

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 356**

By Senators Boley, Azinger, Barrett, Chapman,  
Clements, Deeds, Hamilton, Hunt, Jeffries, Maynard,  
Nelson, Phillips, Queen, Rucker, Smith, Stover,  
Stuart, Swope, and Maroney

[Introduced January 12, 2024; referred  
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §3-1-32a; and to amend and reenact §3-4-11a of said code, all relating to  
 3 providing voters with the ability to identify and verify their ballot cast in a statewide election  
 4 in West Virginia.

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

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

**§3-1-32a. Voter ballot identification and verification.**

1 (a) The purpose of this section is to provide voters with the ability to identify and verify their  
 2 ballot cast in a statewide election held in West Virginia.

3 (b) As used in this section, the term "cast vote record" is defined as a summary report  
 4 produced by voting system-specific software that provides each vote cast in every race marked by  
 5 a voter participating in a jurisdiction with the Express Vote system.

6 (c) Ballot Design:

7 (1) The ballot stock shall have printed thereon a unique ballot number for each ballot  
 8 printed for each precinct in three locations, two of which shall be on two separate perforated stubs  
 9 located at the bottom of each ballot stock as follows:

10 (A) On a ballot stub, which is perforated, that is to be combined with all other ballot stubs at  
 11 the polling place by the poll workers;

12 (B) On another ballot stub, which is to be kept by the voter casting the ballot; and

13 (C) On the ballot itself.

14 (d) Enactment. –

15 (1) Counties using the Express Vote system shall enable the ballot tabulator functionality  
 16 that captures ballots images.

17 (2) Ballot images and cast vote records shall provide no personally identifying information  
 18 on any voter.

19 (3) The cast vote record shall include a date stamp, whether physical or digital as the

20 system allows, that indicates the date the votes were cast in the election jurisdiction.

21 (4) County election officials shall electronically provide the Secretary of State with the cast  
22 vote record and an image of each ballot cast, organized in separate files for each precinct, in the  
23 jurisdiction at the close of canvass after declaring the results of the election and before the Board  
24 of Canvassers adjourns the Canvass.

25 (5) Within 24 hours of receiving the electronic cast vote record and ballot images from each  
26 county, the Secretary of State shall publish the cast vote record and ballot images, on a precinct  
27 and county basis, which shall be publicly available on a website managed by the Secretary of  
28 State.

**ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

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

1 (a) The board of ballot commissioners in counties using ballots upon which votes may be  
2 recorded by means of marking with electronically sensible ink or pencil and which marks are  
3 tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the  
4 electronic voting system for use in elections.

5 (b) (1) For the primary election, the heading of the ballot, the type faces, the names and  
6 arrangement of offices and the printing of names and arrangement of candidates within each office  
7 are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

8 (2) For the general election, the heading of the ballot, the type faces, the names and  
9 arrangement of offices and the printing of names and the arrangement of candidates within each  
10 office are to conform as nearly as possible to §3-6-2 of this code.

11 (3) Effective with the primary election held in 2016 and thereafter, the following nonpartisan  
12 elections are to be separated from the partisan ballot and separately headed in display type with a  
13 title clearly identifying the purpose of the election and constituting a separate ballot wherever a  
14 separate ballot is required under this chapter:

15 (A) Nonpartisan elections for judicial offices, by division, of:

16 (i) Justice of the Supreme Court of Appeals;

17 (ii) Judge of the Intermediate Court of Appeals;

18 (iii) Judge of the circuit court;

19 (iv) Family court judge; and

20 (v) Magistrate;

21 (B) Nonpartisan elections for Board of Education; and

22 (C) Any question to be voted upon.

23 (4) Beginning in the primary election to be held in the year 2020 and in each election  
24 thereafter, the nonpartisan judicial elections described in subparagraphs (i) through (iv),  
25 paragraph (A), subdivision (3), of this subsection shall appear immediately after the state ticket  
26 and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this  
27 code.

28 (5) Both the face and the reverse side of the ballot may contain the names of candidates  
29 only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll  
30 clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and  
31 upon which marks do not interfere with the proper tabulation of the votes.

32 (6) The arrangement of candidates within each office is to be determined in the same  
33 manner as for other electronic voting systems, as prescribed in this chapter. On the general  
34 election ballot for all offices, and on the primary election ballot only for those offices to be filled by  
35 election, except delegate to national convention, lines for entering write-in votes are to be provided  
36 below the names of candidates for each office, and the number of lines provided for any office shall  
37 equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF  
38 ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be  
39 opposite a position to mark the vote.

40 (c) Except for electronic voting systems that utilize screens upon which votes may be

41 recorded by means of a stylus or by means of touch, the primary election ballots are to be printed  
42 in the color of ink specified by the Secretary of State for the various political parties, and the  
43 general election ballot is to be printed in black ink. For electronic voting systems that utilize  
44 screens upon which votes may be recorded by means of a stylus or by means of touch, the primary  
45 ballots and the general election ballot are to be printed in black ink. All ballots are to be printed,  
46 where applicable, on white paper suitable for automatic tabulation and are to contain a perforated  
47 stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as  
48 provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting  
49 system upon which votes are recorded by means of a stylus or touch. The number of ballots  
50 printed and the packaging of ballots for the precincts are to conform to the requirements for paper  
51 ballots provided in this chapter.

52 (d) In addition to the official ballots, the ballot commissioners shall provide all other  
53 materials and equipment necessary to the proper conduct of the election.

54 (e) The ballot commissioners shall ensure that the provisions in §3-1-32a of this code are  
55 followed.

NOTE: The purpose of this bill is to provide voters with the ability to identify and verify their ballot cast in a statewide election in West Virginia.

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