office for which more
88 than one is to be elected shall be arranged by political
89 party groups in the order they appear on the ballot and
90 the candidate's affiliation shall be indicated as provided
91 in paragraph (C) of this subdivision.

92 (d) The official list of candidates and issues as
93 provided in subsection (c) of this section shall be
94 published as follows:

95 (1) For counties in which two or more qualified
96 newspapers publish a daily newspaper, on the last day
97 on which a newspaper is published immediately
98 preceding the general election, the ballot commissioners
99 shall publish the official list of nominees and issues as
100 a Class I-0 legal advertisement in the two qualified
101 daily newspapers of different political parties within
102 the county having the largest circulation in compliance
103 with the provisions of article three, chapter fifty-nine of
104 this code;

105 (2) For counties having no more than one daily paper,
106 or having only one or more qualified newspapers which
107 publish weekly, on the last day on which a newspaper is
108 published immediately preceding the general election,
109 the ballot commissioners shall publish the sample
110 official list of nominees and issues as a Class I legal
111 advertisement in the qualified newspaper within the
112 county having the largest circulation in compliance with
113 the provisions of article three, chapter fifty-nine of this
114 code;

115 (3) The publication of the official list of nominees for
116 each party and for nonpartisan candidates shall be in
117 single or double columns, as required to accommodate
118 the type size requirements as follows:

119 (A) The words "official list of nominees and issues",
120 the name of the county, the words "General Election"
121 and the date of the election shall be printed in all
122 capital letters and in bold type no smaller than fourteen
123 point;

124 (B) The designation of the straight ticket party
125 positions shall be printed in all capital letters in bold
126 type no smaller than twelve point and the title of the
127 office shall be printed in bold type no smaller than
128 twelve point and any voting instructions or other
129 language printed below the title shall be printed in bold
130 type no smaller than ten point; and

131 (C) The names of the candidates and the initial within
132 parenthesis designating the candidate's affiliation shall
133 be printed in all capital letters in bold type no smaller
134 than ten point and the residence information shall be
135 printed in type no smaller than ten point; and

136 (4) When any ballot issue is to appear on the ballot,
137 the title of that ballot shall be printed in all capital
138 letters in bold type no smaller than twelve point. The
139 text of the ballot issue shall appear in no smaller than
140 eight point type. The ballot commissioners may require
141 the publication of the ballot issue under this subsection
142 in the facsimile sample ballot format in lieu of the
143 alternate format.

144 (e) Notwithstanding the provisions of subsections (c)
145 and (d) of this section, beginning with the general
146 election to be held in the year two thousand, the ballot
147 commissioners of any county may choose to publish a
148 facsimile sample general election ballot, instead of the
149 official list of candidates and issues, for purposes of the
150 last publication required before any general election.

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

Cherkate
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Holmes
.....
Clerk of the Senate

Dwight D. Smith
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *3rd* Day of *April*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 02 2007

Time 3:35 pm