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.]
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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 throughout a county, poll clerks and election commissioners 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
(2) In municipalities which do not have executive committees, the governing body shall provide by ordinance for a method of nominating election officials or shall nominate as many eligible persons as are required, giving due consideration to any recommendations made by voters of the municipality or by candidates on the ballot.

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

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

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

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

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

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

(1) Those eligible persons whose nominations for poll clerk and election commissioner were timely filed by the executive committees and those additional persons selected to serve as an election commissioner are to be appointed;
(2) The governing body shall fill any positions for which no nominations were filed.

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

(1) Those alternates nominated by the executive committees shall be appointed;

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

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

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

(h) Within seven days following appointment, the clerk of the county commission shall notify, by first-class mail, all election commissioners, poll clerks and alternates of the fact of their appointment and include with the notice a response notice form for the appointed person to return indicating whether or not he or she agrees to serve in the specified capacity in the election.
(i) The position of any person notified of appointment who fails to return the response notice or otherwise confirm to the clerk of the county commission his or her agreement to serve within fourteen days following the date of appointment is considered vacant and the clerk shall proceed to fill the vacancies according to the provisions of this section.

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

(1) The clerk may attempt to contact the person originally appointed, may assign an alternate nominated by the same political party as the person absent if one is available or, if no alternate is available, may appoint another eligible person;

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

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

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

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 bill hereby approved this the 21st Day of April, 2009.

Governor
PRESENTED TO THE
GOVERNOR

APR 20 2009

Time 9:49 am