

SB 145

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 145

(SENATOR UNGER, ORIGINAL SPONSOR)

[PASSED APRIL 9, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

WEST VIRGINIA
SECRETARY OF STATE

2013 APR 19 PM 12:50

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OFFICE OF THE
SECRETARY OF STATE

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Senate Bill No. 145

(SENATOR UNGER, *original sponsor*)

[Passed April 9, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §3-1-50 of the Code of West Virginia, 1931, as amended, relating to the administrative procedure in response to election-related complaints; clarifying language to allow the procedure to be utilized for certain federal election violations; and providing an exception to the procedure for certain allegations that may result in a finding of a criminal violation.

Be it enacted by the Legislature of West Virginia:

That §3-1-50 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-50. Establishment of state-based administrative complaint procedures.

- 1 (a) The Secretary of State shall establish and maintain a
- 2 state-based administrative complaint procedure for
- 3 complaints received concerning election violations which
- 4 shall meet the following requirements:

5 (1) The procedures shall be uniform and
6 nondiscriminatory.

7 (2) Under the procedures, any person who believes that
8 there is a violation of any provision of this chapter or Title III
9 of the Help America Vote Act, Pub. L. 107-252, including a
10 violation which has occurred, is occurring or is about to
11 occur, may file a complaint.

12 (3) Any complaint filed under the procedures shall be in
13 writing, notarized and signed and sworn by the person filing
14 the complaint.

15 (4) The Secretary of State may consolidate complaints
16 filed under this section.

17 (5) At the request of the complainant there shall be a
18 hearing on the record.

19 (6) Violations of any provision of this chapter or Title III
20 of the Help America Vote Act, Pub. L. 107-252 shall be
21 punishable in accordance with the provisions of article nine
22 of this chapter.

23 (7) If, under the procedures, the Secretary of State
24 determines that there is no violation, the Secretary of State
25 shall dismiss the complaint and publish the results of the
26 procedures.

27 (8) The Secretary of State shall make a final
28 determination with respect to a complaint prior to the
29 expiration of the ninety-day period which begins on the date
30 the complaint is filed unless the complainant consents to a
31 longer period for making a determination.

32 (9) If the Secretary of State fails to meet the deadline
33 applicable under subdivision (8) of this section, the complaint

34 shall be resolved within sixty days under alternative dispute
35 resolution procedures established for purposes of this section.
36 The record and other materials from any proceedings
37 conducted under the complaint procedures established under
38 this section shall be made available for use under the
39 alternative dispute resolution procedures.

40 (b) The administrative complaint procedure required by
41 subsection (a) of this section is not applicable if, within thirty
42 days of the filing of the complaint: (1) The Secretary of State
43 initiates an investigation; (2) the Secretary of State
44 determines that the allegations contained in the complaint
45 may result in a finding of a criminal violation; and (3) the
46 Secretary of State determines that the administrative
47 complaint procedure required by this section would endanger
48 or impede the associated criminal investigation: *Provided,*
49 That within three business days thereafter the Secretary of
50 State shall notify the complainant in writing that the
51 allegations contained in the complaint may result in a finding
52 of a criminal violation and, therefore, the administrative
53 procedure contained in this section is inapplicable.

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


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Chairman Senate Committee

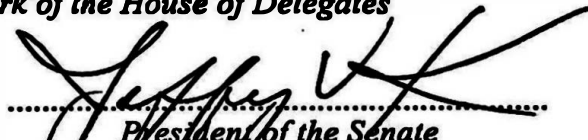

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

The within *is approved*..... this the *19th*
Day of *April*....., 2013.


.....
Governor

PRESENTED TO THE GOVERNOR

APR 15 2013

Time 4:12 pm