

1 **§3-1-2a. Municipal elections.**

2 (a) Notwithstanding other provisions of this code or of any
3 special legislative or home rule city charter, the provisions of:
4 (1) Articles eight and nine of this chapter; (2) ~~any~~ rules
5 promulgated under authority granted in articles eight and nine of
6 this chapter; and (3) ~~any~~ provisions of this chapter making a
7 practice or conduct unlawful ~~shall apply~~ applies to every municipal
8 election held for any purpose.

9 (b) For purposes of:

10 (1) This section;

11 (2) The application of articles eight and nine of this
12 chapter;

13 (3) The application of the rules mentioned in this section;
14 and

15 (4) The application of provisions of this chapter making a
16 practice or conduct unlawful, the provisions of law which impose
17 ~~any~~ a duty upon or define ~~any~~ an offense or prohibition with
18 respect to the duty or authority of a county officer or county
19 election officer or body of county election officers ~~shall be~~
20 ~~construed to and shall apply~~ applies with equal force and effect to
21 the person or persons in a municipal election upon whom this code
22 or the city charter or ordinance imposes such duty or vests the
23 same or similar authority.

1 (c) Every municipality shall by charter or ordinance designate
2 the persons in the municipality who perform the same duties as any
3 officer in a county election. The designated persons shall attend
4 a ~~biannual election training held and~~ training conducted by the
5 Office of the Secretary of State every two years.

6 (d) This section ~~shall not be construed to~~ does not abrogate
7 the applicability of other provisions of this chapter to municipal
8 elections.

9 **§3-1-4. Manner of voting.**

10 In all elections, the mode of voting shall be by ballot but
11 the voter shall be left free to vote by either open, sealed or
12 secret ballot as ~~he~~ the voter may elect. Voting by ballot may be
13 accomplished as provided in articles three, ~~four,~~ four-a, five and
14 six of this chapter.

15 **§3-1-21. Printing of official and sample ballots; number;
16 packaging and delivery; correction of ballots.**

17 (a) The board of ballot commissioners for each county shall
18 provide the ballots and sample ballots necessary for conducting
19 every election for public officers in which the voters of the
20 county participate.

21 (b) The persons required to provide the ballots necessary for
22 conducting all other elections are:

23 (1) The Secretary of State, for ~~any~~ a statewide special

1 election ordered by the Legislature;

2 (2) The board of ballot commissioners, for ~~any~~ a countywide
3 special election ordered by the county commission;

4 (3) The Board of Education, for ~~any~~ a special levy or bond
5 election ordered by the Board of Education; or

6 (4) The municipal board of ballot commissioners, for ~~any~~ an
7 election conducted for or within a municipality except an election
8 in which the matter affecting the municipality is placed on the
9 county ballot at a county election. Ballots other than those
10 printed by the proper authorities as specified in this section may
11 not be cast, received or counted in ~~any~~ an election.

12 (c) When paper ballots are used, the total number of regular
13 official ballots printed shall equal one and one-twentieth times
14 the number of registered voters eligible to vote that ballot. When
15 paper ballots are used in conjunction with or as part of an
16 electronic voting system, the total number of regular official
17 ballots printed shall equal at a minimum eighty percent of the
18 number of registered voters eligible to vote that ballot. The
19 clerk of the county commission shall determine the number of
20 absentee official ballots.

21 (d) The number of regular official ballots packaged for each
22 precinct shall equal at a minimum seventy-five percent of the
23 number of registered voters of the precinct. The remaining regular

1 official ballots shall be packaged and delivered to the clerk of
2 the county commission who shall retain them unopened until they are
3 required for an emergency. Each package of ballots shall be
4 wrapped and sealed in a manner which will immediately make apparent
5 any attempt to open, alter or tamper with the ballots. Each
6 package of ballots for a precinct shall be clearly labeled in a
7 manner which cannot be altered with the county name, the precinct
8 number and the number of ballots contained in each package. If the
9 packaging material conceals the face of the ballot, a sample ballot
10 identical to the official ballots ~~contained therein~~ shall be
11 securely attached to the outside of the package or, in the case of
12 ballot cards, the type of ballot shall be included in the label.

13 (e) All absentee ballots necessary for conducting absentee
14 voting in all voting systems shall be delivered to the clerk of the
15 county commission of the appropriate county not later than the
16 ~~forty-second~~ forty-sixth day before the election. All official
17 ballots in paper ballot systems shall be delivered to the clerk of
18 the county commission of the appropriate county not later than
19 twenty-eight days before the election.

20 (f) Upon a finding of the board of ballot commissioners that
21 an official ballot contains an error which, in the opinion of the
22 board, is of sufficient magnitude to confuse or mislead the voters,
23 the board shall cause the error to be corrected either by the

1 reprinting of the ballots or by the use of stickers printed with
2 the correction and of suitable size to be placed over the error
3 without covering any other portion of the ballot.

4 **§3-1-21a. Vendors authorized to print ballots; eligibility;**
5 **application and certification; denial, suspension**
6 **and revocation of authorization; appeal.**

7 (a) The printing of ballots for ~~any~~ an election to be held
8 pursuant to the provisions of this chapter shall be contracted for
9 with a vendor authorized in accordance with the provisions of this
10 section.

11 (b) ~~Any~~ A vendor authorized to do business in West Virginia
12 and in good standing may apply for a certificate of authorization
13 to print ballots for elections in this state. ~~Provided, That any~~
14 ~~individual, partnership, association or corporation who does not~~
15 ~~qualify as a resident vendor pursuant to the provisions of section~~
16 ~~thirty-seven-a, article three, chapter five-a of this code or who~~
17 ~~prints the ballots in a state which prohibits that state or any of~~
18 ~~its political subdivisions from contracting with West Virginia~~
19 ~~resident vendors for the printing of ballots or which prohibits the~~
20 ~~printing of ballots outside of such state, is not eligible to~~
21 ~~obtain a certificate of authorization.~~

22 (c) (1) Every vendor desiring to print ballots for elections
23 held pursuant to the provisions of this chapter shall, prior to the

1 execution of ~~any~~ a contract for the printing of ballots with ~~any~~ a
2 state, county, or municipal government, obtain a certificate of
3 authorization to print ballots.

4 (2) A certificate of authorization may be obtained by
5 application to the Secretary of State upon a form prescribed by the
6 Secretary of State. The form shall include a statement that all
7 printing, packaging and delivery specifications for ballots set
8 forth in this chapter will be substantially met and that the vendor
9 applying for certification is eligible in accordance with the
10 provisions of this section.

11 (3) Upon receipt of the completed application, the Secretary
12 of State shall issue a certificate of authorization to print
13 ballots which ~~shall~~ will remain in effect for two years from the
14 date of issuance and may be renewed upon application. ~~therefor:~~
15 ~~Provided, That~~ The Secretary of State may deny the application to
16 issue or renew the certificate of authorization or may suspend or
17 revoke the certificate of authorization upon a determination that
18 the vendor has not substantially complied with the printing,
19 packaging and delivery specifications in the printing of ballots
20 for ~~any~~ a state, county or municipal election or that the vendor is
21 not eligible or is no longer eligible to print ballots pursuant to
22 the provisions of this section. The Secretary of State shall give
23 written notice of ~~any such~~ the determination by certified mail,

1 return receipt requested, to the vendor setting forth the reason
2 for the suspension, revocation or the denial of the application or
3 the denial of the renewal. ~~thereof.~~ The applicant may, within
4 sixty days of the receipt of ~~such~~ the denial, file a written appeal
5 with the State Election Commission. The State Election Commission
6 shall promulgate rules establishing a hearing process for such
7 appeals.

8 (d) On or before the second Monday of January of each year,
9 the Secretary of State shall provide a list of all vendors
10 authorized to print ballots for state, county and municipal
11 elections to the clerk of each county commission of this state.

12 (e) The provision of electronic ballots for elections held
13 pursuant to the provisions of this chapter shall be authorized by
14 the Secretary of State.

15 **§3-1-22. County court commission clerks to provide election**
16 **supplies; requirements for poll books and ballot**
17 **boxes.**

18 The clerk of the county ~~court~~ commission of each county shall
19 provide poll books, a list of all precincts within the county,
20 tally sheets, ballot boxes, voting booths, registration records and
21 forms, strong and durable envelopes upon which to make returns,
22 blank forms for certifying returns and whatever further supplies
23 are needed for holding the elections and making the returns

1 thereof. ~~The poll books shall bear upon each page the following~~
 2 heading: ~~"Names of persons voting at precinct No. in the~~
 3 ~~District of in the county of~~
 4 ~~..... on this (the) day of~~
 5 ~~..... in the year"~~ Such poll books shall
 6 have columns headed respectively: ~~"Number of Voters," "Signature~~
 7 ~~of Voter" and "Challenge of Voter",~~ and shall have under the
 8 heading ~~"Number of Voters"~~ numbers in consecutive order to the
 9 bottom of each page. ~~Forms for oaths of commissioners of election~~
 10 ~~and poll clerks shall be written or printed on the poll books. The~~
 11 poll books shall be printed from the statewide voter registration
 12 system. Each ballot box shall be provided with two locks with
 13 different keys so that the key for one lock will not open the other
 14 and shall be so constructed as to be safely and securely closed and
 15 locked with an opening in the lid of the box sufficient only for
 16 the passage of a single ballot.

17 **§3-1-26. Election supplies in emergencies.**

18 If, by ~~any~~ an accident or casualty, the ballots or ballot box
 19 or boxes delivered to a commissioner of election, or to ~~any~~ a
 20 messenger, ~~shall be~~ are lost or destroyed, it ~~shall be the duty of~~
 21 ~~such~~ is the duty of the commissioner or messenger to report the
 22 loss forthwith to the board of ballot commissioners and clerk of
 23 the county ~~court~~ commission from whom ~~the same were or was,~~ these

1 were obtained and make affidavit of the circumstances of the loss.
2 ~~whereupon such~~ The board and clerk shall at once send a new supply
3 by special messenger as provided in other cases. If, for any
4 reason, there should be found no ballots or ballot box or other
5 necessary means or contrivances for voting at the opening of the
6 polls, it ~~shall be~~ is the duty of the commissioners of election to
7 secure ~~the same~~ these as speedily as possible and, if necessary,
8 the ballot commissioners may have ballots printed or written and
9 the election commissioners may have a ballot box or boxes made.

10 **§3-1-32. Opening and closing polls; procedure.**

11 At the time of opening the polls in all precincts ~~wherein~~
12 where voting machines are not to be used, the election
13 commissioners shall examine the ballot box and ascertain that there
14 are no ballots in the ~~same,~~ box and ~~they shall thereupon~~ securely
15 lock the box and give one key to one of the commissioners and one
16 to a commissioner of the opposite political party who shall hold
17 the same. ~~and such~~ The boxes shall not be again opened until the
18 time to begin counting the votes arrives and for that purpose. At
19 or before opening the polls, the commissioners of election shall
20 open the package containing the ballots in such manner as to
21 preserve the seals intact and ~~thereupon~~ deliver all of the ballots
22 to the poll clerk. Before ~~any~~ a voter is permitted to vote, the
23 commissioners of election shall proclaim that such election is

1 opened. When the polls are closed, proclamation must be made of
2 the fact by one of the commissioners of election to the people
3 outside in a loud and audible tone of voice and a minute of ~~such~~
4 the proclamation and of the time when it was made must be entered
5 on the ~~pollbooks~~ form provided by the clerks. The election
6 commissioner shall permit those electors to vote who are present at
7 the polling place prior to the hour specified for the closing of
8 the polls: *Provided*, That at that time they are in a line awaiting
9 their turn to vote within the voting room itself or, if the line
10 extends outside of the voting room itself, within that line. In
11 that event an election commissioner from each party shall
12 immediately, after the closing proclamation, begin with the last
13 voter in line and together supply the voters within the line with
14 waiting-voter permits which shall be prescribed by the Secretary of
15 State. Each voter shall sign his or her permit in the presence of
16 both commissioners who shall ~~then likewise~~ affix their signatures
17 to the permit in the presence of the voter and each other. After
18 each ~~such~~ voter in line has received and signed his or her permit
19 and the election commissioners have affixed their signatures
20 thereto, voting shall be resumed. Each voter shall present his or
21 her permit to one of the poll clerks so that the signature thereon
22 may be compared to the voter's signature when ~~he~~ the voter signs
23 the pollbook. Each permit so presented shall be attached to the

1 page in the pollbook on which the voter affixed his or her
2 signature. In no case ~~shall any~~ may a person who arrives at the
3 polling place after the closing hour be given a waiting-voter
4 permit or be allowed to vote. After the final voter presents his
5 or her waiting-voter permit and casts his or her ballot no more
6 ballots shall be cast or received.

7 **§3-1-36. Report on and disposition of ballots spoiled or not used.**

8 Any A voter who shall spoil, deface or mutilate the ballot
9 delivered to him or her, on returning the ~~same~~ ballot to the poll
10 clerks, shall receive another in place thereof. Every person who
11 does not vote ~~any~~ a ballot delivered to him or her shall, before
12 leaving the election room, return ~~such~~ the ballot to the poll
13 clerks. When a spoiled or defaced ballot is returned, the poll
14 clerks shall make a minute of the fact on the pollbooks, at the
15 time, and the word "spoiled" shall be written across the face of
16 the ballot and ~~such~~ the ballot shall be placed in an envelope for
17 spoiled ballots.

18 Immediately on closing the polls, the commissioners of
19 election shall ascertain the number of ballots spoiled during the
20 election and the number of ballots remaining not voted. The
21 commissioners of election shall also ascertain from the pollbooks
22 the number of persons who voted and shall report, over their
23 signatures, to the clerk of the county commission, the number of

1 votes ~~case,~~ cast, the number of ballots spoiled during the election
2 and the number of ballots not voted. All unused ballots shall at
3 the same time be returned to the clerk of the county commission who
4 shall separately package the unused ballots from each precinct,
5 mark the name and number of the precinct on the package and retain
6 them securely along with other election materials.

7 Each commissioner who is a member of an election board which
8 fails to account for every ballot delivered to it is guilty of a
9 misdemeanor and, upon conviction thereof, shall be fined not more
10 than \$1,000 or confined in the county jail for not more than one
11 year, or both fined and imprisoned.

12 The board of ballot commissioners of each county, or the
13 chairman thereof, shall preserve the ballots that are left over in
14 their hands, after supplying the precincts as provided, until
15 twenty-two months after the election.

16 **§3-1-37. Restrictions on presence and conduct at polls.**

17 (a) Except as otherwise provided in this section, no person
18 other than the election officers and voters going to the election
19 room to vote and returning therefrom, may be or remain within three
20 hundred feet of the outside entrance to the building housing the
21 polling place while the polls are open. This subsection does not
22 apply to persons who reside or conduct business within such
23 distance of the entrance to the building housing the polling place

1 while in the discharge of their legitimate business or to persons
2 whose business requires them to pass ~~and repass~~ within three
3 hundred feet of ~~such~~ the entrance.

4 (b) A person who is delivering a voter to a polling place by
5 motor vehicle may drive ~~such~~ his or her vehicle to a convenient and
6 accessible location to discharge the voter notwithstanding that the
7 location is within three hundred feet of the outside entrance to
8 the building housing the polling place. Upon discharging ~~such~~ the
9 voter from the vehicle, the person shall remove the vehicle from
10 within three hundred feet of the entrance until such time as the
11 voter is to be transported from the polling place or another voter
12 delivered. ~~Provided, That~~ Vehicles delivering voters who require
13 assistance by reason of blindness, disability or advanced age may
14 remain within three hundred feet of the entrance until ~~such time as~~
15 the voter is to be transported from the polling place.

16 (c) The election ~~commissions~~ commissioners shall limit the
17 number of voters in the election room ~~so as~~ to preserve order. No
18 person may approach nearer than five feet to any booth or
19 compartment while the election is being held except the voters to
20 prepare their ballots or the poll clerks when called on by a voter
21 to assist in the preparation of his or her ballot. ~~and~~ No person,
22 other than election officers and voters engaged in receiving,
23 preparing and depositing their ballots, may be permitted to be

1 within five feet of any ballot box except by authority of the board
2 of election commissioners and then only for the purpose of keeping
3 order and enforcing the law.

4 (d) Not more than one person may be permitted to occupy ~~any~~ a
5 booth or compartment at one time. No person may remain in or
6 occupy a booth or compartment longer than ~~may be~~ necessary to
7 prepare his or her ballot and in no event longer than five minutes.
8 ~~except that any~~ A person who claims a disability pursuant to
9 section thirty-four of this article shall have additional time up
10 to ten additional minutes to prepare his or her ballot. No voter
11 or person offering to vote may hold any conversation or
12 communication with ~~any~~ a person, other than the poll clerks or
13 commissioners of election, while in the election room.

14 (e) The provisions of this section do not apply to persons
15 rendering assistance to blind voters as provided in section
16 thirty-four of this article or to ~~any~~ a child fourteen years of age
17 or younger who accompanies a parent, grandparent or legal guardian
18 who is voting. ~~Any~~ A dispute concerning the age of a child
19 accompanying a parent, grandparent or legal guardian who is voting
20 shall be determined by the election commissioners.

21 **§3-1-38. Disorder at polls; procedure.**

22 The commissioners of election shall preserve order at and in
23 the vicinity of the polls, ~~and~~ keep the way to the polls open and

1 free from obstruction and may direct disorderly persons to be
2 removed. ~~therefrom, and, if necessary and proper, to be taken and~~
3 ~~held in custody until sunrise of the next day, or for any shorter~~
4 ~~time, which may be done by any sheriff or constable or other person~~
5 ~~or persons designated by the commissioners of election. For such~~
6 ~~purpose no warrant or authority in writing shall be necessary. The~~
7 ~~jail of the county or other place designated by the commissioners~~
8 ~~of election may be used as the place of custody. But any person so~~
9 ~~arrested shall have an opportunity to vote, if he be entitled to do~~
10 ~~so, before he shall be committed to jail, if he so desires and~~
11 ~~shall be prepared to do so promptly.~~

12 **§3-1-39. Illegal voting; affidavit; procedure.**

13 (a) If at any time during the election, ~~any~~ a qualified voter
14 ~~shall appear~~ appears at the polls for the purpose of stating that
15 ~~any~~ a person who has voted is an illegal voter in the precinct,
16 that person shall be admitted to the election room and shall appear
17 before a commissioner of election to make an affidavit explaining
18 why he or she believes the accused to be an illegal voter.

19 (b) All affidavits alleging illegal voting shall be placed in
20 a strong and durable envelope by the commissioners of election.
21 The envelope shall be securely sealed and each of the commissioners
22 shall endorse his or her name on the back of the envelope. At the
23 close of the count, the envelope shall be delivered to the clerk of

1 the ~~circuit court~~ county commission in accordance with section
2 sixteen, article five of this chapter and section eight, article
3 six of this chapter. The clerk of the ~~circuit court~~ county
4 commission shall carefully preserve the envelope containing the
5 affidavits and deliver it, with the seal unbroken, to the
6 prosecuting attorney in the county. The prosecuting attorney shall
7 proceed as if it had been made before him or her.

8 **§3-1-41. Challenged and provisional voter procedures; counting of**
9 **provisional voters' ballots; ballots of election**
10 **officials.**

11 (a) It is the duty of the members of the receiving board,
12 jointly or severally, to challenge the right of ~~any~~ a person
13 requesting a ballot to vote in ~~any~~ an election:

14 (1) If the person's registration record is not available at
15 the time of the election;

16 (2) If the signature written by the person in the poll book
17 does not correspond with the signature ~~purported to be his or hers~~
18 ~~on the registration record;~~ on file in the poll book;

19 (3) If the registration record of the person indicates any
20 other legal disqualification; or

21 (4) If any other valid challenge exists against the voter
22 pursuant to section ten, article three of this chapter.

23 (b) ~~Any~~ A person challenged shall nevertheless be permitted to

1 vote in the election. He or she shall be furnished ~~an official~~ a
2 provisional ballot not endorsed by the poll clerks. In lieu of the
3 endorsements, the poll clerks shall complete and sign an
4 appropriate form indicating the challenge, the reason thereof and
5 the name or names of the challengers. The form shall be ~~securely~~
6 ~~attached to the voter's ballot and~~ deposited together with the
7 ballot in a ~~separate box or~~ envelope marked "provisional ballots".

8 (c) At the time ~~that~~ an individual casts a provisional ballot,
9 the poll clerk shall give the individual written information
10 stating that an individual who casts a provisional ballot will be
11 able to ascertain under the free access system established in this
12 section whether the vote was counted and, if the vote was not
13 counted, the reason that the vote was not counted.

14 (d) Before an individual casts a provisional ballot, the poll
15 clerk shall provide the individual written instructions, supplied
16 by the board of ballot commissioners, stating that if the voter is
17 casting a ballot in the incorrect precinct, the ballot cast may not
18 be counted for that election: ~~Provided, That~~ If the voter is
19 found to be in the incorrect precinct, ~~then~~ the poll worker shall
20 attempt to ascertain the appropriate precinct for the voter to cast
21 a ballot and immediately give the voter the information if
22 ascertainable.

23 (e) Provisional ballots may not be counted by the election

1 officials. The county commission shall, on its own motion, at the
2 time of canvassing of the election returns, sit in session to
3 determine the validity of any challenges according to the
4 provisions of this chapter. If the county commission determines
5 that the challenges are unfounded, each provisional ballot of each
6 challenged voter, if otherwise valid, shall be counted and tallied
7 together with the regular ballots cast in the election. The county
8 commission, as the board of canvassers, shall protect the privacy
9 of each provisional ballot cast. The county commission shall
10 disregard technical errors, omissions or oversights if it can
11 reasonably be ascertained that the challenged voter was entitled to
12 vote.

13 (f) ~~Any~~ A person duly appointed as an election commissioner or
14 clerk under the provisions of section twenty-eight of this article
15 who serves in that capacity in a precinct other than the precinct
16 in which the person is legally entitled to vote, may cast a
17 provisional ballot in the precinct in which the person is serving
18 as a commissioner or clerk. The ballot is not invalid for the sole
19 reason of having been cast in a precinct other than the precinct in
20 which the person is legally entitled to vote. The county
21 commission shall record the provisional ballot on the voter's
22 ~~permanent registration record:~~ record in the statewide voter
23 registration system and ~~Provided, That the county commission may~~

1 count only the votes for the offices that the voter was legally
2 authorized to vote for in his or her own precinct.

3 (g) The Secretary of State shall establish a free access
4 system which may include a toll-free telephone number or an
5 Internet website that may be accessed by ~~any~~ an individual who
6 ~~casts~~ cast a provisional ballot to discover whether his or her vote
7 was counted and, if not, the reason that the vote was not counted.

8 **§3-1-42. Time off for voting.**

9 Every person entitled to vote at ~~any~~ an election who may be
10 employed by ~~any~~ a person, company or corporation on the day ~~on~~
11 ~~which such election shall be~~ the election is held in this state,
12 shall, on written demand of ~~such~~ the employee made at least three
13 days prior thereto, be given a period of not more than three hours,
14 if necessary, between the opening and the closing of the polls on
15 such day, for the purpose of enabling such person to ~~repair~~ go to
16 the place of voting to cast his or her vote and return, without
17 liability to ~~any~~ a penalty or deduction from his or her usual
18 salary or wages. ~~on account of such absence, except that any~~
19 ~~employee,~~ An employee, however, who has three or more hours of his
20 or her own time away from his or her work or place of employment at
21 any time between the hours of the opening and the closing of the
22 polls on election day and who fails or neglects to vote or elects
23 not to vote during ~~such~~ the free time away from his or her work or

1 employment, may be subject to wage or salary deductions for the
2 time actually absent from his or her work or employment for voting
3 in ~~such~~ the election.

4 In essential government, health, hospital, transportation and
5 communication services and in production, manufacturing and
6 processing works requiring continuity in operation, the employer
7 may, upon receipt of ~~such~~ a written demand for voting time off,
8 arrange and schedule a calendar of time off for ~~any and~~ all of his
9 or her employees ~~for voting so as~~ to avoid impairment or disruption
10 of essential services and operations. ~~but every such~~ The schedule
11 ~~or calendar~~ of time off for voting ~~so arranged~~ shall provide ample
12 and convenient time and opportunity for each employee ~~of such~~
13 ~~services or works~~ to cast his or her vote. ~~as herein provided.~~

14 **§3-1-49. Voting system standards.**

15 (a) In accordance with 42 U. S. C. §1530, *et seq.*, the Help
16 America Vote Act of 2002, Public Law 107-252, each voting system
17 used in an election for federal office shall:

18 (1) Permit the voter to verify, in a private and independent
19 manner, the votes selected by the voter on the ballot before the
20 ballot is cast and counted;

21 (2) Provide the voter with the opportunity, in a private and
22 independent manner, to change the ballot or correct any error
23 before the ballot is cast and counted including the opportunity to

1 correct the error through the issuance of a replacement ballot if
2 the voter was ~~otherwise~~ unable to change the ballot or correct any
3 error; and

4 (3) If the voter selects votes for more than one candidate for
5 a single office: (A) Notify the voter that the voter has selected
6 more than one candidate for a single office on the ballot; (B)
7 notify the voter before the ballot is cast and counted of the
8 effect of casting multiple votes for the office; and (C) provide
9 the voter with the opportunity to correct the ballot before the
10 ballot is cast and counted. ~~Provided, That~~ A county that uses a
11 paper ballot voting system ~~a punch card voting system~~ or an optical
12 scan voting system may meet the requirements of this paragraph by
13 establishing a voter education program specific to that voting
14 system that notifies each voter of the effect of casting multiple
15 votes for an office and providing the voter with instructions on
16 how to correct the ballot before it is cast and counted including
17 instructions on how to correct the error through the issuance of a
18 replacement ballot if the voter was ~~otherwise~~ unable to change the
19 ballot or correct any error.

20 (4) Ensure that any notification required under this section
21 preserves the privacy of the voter and the confidentiality of the
22 ballot.

23 (b) Each voting system used in an election for federal office

1 shall produce a record with an audit capacity for the system which
2 ~~shall meet~~ meets the following requirements:

3 (1) ~~Produce~~ Produces a permanent paper record with a manual
4 audit capacity for the system; and

5 (2) ~~Provide~~ Provides the voter with an opportunity to change
6 the ballot or correct any error before the ballot is cast and
7 counted and before the permanent paper record is produced.

8 (c) Each voting system used in an election for federal office
9 shall be accessible for individuals with disabilities including
10 nonvisual accessibility for the blind and visually impaired in a
11 manner that provides the same opportunity for access and
12 participation, including privacy and independence, as for other
13 voters. ~~Provided, That~~ The provisions of this subsection may be
14 satisfied through the use of at least one direct recording
15 electronic voting system or other voting system equipped for
16 individuals with disabilities at each polling place.

NOTE: The purpose of this bill is to clean up existing language in select sections of article one, chapter three of the West Virginia Code, 1931, as amended.

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