

SB 261

FILED

2009 APR 21 PM 4:50

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

**SEVENTY-NINTH LEGISLATURE**

**REGULAR SESSION, 2009**

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 261**

*(SENATOR JENKINS, original sponsor)*

[Passed April 7, 2009; in effect ninety days from passage.]

FILED

2009 APR 21 PM 4:50

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 261**

(Senator Jenkins, *original sponsor*)

---

[Passed April 7, 2009; in effect ninety days from passage.]

---

AN ACT to amend and reenact §3-1-30 of the Code of West Virginia, 1931, as amended, relating to requiring party executive committees to submit their list of nominees to serve as election officials no later than the seventieth day before the election.

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

That §3-1-30 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-30. Nomination and appointment of election officials and alternates; notice of appointment; appointment to fill vacancies in election boards.**

- 1 (a) For any primary, general or special election held
- 2 throughout a county, poll clerks and election commission-
- 3 ers may be nominated as follows:

4 (1) The county executive committee for each of the two  
5 major political parties may, by a majority vote of the  
6 committee at a duly called meeting, nominate one quali-  
7 fied person for each team of poll clerks and one qualified  
8 person for each team of election commissioners to be  
9 appointed for the election;

10 (2) The appointing body shall select one qualified person  
11 as the additional election commissioner for each board of  
12 election officials;

13 (3) Each county executive committee shall also nominate  
14 qualified persons as alternates for at least ten percent of  
15 the poll clerks and election commissioners to be appointed  
16 in the county and is authorized to nominate as many  
17 qualified persons as alternates as there are precincts in the  
18 county to be called upon to serve in the event any of the  
19 persons originally appointed fail to accept appointment or  
20 fail to appear for the required training or for the prepara-  
21 tion or execution of their duties;

22 (4) When an executive committee nominates qualified  
23 persons as poll clerks, election commissioners or alter-  
24 nates, the committee, or its chairman or secretary on its  
25 behalf, shall file in writing with the appointing body, no  
26 later than the seventieth day before the election, a list of  
27 those persons nominated and the positions for which they  
28 are designated.

29 (b) For any municipal primary, general or special  
30 election, the poll clerks and election commissioners may be  
31 nominated as follows:

32 (1) In municipalities which have municipal executive  
33 committees for the two major political parties in the  
34 municipality, each committee may nominate election  
35 officials in the manner provided for the nomination of  
36 election officials by county executive committees in

38 (2) In municipalities which do not have executive  
39 committees, the governing body shall provide by ordinance  
40 for a method of nominating election officials or shall  
41 nominate as many eligible persons as are required, giving  
42 due consideration to any recommendations made by voters  
43 of the municipality or by candidates on the ballot.

44 (c) The governing body responsible for appointing  
45 election officials is:

46 (1) The county commission for any primary, general or  
47 special election ordered by the county commission and any  
48 joint county and municipal election;

49 (2) The board of education for any special election  
50 ordered by the board of education conducted apart from  
51 any other election;

52 (3) The municipal governing body for any primary,  
53 general or special municipal election ordered by the  
54 governing body.

55 (d) The qualifications for persons nominated to serve as  
56 election officials may be confirmed prior to appointment  
57 by the clerk of the county commission for any election  
58 ordered by the county commission or for any joint county  
59 and municipal election and by the official recorder of the  
60 municipality for a municipal election.

61 (e) The appropriate governing body shall appoint the  
62 election officials for each designated election board no  
63 later than the forty-ninth day before the election as  
64 follows:

65 (1) Those eligible persons whose nominations for poll  
66 clerk and election commissioner were timely filed by the  
67 executive committees and those additional persons  
68 selected to serve as an election commissioner are to be  
69 appointed;

70 (2) The governing body shall fill any positions for which  
71 no nominations were filed.

72 (f) At the same time as the appointment of election  
73 officials or at a subsequent meeting the governing body  
74 shall appoint persons as alternates. However, no alternate  
75 may be eligible for compensation for election training  
76 unless the alternate is subsequently appointed as an  
77 election official or is instructed to attend and actually  
78 attends training as an alternate and is available to serve  
79 on election day. Alternates shall be appointed and serve  
80 as follows:

81 (1) Those alternates nominated by the executive commit-  
82 tees shall be appointed;

83 (2) The governing body may appoint additional alter-  
84 nates who may be called upon to fill vacancies after all  
85 alternates designated by the executive committees have  
86 been assigned, have declined to serve or have failed to  
87 attend training; and

88 (3) The governing body may determine the number of  
89 persons who may be instructed to attend training as  
90 alternates.

91 (g) The clerk of the county commission shall appoint  
92 qualified persons to fill all vacancies existing after all  
93 previously appointed alternates have been assigned, have  
94 declined to serve or have failed to attend training.

95 (h) Within seven days following appointment, the clerk  
96 of the county commission shall notify, by first-class mail,  
97 all election commissioners, poll clerks and alternates of  
98 the fact of their appointment and include with the notice  
99 a response notice form for the appointed person to return  
100 indicating whether or not he or she agrees to serve in the  
101 specified capacity in the election.

102 (i) The position of any person notified of appointment  
103 who fails to return the response notice or otherwise  
104 confirm to the clerk of the county commission his or her  
105 agreement to serve within fourteen days following the date  
106 of appointment is considered vacant and the clerk shall  
107 proceed to fill the vacancies according to the provisions of  
108 this section.

109 (j) If an appointed election official fails to appear at the  
110 polling place by forty-five minutes past five o'clock a. m.  
111 on election day, the election officials present shall contact  
112 the office of the clerk of the county commission for  
113 assistance in filling the vacancy. The clerk shall proceed  
114 as follows:

115 (1) The clerk may attempt to contact the person origi-  
116 nally appointed, may assign an alternate nominated by the  
117 same political party as the person absent if one is available  
118 or, if no alternate is available, may appoint another  
119 eligible person;

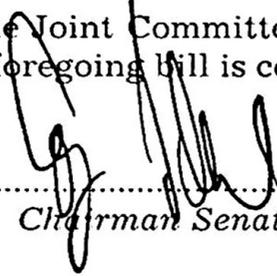
120 (2) If the election officials present are unable to contact  
121 the clerk within a reasonable time, they shall diligently  
122 attempt to fill the position with an eligible person of the  
123 same political party as the party that nominated the  
124 person absent until a qualified person has agreed to serve;

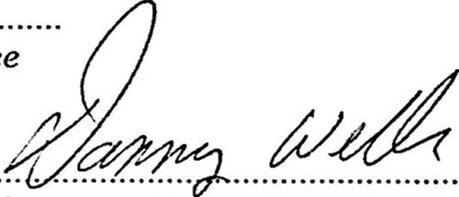
125 (3) If two teams of election officials, as defined in section  
126 twenty-nine of this article, are present at the polling place,  
127 the person appointed to fill a vacancy in the position of the  
128 additional commissioner may be of either political party.

129 (k) In a municipal election, the recorder or other official  
130 designated by charter or ordinance to perform election  
131 responsibilities shall perform the duties of the clerk of the  
132 county commission as provided in this section.

Enr. Com. Sub. for S. B. No. 261] 6

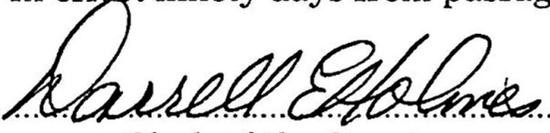
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

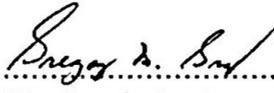
  
.....  
Chairman Senate Committee

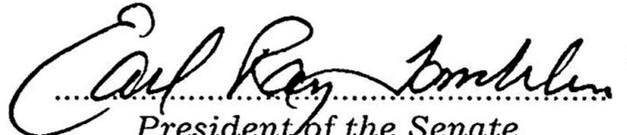
  
.....  
Chairman House Committee

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 21<sup>st</sup>  
Day of April, 2009.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 20 2009

Time 9:49 am