

Senate Bill No. 351

(By Senators Snyder, Browning, Prezioso and Klempa)

[Introduced January 19, 2012; 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 limiting the size of voting precincts to three thousand registered voters in urban areas and one thousand five hundred in rural areas; permitting an increase in the size of standard receiving boards; providing an option to have more poll workers and commissioners; and permitting as few as four poll workers in a precinct during a municipal election where there is no simultaneous state or county election.

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

1 **in precincts; precinct map; municipal map.**

2 (a) The precinct ~~shall be~~ is the basic territorial election
3 unit. The county commission shall divide each magisterial district
4 of the county into election precincts, shall number the precincts,
5 shall determine and establish the boundaries thereof, and shall
6 designate one voting place in each precinct, which place shall be
7 established as nearly as possible at the point most convenient for
8 the voters of the precinct. Each magisterial district shall contain
9 at least one voting precinct and each precinct shall have but one
10 voting place therein.

11 Each precinct within any urban center shall contain not less
12 than three hundred nor more than one thousand five hundred
13 registered voters. Each precinct in a rural or less thickly
14 settled area shall contain not less than two hundred nor more than
15 seven hundred registered voters, unless upon a written finding by
16 the county commission that establishment of or retention of a
17 precinct of less than two hundred voters would prevent undue
18 hardship to the voters, the Secretary of State determines that ~~such~~
19 the precinct be exempt from the two hundred voter minimum limit.
20 If, at any time the number of registered voters exceeds the maximum
21 number specified, the county commission shall rearrange the
22 precincts within the political division so that the new precincts
23 each contain a number of registered voters within the designated

1 limits: Provided, That any precincts with polling places that are
2 within a three mile radius of each other on July 1, 2012, may be
3 consolidated, at the discretion of the county clerk and county
4 commission, into one or more new precincts that contain not more
5 than three thousand registered voters in any urban center, nor more
6 than one thousand five hundred registered voters in a rural or less
7 thickly settled area: Provided, however, That no precincts may be
8 consolidated pursuant to this section if the consolidation would
9 create a geographical barrier or path of travel between voters in
10 a precinct and their proposed new polling place that would create
11 an undue hardship to voters of any current precinct.

12 If a county commission fails to rearrange the precincts as
13 required, any qualified voter of the county may apply for a writ of
14 mandamus to compel the performance of this duty: *Provided, That*
15 when in the discretion of the county commission, there is only one
16 place convenient to vote within the precinct and when there are
17 more than seven hundred registered voters within the existing
18 precinct, the county commission may designate two or more precincts
19 with the same geographic boundaries and which have voting places
20 located within the same building. The county commission shall
21 designate alphabetically the voters who ~~will~~ are eligible to vote
22 in each precinct so created. Each ~~such~~ precinct shall be operated
23 separately and independently with separate voting booths, ballot

1 boxes, election commissioners and clerks, and whenever possible, in
2 separate rooms. No two of ~~such~~ the precincts may use the same
3 counting board.

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

14 (c) To facilitate the federal and state redistricting process,
15 precinct boundaries ~~must~~ shall be comprised of intersecting
16 geographic physical features or municipal boundaries recognized by
17 the U.S. Census Bureau. For purposes of this subsection,
18 geographic physical features include streets, roads, streams,
19 creeks, rivers, railroad tracks and mountain ridge lines. The
20 county commission of every county ~~must~~ shall modify precinct
21 boundaries to follow geographic physical features or municipal
22 boundaries and submit changes to the ~~West Virginia Office of~~
23 Legislative Services Division of the Joint Committee on Government

1 and Finance by June 30, 2007 and by June 30, every ten calendar
2 years thereafter. The county commission ~~must~~ shall also submit
3 precinct boundary details to the U.S. Census Bureau upon request.

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

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

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

19 **§3-1-29. Boards of election officials; definitions, composition of**
20 **boards, determination of number and type.**

21 (a) For the purpose of this article:

22 (1) The term "standard receiving board" means those election
23 officials charged with conducting the process of voting within a

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

12 (A) Each precinct shall have at least one team of poll clerks,
13 one team of election commissioners for the ballot box and one
14 additional election commissioner.

15 (B) At the discretion of the county clerk and the county
16 commission, any county may add additional teams of poll clerks and
17 commissioners to any precinct, as necessary to fairly and
18 efficiently conduct an election.

19 (2) If a municipal election is held at a time when there is no
20 county or state election, then the standard receiving board may, at
21 the discretion of the official charged with the administration of
22 election, consist of as few as four persons, including one team of
23 poll clerks and one team of election commissioners for the ballot

1 box.

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

6 (4) The term "team of poll clerks" or "team of election
7 commissioners" means two persons appointed by opposite political
8 parties to perform the specific functions of the office: *Provided,*
9 That no team of poll clerks or team of election commissioners may
10 consist of two persons with the same registered political party
11 affiliation or two persons registered with no political party
12 affiliation; and

13 (5) The term "election official trainee" means an individual
14 who is sixteen or seventeen years of age who meets the requirements
15 of subdivisions (2), (3), (4), (5) and (6), subsection (a), section
16 twenty-eight of this article.

17 ~~(b) The composition of boards of election officials shall be~~
18 ~~as follows:~~

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

22 ~~(2) In presidential primary and presidential general~~
23 ~~elections, each election precinct is to have one receiving board as~~

1 follows:

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

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

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

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

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

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

20 ~~(c) (b)~~ For each primary and general election in the county,
21 the county commission shall designate the number and type of
22 election boards for the various precincts according to the
23 provisions of this section. At least eighty-four days before each

1 primary and general election the county commission shall notify the
2 county executive committees of the two major political parties in
3 writing of the number of nominations which may be made for poll
4 clerks and election commissioners.

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

NOTE: The purpose of this bill is to limit the size of voting precincts to three thousand registered voters in urban areas and one thousand five hundred in rural areas. The bill permits an increase in the size of standard receiving boards. The bill provides an option to have more poll workers and commissioners. The bill permits as few as four poll workers in a precinct during a municipal election where there is no simultaneous state or county election.

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