

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 for

4 **H. B. 4473**

5  
6 (By Delegates Fleischauer, Manypenny, Poore,  
7 Marshall, Iaquina, Skinner and Hamilton)

8 [Passed March 8, 2014; in effect ninety days from passage.]

9  
10 AN ACT to amend and reenact §3-1-5 and §3-1-29 of the Code of West  
11 Virginia, 1931, as amended, all relating to establishing  
12 voting precincts and changing the composition of standard  
13 receiving boards; authorizing the consolidation of certain  
14 precincts in certain circumstances; increasing the limit on  
15 the size of certain voting precincts to three thousand  
16 registered voters in urban areas and one thousand five hundred  
17 in rural areas; permitting precincts in urban or rural areas  
18 to have fewer than the minimum numbers of registered voters  
19 allowed; removing language requiring the West Virginia Office  
20 of Legislative Services to consult with county commissions  
21 regarding precinct modification; permitting an increase in the  
22 size of standard receiving boards; providing an option to have  
23 more poll workers and commissioners; and permitting fewer poll  
24 workers in precincts during a municipal election where there  
25 is no simultaneous state or county election.

1 *Be it enacted by the Legislature of West Virginia:*

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

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

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

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

16       Each precinct within any urban center shall contain not less  
17 than three hundred nor more than one thousand five hundred  
18 registered voters. Each precinct in a rural or less thickly  
19 settled area shall contain not less than two hundred nor more than  
20 seven hundred registered voters. A county commission may permit  
21 the establishment or retention of a precinct less than the minimum  
22 numbers allowed in this subsection upon making a written finding  
23 that to do otherwise would cause undue hardship to the voters. If,  
24 at any time the number of registered voters exceeds the maximum

1 number specified, the county commission shall rearrange the  
2 precincts within the political division so that the new precincts  
3 each contain a number of registered voters within the designated  
4 limits: *Provided*, That any precincts with polling places that are  
5 within a one mile radius of each other on or after July 1, 2014,  
6 may be consolidated, at the discretion of the county clerk and  
7 county commission into one or more new precincts that contain not  
8 more than three thousand registered voters in any urban center, nor  
9 more than one thousand five hundred registered voters in a rural or  
10 less thickly settled area: *Provided, however*, That no precincts may  
11 be consolidated pursuant to this section if the consolidation would  
12 create a geographical barrier or path of travel between voters in  
13 a precinct and their proposed new polling place that would create  
14 an undue hardship to voters of any current precinct.

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

1 separately and independently with separate voting booths, ballot  
2 boxes, election commissioners and clerks, and whenever possible, in  
3 separate rooms. No two of the precincts may use the same counting  
4 board.

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

15       (c) To facilitate the federal and state redistricting process,  
16 precinct boundaries shall be comprised of intersecting geographic  
17 physical features or municipal boundaries recognized by the U. S.  
18 Census Bureau. For purposes of this subsection, geographic  
19 physical features include streets, roads, streams, creeks, rivers,  
20 railroad tracks and mountain ridge lines. The county commission of  
21 every county shall modify precinct boundaries to follow geographic  
22 physical features or municipal boundaries and submit changes to the  
23 Joint Committee on Government and Finance by June 30, 2007, and by  
24 June 30, every ten calendar years thereafter. The county  
25 commission shall also submit precinct boundary details to the U.S.

1 Census Bureau upon request.

2 (d) The county commission shall keep available at all times  
3 during business hours in the courthouse at a place convenient for  
4 public inspection a map or maps of the county and municipalities  
5 with the current boundaries of all precincts.

6 **§3-1-29. Boards of election officials; definitions, composition of**  
7 **boards, determination of number and type.**

8 (a) For the purpose of this article:

9 (1) The term "standard receiving board" means those election  
10 officials charged with conducting the process of voting within a  
11 precinct and consists of no less than five persons, to be comprised  
12 as follows:

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

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

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

24 (3) The term "team of poll clerks" or "team of election  
25 commissioners" means two persons appointed by opposite political

1 parties to perform the specific functions of the office: *Provided,*  
2 That no team of poll clerks or team of election commissioners may  
3 consist of two persons with the same registered political party  
4 affiliation or two persons registered with no political party  
5 affiliation; and

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

10 (b) For each primary and general election in the county, the  
11 county commission shall designate the number and type of election  
12 boards for the various precincts according to the provisions of  
13 this section. At least eighty-four days before each primary and  
14 general election the county commission shall notify the county  
15 executive committees of the two major political parties in writing  
16 of the number of nominations which may be made for poll clerks and  
17 election commissioners.

18 (c) For each municipal election held at a time when there is  
19 no county or state election:

20 (1) The governing body of the municipality shall perform the  
21 duties of the county commission as provided in this section; and

22 (2) The standard receiving board may, at the discretion of the  
23 official charged with the administration of election, consist of as  
24 few as four persons, including one team of poll clerks and one team  
25 of election commissioners for the ballot box.

