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2015 MAR 25 P 3:23

**WEST VIRGINIA LEGISLATURE** WEST VIRGINIA  
**EIGHTY-SECOND LEGISLATURE** SECRETARY OF STATE

**REGULAR SESSION, 2015**



**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 249**

**(SENATORS TRUMP, BLAIR, FERNS, M. HALL AND  
WALTERS, ORIGINAL SPONSORS)**

**[PASSED MARCH 11, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]**

SB 249

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SECRETARY OF STATE

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**Senate Bill No. 249**

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AN ACT to amend and reenact §3-4A-9, §3-4A-11a and §3-4A-27 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-6-2, §3-6-3, §3-6-5 and §3-6-6 of said code, all relating to disallowing voting a straight party ticket by one mark or punch in a general election.

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

That §3-4A-9, §3-4A-11a and §3-4A-27 of the Code of West Virginia, 1931, as amended, 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 reenacted, all to read as follows:

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

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

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

5 (1) It secures or ensures the voter absolute secrecy in the  
6 act of voting or, at the voter's election, provides for open  
7 voting;

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

12 (3) It permits each voter to vote at any election for all  
13 persons and offices for whom and which he or she is lawfully  
14 entitled to vote, whether or not the name of any person appears  
15 on a ballot as a candidate; and it permits each voter to vote for  
16 as many persons for an office as he or she is lawfully entitled to  
17 vote for; and to vote for or against any question upon which he  
18 or she is lawfully entitled to vote. The automatic tabulating  
19 equipment used in electronic voting systems is to reject choices  
20 recorded on any ballot if the number of choices exceeds the  
21 number to which a voter is entitled;

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

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

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

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

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

41 (9) It permits a voter in a primary election to: (A) Vote  
42 only for the candidates of the party for which the voter is  
43 legally permitted to vote; (B) vote for the candidates, if any,  
44 for nonpartisan nominations or election; and (C) vote on  
45 public questions; and precludes the voter from voting for any  
46 candidate seeking nomination by any other political party  
47 unless that political party has determined that the voter may  
48 participate in its primary election;

49 (10) It, where applicable, is provided with means for  
50 sealing or electronically securing the vote-recording device  
51 to prevent its use and to prevent tampering with the device,  
52 both before the polls are open or before the operation of the  
53 vote-recording device for an election is begun and  
54 immediately after the polls are closed or after the operation  
55 of the vote-recording device for an election is completed;

56 (11) It has the capacity to contain the names of candidates  
57 constituting the tickets of at least nine political parties and  
58 accommodates the wording of at least fifteen questions;

59 (12) (A) Direct-recording electronic voting machines  
60 must generate a paper copy of each voter's vote that will be  
61 automatically kept within a storage container that is locked,  
62 closely attached to the direct-recording electronic voting  
63 machine and inaccessible to all but authorized voting  
64 officials, who will handle such storage containers and such  
65 paper copies contained therein in accordance with section  
66 nineteen of this article;

67 (B) The paper copy of the voter's vote shall be generated  
68 at the time the voter is at the voting station using the direct-  
69 recording electronic voting machine;

70 (C) The voter may examine the paper copy visually or  
71 through headphone readout, and may accept or reject the  
72 printed copy;

73 (D) The voter may not touch, handle or manipulate the  
74 printed copy manually in any way;

75 (E) Once the printed copy of the voter's votes is accepted  
76 by the voter as correctly reflecting the voter's intent, but not  
77 before, it will automatically be stored for recounts or random  
78 checks and the electronic vote will be cast within the  
79 computer mechanism of the direct-recording electronic voting  
80 machine;

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

87 (13) Where vote-recording devices are used, they shall:

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

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

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

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

100 (14) For electronic voting systems that utilize a screen  
101 upon which votes may be recorded by means of a stylus or by  
102 means of touch, they shall:

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

106 (B) Be constructed to prevent any voter from voting for  
107 more than the allowable number of candidates for any office,

108 to include an audible or visual signal, or both, warning any  
109 voter who attempts to vote for more than the allowable  
110 number of candidates for any office or who attempts to cast  
111 his or her ballot prior to its completion and are constructed to  
112 include a visual or audible confirmation, or both, to the voter  
113 upon completion and casting of the ballot;

114 (C) Be constructed to present the entire ballot to the  
115 voter, in a series of sequential pages, and to ensure that the  
116 voter sees all of the ballot options on all pages before  
117 completing his or her vote and to allow the voter to review  
118 and change all ballot choices prior to completing and casting  
119 his or her ballot;

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

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

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

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

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

139 (I) Be constructed to record all preelection, election and  
140 post-election activities, including all ballot images and system  
141 anomalies, in each device's internal electronic memory and are  
142 to be accessible in electronic or printed form;

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

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

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

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

7 (b) (1) For the primary election, the heading of the ballot,  
8 the type faces, the names and arrangement of offices and the  
9 printing of names and arrangement of candidates within each  
10 office are to conform as nearly as possible to sections thirteen  
11 and thirteen-a, article five of this chapter.

12 (2) For the general election, the heading of the ballot, the  
13 type faces, the names and arrangement of offices and the  
14 printing of names and the arrangement of candidates within  
15 each office are to conform as nearly as possible to section  
16 two, article six of this chapter, except as otherwise provided  
17 in this article.

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

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

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

27 (ii) Judge of the circuit court;

28 (iii) Family court judge; and

29 (iv) Magistrate;

30 (B) Nonpartisan elections for board of education; and

31 (C) Any question to be voted upon;

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

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

51 (c) Except for electronic voting systems that utilize  
52 screens upon which votes may be recorded by means of a  
53 stylus or by means of touch, the primary election ballots are  
54 to be printed in the color of ink specified by the Secretary of  
55 State for the various political parties, and the general election  
56 ballot is to be printed in black ink. For electronic voting

57 systems that utilize screens upon which votes may be  
58 recorded by means of a stylus or by means of touch, the  
59 primary ballots and the general election ballot are to be  
60 printed in black ink. All ballots are to be printed, where  
61 applicable, on white paper suitable for automatic tabulation  
62 and are to contain a perforated stub at the top or bottom of the  
63 ballot, which is to be numbered sequentially in the same  
64 manner as provided in section thirteen, article five of this  
65 chapter, or are to be displayed on the screens of the electronic  
66 voting system upon which votes are recorded by means of a  
67 stylus or touch. The number of ballots printed and the  
68 packaging of ballots for the precincts are to conform to the  
69 requirements for paper ballots provided in this chapter.

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

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

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

23 person except those authorized for the purpose may touch any  
24 ballot or other official records and papers utilized in the  
25 election during observation.

26 (b) All persons who are engaged in processing and  
27 counting the ballots are to work in teams consisting of two  
28 persons of opposite political parties, and are to be deputized  
29 in writing and take an oath that they will faithfully perform  
30 their assigned duties. These deputies are to be issued an  
31 official badge or identification card which is assigned an  
32 identity control number and the deputies are to prominently  
33 wear on his or her outer garments the issued badge or  
34 identification card. Upon completion of the deputies' duties,  
35 the badges or identification cards are to be returned to the  
36 county clerk.

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

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

49 (2) In systems using ballots in which votes are recorded  
50 upon screens with a stylus or by means of touch, the ballots  
51 are to be tabulated according to the processes of the system.  
52 Systems using ballots in which votes are recorded upon  
53 screens with a stylus or by means of touch are to tally  
54 write-in ballots simultaneously with the other ballots;

55 (3) When more than one person is to be elected to an  
56 office and the voter desires to cast write-in votes for more  
57 than one official write-in candidate for that office, the voter  
58 shall mark the location appropriate for the voting system in  
59 the write-in location for that office. When there are multiple

60 write-in votes for the same office and the combination of  
61 choices for candidates on the ballot and write-in choices for  
62 the same office exceed the number of candidates to be  
63 elected, the ballot is to be duplicated or hand counted, with  
64 all votes for that office rejected;

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

68 (5) Official write-in candidates are those who have filed  
69 a write-in candidate's certificate of announcement and have  
70 been certified according to the provisions of section four-a,  
71 article six of this chapter.

72 (d) If any ballot is damaged or defective so that it cannot  
73 properly be counted by the automatic tabulating equipment,  
74 a true duplicate copy is to be made of the damaged ballot in  
75 the presence of representatives of each political party on the  
76 ballot and substituted for the damaged ballot. All duplicate  
77 ballots are to be clearly labeled "duplicate" and are to bear a  
78 serial number which is recorded on the damaged or defective  
79 ballot and on the replacement ballot.

80 (e) The returns printed by the automatic tabulating  
81 equipment at the central counting center, to which have been  
82 added write-in and other valid votes, are, when certified by the  
83 clerk of the county commission, to constitute the unofficial  
84 preliminary returns of the county. Upon completion of the  
85 count, the returns are to be open to the public by posting a  
86 summary of the returns as have been tabulated at the central  
87 counting center. Upon completion of the canvass, the returns  
88 are to be posted as tabulated precinct by precinct.

89 (f) If for any reason it becomes impracticable to count all  
90 or a part of the ballots with tabulating equipment, the county  
91 commission may direct that they be counted manually,  
92 following as far as practicable the provisions governing the  
93 counting of paper ballots.

94 (g) As soon as possible after the completion of the count,  
95 the clerk of the county commission shall have the vote-

96 recording devices properly boxed or securely covered and  
97 removed to a proper and secure place of storage.

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

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

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

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

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

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

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

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

26 (2) After the heading, each ballot is to contain, laid out in  
27 parallel columns, rows or pages as required by the particular  
28 voting system, the party emblem and the name of each party  
29 as prescribed in subsection (a) of this section.

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

39           (4) For all ballots, any columns, rows or sections in  
40 which the ticket of one party appears are to be clearly  
41 separated from the other columns, rows or sections by a  
42 heavy line or other clear division. For each party, the offices  
43 are to be arranged in the order prescribed in section  
44 thirteen-a, article five of this chapter under the appropriate  
45 tickets, which are to be headed "National Ticket", "State  
46 Ticket" and "County Ticket". The number of pages, columns  
47 or rows, where applicable, may be modified to meet the  
48 limitations of ballot size and composition requirements,  
49 subject to approval by the Secretary of State.

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

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

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

63           (3) In any office where more than one person is to be  
64 elected, the names of the candidates for the office are to be  
65 staggered so that no two candidates for that office appear  
66 directly opposite any other candidate, as shown in the

67 example below: *Provided*, That if the voting system cannot  
 68 accurately tabulate any ballot due to this requirement, the  
 69 ballot may be adjusted so that it is accurately tabulated.  
 70 However, each candidate shall be separated by a thin line to  
 71 distinguish between each candidate.

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73	<b>For House of Delegates</b>	<b>For House of Delegates</b>
74	<b>First Delegate District</b>	<b>First Delegate District</b>
75	<b>(Vote For Not More Than Two)</b>	<b>(Vote For Not More Than Two)</b>
76	<b>SUSAN B. ANTHONY</b>	
77	<b>City (County)</b>	
78		<b>JOHN ADAMS</b>
79		<b>City (County)</b>
80	<b>ABRAHAM LINCOLN</b>	
81	<b>City (County)</b>	
82		<b>JAMES MONROE</b>
83		<b>City (County)</b>
84		

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

91 (A) In paper ballot systems which allow for write-ins to  
 92 be made directly on the ballot, a blank square and a blank line  
 93 equal to the space which would be occupied by the name of  
 94 the candidate is to be placed under the proper office for each  
 95 vacancy in nomination and for an office for which more than  
 96 one is to be elected, any vacancy is to appear after any other  
 97 candidates for the office. If no write-in lines are included on  
 98 the ballot, specific instructions are to be added to the top of  
 99 the ballot notifying the voter that a write-in vote may be cast  
 100 by writing the name and office on any location on the front of  
 101 the ballot.

102 (B) In machine and electronically tabulated ballot  
 103 systems in which write-in votes must be made in a place other  
 104 than on the ballot, if there is a vacancy in nomination leaving

105 fewer candidates in any party than can be elected to that  
106 office, the words "No Candidate Nominated" are to be  
107 printed in the space that would be occupied by the name of  
108 the candidate and for an office for which more than one is to  
109 be elected, any vacancy is to appear after any other  
110 candidates for the office. Notwithstanding any other  
111 provision of this code, if there are multiple vacant positions  
112 on a ballot for one office, the multiple vacant positions which  
113 would otherwise be filled with the words "No Candidate  
114 Filed" may be replaced with a brief detailed description,  
115 approved by the Secretary of State, indicating that there are  
116 no candidates listed for the vacant positions.

117 (5) In a general election in any county in which unexpired  
118 terms of the board of education are to be filled by election, a  
119 separate section or page of the ballot is to be set off by means  
120 clearly separating the nonpartisan ballot from the ballot for  
121 the political party candidates and is to be headed  
122 "Nonpartisan Board of Education".

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

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

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

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

1 (a) The ballot commissioners of each county shall prepare  
2 a sample official general election ballot for all political party  
3 or nominees with no party affiliation unless those persons  
4 have actually been nominated by an independent party,  
5 nonpartisan candidates for election, if any, and all ballot

6 issues to be voted for at the general election, according to the  
7 provisions of article four-a of this chapter, and for any ballot  
8 issue, according to the provisions of law authorizing the  
9 election.

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

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

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

30 (3) Each facsimile sample ballot shall be a photographic  
31 reproduction of the official sample ballot or ballot pages and  
32 shall be printed in a size no less than sixty-five percent of the  
33 actual size of the ballot, at the discretion of the ballot  
34 commissioners: *Provided*, That when the ballots for the  
35 precincts within the county contain different senatorial,  
36 delegate, magisterial or executive committee districts or when  
37 the ballots for precincts within a city contain different  
38 municipal wards, the facsimile shall be altered to include  
39 each of the various districts in the appropriate order. If, in  
40 order to accommodate the size of each ballot, the ballot or  
41 ballot pages must be divided onto more than one page, the  
42 arrangement and order shall be made to conform as nearly as  
43 possible to the arrangement of the ballot. The publisher of

44 the newspaper shall submit a proof of the ballot and the  
45 arrangement to the ballot commissioners for approval prior to  
46 publication.

47 (c) The ballot commissioners of each county shall  
48 prepare, in the form and manner prescribed by the Secretary  
49 of State, an official list of offices and nominees for each  
50 office which will appear on the general election ballot for  
51 each political party or as nominees with no party affiliation  
52 unless those persons have actually been nominated by an  
53 independent party and, as the case may be, for the  
54 nonpartisan candidates to be voted for at the general election:

55 (1) All information which appears on the ballot, including  
56 instructions as to the number of candidates for whom votes  
57 may be cast for the office, any additional language which will  
58 appear on the ballot below the name of the office, any  
59 identifying information relating to the candidates, such as his  
60 or her residence and magisterial district or presidential  
61 preference. Following the names of all candidates, the list  
62 shall include the full title, text and voting positions of any  
63 issue to appear on the ballot.

64 (2) The order of the offices and candidates for each office  
65 and the manner of designating the parties shall be as follows:

66 (A) The offices shall be listed in the same order in which  
67 they appear on the ballot;

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

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

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

83 (1) For counties in which two or more qualified  
84 newspapers publish a daily newspaper, on the last day on  
85 which a newspaper is published immediately preceding the  
86 general election, the ballot commissioners shall publish the  
87 official list of nominees and issues as a Class I-0 legal  
88 advertisement in the two qualified daily newspapers of  
89 different political parties within the county having the  
90 largest circulation in compliance with the provisions of  
91 article three, chapter fifty-nine of this code;

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

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

105 (A) The words "official list of nominees and issues", the  
106 name of the county, the words "General Election" and the  
107 date of the election shall be printed in all capital letters and in  
108 bold type no smaller than fourteen point; and

109 (B) The names of the candidates and the initial within  
110 parenthesis designating the candidate's affiliation shall be  
111 printed in all capital letters in bold type no smaller than ten  
112 point and the residence information shall be printed in type  
113 no smaller than ten point; and

114 (4) When any ballot issue is to appear on the ballot, the  
115 title of that ballot shall be printed in all capital letters in bold

116 type no smaller than twelve point. The text of the ballot issue  
117 shall appear in no smaller than eight point type. The ballot  
118 commissioners may require the publication of the ballot issue  
119 under this subsection in the facsimile sample ballot format in  
120 lieu of the alternate format.

121 (e) Notwithstanding the provisions of subsections (c) and  
122 (d) of this section, the ballot commissioners of any county may  
123 choose to publish a facsimile sample general election ballot,  
124 instead of the official list of candidates and issues, for purposes  
125 of the last publication required before any general election.

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

1 The provisions of article one of this chapter relating to  
2 elections generally shall govern and control arrangements and  
3 election officials for the conduct of elections under this  
4 article. The following rules and procedures shall govern the  
5 voting for candidates in general and special elections:

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

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

24 (b) If the voter marks more names than there are persons  
25 to be elected to an office or if, for any reason, it is impossible

26 to determine the voter's choice for an office to be filled, the  
27 ballot shall not be counted for the office. The intention of the  
28 voter shall be deemed to be clear if the write-in vote cast for  
29 an office contains both the first and last name of an official  
30 write-in candidate for that office; and if no two official write-  
31 in candidates for that office share a first or last name, either  
32 the first name or last name alone shall be deemed to express  
33 the clear intention of the voter.

34 (c) Except as otherwise specifically provided in this  
35 chapter, no ballot shall be rejected for any technical error  
36 which does not make it impossible to determine the voter's  
37 choice.

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

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

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

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

25       (b) The receiving board shall ascertain from the  
26 pollbooks and record on the proper form the total number of  
27 voters who have voted. The number of ballots challenged  
28 shall be counted and subtracted from the total and the result  
29 should equal the number of ballots deposited in the ballot  
30 box. The commissioners and clerks shall also report, over  
31 their signatures, the number of ballots spoiled and the number  
32 of ballots not voted.

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

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

40       (2) One of the commissioners shall take one ballot from  
41 the box at a time and shall determine if the ballot is properly  
42 signed by the two poll clerks of the receiving board. If not  
43 properly signed, the ballot shall be placed in an envelope for  
44 the purpose, without unfolding it. Any ballot which does not  
45 contain the proper signatures shall be challenged. If an  
46 accurate accounting is made for all ballots in the precinct in  
47 which the ballot was voted and no other challenge exists  
48 against the voter, the ballot shall be counted at the canvas. If  
49 properly signed, the commissioner shall hand the ballot to a  
50 team of commissioners of opposite politics, who shall  
51 together read the votes marked on the ballot for each office.  
52 Write-in votes for election for any person other than an  
53 official write-in candidate shall be disregarded.

54       (3) The commissioner responsible for removing the  
55 ballots from the box shall keep a tally of the number of  
56 ballots as they are removed and whenever the number shall  
57 equal the number of voters entered on the pollbook minus the  
58 number of provisional ballots, as determined according to  
59 subsection (a) of this section, any other ballot found in the  
60 ballot box shall be placed in the same envelope with unsigned

61 ballots not counted, without unfolding the same or allowing  
62 anyone to examine or know the contents thereof, and the  
63 number of excess ballots shall be recorded on the envelope;

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Mark R. Meyer*  
.....  
Chairman Senate Committee

*John B. Heiser*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Clark A. Barnes*  
.....  
Clerk of the Senate

*Stephan D. Hornsby*  
.....  
Clerk of the House of Delegates

*William J. Pelt*  
.....  
President of the Senate

*Charles M. Starnes*  
.....  
Speaker of the House of Delegates

The within *is approved* ..... this the *25<sup>th</sup>*  
*True*  
Day of ....., 2015.

*Carlisle Brantley*  
.....  
Governor

**PRESENTED TO THE GOVERNOR**

**MAR 16 2015**

**Time** 11:15 AM