

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2312

BY DELEGATES HAMRICK AND STATLER

[Introduced February 9, 2017; Referred
to the Committee on February 9, 2017.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §3-1-52, relating to appointment of, conduct of and training of poll watchers;
3 and imposing duties on Secretary of State and county clerks with regard to poll watchers.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §3-1-52, to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-52. Poll watchers.

1 (a) Each registered political party, as defined in section eight of this article and each
2 independent candidate may assign two poll watchers to any or all precincts to be present during
3 statewide elections for the purposes of observing precinct operations and challenging ineligible
4 voters under the procedures set forth in this section.

5 (b) In addition to the poll watchers allowed in subsection (a) of this section, each registered
6 political party and each independent candidate may designate one watcher per state as a super
7 watcher who has the qualifications, powers, and duties of watchers provided under this section
8 and who is admitted as a watcher in every precinct in the state.

9 (c) Any organization seeking the passage or defeat of a measure on the ballot may appoint
10 one poll watcher to each precinct in which that measure is to be voted on upon a showing to the
11 county election authority that the applicant group's interest is not adequately represented by a
12 political party, candidate, or another nonparty organization which has appointed poll watchers in
13 the precincts being applied to. It is in the county election authority's sole discretion to determine
14 if the applicant group has made the requisite showing and, therefore, may be certified to appoint
15 poll watchers to the precincts in question.

16 (d) All poll watchers, aside from super watchers appointed under subsection (b) of this
17 section, must be qualified electors in the precinct in which they serve. A super watcher appointed
18 under subsection (b) of this section, must be a qualified elector in the state.

- 19 (e) In the exercise of their duties, poll watchers may:
- 20 (1) Observe poll workers and voters;
- 21 (2) Be present during voting hours in any part of the precinct except for within six feet of
- 22 any voting machine or booth used by voters to cast their ballot;
- 23 (3) Challenge voters according to the procedure described in subsection (f) of this section;
- 24 (4) View precinct registration lists;
- 25 (5) Compile a list of those who have voted, which must be turned over to an election official
- 26 upon the closing of the polls; and
- 27 (6) Compile notes of their observations, all of which must be turned over to an election
- 28 official upon the closing of the polls.
- 29 (f) If a poll watcher in good faith believes that a voter is ineligible under any of the basis
- 30 set forth in subsection (g) of this section, they may challenge that voter's eligibility by silently
- 31 completing a voter challenge form. Once the poll watcher completes the form, detailing the
- 32 grounds for the challenge, they shall deliver the form to a presiding election official serving in the
- 33 precinct. The election official, in their discretion, may determine if the challenge is well-grounded
- 34 under this section and therefor whether or not to question the voter. At no point may a poll watcher
- 35 question the voter or indicate to the voter that their eligibility is being challenged.
- 36 (g) The grounds for a challenge to a voter's eligibility under subsection (f) of this section,
- 37 may only be:
- 38 (1) That he or she is not, in fact, the person whose name appears on the checklist; or
- 39 (2) That he or she has previously voted in the same election.
- 40 (h) Poll watchers may not:
- 41 (1) Harass or intimidate voters;
- 42 (2) Unduly delay or obstruct precinct operations; or
- 43 (3) Speak with any elector within the precinct.
- 44 (i) A precinct's poll manager may order the removal of any poll watcher who violates or is

45 in violation of subsections (d) through (h) of this section within the precinct over which that poll
46 manager has authority.

47 (j) The Secretary of State shall develop a voter challenge form that may be used by poll
48 watchers as provided in subsection (f) of this section.

49 (k) The Secretary of State shall modify the audio-visual programs developed under section
50 forty-six of this article, so that it may also be used in providing training for poll watchers appointed
51 under this section. The county clerk shall provide poll watchers with special training before each
52 primary and regular election. The training shall address the duties of poll watchers and the
53 penalties for failure to perform. Poll watchers shall attend the training session, unless excused by
54 the county clerk. The county clerk may charge a fee for the training which must be paid by the
55 party, candidate or organization appointing the poll watcher.

NOTE: The purpose of this bill is to create the WV Elections Accountability Act. This bill allows poll watchers to be appointed to observe voting in precincts. The bill would allow poll watchers to initiate voter challenges with election officials. It also requires poll watchers to be trained.

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