

H. B. 2497

(By Delegate Kump)

[Introduced January 14, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §3-1-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11 and §3-4A-11a of said code; to amend said code by adding thereto a new section designated §3-5-6a; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; and to amend said code by adding thereto a new section, designated §3-6-2a, all relating to the nonpartisan elections of Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of Agriculture and justices of the West Virginia Supreme Court of Appeals; timing and frequency of election; ballot design and printing; separation from partisan ballot; filing announcement of candidacies; withdrawal of announcement of candidacies; refund of paid filing fees; and ballot content.

Be it enacted by the Legislature of West Virginia:

That §3-1-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §3-4A-11 and §3-4A-11a of said code

1 be amended and reenacted; that said code be amended by adding
 2 thereto one new section, designated §3-5-6a; that §3-5-7, §3-5-13
 3 and §3-5-13a of said code be amended and reenacted; that said code
 4 be amended by adding thereto a new section, designated §3-6-2a, all
 5 to read as follows:

6 **CHAPTER 3. ELECTIONS.**

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

8 **§3-1-16. Election of state officers.**

9 At the general election to be held in 1968, and in every
 10 fourth year thereafter, there shall be elected a Governor,
 11 Secretary of State, Treasurer, Auditor, Attorney General, and
 12 Commissioner of Agriculture. At the general election to be held in
 13 2012, and in every fourth year thereafter, there shall be elected
 14 a Governor, Secretary of State, Treasurer, Auditor, Attorney
 15 General, and Commissioner of Agriculture on a nonpartisan basis.
 16 At the general election in the year 1968, and in every second year
 17 thereafter, there shall be elected a member of the State Senate for
 18 each senatorial district, and a member or members of the House of
 19 Delegates of the state from each county or each delegate district.
 20 At the general election to be held in 2012, and in every second
 21 year thereafter, there shall be elected a member of the State
 22 Senate for each senatorial district, and a member or members of the
 23 House of Delegates of the state from each county or each delegate
 24 district. At the general election to be held in the year 1968, and
 25 in every twelfth year thereafter, there shall be elected one judge

1 justice of the Supreme Court of Appeals, and at the general
2 election to be held in 1972, and in every twelfth year thereafter,
3 two ~~judges~~ justices of the Supreme Court of Appeals, and at the
4 general election to be held in 1976, and in every twelfth year
5 thereafter, two ~~judges~~ justices of the Supreme Court of Appeals.
6 At the general election to be held in 2016, and in every twelfth
7 year thereafter, there shall be elected one justice of the Supreme
8 Court of Appeals, and at the general election to be held in 2012,
9 and in every twelfth year thereafter, there shall be elected two
10 justices of the Supreme Court of Appeals, and at the general
11 election to be held in 2020, and in every twelfth year thereafter,
12 there shall be elected two justices of the Supreme Court of
13 Appeals. Effective with the general election held in 2012, the
14 election of justices of the Supreme Court of Appeals shall be on a
15 nonpartisan basis.

16 **ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

17 **§3-4A-11. Ballot labels, instructions and other supplies;**
18 **procedure and requirements.**

19 (a) The ballot commissioners of any county in which an
20 electronic voting system utilizing voting devices for registering
21 the voter's choices is to be used in any election shall cause to be
22 printed for use in the election the ballot cards and ballot labels,
23 as appropriate, for the electronic voting system, or shall cause to
24 be printed a reasonable facsimile of the screens as they appear to
25 the voter for the electronic voting system.

1 (1) The ballot labels are to be clearly printed in black ink
2 on clear white material of a size as will fit the vote recording
3 devices or as will be displayed on the screens as they appear to
4 the voter for the electronic voting system. Arrows are to be
5 printed on the ballot labels to indicate the place to punch the
6 ballot card, which may be to the right or left of the name or
7 proposition, or boxes are to be printed as they appear to the voter
8 on the screens for the electronic voting system.

9 (2) The ballot labels are to contain the party emblem and are
10 to clearly indicate the party designation of each candidate. The
11 titles of offices may be arranged on the ballot labels in vertical
12 columns or in a series of separate pages, and are to be printed
13 above or at the side of the names of candidates ~~so as~~ to indicate
14 clearly the candidates for each office and the number to be
15 elected. The names of candidates for each office are to be printed
16 in vertical columns or on separate pages, grouped by the offices
17 which they seek.

18 (3) For the primary election, the heading of the ballot, the
19 type faces, the names and arrangement of offices and the printing
20 of names and arrangement of candidates within each office are to
21 conform as nearly as possible to ~~the provisions of~~ sections
22 thirteen and thirteen-a, article five of this chapter.

23 (4) For the general election, the heading of the ballot, the
24 straight ticket positions, the instructions to straight ticket
25 voters, the type faces, the names and arrangement of offices and

1 the printing of names and the arrangement of candidates within each
 2 office are to conform as nearly as possible to ~~the provisions of~~
 3 section two, article six of this chapter, except as otherwise
 4 provided in this article. Except for electronic voting systems
 5 that utilize a screen upon which votes may be recorded by stylus or
 6 by means of touch, the Secretary of State shall assign uniform
 7 numbers to be used by all counties using electronic voting for all
 8 straight party tickets and for all candidates running for offices
 9 to be voted upon by all of the voters of the state. After taking
 10 into account the numbers so assigned by the Secretary of State, the
 11 clerk of the circuit court shall arrange the offices and the
 12 candidates within each office as prescribed by section two, article
 13 six of this chapter, and shall assign the appropriate number for
 14 each candidate. When one candidate is to be elected and only two
 15 parties are on the ballot, the ballot label and the arrangement of
 16 the ballot are to conform as nearly as practical to the following
 17 example:

| | | |
|----|---------------------------|-------------------|
| 18 | - - - - - | - - - - - |
| 19 | Democratic Ticket | Republican Ticket |
| 20 | _____ | _____ |
| 21 | For Governor | For Governor |
| 22 | (Vote for One) | (Vote for One) |
| 23 | - - - - - | - - - - - |
| 24 | (candidate's name) 10 --- | |
| 25 | (residence, county) | |

1 --- 11 (candidate's name)
2 (residence, county)

3 _____

4 When more than two parties are on the ballot for an office,
5 the arrangement of the ballot is to be specified by the Secretary
6 of State, and may conform to the following example if practical:

7 - - - - -
8 For Governor
9 (Vote for One)
10 - - - - -

11
12 Democrat (candidate's name) 10 ---
13 (residence, county)
14
15 Republican (candidate's name) 11 ---
16 (residence, county)
17
18 People's (candidate's name) 12 ---
19 (residence, county)

20 The ballot label and the arrangement of the ballot for
21 multi-candidate offices are to conform as nearly as practical to
22 the following example:

23 - - - - -

24 Democratic Ticket Republican Ticket
25 _____

26 For House of Delegates For House of Delegates
27 First Delegate District First Delegate District
28 (Vote For Not More Than Two) (Vote For Not More Than Two)

29 [If you marked a straight [If you marked a straight
30 ticket and you mark any ticket and you mark any
31 candidate in a different candidate in a different

1 party for this office, you
2 must mark all your choices
3 because your straight ticket
4 vote will not be counted
5 for this office.]

party for this office, you
must mark all your choices
because your straight ticket
vote will not be counted
for this office.]

6 - - - - -

7 (candidate's name) 69 ---
8 (residence, county)

9 _____

--- 70 (candidate's name)
(residence, county)

12 _____

13 (candidate's name) 71 ---
14 (residence, county)

15 _____

--- 72 (candidate's name)
(residence, county)

18 (5) Any nonpartisan office, including Board of Education and
19 effective with the general election held in 2012 and thereafter for
20 the nonpartisan office of Governor, Secretary of State, Treasurer,
21 Auditor, Attorney General, and Commissioner of Agriculture and
22 justice of the Supreme Court of Appeals any question to be voted on
23 is to be placed or displayed on a separate page or otherwise
24 separated from the partisan ballots, constituting a separate ballot
25 where required.

1 (6) In elections in which voters are authorized to vote for
2 official write-in candidates whose names do not appear on the
3 ballot label, there are to be provided, as described in this
4 section, a write-in position on the ballot label for the voter to
5 indicate his or her preference for a write-in candidate and a form
6 on the inside of the secrecy envelope to permit a voter to enter
7 the title of the office and the names of official write-in
8 candidates for whom he or she wishes to vote. ~~.* Provided, That if~~
9 If an electronic voting system that utilizes a screen upon which
10 votes may be recorded by means of a stylus or by means of touch is
11 used, the devices are to provide an alpha-numerical screen which
12 allows the voter to, by use of a stylus or by touch, to enter the
13 name of the write-in candidate for whom he or she wishes to vote.

14 For an office to be filled by election in a primary, except
15 delegate to national convention, and for each office in a general
16 election, the ballot label is to include, following all candidates
17 for the office, a single numbered position with an arrow or box
18 indicating the location to punch the ballot card or touch the
19 screen to indicate a preference for a write-in candidate. The
20 following instructions are to be printed beside the arrow in at
21 least 10 point type. "TO WRITE-IN FOR THIS OFFICE: Punch here and
22 put name of office and candidate on inside of secrecy envelope. DO
23 NOT put name here," or, if an electronic voting system is used with
24 screens upon which votes may be recorded by means of a stylus or by
25 means of touch, the word "WRITE-IN" will appear beside a box

1 indicating the location for the voter to touch the screen and, when
2 activated, another screen is to appear allowing the voter to enter
3 a write-in candidate.

4 (7) In addition to all other equipment and supplies required
5 by ~~the provisions of~~ this article, the ballot commissioners shall
6 cause to be printed a supply of instruction cards, sample ballots,
7 facsimile diagrams of the vote recording device ballot and official
8 printed ballots or ballot cards adequate for the orderly conduct of
9 the election in each precinct in their county.

10 (b) The ballot commissioners shall provide all other materials
11 and equipment necessary to the conduct of the election, including
12 voting booths, appropriate facilities for the reception and
13 safekeeping of ballot cards, the ballots of absentee and of
14 challenged voters and of "independent" voters who shall, in primary
15 elections, cast their votes on nonpartisan candidates and public
16 questions submitted to the voters.

17 **§3-4A-11a. Ballots tabulated electronically; arrangement, quantity**
18 **to be printed, ballot stub numbers.**

19 (a) The board of ballot commissioners in counties using
20 ballots upon which votes may be recorded by means of marking with
21 electronically sensible ink or pencil and which marks are tabulated
22 electronically shall cause the ballots to be printed or displayed
23 upon the screens of the electronic voting system for use in
24 elections.

25 (b) (1) For the primary election, the heading of the ballot,

1 the type faces, the names and arrangement of offices and the
2 printing of names and arrangement of candidates within each office
3 are to conform as nearly as possible to ~~the provisions of~~ sections
4 thirteen and thirteen-a, article five of this chapter.

5 (2) For the general election, the heading of the ballot, the
6 straight ticket positions, the instructions to straight ticket
7 voters, the type faces, the names and arrangement of offices and
8 the printing of names and the arrangement of candidates within each
9 office are to conform as nearly as possible to the provisions of
10 section two, article six of this chapter, except as otherwise
11 provided in this article.

12 (3) Nonpartisan elections for board of education and effective
13 with the general election held in 2012 and thereafter for the
14 nonpartisan office of Governor, Secretary of State, Treasurer,
15 Auditor, Attorney General, and Commissioner of Agriculture and
16 justice of the Supreme Court of Appeals and any question to be
17 voted upon are to be separated from the partisan ballot and
18 separately headed in display type with a title clearly identifying
19 the purpose of the election and constituting a separate ballot
20 wherever a separate ballot is required under ~~the provisions of~~ this
21 chapter.

22 (4) Both the face and the reverse side of the ballot may
23 contain the names of candidates only if means to ensure the secrecy
24 of the ballot are provided and lines for the signatures of the poll
25 clerks on the ballot are printed on a portion of the ballot which

1 is deposited in the ballot box and upon which marks do not
2 interfere with the proper tabulation of the votes.

3 (5) The arrangement of candidates within each office is to be
4 determined in the same manner as for other electronic voting
5 systems, as prescribed in this chapter. On the general election
6 ballot for all offices, and on the primary election ballot only for
7 those offices to be filled by election, except delegate to national
8 convention, lines for entering write-in votes are to be provided
9 below the names of candidates for each office, and the number of
10 lines provided for any office shall equal the number of persons to
11 be elected, or three, whichever is fewer. The words "WRITE-IN, IF
12 ANY" are to be printed, where applicable, directly under each line
13 for write-ins. The lines are to be opposite a position to mark the
14 vote.

15 (c) Except for electronic voting systems that utilize screens
16 upon which votes may be recorded by means of a stylus or by means
17 of touch, the primary election ballots are to be printed in the
18 color of ink specified by the Secretary of State for the various
19 political parties, and the general election ballot is to be printed
20 in black ink. For electronic voting systems that utilize screens
21 upon which votes may be recorded by means of a stylus or by means
22 of touch, the primary ballots and the general election ballot are
23 to be printed in black ink. All ballots are to be printed, where
24 applicable, on white paper suitable for automatic tabulation and
25 are to contain a perforated stub at the top or bottom of the

1 ballot, which is to be numbered sequentially in the same manner as
2 provided in section thirteen, article five of this chapter, or are
3 to be displayed on the screens of the electronic voting system upon
4 which votes are recorded by means of a stylus or touch. The number
5 of ballots printed and the packaging of ballots for the precincts
6 are to conform to the requirements for paper ballots provided in
7 this chapter.

8 (d) In addition to the official ballots, the ballot
9 commissioners shall provide all other materials and equipment
10 necessary to the proper conduct of the election.

11 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

12 **§3-5-6a. Election of justices of the Supreme Court of Appeals.**

13 (a) An election for the purpose of electing a Governor,
14 Secretary of State, Treasurer, Auditor, Attorney General,
15 Commissioner of Agriculture and a justice or justices of the
16 Supreme Court of Appeals shall be held on the same date as the
17 general election, as provided by law, but upon a nonpartisan ballot
18 printed for this purpose.

19 (b) In each nonpartisan election for a Governor, Secretary of
20 State, Treasurer, Auditor, Attorney General, Commissioner of
21 Agriculture and justice or justices of the Supreme Court of
22 Appeals, the board of canvassers shall declare and certify the
23 election of the required number of eligible candidates receiving
24 the highest numbers of votes to fill any full terms.

25 (c) It is the intent of this section that any person declared

1 to be elected under this section shall take office as a duly
2 elected justice, even though the person received a plurality of all
3 votes cast at such election.

4 (d) If there is a tie vote under this section, section twelve,
5 article six of this chapter shall control in breaking the tie.

6 **§3-5-7. Filing announcements of candidacies; requirements;**
7 **withdrawal of candidates when section applicable.**

8 (a) Any person who is eligible and seeks to hold an office or
9 political party position to be filled by election in any primary or
10 general election held under the provisions of this chapter shall
11 file a certificate of announcement declaring his or her candidacy
12 for the nomination or election to the office, except for the
13 offices of Governor, Secretary of State, Treasurer, Auditor,
14 Attorney General, Commissioner of Agriculture and justice of the
15 Supreme Court of Appeals which are to be filled on a nonpartisan
16 basis beginning at the general election held in 2012.

17 (b) The certificate of announcement shall be filed as follows:

18 (1) Candidates for the House of Delegates or the State Senate
19 and any other office or political position to be filled by the
20 voters of more than one county shall file a certificate of
21 announcement with the Secretary of State.

22 (2) Candidates for an office or political position to be
23 filled by the voters of a single county or a subdivision of a
24 county, except for candidates for the House of Delegates or State
25 Senate, shall file a certificate of announcement with the clerk of

1 the county commission.

2 (3) Candidates for an office to be filled by the voters of a
3 municipality shall file a certificate of announcement with the
4 recorder or city clerk.

5 (c) The certificate of announcement shall be filed with the
6 proper officer not earlier than the second Monday in January next
7 preceding the primary election day, and not later than the last
8 Saturday in January next preceding the primary election day, and
9 must be received before midnight, eastern standard time, of that
10 day or, if mailed, shall be postmarked by the United States Postal
11 Service before that hour.

12 (d) The certificate of announcement shall be on a form
13 prescribed by the Secretary of State on which the candidate shall
14 make a sworn statement before a notary public or other officer
15 authorized to administer oaths, containing the following
16 information:

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

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

21 (3) The legal name of the candidate and the exact name the
22 candidate desires to appear on the ballot, subject to limitations
23 prescribed in section thirteen, article five of this chapter;

24 (4) The county of residence and a statement that the candidate
25 is a legally qualified voter of that county; and the magisterial

1 district of residence for candidates elected from magisterial
2 districts or under magisterial district limitations;

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

6 (6) For partisan elections, the name of the candidate's
7 political party and a statement that the candidate: (A) Is a
8 member of and affiliated with that political party as evidenced by
9 the candidate's current registration as a voter affiliated with
10 that party; and (B) has not been registered as a voter affiliated
11 with any other political party for a period of sixty days before
12 the date of filing the announcement;

13 (7) Candidates for the offices of Governor, Secretary of
14 State, Treasurer, Auditor, Attorney General, Commissioner of
15 Agriculture and justice of the Supreme Court of Appeals and circuit
16 court judge, beginning in 2012 shall be filled on a nonpartisan
17 basis at the general election. The certificate of announcement
18 shall be filed with the authorized election official not later than
19 the 2nd Tuesday in May, and must be received before midnight,
20 eastern standard time, of that day or, if mailed, shall be
21 postmarked by the United States Postal Service before midnight,
22 eastern standard time, of that day. All certificates of
23 announcement for the offices of Governor, Secretary of State,
24 Treasurer, Auditor, Attorney General, Commissioner of Agriculture
25 and justice of the Supreme Court of Appeals which were filed not

1 earlier than the second Monday in January next preceding the
2 primary election day, and not later than the last Saturday in
3 January next preceding the primary election day, and were received
4 before midnight, eastern standard time, of that day or, if mailed,
5 were postmarked by the United States Postal Service before that
6 hour, may be withdrawn on or before midnight, eastern standard
7 time, of the second Tuesday in May, in accordance with article
8 five, section eleven of this chapter, with a full refund of any
9 filing fees paid or, if not withdraw, shall be effective for
10 purposes of the nonpartisan election for such offices to be held on
11 general election day.

12 ~~(7)~~ (8) For candidates for delegate to national convention,
13 the name of the presidential candidate to be listed on the ballot
14 as the preference of the candidate on the first convention ballot;
15 or a statement that the candidate prefers to remain "uncommitted";

16 ~~(8)~~ (9) A statement that the person filing the certificate of
17 announcement is a candidate for the office in good faith;

18 ~~(9)~~ (10) The words "subscribed and sworn to before me this
19 _____ day of _____, 20____" and a space for the signature
20 of the officer giving the oath.

21 (e) The Secretary of State or the board of ballot
22 commissioners, as the case may be, may refuse to certify the
23 candidacy or may remove the certification of the candidacy upon
24 receipt of a certified copy of the voter's registration record of
25 the candidate showing that the candidate was registered as a voter

1 in a party other than the one named in the certificate of
2 announcement during the sixty days immediately preceding the filing
3 of the certificate: *Provided*, That unless a signed formal
4 complaint of violation of this section and the certified copy of
5 the voter's registration record of the candidate are filed with the
6 officer receiving that candidate's certificate of announcement no
7 later than ten days following the close of the filing period, the
8 candidate may not be refused certification for this reason.

9 (f) The certificate of announcement shall be subscribed and
10 sworn to by the candidate before some officer qualified to
11 administer oaths, who shall certify the same. Any person who
12 knowingly provides false information on the certificate is guilty
13 of false swearing and shall be punished in accordance with section
14 three, article nine of this chapter.

15 (g) Any candidate for delegate to a national convention may
16 change his or her statement of presidential preference by notifying
17 the Secretary of State by letter received by the Secretary of State
18 no later than the third Tuesday following the close of candidate
19 filing. When the rules of the political party allow each
20 presidential candidate to approve or reject candidates for delegate
21 to convention who may appear on the ballot as committed to that
22 presidential candidate, the presidential candidate or the
23 candidate's committee on his or her behalf may file a list of
24 approved or rejected candidates for delegate and the Secretary of
25 State shall list as "uncommitted" any candidate for delegate who is

1 disapproved by the presidential candidate.

2 (h) A person may not be a candidate for more than one office
3 or office division at any election: *Provided*, That a candidate for
4 an office may also be a candidate for President of the United
5 States, for membership on political party executive committees or
6 for delegate to a political party national convention.

7 (i) A candidate who files a certificate of announcement for
8 more than one office or division and does not withdraw, as provided
9 by section eleven, article five of this chapter, from all but one
10 office prior to the close of the filing period may not be certified
11 by the Secretary of State or placed on the ballot for any office by
12 the board of ballot commissioners.

13 (j) The provisions of this section enacted during the regular
14 session of the Legislature in the year 1991 shall apply to the
15 primary election held in the year 1992 and every primary election
16 held thereafter. The provisions of this section enacted during the
17 regular session of the Legislature in the year 2009 shall apply to
18 the primary election held in the year 2010 and every primary
19 election held thereafter.

20 **§3-5-13. Form and contents of ballots.**

21 The face of every primary election ballot shall conform as
22 nearly as practicable to that used at the general election.

23 (1) The heading of every ballot is to be printed in display
24 type. The heading is to contain a ballot title, the name of the
25 county, the state, the words "Primary Election" and the month, day

1 and year of the election. The ballot title of the political party
2 ballots is to contain the words "Official Ballot of the (Name)
3 Party" and the official symbol of the political party may be
4 included in the heading. The ballot title of any separate paper
5 ballot or portion of any electronic or voting machine ballot for
6 the Board of Education is to contain the words "Nonpartisan Ballot
7 of Election of Members of the _____ County Board of
8 Education". The districts for which less than two candidates may
9 be elected and the number of available seats are to be specified
10 and the names of the candidates are to be printed without reference
11 to political party affiliation and without designation as to a
12 particular term of office. The ballot title of any separate paper
13 ballot or portion of any electronic or voting machine ballot for
14 the Governor, Secretary of State, Treasurer, Auditor, Attorney
15 General, Commissioner of Agriculture and Supreme Court of Appeals
16 shall contain the words "Nonpartisan Ballot of Election of
17 Governor, Secretary of State, Treasurer, Auditor, Attorney General,
18 Commissioner of Agriculture and Justice(s) of the Supreme Court of
19 Appeals of West Virginia." The names of the candidates for the
20 Governor, Secretary of State, Treasurer, Auditor, Attorney General,
21 Commissioner of Agriculture and Supreme Court of Appeals shall be
22 printed without references to political party affiliation or
23 registration. Any other ballot or portion of a ballot on a
24 question is to have a heading which clearly states the purpose of
25 the election according to the statutory requirements for that

1 question.

2 (2) (A) For paper ballots, the heading of the ballot is to be
3 separated from the rest of the ballot by heavy lines and the
4 offices shall be arranged in columns with the following headings,
5 from left to right across the ballot: "National Ticket", "State
6 Ticket", "County Ticket" and, in a presidential election year,
7 "National Convention" or, in a nonpresidential election year,
8 "District Ticket". The columns are to be separated by heavy lines.
9 Within the columns, the offices are to be arranged in the order
10 prescribed in section thirteen-a of this article.

11 (B) For voting machines, electronic voting devices and any
12 ballot tabulated by electronic means, the offices are to appear in
13 the same sequence as prescribed in section thirteen-a of this
14 article and under the same headings as prescribed in subsection (a)
15 of this section. The number of pages, columns or rows, where
16 applicable, may be modified to meet the limitations of ballot size
17 and composition requirements subject to approval by the Secretary
18 of State.

19 (C) The title of each office is to be separated from preceding
20 offices or candidates by a line and is to be printed in bold type
21 no smaller than eight point. Below the office is to be printed the
22 number of the district, if any, the number of the division, if any,
23 and the words "Vote for _____" with the number to be nominated
24 or elected or "Vote For Not More Than _____" in multicandidate
25 elections. For offices in which there are limitations relating to

1 the number of candidates which may be nominated, elected or
2 appointed to or hold office at one time from a political
3 subdivision within the district or county in which they are
4 elected, there is to be a clear explanation of the limitation, as
5 prescribed by the Secretary of State, printed in bold type
6 immediately preceding the names of the candidates for those offices
7 on the ballot in every voting system. For counties in which the
8 number of county commissioners exceeds three and the total number
9 of members of the county commission is equal to the number of
10 magisterial districts within the county, the office of county
11 commission is to be listed separately for each district to be
12 filled with the name of the magisterial district and the words
13 "Vote for One" printed below the name of the office. ~~.:—Provided,~~
14 ~~That~~ Also, the office title and applicable instructions may span
15 the width of the ballot so as it is centered among the respective
16 columns.

17 (D) The location for indicating the voter's choices on the
18 ballot is to be clearly shown. For paper ballots, other than those
19 tabulated electronically, the official primary ballot is to contain
20 a square formed in dark lines at the left of each name on the
21 ballot, arranged in a perpendicular column of squares before each
22 column of names.

23 (3) (A) The name of every candidate certified by the Secretary
24 of State or the board of ballot commissioners is to be printed in
25 capital letters in no smaller than eight point type on the ballot

1 for the appropriate precincts. Subject to the rules promulgated by
2 the Secretary of State, the name of each candidate is to appear in
3 the form set out by the candidate on the certificate of
4 announcement, but in no case may the name misrepresent the identity
5 of the candidate nor may the name include any title, position,
6 rank, degree or nickname implying or inferring any status as a
7 member of a class or group or affiliation with any system of
8 belief.

9 (B) The city of residence of every candidate, the state of
10 residence of every candidate residing outside the state, the county
11 of residence of every candidate for an office on the ballot in more
12 than one county and the magisterial district of residence of every
13 candidate for an office subject to magisterial district limitations
14 are to be printed in lower case letters beneath the names of the
15 candidates.

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

18 (D) If the number of candidates for an office exceeds the
19 space available on a column or ballot page and requires that
20 candidates for a single office be separated, to the extent
21 possible, the number of candidates for the office on separate
22 columns or pages are to be nearly equal and clear instructions
23 given the voter that the candidates for the office are continued on
24 the following column or page.

25 (4) When an insufficient number of candidates has filed for

1 a party to make the number of nominations allowed for the office or
2 for the voters to elect sufficient members to the board of
3 education or to executive committees, the vacant positions on the
4 ballot shall be filled with the words "No Candidate Filed."~~+~~
5 ~~Provided, That~~ Also, in paper ballot systems which allow for
6 write-ins to be made directly on the ballot, a blank line shall be
7 placed in any vacant position in the office of board of education
8 or for election to any party executive committee. A line shall
9 separate each candidate from every other candidate for the same
10 office. Notwithstanding any other provision of this code, if there
11 are multiple vacant positions on a ballot for one office, the
12 multiple vacant positions which would otherwise be filled with the
13 words "No Candidate Filed" may be replaced with a brief detailed
14 description, approved by the Secretary of State, indicating that
15 there are no candidates listed for the vacant positions.

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

20 (6) All paper ballots are to be printed in black ink on paper
21 sufficiently thick so that the printing or marking cannot be
22 discernible from the back. Ballot cards and paper for printing
23 ballots using electronically sensible ink are to meet minimum
24 requirements of the tabulating systems and are to conform in size
25 and weight to ensure ease in tabulation.

1 (7) Ballots are to contain perforated tabs at the top of the
2 ballots and are to be printed with unique sequential numbers from
3 one to the highest number representing the total number of ballots
4 printed. On paper ballots, the ballot is to be bordered by a solid
5 line at least one sixteenth of an inch wide and the ballot is to be
6 trimmed to within one-half inch of that border.

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

12 (9) The face of sample paper ballots and sample ballot labels
13 are to be like other official ballots or ballot labels except that
14 the word "sample" is to be prominently printed across the front of
15 the ballot in a manner that ensures the names of candidates are not
16 obscured and the word "sample" may be printed in red ink. No
17 printing may be placed on the back of the sample.

18 **§3-5-13a. Order of offices and candidates on the ballot; uniform**
19 **drawing date.**

20 (a) The order of offices for state and county elections on
21 all ballots within the state shall be as prescribed herein. When
22 the office does not appear on the ballot in an election, then it
23 shall be omitted from the sequence. When an unexpired term for an
24 office appears on the ballot along with a full term, the unexpired
25 term shall appear immediately below the full term.

1 NATIONAL TICKET: President (and Vice President in the
2 general election), United States Senator, member of the United
3 States House of Representatives

4 STATE TICKET: ~~Governor, Secretary of State, Auditor,~~
5 ~~Treasurer, Commissioner of Agriculture, Attorney General, Justice~~
6 ~~of the Supreme Court of Appeals, State Senator, member of the House~~
7 ~~of Delegates,~~ circuit judge in multicounty districts, family court
8 judge in multicounty districts, any other multicounty office, state
9 executive committee.

10 COUNTY TICKET: Circuit judge in single-county districts,
11 Family court judge in single-county districts, clerk of the circuit
12 court, county commissioner, clerk of the county commission,
13 prosecuting attorney, sheriff, assessor, magistrate, surveyor,
14 congressional district executive committee, senatorial district
15 executive committee in multicounty districts, delegate district
16 executive committee in multicounty districts.

17 NATIONAL CONVENTION: Delegate to the national convention --
18 at-large, delegate to the national convention -- congressional
19 district.

20 DISTRICT TICKET: County executive committee.

21 (b) Except for office divisions in which no more than one
22 person has filed a certificate of announcement, the arrangement of
23 names for all offices shall be determined by lot according to the
24 following provisions:

25 (1) On the fourth Tuesday following the close of the candidate

1 filing, beginning at nine o'clock a. m., a drawing by lot shall be
2 conducted in the office of the clerk of the county commission in
3 each county. Notice of the drawing shall be given on the form for
4 the certificate of announcement and no further notice shall be
5 required. The clerk of the county commission shall superintend and
6 conduct the drawing and the method of conducting the drawing shall
7 be prescribed by the Secretary of State.

8 (2) Except as provided herein, the position of each candidate
9 within each office division shall be determined by the position
10 drawn for that candidate individually. ~~Provided, That~~ However, if
11 fewer candidates file for an office division than the total number
12 to be nominated or elected, the vacant positions shall appear
13 following the names of all candidates for the office.

14 (3) Candidates for delegate to national convention who have
15 filed a commitment to a candidate for president shall be listed
16 alphabetically within the group of candidates committed to the same
17 candidate for president and uncommitted candidates shall be listed
18 alphabetically in an uncommitted category. The position of each
19 group of committed candidates and uncommitted candidates shall be
20 determined by lot by drawing the names of the presidential
21 candidates and for an uncommitted category.

22 (4) A candidate or the candidate's representative may attend
23 the drawings.

24 **ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

25 **§3-6-2a. General election ballots for elections of Governor,**

1 Secretary of State, Treasurer, Auditor, Attorney
2 General, Commissioner of Agriculture and justices of
3 the Supreme Court of Appeals and circuit court judges.

4 The general election ballot shall contain separate sections,
5 one listing the names of candidates for Governor, Secretary of
6 State, Treasurer, Auditor, Attorney General, Commissioner of
7 Agriculture clearly separate and apart from the listing of the
8 names on the ballot for political party candidates for partisan
9 offices, and shall include a heading of: "Nonpartisan Ballot of
10 Election of Governor, Secretary of State, Treasurer, Auditor,
11 Attorney General, Commissioner of Agriculture and Justice(s) of the
12 Supreme Court of Appeals of West Virginia" with the names of all
13 candidates for the nonpartisan elections listed thereunder with no
14 other offices listed in that section or that ballot as appropriate.

NOTE: The purpose of this bill is to elect the Governor, Secretary of State, Treasurer, Auditor, Attorney General, Commissioner of Agriculture and all justices to the West Virginia Supreme Court of Appeals on a nonpartisan basis.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.