

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5366

By Delegate Dillon

[Introduced January 30, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-49 of the Code of West Virginia, 1931, as amended; to amend
 2 said code by adding thereto a new section, designated §3-1-52; and to repeal §3-4A-1, §3-
 3 4A-2, §3-4A-3, §3-4A-4, §3-4A-5, §3-4A-6, §3-4A-7, §3-4A-8, §3-4A-9, §3-4A-9a, §3-4A-
 4 9b, §3-4A-10, §3-4A-10a, §3-4A-11a, §3-4A-13, §3-4A-14, §3-4A-15, §3-4A-16, §3-4A-17,
 5 §3-4A-18, §3-4A-19, §3-4A-19a, §3-4A-20, §3-4A-22, §3-4A-23, §3-4A-24, §3-4A-24a,
 6 §3-4A-25, §3-4A-26, §3-4A-27, §3-4A-28, §3-4A-29, §3-4A-30, §3-4A-31, §3-4A-32, §3-
 7 4A-33, and §3-4A-34 of said code; all relating to requiring paper ballots in all elections;
 8 providing for the elimination of electronic voting systems; requiring the hand counting of
 9 paper ballots; and requiring the production of a photographic identification card to be
 10 eligible to vote.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-49. Voting system standards.

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

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

5 (2) Provide the voter with the opportunity, in a private and independent manner, to change
 6 the ballot or correct any error before the ballot is cast and counted, including the opportunity to
 7 correct the error through the issuance of a replacement ballot if the voter was otherwise unable to
 8 change the ballot or correct any error; and

9 (3) If the voter selects votes for more than one candidate for a single office: (A) Notify the
 10 voter that the voter has selected more than one candidate for a single office on the ballot; (B) notify
 11 the voter before the ballot is cast and counted of the effect of casting multiple votes for the office;
 12 and (C) provide the voter with the opportunity to correct the ballot before the ballot is cast and
 13 counted: *Provided*, That a county that uses a paper ballot voting system, a punch card voting

14 system or an optical scan voting system may meet the requirements of this paragraph by
 15 establishing a voter education program specific to that voting system that notifies each voter of the
 16 effect of casting multiple votes for an office; and providing the voter with instructions on how to
 17 correct the ballot before it is cast and counted, including instructions on how to correct the error
 18 through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot
 19 or correct any error.

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

22 (b) Each voting system used in an election for federal office shall produce a record with an
 23 audit capacity for the system which shall meet the following requirements:

24 (1) Produce a permanent paper record with a manual audit capacity for the system; and

25 (2) Provide the voter with an opportunity to change the ballot or correct any error before the
 26 ballot is cast and counted and before the permanent paper record is produced.

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

**§3-1-52. Paper ballots required; elimination of electronic voting systems; photo
 identification required.**

1 (a) All elections in this state shall utilize paper ballots, which shall be hand-counted. The
 2 use of electronic voting systems is prohibited.

3 (b) In all elections in this state, voters shall present a government issued photographic
 4 identification card prior to voting to be eligible to vote.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-1. Use of electronic voting systems authorized.

1 [Repealed].

§3-4A-2. Definitions.

1 [Repealed].

§3-4A-3. Procedure for adopting electronic voting systems.

1 [Repealed].

§3-4A-4. Procedure for terminating use of electronic voting systems.

1 [Repealed].

§3-4A-5. Duty of county commission to acquire vote recording devices, acquire use of automatic tabulating equipment, and provide a central counting center.

1 [Repealed].

§3-4A-6. Acquisition of vote recording devices by purchase or lease; acquisition of use of automatic tabulating equipment; counting centers.

1 [Repealed].

§3-4A-7. Bids and contracts for vote recording devices; false swearing or failure to disclose facts.

1 [Repealed].

§3-4A-8. Approval of electronic voting system by State Election Commission; expenses; compensation of persons examining system.

1 [Repealed].

§3-4A-9. Minimum requirements of electronic voting systems.

1 [Repealed].

§3-4A-9a. Authorization for ballot-marking voting systems; minimum requirements.

1 [Repealed].

§3-4A-9b. Authorization for precinct ballot-scanning device; minimum requirements.

1 [Repealed].

§3-4A-10. County clerk to be custodian of vote-recording devices, tabulating equipment and electronic poll books; duties.

1 [Repealed].

§3-4A-10a. Proportional distribution of vote-recording devices.

1 [Repealed].

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

1 [Repealed].

§3-4A-13. Inspection of ballots, electronic poll books and vote-recording devices; duties of county commission, ballot commissioners and election commissioners; records relating to ballots and vote-recording devices; receipt of election materials by ballot commissioners.

1 [Repealed].

§3-4A-14. Election boards where electronic voting systems used.

1 [Repealed].

§3-4A-15. Instructions and help to voters; vote-recording device models; facsimile diagrams; sample ballots; legal ballot advertisements.

1 [Repealed].

§3-4A-16. Delivery of vote-recording devices and electronic poll books; time, arrangement for voting.

1 [Repealed].

§3-4A-17. Check of vote-recording devices and electronic poll books before use; corrections; reserve vote-recording devices.

1 [Repealed].

§3-4A-18. Disrepair of vote recording devices in use; reserve vote recording devices.

1 [Repealed].

§3-4A-19. Conducting electronic voting system elections generally; duties of election officers; penalties.

1 [Repealed].

§3-4A-19a. Form of ballots; requiring the signatures of poll clerks; prohibiting the counting of votes cast on ballots without signatures.

1 [Repealed].

§3-4A-20. Non-affiliated voters in primary elections.

1 [Repealed].

§3-4A-22. Assistance to illiterate and disabled voters.

1 [Repealed].

§3-4A-23. Persons prohibited about voting booths; penalties.

1 [Repealed].

§3-4A-24. Voting by challenged voter.

1 [Repealed].

§3-4A-24a. Voting by challenged voter where touch-screen electronic voting systems are used.

1 [Repealed].

§3-4A-25. Closing polls.

1 [Repealed].

§3-4A-26. Test of automatic tabulating equipment.

1 [Repealed].

§3-4A-27. Proceedings at the central counting center.

1 [Repealed].

§3-4A-28. Post-election custody and inspection of vote-recording devices and electronic poll books; canvass and recounts.

1 [Repealed].

§3-4A-29. Incorrect recordation or tabulation of votes; testing accuracy of vote recording devices and automatic tabulating equipment; procedures and requirements.

1 [Repealed].

§3-4A-30. Adjustments in voting precincts where electronic voting system used.

1 [Repealed].

§3-4A-31. Use of electronic voting systems in municipal elections.

1 [Repealed].

§3-4A-32. Applicability of general laws relating to elections.

1 [Repealed].

§3-4A-33. Tampering with vote-recording devices, electronic poll books, ballot labels, ballot or ballot cards, program decks, standard validation test decks or other automatic tabulating equipment; other dishonest practices; attempts; penalty.

1 [Repealed].

§3-4A-34. Wilful neglect of duty by officials; penalties.

1 [Repealed].

NOTE: The purpose of this bill is to require paper ballots in all elections. The bill prohibits electronic voting. Finally, the bill requires photo identification to vote.

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