

Senate Bill No. 423

(By Senators Beach, Green and Laird)

[Introduced February 4, 2011; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §3-1-5 and §3-1-29 of the Code of West
Virginia, 1931, as amended, all relating to increasing the
limit on the size of voting precincts to five thousand
registered voters; and increasing the size of standard
receiving boards in enlarged precincts.

Be it enacted by the Legislature of West Virginia:

That §3-1-5 and §3-1-29 of the Code of West Virginia, 1931, as
amended, be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

**§3-1-5. Voting precincts and places established; number of voters
in precincts; precinct map; municipal map.**

(a) The precinct ~~shall be~~ is the basic territorial election
unit. The county commission shall divide each magisterial district
of the county into election precincts, shall number the precincts,
shall determine and establish the boundaries thereof, and shall

1 designate one voting place in each precinct, which place shall be
2 established as nearly as possible at the point most convenient for
3 the voters of the precinct. Each magisterial district shall
4 contain at least one voting precinct and each precinct shall have
5 but one voting place therein.

6 Each precinct within any urban center shall contain not less
7 than three hundred nor more than ~~one thousand five hundred~~ five
8 thousand registered voters. Each precinct in a rural or less
9 thickly settled area shall contain not less than two hundred nor
10 more than ~~seven hundred~~ five thousand registered voters, unless
11 upon a written finding by the county commission that establishment
12 of or retention of a precinct of less than two hundred voters would
13 prevent undue hardship to the voters, the Secretary of State
14 determines that ~~such~~ the precinct be exempt from the two hundred
15 voter minimum limit. If, at any time the number of registered
16 voters exceeds the maximum number specified, the county commission
17 shall rearrange the precincts within the political division so that
18 the new precincts each contain a number of registered voters within
19 the designated limits. If a county commission fails to rearrange
20 the precincts as required, any qualified voter of the county may
21 apply for a writ of mandamus to compel the performance of this
22 duty: *Provided*, That when in the discretion of the county
23 commission, there is only one place convenient to vote within the
24 precinct and when there are more than seven hundred registered
25 voters within the existing precinct, the county commission may

1 designate two or more precincts with the same geographic boundaries
2 and which have voting places located within the same building. The
3 county commission shall designate alphabetically the voters who
4 ~~will~~ are eligible to vote in each precinct so created. Each ~~such~~
5 precinct shall be operated separately and independently with
6 separate voting booths, ballot boxes, election commissioners and
7 clerks, and whenever possible, in separate rooms. No two of ~~such~~
8 the precincts may use the same counting board.

9 (b) In order to facilitate the conduct of local and special
10 elections and the use of election registration records therein,
11 precinct boundaries shall be established to coincide with the
12 boundaries of any municipality of the county and with the wards or
13 other geographical districts of the municipality except in
14 instances where found by the county commission to be wholly
15 impracticable so to do. Governing bodies of all municipalities
16 shall provide accurate and current maps of their boundaries to the
17 clerk of any county commission of a county in which any portion of
18 the municipality is located.

19 (c) To facilitate the federal and state redistricting process,
20 precinct boundaries ~~must~~ shall be comprised of intersecting
21 geographic physical features or municipal boundaries recognized by
22 the U.S. Census Bureau. For purposes of this subsection,
23 geographic physical features include streets, roads, streams,
24 creeks, rivers, railroad tracks and mountain ridge lines. The
25 county commission of every county ~~must~~ shall modify precinct

1 boundaries to follow geographic physical features or municipal
2 boundaries and submit changes to the ~~West Virginia Office of~~
3 Legislative Services Division of the Joint Committee on Government
4 and Finance by June 30, 2007 and by June 30, every ten calendar
5 years thereafter. The county commission ~~must~~ shall also submit
6 precinct boundary details to the U.S. Census Bureau upon request.

7 The ~~West Virginia Office of~~ Legislative Services Division of
8 the Joint Committee on Government and Finance shall be available
9 for consultation with the county commission regarding the precinct
10 modification process: *Provided*, That nothing in this subsection
11 removes or limits the ultimate responsibility of the county
12 commission to modify precinct boundaries to follow geographic
13 physical features.

14 (d) The provisions of this section are subject to the
15 provisions of section twenty-eight, article four of this chapter
16 relating to the number of voters in precincts in which voting
17 machines are used.

18 (e) The county commission shall keep available at all times
19 during business hours in the courthouse at a place convenient for
20 public inspection a map or maps of the county and municipalities
21 with the current boundaries of all precincts.

22 **§3-1-29. Boards of election officials; definitions, composition of**
23 **boards, determination of number and type.**

24 (a) For the purpose of this article:

25 (1) The term "standard receiving board" means those election

1 officials charged with conducting the process of voting within a
2 precinct and consists of no less than five persons ~~including one~~
3 ~~team of poll clerks, one team of election commissioners for the~~
4 ~~ballot box and one additional election commissioner: *Provided, That*~~
5 ~~if a municipal election is held at a time when there is no county~~
6 ~~or state election, the standard receiving board is to consist of~~
7 ~~four persons, including one team of poll clerks and one team of~~
8 ~~election commissioners for the ballot box;~~

9 ~~(2) The term "expanded receiving board" means a standard~~
10 ~~receiving board as defined in subdivision (1) of this subsection~~
11 ~~and one additional team of poll clerks; nor more than eleven~~
12 ~~persons, to be comprised as follows:~~

13 (A) Each precinct containing less than two thousand five
14 hundred registered voters shall have one team of poll clerks, one
15 team of election commissioners for the ballot box and one
16 additional election commissioner.

17 (B) Each precinct containing less than three thousand five
18 hundred but more than two thousand five hundred registered voters
19 shall include one additional team of poll clerks.

20 (C) Each precinct containing less than four thousand five
21 hundred but more than three thousand five hundred registered voters
22 shall include two additional teams of poll clerks.

23 (D) Each precinct containing four thousand five hundred or
24 more registered voters shall include three additional teams of poll
25 clerks.

1 (E) In presidential primaries and presidential general
2 elections, each precinct containing less than one thousand five
3 hundred registered voters, but more than five hundred registered
4 voters may, at the discretion of the county commission, include one
5 additional team of poll clerks.

6 (2) If a municipal election is held at a time when there is no
7 county or state election, then the standard receiving board may
8 contain fewer teams of poll clerks as the official charged with the
9 administration of elections may determine appropriate, and at the
10 discretion of the official charged with the administration of
11 election, the board may also dispense with the additional election
12 commissioner.

13 (3) The term "counting board" means those election officials
14 charged with counting the ballots at the precinct in counties using
15 paper ballots and includes one team of poll clerks, one team of
16 election commissioners and one additional commissioner;

17 (4) The term "team of poll clerks" or "team of election
18 commissioners" means two persons appointed by opposite political
19 parties to perform the specific functions of the office: *Provided,*
20 That no team of poll clerks or team of election commissioners may
21 consist of two persons with the same registered political party
22 affiliation or two persons registered with no political party
23 affiliation; and

24 (5) The term "election official trainee" means an individual
25 who is sixteen or seventeen years of age who meets the requirements

1 of subdivisions (2), (3), (4), (5) and (6), subsection (a), section
2 twenty-eight of this article.

3 ~~(b) The composition of boards of election officials shall be~~
4 ~~as follows:~~

5 ~~(1) In any primary, general or special election other than a~~
6 ~~presidential primary or presidential general election, each~~
7 ~~election precinct is to have one standard receiving board;~~

8 ~~(2) In presidential primary and presidential general~~
9 ~~elections, each election precinct is to have one receiving board as~~
10 ~~follows:~~

11 ~~(A) For precincts of less than five hundred registered voters,~~
12 ~~one standard receiving board; and~~

13 ~~(B) For precincts of more than five hundred registered voters,~~
14 ~~one standard receiving board or, at the discretion of the county~~
15 ~~commission, one expanded receiving board.~~

16 ~~(3) In any election conducted using paper ballots, counting~~
17 ~~boards may be allowed or required as follows:~~

18 ~~(A) For any state, county or municipal special election, a~~
19 ~~counting board may be allowed at the discretion of the county~~
20 ~~commission;~~

21 ~~(B) In a statewide primary or general election, one counting~~
22 ~~board is required for any precinct of more than four hundred~~
23 ~~registered voters and one counting board may be allowed, at the~~
24 ~~discretion of the county commission, for any precinct of at least~~
25 ~~two hundred but no more than four hundred registered voters; and~~

1 ~~(C) In a municipal primary or general election, one counting~~
2 ~~board may be allowed, at the discretion of the municipal governing~~
3 ~~body, for any precinct of more than two hundred registered voters.~~

4 ~~(e)~~ (b) For each primary and general election in the county,
5 the county commission shall designate the number and type of
6 election boards for the various precincts according to the
7 provisions of this section. At least eighty-four days before each
8 primary and general election the county commission shall notify the
9 county executive committees of the two major political parties in
10 writing of the number of nominations which may be made for poll
11 clerks and election commissioners.

12 ~~(d)~~ (c) For each municipal election, the governing body of the
13 municipality shall perform the duties of the county commission as
14 provided in this section.

NOTE: The purpose of this bill is to increase the limit on the size of voting precincts to five thousand registered voters and to increase the size of standard receiving boards in enlarged precincts.

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