

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 2592**

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KEATON AND SMITH

[Introduced February 18, 2021; referred to the

Committee on Political Subdivisions then the

Judiciary]



1 A BILL to amend and reenact §3-1-31 of the Code of West Virginia, 1931, as amended; to amend  
2 and reenact §11-8-16 and §11-8-17 of said Code; and, to amend and reenact §18-9-1,  
3 §18-9-2, and §18-9-2a of said code, all relating to bringing uniformity to local elections by  
4 ensuring that all counties and municipalities have their local elections held on a date that  
5 a statewide election is already taking place, on a primary or general election date; requiring  
6 that local elections and any elections to increase levies coincide with a primary or a  
7 general election; removing references to special elections for levies; providing a saving  
8 clause for the terms of existing local elected officials by providing for a vote of local bodies  
9 to schedule their elections in a manner which brings them into conformity with the new  
10 structure; providing a saving clause for the renewal of existing levies by providing for  
11 levying bodies and boards of education to vote in order to schedule such elections to  
12 renew or extend these levies in a manner which brings them into conformity with the new  
13 structure.

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

### **CHAPTER 3. ELECTIONS.**

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

##### **§3-1-31. Days and hours of elections; scheduling of local elections; extension or shortening of terms of certain elected local officials.**

1 General elections shall be held in the several election precincts of the state on the Tuesday  
2 next after the first Monday in November of each even year. Primary and special elections shall be  
3 held on the days provided by law therefor: Provided, That beginning July 1, 2021, all local  
4 elections shall be held concurrently with a scheduled primary or general election.

5 At every primary, general, or special election the polls shall be opened in each precinct on  
6 the day of ~~such~~ the election at ~~six-thirty o'clock~~ 6:30 in the ~~forenoon~~ morning and be closed at  
7 ~~seven-thirty o'clock~~ 7:30 in the evening.

8           All counties and municipalities in the state shall hold their local elections, including, but  
9 not limited to, municipal elections, bond elections, special levy elections, etc. on the date of a  
10 scheduled primary or general election. Local elections are prohibited from being held on any date  
11 other than delineated in this section: *Provided, That, notwithstanding any provision of this Code*  
12 to the contrary, in the case of municipal elections, when current terms for serving elected officials  
13 end at a time after July 1, 2021, and which will not be at a regularly scheduled primary or general  
14 election, the municipality, for those seats up for reelection, must, by a vote of its governing body,  
15 choose to hold the elections to fill those upcoming vacancies in those offices either at the next  
16 scheduled primary election or the next scheduled general election: *Provided, however, That the*  
17 governing body cannot, by such action, extend the term of those offices for more than twelve  
18 months, or reduce the term of those offices for more than twelve months.

## CHAPTER 11. TAXATION.

### ARTICLE 8. LEVIES.

#### **§11-8-16. What order for election to increase levies to show; vote required; amount and continuation of additional levy; issuance of bonds.**

1           A local levying body may provide for an election to increase the levies by entering on its  
2 record of proceedings an order setting forth:  
3           (1) The purpose for which additional funds are needed;  
4           (2) The amount for each purpose;  
5           (3) The total amount needed;  
6           (4) The separate and aggregate assessed valuation of each class of taxable property  
7 within its jurisdiction;  
8           (5) The proposed additional rate of levy in cents on each class of property;  
9           (6) The proposed number of years, not to exceed ~~five~~ six, to which the additional levy  
10 applies;

11 (7) The fact that the local levying body will or will not issue bonds, as provided by this  
12 section, upon approval of the proposed increased levy.

13 The local levying body shall submit to the voters within their political subdivision the  
14 question of the additional levy at either a primary, or general, ~~or special~~ election. If at least 60  
15 percent of the voters cast their ballots in favor of the additional levy, the county commission or  
16 municipality may impose the additional levy. If at least a majority of voters cast their ballot in favor  
17 of the additional levy, the county board of education may impose the additional levy: *Provided,*  
18 That any additional levy adopted by the voters, including any additional levy adopted prior to the  
19 effective date of this section, shall be the actual number of cents per each \$100 of value set forth  
20 in the ballot provision, which number shall not exceed the maximum amounts prescribed in this  
21 section, regardless of the rate of regular levy then or currently in effect, unless such rate of  
22 additional special levy is reduced in accordance with the provisions of section six-g of this article  
23 or otherwise changed in accordance with the applicable ballot provisions. For county  
24 commissions, this levy shall not exceed a rate greater than seven and fifteen hundredths cents  
25 for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice  
26 the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate  
27 for Class II properties. For municipalities, this levy shall not exceed a rate greater than six and  
28 twenty-five hundredths cents for each \$100 of value for Class I properties, and for Class II  
29 properties a rate greater than twice the rate for Class I properties, and for Class III and IV  
30 properties a rate greater than twice the rate for Class II properties. For county boards of education,  
31 this levy shall not exceed a rate greater than twenty-two and ninety-five hundredths cents for each  
32 \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate  
33 for Class I properties, and for Class III and IV properties a rate greater than twice the rate for  
34 Class II properties.

35 Levies authorized by this section shall not continue for more than five years without  
36 resubmission to the voters.

37           Upon approval of an increased levy as provided by this section, a local levying body may  
38 immediately issue bonds in an amount not exceeding the amount of the increased levy plus the  
39 total interest thereon, but the term of the bonds shall not extend beyond the period of the  
40 increased levy.

41           Insofar as they might concern the issuance of bonds as provided in this section, the  
42 provisions of sections three and four, article one, chapter thirteen of this code shall not apply.

**§11-8-17. Special levy elections; notices; ~~election officers conduct of election; supplies;~~  
canvass of returns; form of ballot.**

1           (a) The local levying body shall publish a notice, calling the election, as a Class II-0 legal  
2 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the  
3 publication area for such publication shall be the territory in which the election is held. Such notice  
4 shall be so published within 14 consecutive days next preceding the election.

5           (b) All the provisions of the law concerning general elections shall apply so far as they are  
6 practicable: Provided, That, notwithstanding any provision of this code to the contrary, in the case  
7 of a levy which expires at a time after July 1, 2021, and which will not be up for renewal at a  
8 regularly scheduled primary or general election, the local levying body shall, by a vote, choose to  
9 hold the election to renew that levy either at the next scheduled primary election or the next  
10 scheduled general election: *Provided, however, That notwithstanding any other provision of this*  
11 code, a local levying body, by a vote authorizing the action, may, prior to January 1, 2022, hold a  
12 special election for the purpose of synchronizing the renewal of an existing or expiring levy with  
13 a future primary or general election., except as follows: (1) Where a special election is held, the  
14 local levying body, having due regard to the minimum expense involved, shall determine the  
15 number of election officials necessary to properly conduct said election, which number shall in no  
16 case be less than three commissioners and two clerks, and shall appoint the same and fix and  
17 pay their compensation, but otherwise the election officials shall be such as are appointed to  
18 serve with respect to the general election held at the same time

19           ~~(2) The local levying body shall provide the election supplies necessary for such election~~  
20 ~~and shall canvass the returns thereof. *Provided*, That the county commission is the board of~~  
21 ~~canvassers to canvass the returns of levy elections called by the board of education.~~

22           (c) A separate ballot shall be used at a levy election held in connection with any other  
23 election. The ballot shall be entitled: "Special election to authorize additional levies for the year(s)  
24 \_\_\_\_\_ and for the purpose of \_\_\_\_\_ according to the order of the  
25 \_\_\_\_\_ entered on the \_\_\_\_\_ day of \_\_\_\_\_."

26           The additional levy shall be on Class I property \_\_\_\_\_ cents; on Class II property  
27 \_\_\_\_\_ cents; on Class III property (if any) \_\_\_\_\_ cents; on Class IV  
28 property (if any) \_\_\_\_\_ cents.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 9. SCHOOL FINANCES.**

#### **§18-9-1. School levies; when levy election necessary. ~~special election~~**

1           The Board of Education of every school district or independent school district, wherein a  
2 majority of the votes cast on the question of school levy at the last primary or general ~~or special~~  
3 election at which the question of school levy was submitted to the qualified voters of such district  
4 or independent school district were in favor of such levy, shall annually, at the time and in the  
5 manner provided by law for making levies, levy a tax on all taxable property in its district or  
6 independent school district for the support and maintenance of free schools therein: *Provided*,  
7 That upon petition of not less than forty percent of the registered voters in any district or  
8 independent school district, as shown by the last registration of voters therein, addressed to the  
9 Board of Education of such district or independent school district, requesting the submission of  
10 the school levy to the voters of such district, the Board of Education of such district or independent  
11 district shall submit the question of authorizing a levy for school purposes to the voters of such  
12 district at the general election held next after such petition is presented; and the board of ballot

13 commissioners of the county of which such district constitutes a part shall prepare or cause to be  
14 prepared separate ballots from the official ballot to be voted at said election, which separate ballot  
15 shall have printed thereon the following:

16           BALLOT ON SCHOOL LEVY

17           // For school levy.

18           // Against school levy.

19           The officers conducting the general election at each place of voting shall conduct the  
20 election on the question of the school levy and canvass and certify the result thereof to the  
21 commissioners of the county court in the same manner, so far as applicable, as they are required  
22 to conduct and certify the result of the general election; and such commissioners shall promptly  
23 certify the result of the election on the question of the school levy to the Board of Education of the  
24 district or independent school district within which the election was held, and such certificate shall  
25 be entered by the secretary as part of the minutes and records of such Board of Education. If a  
26 majority of the ballots cast at said general election in any district or independent school district on  
27 the question of such school levy be in favor of the levy, the Board of Education of such district or  
28 independent school district shall annually thereafter levy a tax on all the taxable property in its  
29 district, for the support and maintenance of the schools in the district, until such time as an election  
30 may again be held on the question of such school levy in the manner hereinbefore provided.

31           ~~In the event that a majority of the votes cast in any school district or independent school~~  
32 ~~district upon the question of the school levy submitted at any general election be against the levy,~~  
33 ~~the board of Education of such district or independent school district shall have authority to call a~~  
34 ~~special election for the purpose of resubmitting the question of authorizing such school levy to the~~  
35 ~~voters of such district or independent district. Such special election shall be held in accordance~~  
36 ~~with the provisions of the next succeeding section of this article, so far as applicable, and the~~  
37 ~~ballots shall be similar to those heretofore described in this section. If a majority of the ballots cast~~  
38 ~~at such special election in any school district or independent school district be in favor of the~~

39 school levy, the board of Education of such district or independent school district shall annually  
40 thereafter levy a tax for the support of the free schools in its district or independent school district,  
41 in the manner provided by law for school levies, until such time as the question of school levy  
42 may again be submitted at a general election upon a petition signed by not less than forty percent  
43 of the registered voters of the district or independent district, as hereinbefore provided, and a  
44 majority of the votes cast at such election be against the levy. If a majority of the votes cast at any  
45 such special election be against the school levy the board of Education of any such district or  
46 independent district shall again submit the question of a school levy to the voters of its district or  
47 independent district at the next general election: *Provided, however,* That upon petition of not less  
48 than forty percent of the qualified voters of the district, as determined from the last registration of  
49 voters, such Board of Education may again submit the question of school levy at a special election  
50 to be held for that purpose, in the manner hereinbefore provided, prior to the next succeeding  
51 general election

**§18-9-2. Elections under this chapter; procedure.**

1       (a) Any and all elections authorized by this chapter for school purposes ~~may, unless~~  
2 ~~otherwise provided~~ will be held ~~separately or~~ in connection with any primary or general ~~or special~~  
3 election. Notice of an election shall be given by the publication of the order of the board calling  
4 the same as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.*  
5 of this code, and the publication area for such publication is the territory in which the election is  
6 to be held. The order shall be published within 14 consecutive days next preceding the day of  
7 election. All provisions of the law concerning primary or general ~~and special~~ elections apply in  
8 these elections insofar as is practicable. ~~In cases of special elections the board calling the election~~  
9 ~~shall appoint necessary election officers. The secretary of the board shall procure and furnish to~~  
10 ~~the election commissioners at each place of voting the ballots, poll books, tally sheets and other~~  
11 ~~election supplies necessary for the election~~ In calling elections, district and county boards of  
12 education shall follow the forms prescribed by the Attorney General. For all elections authorized

13 by this chapter for school purposes, the county commission is the board of canvassers to canvass  
14 the returns.

15 (b) In the case of a levy which expires at a time after July 1, 2021, and which will not be  
16 up for renewal at a regularly scheduled primary or general election, notwithstanding any provision  
17 of this Code to the contrary, the Board of Education shall, by a vote, choose to hold the election  
18 to renew that levy either at the next scheduled primary election or the next scheduled general  
19 election: *Provided*, That, notwithstanding any other provision of this code, a Board of Education,  
20 by a vote authorizing the action, may, prior to January 1, 2022, hold a special election for the  
21 purpose of synchronizing the renewal of an existing or expiring levy with a future primary or  
22 general election.

**§18-9-2a. Levies.**

1 The board, as provided by §11-8-9 of this code shall impose a levy for the maintenance  
2 and operation of all schools in the county. This levy shall be uniform throughout the county and  
3 the funds shall be distributed and expended without regard to the locality from which collected:  
4 *Provided*, That if a majority of the voters of any political subdivision of the county shall file with  
5 the Board of Education of the county of which such political subdivision is a part, at their budget  
6 session as provided by §11-8-9 of this code, a petition praying for increased salaries, funds for  
7 the support and maintenance of libraries, medical and dental clinics, supervision and/or an  
8 extension of the school term therein for a given number of months, the board shall extend the  
9 term of school for the number of months requested in such petition and shall lay levies sufficiently  
10 high on each \$100' valuation of taxable property within such political subdivision according to the  
11 last assessment thereof for such purpose or purposes as specified in the petition, which levies  
12 shall be separated and designated as a special maintenance fund levy and special teachers' fund  
13 levy of the political unit for which such levies are laid.

14 All additional levies so authorized shall be made as provided by law and shall in no case  
15 exceed the statutory limitation or maximum for the various classes of property of the political  
16 subdivision authorizing the same.

17 Upon a petition of 100 taxpayers of any political subdivision of a county to the Board of  
18 Education of the county of which such political subdivision is a part, the Board of Education shall  
19 call an election within said political subdivision for the purpose of authorizing the county board of  
20 education to lay special increased rates of levy on the property of said political subdivision, as  
21 provided by law, for educational purposes as may be set forth in the petition and in the call for the  
22 election. The election authorizing special increased levy rates shall be placed on the ballot in the  
23 primary or general election following the filing of the petition.

24 The bonded indebtedness incurred by former magisterial school district boards and  
25 independent district boards shall remain the debt of the property originally pledged as security for  
26 the payment of the obligation.

27 The county board shall impose separate levies in the manner provided by §11-8-9 and  
28 §11-8-13 of this code, upon the property in former magisterial districts and independent districts  
29 for the payment of current requirements of principal and interest of bonded indebtedness incurred  
30 prior to the creation of the county school districts.

NOTE: The purpose of this bill is to provide that all local elections be held on a date that a statewide election is being held.

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