

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 249**

4 (By Senators Trump, Blair, Ferns, M. Hall and Walters)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported January 29, 2015.]
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9
10 A BILL to amend and reenact §3-4A-9, §3-4A-11a and §3-4A-27 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §3-6-2, §3-6-3, §3-6-5 and §3-6-6 of said code,
12 all relating to disallowing voting a straight party ticket by one mark or punch in a general
13 election.

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

15 That §3-4A-9, §3-4A-11a and §3-4A-27 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted; and that §3-6-2, §3-6-3, §3-6-5 and §3-6-6 of said code be amended and
17 reenacted, all to read as follows:

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

19 **§3-4A-9. Minimum requirements of electronic voting systems.**

20 An electronic voting system of particular make and design may not be approved by the State
21 Election Commission or be purchased, leased or used by any county commission unless it meets the
22 following requirements:

23 (1) It secures or ensures the voter absolute secrecy in the act of voting or, at the voter's

1 election, provides for open voting;

2 (2) It is constructed to ensure that, except in instances of open voting as provided in this
3 section, the contents of a marked ballot may not be seen or known by anyone other than the voter
4 who has voted or is voting;

5 (3) It permits each voter to vote at any election for all persons and offices for whom and
6 which he or she is lawfully entitled to vote, whether or not the name of any person appears on a
7 ballot as a candidate; and it permits each voter to vote for as many persons for an office as he or she
8 is lawfully entitled to vote for; and to vote for or against any question upon which he or she is
9 lawfully entitled to vote. The automatic tabulating equipment used in electronic voting systems is
10 to reject choices recorded on any ballot if the number of choices exceeds the number to which a voter
11 is entitled;

12 (4) It permits each voter to write in the names of persons for whom he or she desires to vote
13 whose names do not appear upon the ballots;

14 (5) It permits each voter to change his or her vote for any candidate and upon any question
15 appearing upon the ballots or ballot labels up to the time when his or her ballot is deposited in the
16 ballot box or his or her ballot is cast by electronic means;

17 (6) It contains programming media containing sequentially numbered program instructions
18 and coded or otherwise protected from tampering or substitution of the media or program
19 instructions by unauthorized persons and capable of tabulating all votes cast in each election;

20 (7) It contains two standard validation test decks approved as to form and testing capabilities
21 by the State Election Commission;

22 (8) It correctly records and counts accurately all votes cast for each candidate and for and
23 against each question appearing upon the ballots;

1 ~~(9) It permits each voter at any election, other than a primary election, to vote a straight party~~
2 ~~ticket, as provided in section five, article six of this chapter by one mark or punch;~~

3 ~~(10)~~ (9) It permits a voter in a primary election to: (A) Vote only for the candidates of the
4 party for which the voter is legally permitted to vote; (B) vote for the candidates, if any, for
5 nonpartisan nominations or election; and (C) vote on public questions; and precludes the voter from
6 voting for any candidate seeking nomination by any other political party unless that political party
7 has determined that the voter may participate in its primary election;

8 ~~(11)~~ (10) It, where applicable, is provided with means for sealing or electronically securing
9 the vote recording device to prevent its use and to prevent tampering with the device, both before
10 the polls are open or before the operation of the vote recording device for an election is begun and
11 immediately after the polls are closed or after the operation of the vote recording device for an
12 election is completed;

13 ~~(12)~~ (11) It has the capacity to contain the names of candidates constituting the tickets of at
14 least nine political parties and accommodates the wording of at least fifteen questions;

15 ~~(13)~~ (12) (A) Direct recording electronic voting machines must generate a paper copy of each
16 voter's vote that will be automatically kept within a storage container that is locked, closely attached
17 to the direct recording electronic voting machine and inaccessible to all but authorized voting
18 officials, who will handle such storage containers and such paper copies contained therein in
19 accordance with section nineteen of this article.

20 (B) The paper copy of the voter's vote shall be generated at the time the voter is at the voting
21 station using the direct recording electronic voting machine.

22 (C) The voter may examine the paper copy visually or through headphone readout, and may
23 accept or reject the printed copy.

1 (D) The voter may not touch, handle or manipulate the printed copy manually in any way.

2 (E) Once the printed copy of the voter's votes is accepted by the voter as correctly reflecting
3 the voter's intent, but not before, it will automatically be stored for recounts or random checks and
4 the electronic vote will be cast within the computer mechanism of the direct recording electronic
5 voting machine.

6 (F) Direct recording electronic voting machines with a mandatory paper copy shall be
7 approved by the Secretary of State. The Secretary of State may promulgate rules and emergency
8 rules to implement or enforce this subsection pursuant to the provisions of section five, article three,
9 chapter twenty-nine-a of this code.

10 ~~(14)~~ (13) Where vote recording devices are used, they shall:

11 (A) Be durably constructed of material of good quality and in a workmanlike manner and in
12 a form which makes it safely transportable;

13 (B) Bear a number that will identify it or distinguish it from any other machine;

14 (C) Be constructed to ensure that a voter may easily learn the method of operating it and may
15 expeditiously cast his or her vote for all candidates of his or her choice and upon any public question;
16 and

17 (D) Be accompanied by a mechanically or electronically operated instruction model which
18 shows the arrangement of the ballot, party columns or rows and questions;

19 ~~(15)~~ (14) For electronic voting systems that utilize a screen upon which votes may be
20 recorded by means of a stylus or by means of touch, they shall:

21 (A) Be constructed to provide for the direct electronic recording and tabulating of votes cast
22 in a system specifically designed and engineered for the election application;

23 (B) Be constructed to prevent any voter from voting for more than the allowable number of

1 candidates for any office, to include an audible or visual signal, or both, warning any voter who
2 attempts to vote for more than the allowable number of candidates for any office or who attempts
3 to cast his or her ballot prior to its completion and are constructed to include a visual or audible
4 confirmation, or both, to the voter upon completion and casting of the ballot;

5 (C) Be constructed to present the entire ballot to the voter, in a series of sequential pages, and
6 to ensure that the voter sees all of the ballot options on all pages before completing his or her vote
7 and to allow the voter to review and change all ballot choices prior to completing and casting his or
8 her ballot;

9 (D) Be constructed to allow election commissioners to spoil a ballot where a voter fails to
10 properly cast his or her ballot, has departed the polling place and cannot be recalled by a poll clerk
11 to complete his or her ballot;

12 (E) Be constructed to allow election commissioners, poll clerks or both to designate, mark
13 or otherwise record provisional ballots;

14 (F) Consist of devices which are independent, nonnetworked voting systems in which each
15 vote is recorded and retained within each device's internal nonvolatile electronic memory and contain
16 an internal security, the absence of which prevents substitution of any other device;

17 (G) Store each vote in no fewer than three separate, independent, nonvolatile electronic
18 memory components and that each device contains comprehensive diagnostics to ensure that failures
19 do not go undetected;

20 (H) Contain a unique, embedded internal serial number for auditing purposes for each device
21 used to activate, retain and record votes;

22 (I) Be constructed to record all preelection, election and post-election activities, including
23 all ballot images and system anomalies, in each device's internal electronic memory and are to be

1 accessible in electronic or printed form;

2 (J) Be constructed with a battery backup system in each device to, at a minimum, prevent the
3 loss of any votes, as well as all preelection, election and post-election activities, including all ballot
4 images and system anomalies, stored in the device's internal electronic memory and to allow voting
5 to continue for two hours of uninterrupted operation in case of an electrical power failure; and

6 (K) Be constructed to prevent the loss of any votes, as well as all preelection, election and
7 post-election activities, including all ballot images and system anomalies, stored in each device's
8 internal electronic memory even in case of an electrical and battery power failure.

9 **§3-4A-11a. Ballots tabulated electronically; arrangement; quantity to be printed; ballot stub**
10 **numbers.**

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

15 (b) (1) For the primary election, the heading of the ballot, the type faces, the names and
16 arrangement of offices and the printing of names and arrangement of candidates within each office
17 are to conform as nearly as possible to the provisions of sections thirteen and thirteen-a, article five
18 of this chapter.

19 (2) For the general election, the heading of the ballot, ~~the straight ticket positions, the~~
20 ~~instructions to straight ticket voters,~~ the type faces, the names and arrangement of offices and the
21 printing of names and the arrangement of candidates within each office are to conform as nearly as
22 possible to the provisions of section two, article six of this chapter, except as otherwise provided in
23 this article.

1 (3) Nonpartisan elections for board of education and any question to be voted upon are to be
2 separated from the partisan ballot and separately headed in display type with a title clearly identifying
3 the purpose of the election and constituting a separate ballot wherever a separate ballot is required
4 under the provisions of this chapter.

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

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

17 (c) Except for electronic voting systems that utilize screens upon which votes may be
18 recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in
19 the color of ink specified by the Secretary of State for the various political parties, and the general
20 election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon
21 which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the
22 general election ballot are to be printed in black ink. All ballots are to be printed, where applicable,
23 on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or

1 bottom of the ballot, which is to be numbered sequentially in the same manner as provided in section
2 thirteen, article five of this chapter, or are to be displayed on the screens of the electronic voting
3 system upon which votes are recorded by means of a stylus or touch. The number of ballots printed
4 and the packaging of ballots for the precincts are to conform to the requirements for paper ballots
5 provided in this chapter.

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

8 **§3-4A-27. Proceedings at the central counting center.**

9 (a) All proceedings at the central counting center are to be under the supervision of the clerk
10 of the county commission and are to be conducted under circumstances which allow observation
11 from a designated area by all persons entitled to be present. The proceedings shall take place in a
12 room of sufficient size and satisfactory arrangement to permit observation. Those persons entitled
13 to be present include all candidates whose names appear on the ballots being counted or, if a
14 candidate is absent, a representative of the candidate who presents a written authorization signed by
15 the candidate for the purpose and two representatives of each political party on the ballot who are
16 chosen by the county executive committee chairperson. A reasonable number of the general public
17 is also freely admitted to the room. In the event all members of the general public desiring admission
18 to the room cannot be admitted at one time, the county commission shall provide for a periodic and
19 convenient rotation of admission to the room for observation, to the end that each member of the
20 general public desiring admission, during the proceedings at the central counting center, is to be
21 granted admission for reasonable periods of time for observation: *Provided*, That no person except
22 those authorized for the purpose may touch any ballot or other official records and papers utilized
23 in the election during observation.

1 (b) All persons who are engaged in processing and counting the ballots are to work in teams
2 consisting of two persons of opposite political parties, and are to be deputized in writing and take
3 an oath that they will faithfully perform their assigned duties. These deputies are to be issued an
4 official badge or identification card which is assigned an identity control number and the deputies
5 are to prominently wear on his or her outer garments the issued badge or identification card. Upon
6 completion of the deputies' duties, the badges or identification cards are to be returned to the county
7 clerk.

8 (c) Ballots are to be handled and tabulated and the write-in votes tallied according to
9 procedures established by the Secretary of State, subject to the following requirements:

10 (1) In systems using ballots marked with electronically sensible ink, ballots are to be removed
11 from the ballot boxes and stacked for the tabulator which separates ballots containing marks for a
12 write-in position. Immediately after tabulation, the valid write-in votes are to be tallied. No write-in
13 vote may be counted for an office unless the voter has entered the name of an official write-in
14 candidate for that office on the line provided, either by writing, affixing a sticker or placing an
15 ink-stamped impression thereon;

16 (2) In systems using ballots in which votes are recorded upon screens with a stylus or by
17 means of touch, the ballots are to be tabulated according to the processes of the system. Systems
18 using ballots in which votes are recorded upon screens with a stylus or by means of touch are to tally
19 write-in ballots simultaneously with the other ballots;

20 (3) When more than one person is to be elected to an office and the voter desires to cast
21 write-in votes for more than one official write-in candidate for that office, the voter shall mark the
22 location appropriate for the voting system, in the write-in location for that office. When there are
23 multiple write-in votes for the same office and the combination of choices for candidates on the

1 ballot and write-in choices for the same office exceed the number of candidates to be elected, the
2 ballot is to be duplicated or hand counted, with all votes for that office rejected;

3 (4) Write-in votes for nomination for any office and write-in votes for any person other than
4 an official write-in candidate are to be disregarded; and

5 ~~(5) When a voter casts a straight ticket vote and also marks the location for a write-in vote~~
6 ~~for an office, the straight ticket vote for that office is to be rejected, whether or not a vote can be~~
7 ~~counted for a write-in candidate; and~~

8 ~~(6)~~ (5) Official write-in candidates are those who have filed a write-in candidate's certificate
9 of announcement and have been certified according to the provisions of section four-a, article six
10 of this chapter.

11 (d) If any ballot is damaged or defective so that it cannot properly be counted by the
12 automatic tabulating equipment, a true duplicate copy is to be made of the damaged ballot in the
13 presence of representatives of each political party on the ballot and substituted for the damaged
14 ballot. All duplicate ballots are to be clearly labeled “duplicate” and are to bear a serial number
15 which is recorded on the damaged or defective ballot and on the replacement ballot.

16 (e) The returns printed by the automatic tabulating equipment at the central counting center,
17 to which have been added write-in and other valid votes, are, when certified by the clerk of the
18 county commission, to constitute the unofficial preliminary returns of the county. Upon completion
19 of the count, the returns are to be open to the public by posting a summary of the returns as have
20 been tabulated at the central counting center. Upon completion of the canvass, the returns are to be
21 posted as tabulated precinct by precinct.

22 (f) If for any reason it becomes impracticable to count all or a part of the ballots with
23 tabulating equipment, the county commission may direct that they be counted manually, following

1 as far as practicable the provisions governing the counting of paper ballots.

2 (g) As soon as possible after the completion of the count, the clerk of the county commission
3 shall have the vote recording devices properly boxed or securely covered and removed to a proper
4 and secure place of storage.

5 **ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

6 **§3-6-2. Preparation and form of general election ballots.**

7 (a) All ballots prepared under the provisions of this section are to contain:

8 (1) The name and ticket of each party which is a political party under the provisions of
9 section eight, article one of this chapter;

10 (2) The name chosen as the party name by each group of citizens which has secured
11 nomination for two or more candidates by petition under the provisions of section twenty-three, ~~of~~
12 ~~this article~~ five of this chapter; and

13 (3) The names of every candidate for any office to be voted for at the election whose
14 nomination in the primary election, nomination by petition or nomination by appointment to fill a
15 vacancy on the ballot has been certified and filed according to law and no others.

16 (b) The provisions of paragraphs (C) and (D), subdivision (2), section thirteen, article five
17 of this chapter; subdivision (3) of said section; paragraphs (A) and (B), subdivision (4) of said
18 section; and subdivisions (6), (7), (8) and (9) of said section pertaining to the preparation and form
19 of primary election ballots shall likewise apply to general election ballots.

20 (c) (1) For all ballot systems, the ballot heading is to be in display type and contain the words
21 “Official Ballot, General Election” and the name of the county and the month, day and year of the
22 election.

23 (2) After the heading, each ballot is to contain, laid out in parallel columns, rows or pages

1 as required by the particular voting system, the party emblem ~~the position for straight party voting~~
2 for each party and the name of each party as prescribed in subsection (a) of this section. ~~On paper~~
3 ~~ballots, the position for straight party voting is to be a heavy circle, three-fourths inch in diameter,~~
4 ~~surrounded by the words "For a straight ticket mark within this circle" printed in bold six-point type.~~
5 ~~On all other ballots or ballot labels, the positions for straight party voting is to be marked "Straight~~
6 ~~Party Ticket".~~

7 (3) The party whose candidate for president received the highest number of votes at the last
8 preceding presidential election is to be placed in the left, or first column, row or page, as is
9 appropriate to the voting system. The party which received the second highest vote is to be next and
10 so on. Any groups or third parties which did not have a candidate for president on the ballot in the
11 previous presidential election are to be placed in the sequence in which the final certificates of
12 nomination by petition were filed.

13 ~~(4)(A) The following general instructions for straight party voters are to be printed in no~~
14 ~~smaller than eight point bold type: "IF YOU MARKED A STRAIGHT TICKET: When you mark~~
15 ~~any individual candidate in a different party, that vote will override your straight party vote for that~~
16 ~~office. When you mark any individual candidate in a different party for an office where more than~~
17 ~~one will be elected, YOU MUST MARK EACH OF YOUR CHOICES FOR THAT OFFICE~~
18 ~~because your straight ticket vote will not be counted for that office". The last sentence of the~~
19 ~~instructions may not be included on any ballot which does not contain any office or division where~~
20 ~~more than one candidate will be elected.~~

21 ~~On paper ballots, the general instructions are to be placed below the party name and across~~
22 ~~the top of all columns, followed by a heavy line separating them from the rest of the ballot:~~
23 ~~Provided, That the instructions may be centered among the columns running the full width of the~~

1 ~~ballot. On ballots marked with electronically sensible ink, the general instructions are to be placed~~
2 ~~after the position for straight voting and before any office.~~

3 ~~(B) The following specific instructions are to be printed on the ballot for any partisan election~~
4 ~~for an office or division to which more than one candidate is to be elected: "If you marked a straight~~
5 ~~ticket and you mark any candidate in a different party for this office, you must mark all your choices~~
6 ~~for this office because your straight ticket vote will not be counted for this office".~~

7 ~~On paper ballots, the specific instructions are to be placed below the office name of any~~
8 ~~partisan office where more than one is to be elected and across the top of all columns for that office~~
9 ~~or centered among the columns before the names of any candidates. On all other ballots and ballot~~
10 ~~labels, the specific instructions are to be placed above or to the side of the names of the candidates~~
11 ~~as the voting system requires.~~

12 ~~(5)~~ (4) For all ballots, any columns, rows or sections in which the ticket of one party appears
13 are to be clearly separated from the other columns, rows or sections by a heavy line or other clear
14 division. For each party, the offices are to be arranged in the order prescribed in section thirteen-a,
15 article five of this chapter under the appropriate tickets, which are to be headed "National Ticket",
16 "State Ticket" and "County Ticket". The number of pages, columns or rows, where applicable, may
17 be modified to meet the limitations of ballot size and composition requirements, subject to approval
18 by the Secretary of State.

19 (d) The arrangement of names within each office for all ballot systems is to be as follows:

20 (1) In elections for presidential electors, the names of the candidates for president and vice
21 president of each party are to be placed beside a brace with a single voting position, so that a vote
22 for any presidential candidate is a vote for the electors of the party for which the candidates were
23 named.

1 (2) The order of names of candidates for any office or division for which more than one is
2 to be elected is determined as prescribed in section thirteen-a, article five of this chapter: *Provided,*
3 That the drawing by lot is to be conducted on the seventieth day next preceding the date of the
4 general election, beginning at 9:00 a.m.

5 (3) In any office where more than one person is to be elected, the names of the candidates for
6 the office are to be staggered so that no two candidates for that office appear directly opposite any
7 other candidate, as shown in the example below: *Provided,* That if the voting system cannot
8 accurately tabulate any ballot due to this requirement, the ballot may be adjusted so that it is
9 accurately tabulated. However, each candidate shall be separated by a thin line to distinguish
10 between each candidate.

11 _____

12 For House of Delegates	For House of Delegates
13 First Delegate District	First Delegate District
14 (Vote For Not More Than Two)	(Vote For Not More Than Two)
15 SUSAN B. ANTHONY	
16 City (County)	
17	JOHN ADAMS
18	City (County)
19 ABRAHAM LINCOLN	
20 City (County)	
21	
22	JAMES MONROE
23	City (County)

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3 (4) Each voting system is to provide a means for voters to vote for any person whose name
4 does not appear on the ticket by writing it with pen or pencil or by using stamps, stickers, tapes,
5 labels or other means of writing in the name of a candidate which does not interfere with the
6 tabulation of the ballot.

7 (A) In paper ballot systems which allow for write-ins to be made directly on the ballot, a
8 blank square and a blank line equal to the space which would be occupied by the name of the
9 candidate is to be placed under the proper office for each vacancy in nomination and for an office
10 for which more than one is to be elected, any vacancy is to appear after any other candidates for the
11 office. If no write-in lines are included on the ballot, specific instructions are to be added to the top
12 of the ballot notifying the voter that a write-in vote may be cast by writing the name and office on
13 any location on the front of the ballot.

14 (B) In machine and electronically tabulated ballot systems in which write-in votes must be
15 made in a place other than on the ballot, if there is a vacancy in nomination leaving fewer candidates
16 in any party than can be elected to that office, the words “No Candidate Nominated” ~~is~~ are to be
17 printed in the space that would be occupied by the name of the candidate and for an office for which
18 more than one is to be elected, any vacancy is to appear after any other candidates for the office.
19 Notwithstanding any other provision of this code, if there are multiple vacant positions on a ballot
20 for one office, the multiple vacant positions which would otherwise be filled with the words “No
21 Candidate Filed” may be replaced with a brief detailed description, approved by the Secretary of
22 State, indicating that there are no candidates listed for the vacant positions.

23 (5) In a general election in any county in which unexpired terms of the board of education

1 are to be filled by election, a separate section or page of the ballot is to be set off by means clearly
2 separating the nonpartisan ballot from the ballot for the political party candidates and is to be headed
3 “Nonpartisan Board of Education”.

4 (e) Any constitutional amendment is to be placed following all offices, followed by any other
5 issue upon which the voters are to cast a vote. The heading for each amendment or issue is to be
6 printed in large, bold type according to the requirements of the resolution authorizing the election.

7 (f) The board of ballot commissioners may not place any issue on the ballot for election
8 which is not specifically authorized under the West Virginia Constitution or statutes or which has
9 not been properly ordered by the appropriate governmental body charged with calling the election.

10 (g) A ballot may not offer a voter the option of voting a straight party ticket by one mark or
11 punch.

12 **§3-6-3. Publication of sample ballots and lists of candidates.**

13 (a) The ballot commissioners of each county shall prepare a sample official general election
14 ballot for all political party or independent nominees, nonpartisan candidates for election, if any, and
15 all ballot issues to be voted for at the general election, according to the provisions of ~~this article and~~
16 ~~articles four and four-a of this chapter, as appropriate to the voting system,~~ and for any ballot issue,
17 according to the provisions of law authorizing the election.

18 (b) The facsimile sample general election ballot shall be published as follows:

19 (1) For counties in which two or more qualified newspapers publish a daily newspaper, not
20 more than twenty-six nor less than twenty days preceding the general election, the ballot
21 commissioners shall publish the sample official general election ballot as a Class I-0 legal
22 advertisement in the two qualified daily newspapers of different political parties within the county
23 having the largest circulation in compliance with the provisions of article three, chapter fifty-nine

1 of this code;

2 (2) For counties having no more than one daily newspaper, or having only one or more
3 qualified newspapers which publish weekly, not more than twenty-six nor less than twenty days
4 preceding the primary election, the ballot commissioners shall publish the sample official general
5 election ballot as a Class I legal advertisement in the qualified newspaper within the county having
6 the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this
7 code; and

8 (3) Each facsimile sample ballot shall be a photographic reproduction of the official sample
9 ballot or ballot pages and shall be printed in a size no less than sixty-five percent of the actual size
10 of the ballot, at the discretion of the ballot commissioners: *Provided*, That when the ballots for the
11 precincts within the county contain different senatorial, delegate, magisterial or executive committee
12 districts or when the ballots for precincts within a city contain different municipal wards, the
13 facsimile shall be altered to include each of the various districts in the appropriate order. If, in order
14 to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than
15 one page, the arrangement and order shall be made to conform as nearly as possible to the
16 arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the
17 arrangement to the ballot commissioners for approval prior to publication.

18 (c) The ballot commissioners of each county shall prepare, in the form and manner prescribed
19 by the Secretary of State, an official list of offices and nominees for each office which will appear
20 on the general election ballot for each political party or as independent nominees and, as the case
21 may be, for the nonpartisan candidates to be voted for at the general election:

22 (1) All information which appears on the ballot, including ~~the names of parties for which a~~
23 ~~straight ticket may be cast, instructions relating to straight ticket voting,~~ instructions as to the number

1 of candidates for whom votes may be cast for the office, any additional language which will appear
2 on the ballot below the name of the office, any identifying information relating to the candidates,
3 such as his or her residence and magisterial district or presidential preference. Following the names
4 of all candidates, the list shall include the full title, text and voting positions of any issue to appear
5 on the ballot.

6 (2) The order of the ~~straight ticket positions~~, offices and candidates for each office and the
7 manner of designating the parties shall be as follows:

8 ~~(A) The straight ticket positions shall be designated "straight (party name) ticket", with the~~
9 ~~parties listed in the order in which they appear on the ballot, from left to right or from top to bottom,~~
10 ~~as the case may be;~~

11 ~~(B)~~ (A) The offices shall be listed in the same order in which they appear on the ballot;

12 ~~(C)~~ (B) The candidates within each office for which one is to be elected shall be listed in the
13 order they appear on the ballot, from left to right or from top to bottom, as the case may be, and the
14 candidate's political party affiliation or independent status shall be indicated by the one- or two-letter
15 initial specifying the affiliation, placed in parenthesis to the right of the candidate's name; and

16 ~~(D)~~ (C) The candidates within each office for which more than one is to be elected shall be
17 arranged by political party groups in the order they appear on the ballot and the candidate's affiliation
18 shall be indicated as provided in paragraph ~~(C)~~ (B) of this subdivision.

19 (d) The official list of candidates and issues as provided in subsection (c) of this section shall
20 be published as follows:

21 (1) For counties in which two or more qualified newspapers publish a daily newspaper, on
22 the last day on which a newspaper is published immediately preceding the general election, the ballot
23 commissioners shall publish the official list of nominees and issues as a Class I-0 legal advertisement

1 in the two qualified daily newspapers of different political parties within the county having the
2 largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

3 (2) For counties having no more than one daily paper, or having only one or more qualified
4 newspapers which publish weekly, on the last day on which a newspaper is published immediately
5 preceding the general election, the ballot commissioners shall publish the sample official list of
6 nominees and issues as a Class I legal advertisement in the qualified newspaper within the county
7 having the largest circulation in compliance with the provisions of article three, chapter fifty-nine
8 of this code;

9 (3) The publication of the official list of nominees for each party and for nonpartisan
10 candidates shall be in single or double columns, as required to accommodate the type size
11 requirements as follows:

12 (A) The words “official list of nominees and issues”, the name of the county, the words
13 “General Election” and the date of the election shall be printed in all capital letters and in bold type
14 no smaller than fourteen point;

15 ~~(B) The designation of the straight ticket party positions shall be printed in all capital letters~~
16 ~~in bold type no smaller than twelve point and the title of the office shall be printed in bold type no~~
17 ~~smaller than twelve point and any voting instructions or other language printed below the title shall~~
18 ~~be printed in bold type no smaller than ten point; and~~

19 ~~(B)~~ (B) The names of the candidates and the initial within parenthesis designating the
20 candidate's affiliation shall be printed in all capital letters in bold type no smaller than ten point and
21 the residence information shall be printed in type no smaller than ten point; and

22 (4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in
23 all capital letters in bold type no smaller than twelve point. The text of the ballot issue shall appear

1 in no smaller than eight point type. The ballot commissioners may require the publication of the
2 ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

3 (e) Notwithstanding the provisions of subsections (c) and (d) of this section, ~~beginning with~~
4 ~~the general election to be held in the year two thousand~~, the ballot commissioners of any county may
5 choose to publish a facsimile sample general election ballot, instead of the official list of candidates
6 and issues, for purposes of the last publication required before any general election.

7 **§3-6-5. Rules and procedures in election other than primaries.**

8 The provisions of article one of this chapter relating to elections generally ~~shall~~ govern and
9 control arrangements and election officials for the conduct of elections under this article. The
10 following rules and procedures ~~shall~~ govern the voting for candidates in general and special
11 elections:

12 ~~(a) If the voter desires to vote a straight ticket, or in other words, for each and every candidate~~
13 ~~for one party for whatever office nominated, the voter shall either:~~

14 ~~(1) Mark the position designated for a straight ticket in the manner appropriate to the voting~~
15 ~~system; or~~

16 ~~(2) Mark the voting position for each and every candidate of the chosen party in the manner~~
17 ~~appropriate to the voting system.~~

18 ~~(b) If the voter desires to vote a mixed ticket, or in other words, for candidates of different~~
19 ~~parties, the voter shall either:~~

20 ~~(1) Omit marking any straight ticket voting position and mark, in the manner appropriate to~~
21 ~~the voting system, the name of each candidate for whom he or she desires to vote on whatever ticket~~
22 ~~the name may be; or~~

23 ~~(2) Mark the position designated for a straight ticket for the party for some of whose~~

1 candidates he or she desires to vote and then mark the name of any candidate of any other party for
2 whom he or she may desire to vote, in which case the cross mark in the circular space above the
3 name of the party straight ticket mark will cast his or her vote for every candidate on the ticket of
4 the party except for offices for which candidates are marked on other party tickets and the marks for
5 the candidates will cast a vote for them; or

6 (3) Write with ink or other means or affix a sticker or label or place an ink-stamped
7 impression of the name of an official write-in candidate for an office for whom he or she desires to
8 vote in the space designated for write-in votes for the particular voting system or for paper ballot
9 systems, write or place the name and office designation in any position on the face of the ballot
10 which makes the intention of the voter clear as to both the office and the candidate chosen.

11 (c) If in marking either a straight or mixed ticket as above defined, a straight ticket voting
12 position is marked, and also one or more marks are made for candidates on the same ticket for
13 offices for which candidates on other party tickets are not individually marked, the marks before the
14 name of candidate on the ticket so marked shall be treated as surplusage and ignored.

15 (d) When a voter casts a straight ticket vote and also writes in any name for an office, the
16 straight ticket vote for that office shall be rejected, whether or not a vote can be counted for a
17 write-in candidate.

18 (e) (1) The Secretary of State may proscribe devices for casting write-in votes which would
19 cause mechanical difficulty with voting machines or electronic devices or which would obliterate
20 or deface a paper ballot or any portion thereof, but the Secretary of State shall preserve the right to
21 vote by a write-in vote for those candidates who have filed and have been certified as official
22 write-in candidates under the provisions of section four-a of this article.

23 (f) (2) If the voter marks more names than there are persons to be elected to an office or if,

1 for any reason, it is impossible to determine the voter's choice for an office to be filled, the ballot
2 ~~shall~~ may not be counted for the office. The intention of the voter ~~shall be deemed~~ is considered to
3 be clear if the write-in vote cast for an office contains both the first and last name of an official
4 write-in candidate for that office; and if no two official write-in candidates for that office share a first
5 or last name, either the first name or last name alone ~~shall be deemed to express~~ expresses the clear
6 intention of the voter.

7 (g) (3) Except as otherwise specifically provided in this chapter, no ballot ~~shall~~ may be
8 rejected for any technical error which does not make it impossible to determine the voter's choice.

9 **§3-6-6. Ballot counting procedures in paper ballot systems.**

10 When the polls are closed in an election precinct where only a single election board has
11 served, the receiving board shall perform all of the duties prescribed in this section. When the polls
12 are closed in an election precinct where two election boards have served, both the receiving and
13 counting boards shall together conclude the counting of the votes cast, the tabulating and
14 summarizing of the number of the votes cast, unite in certifying and attesting to the returns of the
15 election and join in making out the certificates of the result of the election provided for in this article.
16 They ~~shall~~ may not adjourn until the work is completed.

17 In all election precincts, as soon as the polls are closed and the last voter has voted, the
18 receiving board shall proceed to ascertain the result of the election in the following manner:

19 (a) In counties in which the clerk of the county commission has determined that the absentee
20 ballots should be counted at the precincts in which the absent voters are registered, the receiving
21 board must first process the absentee ballots and deposit the ballots to be counted in the ballot box.
22 The receiving board shall then proceed as provided in subsections (b) and (c) of this section. In
23 counties in which the absentee ballots are counted at the central counting center, the receiving board

1 shall proceed as provided in subsections (b) and (c) of this section.

2 (b) The receiving board shall ascertain from the pollbooks and record on the proper form the
3 total number of voters who have voted. The number of ballots challenged shall be counted and
4 subtracted from the total and the result should equal the number of ballots deposited in the ballot
5 box. The commissioners and clerks shall also report, over their signatures, the number of ballots
6 spoiled and the number of ballots not voted.

7 (c) The procedure for counting ballots, whether performed throughout the day by the counting
8 board as provided in section thirty-three, article one of this chapter or after the close of the polls by
9 the receiving board or by the two boards together, shall be as follows:

10 (1) The ballot box shall be opened and all votes shall be tallied in the presence of the entire
11 election board;

12 (2) One of the commissioners shall take one ballot from the box at a time and shall determine
13 if the ballot is properly signed by the two poll clerks of the receiving board. If not properly signed,
14 the ballot shall be placed in an envelope for the purpose, without unfolding it. Any ballot which
15 does not contain the proper signatures shall be challenged. If an accurate accounting is made for all
16 ballots in the precinct in which the ballot was voted and no other challenge exists against the voter,
17 the ballot shall be counted at the canvas. If properly signed, the commissioner shall hand the ballot
18 to a team of commissioners of opposite politics, who shall together read the votes marked on the
19 ballot for each office. Write-in votes for election for any person other than an official write-in
20 candidate shall be disregarded. ~~When a voter casts a straight ticket vote and also casts a write-in~~
21 ~~vote for an office, the straight ticket vote for that office shall be rejected whether or not a vote can~~
22 ~~be counted for a write-in candidate;~~

23 (3) The commissioner responsible for removing the ballots from the box shall keep a tally

1 of the number of ballots as they are removed and whenever the number shall equal the number of
2 voters entered on the pollbook minus the number of provisional ballots, as determined according to
3 subsection (a) of this section, any other ballot found in the ballot box shall be placed in the same
4 envelope with unsigned ballots not counted, without unfolding the same or allowing anyone to
5 examine or know the contents thereof, and the number of excess ballots shall be recorded on the
6 envelope;

7 (4) Each poll clerk shall keep an accurate tally of the votes cast by marking in ink on tally
8 sheets, which shall be provided for the purpose, so as to show the number of votes received by each
9 candidate for each office and for and against each issue on the ballot; and

10 (5) When the reading of the votes is completed, the ballot shall be immediately strung on a
11 thread.

(NOTE: The purpose of this bill is to disallow voting by straight party ticket.

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